



OCJ Annual Hearing
RTC NYC Coalition Testimony on Right to Counsel Implementation
February 28, 2024

The city has failed to use its power to defend and uphold Right to Counsel, one of the most powerful tools tenants have to prevent eviction – This is unacceptable. We are submitting this testimony to urge the city to exert its leadership to protect Right to Counsel and prevent eviction and displacement.

We know that evictions and housing instability have a disproportionate impact on people of color, especially Black women and children.¹ Evictions and housing instability also have significant impacts on people's education, employment, family relationships, physical and mental health, and so much more. NYC's Right to Counsel moves us closer towards achieving economic, gender, and racial justice. Without Right to Counsel, a gross power imbalance that favors landlords and their profit motives over keeping New Yorkers housed persists in NYC Housing Court.

We formed the Right to Counsel NYC Coalition in 2014 to disrupt Housing Court as a center of displacement and stop the eviction crisis that has threatened our families, our neighborhoods, and our homes for too long. As a result of our work, New York City was the first in the nation to win this law in 2017. Since then, RTC has proven to be incredibly effective in keeping people in their homes. We know that 84% percent of tenants who had RTC won their case and were able to stay in their homes. When RTC is implemented and upheld, landlords sue people less and community groups can actively use Right to Counsel as a powerful tool to protect and advance tenants' rights. Right to Counsel has also helped develop a body of more just case law, lowered tenants' rents, re-stabilized apartments, and has forced landlords to make repairs.

However, as it stands, RTC is not being upheld by the courts or the city. Right now, the courts are violating tenants' rights and calendaring eviction cases faster than tenants can receive legal counsel. Due process must not be sacrificed for the sake of speed and efficiency. We understand that one of the challenges you face is that we need the *state housing* court to willingly implement a *city* law – they can't be required to do it without state legislation. However, under this administration, OCJ has shown no political will to demand that OCA, the Chief Judge or the city do more to defend, fund, and uphold RTC.

Local Law 136 is not funded at the full \$300 million that it would take to effectively implement the program. Additionally, OCA and Chief Judge Wilson have failed to pause cases until eligible tenants are able to receive the right to counsel. Because of their inaction, more than 48,000 tenants have faced eviction alone in housing court, a majority of whom were eligible for and should have had an RTC attorney. This is completely unacceptable and you must act now to change this.

¹ <https://www.nytimes.com/2023/10/02/upshot/evictions-children-american-renters.html>

The Office of Civil Justice exists because of the tenant movement. The rights we won, that your office is tasked with upholding, save lives. We take issue with the lack of responsiveness and efficacy of OCJ under this administration. This August, OCJ released an RFP that undermined the spirit of Local Law 53, which requires the city to work with tenant organizing groups to engage and educate tenants about Right to Counsel. By failing to contract with organizing groups directly, and instead choosing to funnel these funds through legal services providers, the city is undercutting the critical role community organizers play in educating tenants around their rights to legal counsel. OCJ has also launched an Administrative Pilot in Brooklyn Housing Court that essentially directs tenants to apply for emergency assistance or “one shot deals” with HRA before they are connected with a Right to Counsel attorney to litigate their case. This positions housing court as a debt collection mill for landlords and undercuts tenants’ ability to use the courts to address critical repair needs. We have had numerous meetings with OCJ in which we’ve communicated our recommendations for improving the Administrative Pilot to ensure that RTC is upheld. We urge you to implement them immediately:

- Ensure that tenants are connected with an RTC attorney first to allow them the time and space they need to raise and litigate defenses.
- Publicly release any existing metrics and data OCJ has on the impact of the Administrative Pilot.
- Engage in a process of deep evaluation of the Administrative Pilot with the Right to Counsel NYC Coalition and other stakeholders.

We understand that OCJ was created to administer, implement and uphold RTC. And while OCJ, under the current administration, has so far failed to protect RTC, you can and must act to ensure that this law is effectively implemented. We, at the Right to Counsel NYC Coalition, have been urging the courts to take action since the beginning of 2022 and are asking OCJ to publicly support our call on OCA and the state legislature to defend and uphold Right to Counsel:

- Judge Wilson must issue an administrative order mandating that all eviction cases where a tenant is eligible for Right to Counsel shall be administratively stayed until the tenant has had an opportunity to meaningfully meet with and retain a Right to Counsel attorney.
- OCA must reduce the volume of eviction cases on the court calendars so the number of new cases matches legal service providers' capacity to provide full representation to eligible tenants.
- And, the state legislature must pass our Statewide DEFEND RTC Legislation (S3254 / A4993), which would mandate that tenants have the time they need to get RTC and our Statewide Right to Counsel Legislation (A1493 / S2721) for all New York tenants, which would also create rules for the courts to uphold and implement RTC.

As the agency created to administer, implement, and uphold RTC OCJ has the power and responsibility to ensure that RTC is successful. As we’ve stated many times before, the legal arguments for multiple and prolonged adjournments for the purposes of Right to Counsel assignment, both in terms of NYC’s Right to Counsel law and also as a matter of due process, are clear. Your office must do more to adhere to your mandate to uphold RTC. It’s critical that OCJ and the city administration as a whole commit to upholding the law as it is versus any attempts to water it down. Doing so would accept the court’s logic that cases have to move fast at all costs – the pandemic showed us that is not true – and permanently weaken a powerful law in the face of a temporary challenge.

Additionally, we ask that you partner with us in advocating that the city adequately fund Local Law 136. Last year, thanks to advocacy from the City Council, funding for RTC was increased by about \$20 million. However, the money allocated is simply not enough to cover the total cost of the work to provide RTC. The retention rates at the legal services organizations are proof of this. According to providers, RTC is currently funded at about 27% of its current cost. **This means, to fund the law as it is now, the city needs to add at least \$351 million to the budget for RTC.** In addition, the city needs to set up a mechanism to monitor the cost – if cases go up the cost goes up and the city needs to proactively plan for this. The additional \$351 million needed to fully fund RTC is also significantly less than the nearly \$2 billion spent on sheltering the unhoused. Money spent on RTC significantly offsets the need to spend money on shelters and is a powerful tool to combat the housing crisis in New York City.

The Office of Civil Justice exists because of the tenant movement and it must be accountable to the tenant movement. The rights we won, that your office is tasked with upholding, save lives. We are asking you to address this crisis with the seriousness and urgency it deserves.



MANHATTAN | 1010 Avenue of the Americas, Suite 301, New York, NY 10018
tel: 212.674.2300 fax: 212.254.5953 vp: 646.350.2681

QUEENS | 80-02 Kew Gardens Road, Suite 400, Kew Gardens, NY 11415
tel: 646.442.1520 fax: 357.561.4883

www.cidny.org

CIDNY's Testimony on Access to Legal Services before Eviction Right to Counsel NYC: Local Law 136

The Center for Independence of the Disabled, New York (CIDNY) is a nonprofit organization founded in 1978. We are part of the Independent-Living-Centers movement, a national network of grassroots and community-based organizations that enhance opportunities for people with disabilities to direct their own lives. We are the voices of people with disabilities in New York City. We hereby support Local Law 136: "Right to Counsel".

CIDNY supports this legislation and urges for legal representation of tenants before the eviction process. We know the challenges that people with disabilities are encountering before finding an affordable and accessible apartment or home. We advocate for independent living in their home with their families. As eviction may divide tenants, we want disabled families to stay together and thrive.

Right to Counsel is a significant step our society must take to stop displacement and transform courts into places that uphold tenants' rights, hold landlords accountable, and enable tenants to remain in their homes.

We encourage our elected officials to consider the [comprehensive summary](#) that Stout, Risius, Ross, LLC compiled of the harms due to evictions. Housing instability, evictions and displacement are tearing our communities apart across NY State. The crisis will only get worse if we don't enact permanent solutions that strengthen tenants' rights and empower tenants to fight for their homes. CIDNY strongly supports Local Law 136 which is the Statewide legislation A1493 Joyner/S2721 May.

CIDNY also supports establishing the "Winter Moratorium on evictions act" (A4093 Kelles/S1403 Myrie) to prohibit eviction of tenants from residential properties during the winter months. This testimony is supported by Sharon McLennon Wier, Ph.D., MEd., CRC, LMHC, Executive Director of CIDNY.

Thank you,

Mbacke Thiam He/Him/His
Housing, Health & CAN Community Organizer
Center for Independence of the Disabled, NY (CIDNY)
1010 Avenue of the Americas, #301 New York, NY 10018
Located on the corner of 6th Avenue and 38th Street



MANHATTAN | 1010 Avenue of the Americas, Suite 301, New York, NY 10018
tel: 212.674.2300 fax: 212.254.5953 vp: 646.350.2681

QUEENS | 80-02 Kew Gardens Road, Suite 400, Kew Gardens, NY 11415
tel: 646.442.1520 fax: 357.561.4883

www.cidny.org

P: 646-442-4152 C: 917-251-4981 E: mthiam@cidny.org



Testimony of FPWA

**Presented to:
Office of Civil Justice
Hearing on Universal Access to Counsel Law
February 28, 2024**

**Jennifer Jones Austin
Executive Director/CEO**

**Prepared By:
Funmi Akinnawonu, Senior Policy Analyst**

40 Broad Street, 5th Floor
New York, New York 10004
Phone: (212) 777-4800
Fax: (212) 414-1328

We are grateful to the Office of Civil Justice (OCJ) for holding this hearing on the Universal Access to Counsel (UAC) Law and for the opportunity to provide written comments on behalf of FPWA (Federation of Protestant Welfare Agencies).

FPWA is an anti-poverty policy and advocacy organization committed to advancing economic opportunity, justice, and upward mobility for New Yorkers with low incomes. Since 1922, FPWA has driven groundbreaking policy reforms to better serve those in need. We work to dismantle the systemic barriers that impede economic security and well-being, and strengthen the capacity of human services agencies and faith organizations so New Yorkers with lower incomes can thrive and live with dignity.

The UAC program is designed to provide free legal representation during eviction proceedings in housing court or termination of tenancy in New York City Housing Authority (NYCHA) administrative proceedings to New York City residents whose households are below 200% of the federal poverty line, a woefully inadequate measure of need. Stable housing is a foundational requirement for individuals and families to thrive. Eviction can destabilize families, forcing children to change schools, and displacing individuals from their communities. The impacts of eviction are far-reaching. Research shows that evictions are correlated with increased risk of homelessness, emergency room use, and mental health hospitalization.¹ Eviction can also have long-term negative effects on financial health including credit, and depresses income, with one study by the National Bureau of Economic Research (NBER) finding that those with evictions experience a 7% loss of earnings in the 1st year after eviction, and a 14% loss of earning in the second year after eviction.²

As a member of the Right to Counsel (RTC) NYC Coalition, a tenant-led coalition that formed in 2014 FPWA lauds the passage and spirit of the Universal Access to Counsel Law. Passed in 2017 New York City became the first city in the nation to establish a Right to Counsel for tenants facing eviction, which has inspired a movement across the country.

To lessen the administrative burden, the UAC program ramped up over several years. In 2017 the UAC program only covered eligible New York City residents in selected zip codes. By 2022 the program had reached full implementation. However, **the UAC program has never had the capacity to provide representation in eviction proceedings to all eligible New Yorkers both due to insufficient funding for the program, and a lack of investment in capacity building among tenant attorneys** that could address issues of burnout and attract more attorneys to the field. Furthermore, **Housing Court proceedings are continuing to move forward despite the lack of representation.** The courts are prioritizing speed over tenants' rights to due process, which undermines the fundamental fairness of these proceedings. Today, more than 46,000 households³ are facing eviction alone.

There is significant evidence of the effectiveness of funding legal counsel for tenants. A study of the roll out of New York City's Universal Access to Counsel Program (UA) found that tenants with lawyers are considerably less likely to be subject to possessory judgments, face smaller monetary damages, are less likely to have eviction warrants issued against them, and are ultimately less likely to be evicted.⁴ The efficacy of legal counsel calls into question the fairness of housing eviction proceedings where the tenants are unrepresented and losing their cases not on the merits, but due to their lack of representation. There is no justice in these proceedings when tenants are denied representation. As an organization dedicated to dismantling the systemic and structural barriers that led to deprivation, FPWA

¹ https://economics.nd.edu/assets/303258/jmp_rcollinson_1_.pdf

² https://www.nber.org/system/files/working_papers/w30382/w30382.pdf

³ <https://www.righttocounselnyc.org/nycrcrisismonitor>

⁴ <https://www.sciencedirect.com/science/article/pii/S0047272723000269>

notes that this is more than procedural matter, it is also a racial and economic justice concern as eviction particularly impacts low-income people of color with disabilities, especially Black women, who are disproportionately rent-burdened, or pay more than 30% of their income on rent, and more likely to face eviction.⁵

One of the greatest impediments to the successful implementation of the UAC Programs has been the seeming lack of understanding about the importance and spirit of the law on the part of the New York State Office of Court Administration (OCA), who administer the New York State housing courts. OCA continues to schedule eviction proceedings at a rate that exceeds the capacity of the UAC Program attorneys, leaving eligible New Yorkers without representation and thus more vulnerable to the aforementioned negative outcomes. Under the previous administration, OCJ would negotiate with the courts to uphold the spirit of UAC. Under the current administration, OCJ no longer seems to have this open dialogue with the court system, and rather than proactively supporting tenant well-being and upholding the spirit of the law the OCJ is tasked with implementing, OCJ seems satisfied with increasing numbers of tenants facing the dire socioeconomic consequences of eviction without the best tools possible, i.e., legal representation.

To ensure the successful implementation of the UAC Law we recommend the following actions:

The city must add at least \$300 million to the budget to ensure there are enough attorneys to accommodate everyone entitled to representation in eviction proceedings.

We recommend that OCJ work with the New York State Office of Court Administration (OCA) and the state legislature to uphold the spirit of UAC. Several ways this could happen include:

- Chief Judge Rowan Wilson issuing an administrative order mandating that all eviction cases where a tenant is eligible for an attorney under the UAC law shall be administratively stayed until the tenant has had an opportunity to meaningfully meet with and retain counsel.
- The state legislature must vote on and pass S3254 / A4993, which would mandate that the court adjourn eviction cases when a local law provides a right to counsel and no counsel is available, and A1493 / S2721 which would create a constitutionally enshrined right to counsel in eviction proceedings for New York tenants, and create rules for the courts to uphold and implement.

Finally, we have specific recommendations concerning the newly instituted Brooklyn Housing Court Pilot program:

The Human Resources Administration (HRA) has launched an Administrative Pilot in Brooklyn Housing Court that essentially directs tenants to apply for emergency assistance with HRA, before they are connected to a Universal Access attorney to litigate their case. This seems like an attempt to circumvent the tenants' rights to counsel and could lead tenants with viable claims to forgo housing court and the opportunity to receive redress.

We urge you to implement the following recommendations for improving the Brooklyn Administrative Pilot to ensure the spirit of Universal Access is upheld:

- Ensure that tenants are connected to a housing attorney first to allow them to raise and litigate defenses.
- Publicly release any existing metrics and data OCJ has on the impact of the Administrative Pilot.

⁵ <https://www.americanprogress.org/article/recognizing-addressing-housing-insecurity-disabled-renters/>;
<https://www.americanprogress.org/article/the-disproportionate-burden-of-eviction-on-black-women/>

- Engage in a process of deep evaluation of the Administrative Pilot with the RTCNYC Coalition and other stakeholders.

Thank you for the opportunity to testify. FPWA hopes you will consider our recommendations, and we look forward to working with you to ensure the success of the UAC program, and the protection of tenants' rights in New York City.

Access to Free Legal Representation

Statement:

My name is Amela Dzurlic, I reside in the ethnically diverse county Queens of NY. When I legally arrived to the US in the early 1990's from a war torn country I had to adapt. My adaptation would be to assimilate as an ethnic minorities amongst several other ethnicities. While growing up I saw my peers and myself struggle to pay for school lunch, many of us had a sandwich grilled with juice.

When families with children can not afford to live in stable housing, when families do not have the rights that we currently do against eviction, it's just a straw in a pile of hay that an entire family would become homeless. The City's leaders have access to data of New Yorker's lives. From how much it costs to feed a family, how much it costs to pay utilities, etc.. we need legal representation because we can not afford to be homeless. It would cost this city more money to unhouse families than to help provide legal representation to fight for housing.

Children can not focus at school when they have financial insecurity, there are several studies that the City leaders and City powers have access to. I urge those in power to review the factual information to prevent families like mine past and present from becoming homeless.

Especially in this current ordeal of chaos this is a war on poor people and that's a war the city officials do not want to wage on the public. We need housing and we cant afford one more expense of lawyers fees.

Thank you,
Amela Dzurlic

**NYC OFFICE OF CIVIL JUSTICES' PROGRAMS TO PROVIDE UNIVERSAL
ACCESS TO LEGAL SERVICES FOR TENANTS FACING EVICTION HEARING**

February 28, 2024

JOINT TESTIMONY ON RIGHT TO COUNSEL BY:

BRONX DEFENDERS
BROOKLYN LEGAL SERVICES CORPORATION A
CAMBA LEGAL SERVICES
HOUSING CONSERVATION COORDINATORS
LEGAL SERVICES NYC
MOBILIZATION FOR JUSTICE
NEIGHBORHOOD ASSOCIATION FOR INTER-CULTURAL AFFAIRS
NEIGHBORHOOD DEFENDER SERVICE OF HARLEM
NEW YORK LEGAL ASSISTANCE GROUP
NORTHERN MANHATTAN IMPROVEMENT CORPORATION
RISEBORO LEGAL EMPOWERMENT AND ASSISTANCE PROGRAM
THE LEGAL AID SOCIETY.

Presented by:

Jereome Frierson; Tricia Lendore, Alfred Toussaint, Mary Fox, Ami Shah, Elise Brown,
Leneer Hutchinson, Austen Refuerzo, Jonathan Fox, Phillip Duncan, Daniel Rosenstock, and
Matthew Tropp

INTRODUCTION

In 2017, the City of New York (the “City”) became the first locality in the United States to enact a law ensuring access to free legal services for any residential tenant facing an eviction proceeding in court. New York City’s Universal Access legislation (UA), referred to as Right to Counsel (RTC) by the tenant advocate community, is a local law requiring the City’s Office of Civil Justice (OCJ) to establish a program that provides access to free legal services – either full legal representation or brief legal assistance, depending on the annual household income of the tenant litigant – to all tenant respondents facing eviction in New York City Housing Court.

Implementation of the UA program was phased in by the City over time; initially, all income-eligible tenant respondents in high-need zip codes selected by the City were provided access to free legal representation, via court-based intake as well as through community legal offices. By the end of 2019, the UA program had grown to include 25 zip codes across the five boroughs, and thousands of tenant respondents residing in other zip codes likewise received free legal

representation in Housing Court through UA and the City’s other legal assistance programs. According to an analysis by OCJ, at the end of 2019 the percentage of tenants appearing in Housing Court who had legal representation in eviction proceedings had reached 38% citywide, and 67% of tenants who appeared in Housing Court in the UA zip codes were represented by counsel in court.

It is critical for low-income people to have legal representation in housing proceedings. Tenants who have an attorney in an eviction proceeding are less likely to be evicted. The money judgments in these cases are less than in cases when the tenant is unrepresented, and these tenants are less likely to have a warrant of eviction issued against them.¹ Additionally, tenants who are represented by attorneys are almost guaranteed to remain housed.²

RTC saves the City money by reducing the number of families that enter the shelter system. The shelter system is an extremely costly remedy for addressing housing insecurity – in Fiscal Year 2022, the average daily number of households/individuals in the New York City shelter system equaled approximately 27,000,³ costing the City and State approximately \$1.7 billion.⁴

The funding needed to fully implement RTC is significantly less than the nearly \$2 billion spent on sheltering the unhoused. Money spent on RTC significantly offsets the need to spend money on shelters and is a powerful tool to combat the housing crisis in New York City.

While the Right to Counsel has had an immeasurable impact on individuals facing eviction, the various stakeholders tasked with its implementation face significant challenges. These challenges include: the expansion of right to counsel beyond the “zip-code approach,” the end of the various pandemic-related eviction moratoriums, Housing Court’s steady and increasing calendaring of eviction cases, inadequate funding for the program, and high rates of attrition by housing attorneys employed by RTC legal services providers and staff at the various NYC agencies. These interrelated factors have resulted in large numbers of tenants across the city being deprived of the right to counsel in their eviction proceedings.

¹ Cassidy, Michael T. and Janet Curre. “The Effects of Legal Representation on Tenant Outcomes in Housing Court: Evidence from New York City’s Universal Access Program.” NBER Working Paper March 2022 (revised July 2022), p. 3, available at: <https://www.nber.org/papers/w29836> (accessed 1/21/2024).

² “Universal Access to Legal Services: A Report on Year One of Implementation in New York City.” Fall 2018. New York City Office of Civil Justice, p. 27, available at: <https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ-UA-2018-Report.pdf> (accessed 1/22/2024).

³ See, “New York City By The Numbers: How Have City Costs for Homeless Shelters Changed with Shifts in State and Federal Support?” March 2023. New York City Independent Budget Office, available at: <https://www.ibo.nyc.ny.us/iboreports/how-have-city-costs-changed-with-shifts-in-state-and-federal-support-for-homeless-shelters-march-2023.html> (accessed 1/22/24).

⁴ Id.

As the Honorable Judge Bacdayan noted in a recent housing court decision, “..it is beyond cavil that full representation by an attorney makes a significant difference in the outcome of an eviction proceeding. Indeed, a lawyer for every eligible tenant in Housing Court is the objective of [the Universal Access to Counsel law]”. However, “UAC is plagued with 1) underfunding woes and delayed receipt of the funds that are available; 2) large court calendars replete with eligible tenants who do not receive representation (and sometimes — due to the volume of tenants who must be seen on any given day — not even advice); and 3) the high attrition rate of overworked lawyers from organizations that are overwhelmed by the demand.”⁵

As a legal services provider community, we are committed to ensuring that the Right to Counsel realizes its full potential for preventing homelessness and displacement of low-income and vulnerable New Yorkers, building tenant power, and balancing the scales of justice by making Housing Court a place where tenants can achieve just outcomes in their housing cases. In that spirit, and drawing on lessons learned from six years of RTC implementation, we offer this testimony to provide feedback and recommendations about this historic program.

I. RECENT CHALLENGES IN THE IMPLEMENTATION OF RTC

As we work together to sustain and strengthen the RTC program, it is worth reviewing the last few years of how the program has functioned during the height of the devastating COVID-19 pandemic. The pandemic resulted not just in over 20,000 deaths in the United States during the initial month of the crisis, it also resulted in unprecedented levels of unemployment, under-employment, and economic distress. Those economic effects of the pandemic crisis inevitably resulted in a massive wave of housing instability in NYC. To meet the challenges posed by the crisis, especially for low-income, elderly, and disabled New Yorkers, the legal services community in coordination with OCJ accelerated the roll-out of the RTC program citywide during 2020 and 2021. This sudden full implementation of the program without the necessary funding and resources, the wide-ranging changes in state law that came into effect in June 2019 that greatly increased the complexity of eviction defense law and practice, and the eventual end of the various pandemic eviction moratoriums have together led to tremendous strain on the RTC program and on RTC stakeholders.

(a) Rapid Citywide Expansion of RTC

The RTC law enacted in 2017 provided for the program to be phased-in in all parts of NYC over a five-year period, starting with coverage for tenants in only a few zip codes in each borough.

⁵ *Rossmill Assoc., LP v Watanabe*, 2024 NY Slip Op 24048, Hon. Bacdayan, K. (Civ. Ct. NY. Co. 2024). [See, Rossmill Assoc., LP v Watanabe \(2024 NY Slip Op 24048\) \(nycourts.gov\)](#).

Before the pandemic struck NYC, as of early 2020, the RTC program and the legal services providers participating in the program were expected to provide representation to tenants in only 25 out of the City's 180 zip codes.⁶ The rush to implement the RTC program Citywide and expand its coverage to all zip codes was necessary in the face of the housing instability caused by the pandemic; however, the swift pace of the expansion and lack of a concomitant increase in funding made it extremely difficult for the legal services providers to hire, train, and retain the staff needed to meet the increased demand for services. Because the number of housing cases filed during the pandemic plummeted, the mismatch between the funding and the eventual, post-pandemic demand for services was not immediately apparent.

(b) Wave of New Eviction Filings Following the End of the Pandemic Eviction Moratoria

As a result of the pandemic crisis, New York City and state authorities implemented a series of overlapping eviction moratoria starting on March 16, 2020. The first moratorium was implemented by the state Judiciary. That moratorium was followed and superseded by the Governor's eviction moratorium, implemented by Executive Orders. Finally, the state Legislature enacted an eviction moratorium law in December 2020, and the Emergency Rental Assistance Program (ERAP) law in April 2021. Those moratoria led to a dramatic reduction in new case filings. The state eviction moratorium law lapsed in January 2022, and the ERAP law and its limited eviction moratorium protection is nearing its end. The number of residential eviction filings have increased during the last two years, as each of these eviction moratoria lapsed.⁷ The increased number of eviction filings inevitably led to increased demand for RTC legal services citywide, especially for low-income tenants. Since the end of the eviction moratorium in January 2022, there have been more than [10,000 evictions](#)⁸ in New York City. That number is only increasing as we just concluded 2023. However, RTC providers have not had sufficient funding and resources in the face of this increased need for representation in eviction proceedings.

(c) The Ongoing Effects of Covid

The pandemic is one of the worst tragedies to hit New York and the world in recent years, the effects of which have harmed people emotionally, physically, and financially. Millions of people have been and continue to be negatively impacted as a result of Covid. Thousands of New Yorkers lost their jobs, their loved ones, their savings, and the fragile stability many had prior to the

⁶ Cassidy, Michael T. and Janet Curre. "The Effects of Legal Representation on Tenant Outcomes in Housing Court: Evidence from New York City's Universal Access Program." NBER Working Paper March 2022 (revised July 2022). Page 9. Available at: <https://www.nber.org/papers/w29836> (accessed 1/21/2024).

⁷ Brand, David. "NYC Eviction Rate Continues to Rise Since Ban was Lifted, as Homelessness Surges." January 18, 2023. Gothamist, available at: <https://gothamist.com/news/nyc-eviction-rate-continues-to-rise-since-ban-was-lifted-as-homelessness-surges> (accessed 1/21/2024).

⁸ Brand, David and Mehta, Neil. "NYC's Eviction Hotspots: Tracking the 10K Removals Since Moratorium Ended." August 10, 2023. Gothamist, available at: <https://gothamist.com/news/nycs-eviction-hotspots-tracking-the-10k-removals-since-moratorium-ended> (accessed 1/21/2024).

pandemic. There are also many who are still suffering ongoing negative effects created by the pandemic.

A number of the clients that our organizations assisted during the pandemic and are now assisting report that they have not been able get back to the financial positions they had prior to the pandemic. This has resulted in a large number of non-payment cases being brought that RTC providers must defend.

Many clients lost their jobs or had their hours reduced at work, which left them unable to pay part or all of their rent. Others helped family members financially or had to help pay for funeral costs, while others contracted the virus and could not work as a result. Many New Yorkers live day to day, paycheck to paycheck. Any interruption in that pay or any unforeseen expense, such as those caused by the pandemic, may and have cost tenants who are many times the most vulnerable to fall behind on rent payments. Without the services provided by the RTC program, many would have lost their homes.

The pandemic has also negatively impacted RTC providers' ability to hire and retain new staff. Prior to the pandemic it was already difficult to attract and retain attorneys in such a fast-paced and demanding job setting. Experienced attorneys seek higher salaries and more competitive benefits. Newer attorneys often feel overwhelmed and underpaid for the amount of work necessary to adequately represent our clients.

As the Courts and other offices move through the pandemic and reopen, new issues have emerged. Recruiting efforts have been hampered by some attorneys demanding to only work remotely or have limited court appearances. There are now some legal employers that allow attorneys to work fully remote or come to the office less frequently.

The work we do and the representation of our clients necessitates frequent court appearances and meetings with our clients. For many RTC attorneys that means coming to Court several times a week. The changes in the overall dynamic of people coming to their offices less, working reduced work weeks and in some cases having the ability to work mostly remotely has made it even more difficult to attract and retain qualified attorneys.

II. THE RTC RFX ISSUED BY THE OFFICE OF CIVIL JUSTICE

(a) The RFX Seeks to Fund an Insufficient Number of Eviction Cases.

On August 3, 2023, the City published the Anti-Eviction Full Legal Representation RFX with anticipated funding of \$408,520,077 for fiscal years 2025 through 2027. This funding was to

provide full legal representations on 44,444 cases. Unfortunately, the RFX has several shortcomings and most legal providers submitted protests in response to its issuance.

The first major concern with the RFX is that it only seeks to provide full legal representation in eviction cases for about 62% of the tenants who will be eligible. Based on filing numbers through late 2023, we anticipate that there will be 71,000 cases per year eligible for full legal representation. Yet, the RFP proposed to fund only 44,000 cases (and even those cases are severely underfunded as discussed below).

Providing funding for full legal representation for only 62% of eligible tenants is the antithesis of the intent of the Universal Access/Right to Counsel Law, which was enacted to ensure that eligible tenants have access to counsel in eviction proceedings. The City Council passed the landmark legislation in 2017, the first of its kind in the nation. This law has been critical in keeping thousands of low-income tenants, often tenants of color, in their homes. RTC has resulted in a dramatic decrease in the number of families and individuals entering shelter because of evictions, thus sparing families the trauma of eviction and saving the city enormous shelter expenses. The City is severely under-resourcing a program that it admits is successful; in 75 percent of cases where a tenant was represented by counsel in FY 2023, the tenant remained housed.⁹

(b) The RFX Proposed Insufficient Funding to Cover the True Cost of Providing Anti-eviction Services.

The RFX issued by the City for anti-eviction work also failed to adequately fund the true cost of providing these services. Initially the city proposed paying a case rate of \$3,063 per case. This rate is less than half of what is required to properly staff the work with attorneys, sufficient paralegals, and social workers. In fact, data collected by legal services providers shows that an eviction case costs on average \$7,500 to defend. After protest from the provider community, the City removed the case rate. However, rather than issue a case rate that matched the true cost of preventing evictions, the City told providers to propose their own cost rate. Yet, the overall funding and number of cases covered by the program remained the same; the RFX proposed to use \$408,520,077 to fund 44,000 eviction cases. In other words, the RFX still proposed to pay providers \$3,063 per case. In doing so, the RFX pushed the provider community to continue to propose large subsidies to supplement the RTC contract in order to receive funding; the organization that could afford the greatest subsidy could get closest to the proposed number of covered cases. These required subsidies have forced the provider community to limit staffing needed for holistic representation, including lawyers, social workers, paralegals, process servers and administrative support necessary to manage a fully implemented RTC program such as physical space and

⁹ OCJ 2022 Annual Report available at: https://www.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ_UA_Annual_Report_2022.pdf (accessed 1/24/24)

operational support like human resources, finance, grant management, and IT. This is neither sustainable nor fair. The RFX failed to provide enough funding for even the number of attorneys needed to handle the considerable volume of cases, let alone for the other staffing and infrastructure necessary for a successful RTC program.

Fully funding the RTC program is part of the solution to the housing affordability crisis plaguing this City. Keeping low-income people in their homes is essential not only for their individual well-being, but also as a bulwark against skyrocketing rents in the housing market. When a low-income tenant is evicted, their apartment will not be rented again to another low-income tenant; instead, the rent will likely be raised, and that unit will become unaffordable.

(c) The RFX Structure Will Not Allow for Quality Legal Representation.

Eviction defense proceedings are complex and require significant time to resolve. New York City has some of the most robust and complicated housing laws in the country. Important laws, such as the Housing Stability and Tenant Protection Act of 2019 and the recent amendments to the Rent Laws, have increased critical tenant protections while also adding to the complexities of tenant defense. As a result, providers must increase staff training to stay current with the law and attorneys must dedicate more time per case. Notably, these changes have all occurred in the last few years, after the formal launch of the RTC Program. The RFX failed to account for these changes and their impact on tenant defense and eviction prevention. Full representation cases at such a low case rate will not allow attorneys the time and resources needed to properly litigate these complex matters. Since we refuse to compromise the quality of our representation for vulnerable tenants, we must instead keep caseloads reasonable for our staff, which in turn means that fewer tenants will be represented under the proposed funding.

The funding also failed to take into account the full breadth of staffing and support needed to provide holistic, quality legal representation. In order to meet client needs, provider organizations must staff programs with paralegals, social workers, administrative staff, and infrastructure supports such as finance and IT, in addition to housing attorneys. The low case rate proposed in the RFX does not account for these substantial but necessary costs.

As we all continue to emerge from the pandemic, eviction filings have increased almost to the same level as pre-COVID¹⁰ and many more tenants are facing the prospect of eviction without an attorney in contravention of the spirit of the UA/RTC law. The Housing Courts in the various boroughs are “calendarizing” (scheduling) cases at the same or similar pace as before the pandemic,

¹⁰ Brand, David. “NYC Evictions Surged in 2023, with Legal Lockouts Nearing Pre-COVID Levels.” January 18, 2023. Gothamist, available at: <https://gothamist.com/news/nyc-evictions-surged-in-2023-with-legal-lockouts-nearing-pre-covid-levels> (accessed 1/21/2024).

despite providers' early and frequent warnings about lack of capacity, leaving low-income tenants unrepresented. Since the end of the eviction moratorium in January 2022, there have been more than [10,000 evictions](#)¹¹ in New York City. That number is only increasing as we just concluded 2023. Continuing to underfund this critical program will leave even more tenants without legal representation at this critical time.

(d) The Brief Legal Assistance RFX Did Not Adequately Fund Brief Services and Advice Cases.

Also on August 3, 2023, the City published the Brief Legal Program RFX (BLP RFX) with anticipated funding of \$9,000,000 for fiscal years 2025 through 2027. This funding was to provide brief legal assistance on 33,000 calls per year. Like the Anti-Eviction Full Legal Representation RFX, the BLP RFX was also deeply concerning.

The BLP RFX included a substantial cut in funding per case for brief legal assistance making it essentially impossible to provide meaningful brief legal assistance as required by the law. The proposed funding level of \$91 per call will not cover the cost of providing brief legal assistance to clients with complex eviction defense proceedings, thereby undermining the RTC law. This law has been critical in keeping thousands of low-income tenants, often tenants of color, in their homes. Importantly, while tenants whose income is below the specified threshold (200% of the federal poverty line guidelines) are entitled to full representation, all "covered individuals" are entitled to brief legal assistance. A covered individual is defined as "a tenant of a rental dwelling unit located in the city, including any tenant in a building operated by the New York City Housing Authority, who is a respondent in a covered proceeding." In other words, under the law, all tenants in eviction proceedings in New York City are at a minimum entitled to brief legal assistance. The BLP RFX limits helpline brief legal services to tenants who are over income (not eligible for RTC because their income exceeds 200% of the Federal Poverty Level guidelines) and prohibits reimbursement to Legal Services Providers for brief legal assistance to RTC-eligible tenants. This is highly problematic due to the many issues in implementing the RTC program.

The critical role of The Legal Aid Society's Housing Justice Helpline (HJH) in implementing the Right to Counsel cannot be overstated. LAS has worked on the helpline since it was established in 2020 during the acute phase of the pandemic to meet the urgent demand for remote information and assistance on housing-related legal matters. While multiple legal services providers initially staffed the helpline, LAS assumed full operation of the helpline in July 2021. Since then, LAS has expanded services to meet the needs of all unrepresented tenants regardless of income and or

¹¹ Brand, David and Mehta, Neil. "NYC's Eviction Hotspots: Tracking the 10K Removals Since Moratorium Ended." August 10, 2023. Gothamist, available at: <https://gothamist.com/news/nycs-eviction-hotspots-tracking-the-10k-removals-since-moratorium-ended> (accessed 1/21/2024).

whether they have a pending eviction matter. As outlined, the total funding proposed under the RFX to do full representation cases does not meet the volume of eligible cases. HJH, along with other legal services provider hotlines, is left to fill in the considerable gap due to the lack of capacity of the legal services provider community. The Callers to the helpline include those tenants whose cases are not calendared in a RTC part; tenants who, although eligible, are not able to be represented by a provider due to the providers capacity issues; tenants who are not eligible for RTC due to their income; and tenants who have housing issues unrelated to an eviction defense proceeding. The HJH thus bridges the justice gap for tenants who would otherwise not have access to any legal assistance. The BLP RFX eliminates the option of in-court brief legal assistance and limits provision of brief legal assistance exclusively to the helpline, thus reducing access to these services for tenants who may prefer to seek assistance in person in court and also constrains the legal services providers who are in-person speaking with someone in court.

(e) The RFX Does Not Incorporate the OCA Caseload Report, Which Would Dramatically Change the Cost and Funding Structure of the Program.

The RFX’s funding structure assumes that an eviction proceeding is simply a routine matter that can be resolved quickly. However, legal services providers spend many hours providing quality representation on eviction cases to bring proceedings to favorable conclusion for the tenants that they serve. Moreover, the Universal Access to Justice Caseload Working Group Report and Recommendations of the New York State Office of Court Administration dated August 31, 2023 (“OCA Caseload Report”) concluded that given the complexity and pace of eviction proceedings, a full time, experienced UA/RTC attorney can provide representation on approximately [48 full legal representation cases per year](#)¹². The RFX is not based on this guideline of the number of cases that an experienced attorney can responsibly manage per year. The RFX funding would actually require a UA attorney to do almost double the number of cases, which would not provide for quality representation and would lead to even more burnout and attrition of staff as well as other professional and ethical challenges. The Caseload report is discussed further below in Section V..

(f) The RFX Includes a Draconian 10% Penalty that Further Undermines Providers’ Ability to Provide Effective Right to Counsel Services

The RFX contains a new penalty for providers who cannot meet 100% of contract goals; such providers are ineligible to receive 10% of the allocated funding and OCJ may modify funding to those providers in future years. In the context of a deeply underfunded contract and an economy where staff hiring and retention are difficult, meeting 100% of the contract goals is unrealistic unless providers can obtain and contribute vast additional resources to subsidize the work. This

¹² Whitford, Emma. “Report Explores How Many Eviction Cases One Lawyer Can Juggle.” September 5, 2023. City Limits, available at: https://citylimits.org/wp-content/uploads/2023/09/UA-Caseload-Working-Group-Report-and-Recommendations_08312023.pdf (accessed 1/21/2024).

penalty adds further pressure on providers to fill the funding gap that the City has failed to acknowledge or remedy. The uncertainty of this 10% funding also makes it impossible for organizations to do the necessary planning for and investment in staff hiring and retention as well as to combat and plan for attrition.

III. ADMINISTRATIVE PART PILOT PROJECT

In February 2023, the NYS Office of Court Administration (OCA) together with the New York City Department of Social Service Office of Civil Justice (OCJ) launched an Administrative Pilot part in Brooklyn Housing Court. While the Administrative Part Pilot in Brooklyn has had some success in streamlining intake protocols, we urge OCJ to consider providers' suggestions about how to improve the operation of the Administrative Part before expanding the pilot to additional boroughs.

Prior to the pilot project, intake would be completed in each of our assigned parts. We would speak to each tenant who came for their first appearance, complete the income eligibility, and determine eligibility for full representation under Universal Access. For any tenant not income-eligible for full representation we would provide brief advice or, after a sympathetic factors assessment, determine whether to submit an income waiver to be able to provide full representation. In this process, we were able to speak to every tenant who came in. We would request adjournments for tenants who appeared, and the length of the adjournments would vary depending on the opposition of Petitioner's counsel or *pro se* Petitioners and final determination by the judge.

Since the inception of the pilot project, all tenants who appear for their first appearance are directed by court staff to speak with an HRA/OCJ representative who determines their income eligibility for the full representation. Depending on the court part, the tenant will then be directed to speak to the applicable legal services provider and then apply for the one-shot deal (one-time rental assistance) in connection with a nonpayment proceeding. All cases are adjourned for 45 days unless the Petitioner is seeking to discontinue the case; in that instance the matter can be discontinued with or without the assistance of the legal services provider. The legal services providers only speak to tenants who are income eligible and who decide to seek legal representation. In those occasions when tenants do not choose to seek the services of a legal services provider, it is not always clear why; tenants must rush off to work or some other commitment, are confused by the process, or believe the case will be resolved on its own and do not believe they need counsel. Some of the court staff present tenants with the benefits of speaking to counsel, others do not.

There are several positive aspects of the pilot project. The first is that all cases receive an automatic adjournment regardless of the type of case. Second is that the income eligibility is processed by

HRA prior to the tenant speaking with counsel. Third is that the tenants can apply for a one-shot deal at the courthouse. Fourth is that the process is more efficient for legal services providers as they do not have to manage multiple parts and can just stay in a designated part of the building.

There are also several setbacks of the pilot project: first is that the one-shot deal that is applied for is generally denied because the tenant is not permitted to upload their documents for the applications or the tenant fails to complete their BEV interviews, thus delaying the resolution of the case. Second is that legal services providers miss the opportunity to speak with all eligible tenants because many respondents do not make it to the legal service providers during their first appearance. Third, rent breakdowns are not provided by all Petitioners or petitioner's counsel to the tenant on the first appearance. This results in one-shot deal applications not being fully processed due to lack of documentation and at times the case moving forward when the petition is satisfied.

As OCJ considers further implementation of the Administrative Part Pilot, we urge OCJ to meet with providers and the Office of Court Administration to discuss ideas to optimize the Administrative Part to ensure better outcomes for all parties.

IV. OCJ SHOULD PARTNER WITH PROVIDERS TO CREATE A PROGRAM THAT MINIMIZES AND ADDRESSES ATTORNEY ATTRITION

For any program providing legal services in eviction proceedings to be successful and sustainable, including both New York City's existing program and efforts being considered at the state level through A.1493/S.2721, there must be an understanding of the current growing issue of attorney recruitment and attrition. Legal services providers are consistently scrambling to fill vacancies and to attract dedicated and qualified attorneys to the practice. In this endeavor, OCJ should partner with providers to create a systemic pipeline to recruit and train new advocates to become Right to Counsel practitioners. The City should provide dedicated funding that can be used to engage law students, present at law schools, and develop substantive and skills based trainings that harness the passion of new advocates of all backgrounds about the importance, promise, and career opportunities within Right to Counsel.

More than anything, however, attracting and retaining qualified candidates requires a housing practice that pays a living wage, provides professional development opportunities, mentorship, and support for staff, avoids burnout, and allows for a meaningful work-life balance for practitioners. The mass exodus of public defenders due to low pay and burnout over the last year was chronicled by the New York Times in an article published in June 2022.¹³ According to the article, public

¹³ Bronwich, Jonah E. "Hundreds Have Left N.Y. Public Defender Offices Over Low Pay." June 9, 2022. New York Times, available at: [Hundreds Have Left N.Y. Public Defender Offices Over Low Pay - The New York Times \(nytimes.com\)](https://www.nytimes.com/2022/06/09/nyregion/public-defender-offices-low-pay.html) (accessed 1/22/2024).

defenders, including housing attorneys, are often overworked and under compensated with their salaries well below the salaries of City lawyers and prosecutors.

Acknowledging and responding to the unprecedented attrition that all Right to Counsel providers have experienced is necessary to ensure the sustainability and success of the City's program and to guarantee the sustainability of any program implemented at the state level. Providers are experiencing inordinately high attrition rates and are competing against one another to hire from a very small pool of applicants.

This increase in attrition is in line with that felt across the legal service field throughout this pandemic period, but is further exacerbated by the lack of funding and structural support afforded to advocates tasked with implementing the city's new and groundbreaking program, and will be even more significant in the event of an expanded statewide program. Staffing structures must enable providers to hire sufficient staff to provide adequate time for training, supervision, and client engagement outside of court: so that staff who join this program are able to sustain this practice.

High attrition rates impact remaining staff's sustainability as well. When a staff attorney with an active full caseload resigns, the capacity of the remaining staff shrinks because the departing attorneys' have a full caseload of ongoing and active cases, which must be redistributed among staff who are already at or near capacity. Remaining staff are then forced to familiarize themselves with the factual background and procedural history of the reassigned cases, leaching time and capacity to take on new client matters, and causing additional strain for remaining staff, contributing to further attrition.

The most direct way to mitigate the risk of attrition for the citywide program is to fund it sufficiently to enable providers to hire enough staff attorneys and to structure the program in a manner that ensures manageable caseloads for attorneys with varying levels of housing experience.

V. CASELOAD STANDARDS REPORT

In 2022, the Office of Court Administration (OCA) announced that it would devise a uniform case standard (the number of cases that an attorney should be assigned each year) for the Universal Access/Right to Counsel program. The Universal Access to Justice Caseload Working Group was created and consulted with all the relevant stakeholders in the RTC program, including OCJ.

Providers of the Right to Counsel were very grateful for the Office of Court Administration's Universal Access Caseload Report and Recommendations (Report) that was released at the end of August 2023. After consulting with various stakeholders, the Report recommended that 48 represents the number of cases that an *experienced* housing attorney spending 100% of their time on client work should intake in a given year. The Report also called for holistic staff, like social

workers, benefits advocates, social workers and administrative staff to enhance our work and support it.

While these recommendations are a great starting place for our work and we are eager to incorporate this standard into our RTC representation to make our workload more sustainable and impactful, there were a few concerns of note we had with the Report and its recommendations. Most importantly, we, as providers, wonder how we can implement the important recommendations of this report when there have been no changes to the calendaring of cases for the purposes of our intake shifts or any meaningful changes to how our work is structured or increases to how our work is funded. The reality is the structure and amounts of our contracted work would need to be dramatically increased in order to incorporate recommendations to caseloads.

Additionally, there are a few issues of note regarding the caseload report which include:

-The actual intake number per year is lower than 48. The Report mentions that attorneys spend 77% of their time, not 100%, on casework which would then result in lower than 48 cases for intake per attorney to provide time for administrative needs, continuing legal education (CLEs), supervision, and other aspects of this work.

Additionally, the majority of advocates who enter this field are new, inexperienced law graduates not the experienced attorneys referred to in the Report; this would also reduce the 48 case number recommended.

- There is no mention in the Report as to **what should happen** when we are fully staffed and when attorneys meet their intake case maximum for the year, whether it is 48 cases per year or less.

-There is a disconnect and a few misstatements in report about data that **OCJ already collects from the Providers** – which could have been but appears to not have been shared by OCJ to OCA working group despite the “enhanced reporting data” provider send to OCJ that captures the staffing, experience level, caseloads and salaries of attorneys.

- We hoped for **more consultation and feedback to make this a more accurate and impactful report** prior to its release; moreover, the Report should have informed the RFX but wasn't released until after the RFX was released and therefore, it was not incorporated into the RFX nor did it lead to more financial investment into the RFX.

Ultimately, the collaboration between the providers, the working group, OCA, and OCJ to support the Report as it was being created did not happen in an ideal fashion and any collaboration to implement the recommendations for the RTC Program has yet to occur.

VI. RECOMMENDATIONS

(a) RFX

(i) Funding should match the true cost incurred by providers for implementing Right to Counsel

Funding should match the true cost to providers, which has grown exponentially as providers have seen a 24% increase in how many hours it takes to resolve a case since 2018, while increased administrative and training burdens mean that staff have fewer hours available to do casework. At the same time, providers are grappling with growing expenses including rent increases on our existing spaces and rising healthcare, salary, and pension costs. In response to the questions we have received about the cost of this program, to fully implement Right to Counsel, providers estimated last year that an additional \$351 million in funding was needed. While the City allocated an additional \$20 million to the program, the estimated the costs associated with the additional eligibility of all seniors and the general increase in cost of living exceed that additional funding, taking into consideration the total 71,400 eligible eviction cases.

(ii) Adequate Funding for the number of cases eligible for UA/RTC

The City should increase funding for Universal Access/Right to Counsel to a level sufficient for legal services providers to provide high quality, holistic services to all 71,000 eligible cases. There has to be sufficient funding to meet the demand for representation in the new cases being filed and the backlog of eviction defense cases pending without representation. It should also sufficiently fund the brief legal services that are required under the law.

(iii) Funding should allow our organizations to sufficiently staff our programs with attorneys, necessary support roles, and qualified supervisors.

The funding must allow providers to hire and retain sufficient numbers of attorneys such that attorney caseloads can be maintained at a level where attorneys are not overburdened and where tenants can receive the best possible legal representation. Particularly because our practices rely on a regular influx of inexperienced attorneys to fill openings in a complex and rapidly changing area of law, these numbers also need to take into account the reduced caseloads that new attorneys are able to handle in their first year of practice as well as the caseloads that must be absorbed by existing staff already operating at capacity as a result of high attrition in the practice.

The funding provided must take into account not just the cost of attorneys, but also the necessary staffing to provide holistic and high-quality services. Paralegals are crucial to engaging in public benefits advocacy and this need is growing as providers experience enormous hurdles and delays in trying to obtain CityFHEPS, FHEPS or other HRA benefits for our client. Because our clients come to us in crisis and may have underlying mental health, economic, social or age-related challenges, having social workers on staff is crucial to adequately serve our clients and support our attorneys in handling the enormous stress of clients facing eviction or other challenges.

Similarly, support roles such as social workers, investigators, process servers and administrative help are essential in providing high-quality legal representation and should be funded accordingly.

The majority of attorneys entering the Right to Counsel practice are recent law graduates who dive immediately into all aspects of litigation including directly working with clients, researching and drafting legal papers, negotiating with opposing counsel, and handling all court appearances up to and including trials. This requires extensive supervision at every level to ensure high quality legal work on behalf of tenants.

However, attracting and retaining experienced qualified supervisors remains a challenge across Right to Counsel legal service providers. Legal service providers lack sufficient funding. Sufficient funding would ensure providers have the ability to have appropriate supervisor to attorney ratios and provide competitive salaries; currently, supervisors at legal service providers are paid less than experienced Law Department attorneys by more than twenty thousand dollars annually.

The City should also work with providers to ensure we have programs that recruit, train and retain the necessary staff across the program.

(iv) Funding should take into account staff training needs

High quality legal services require robust initial and ongoing training for all staff. Landlord-tenant law in New York City implicates complicated federal, state, and local laws and regulations. New attorneys and experienced attorneys must regularly attend trainings and learning opportunities to become appraised of and stay updated in the law. Resolving cases is also frequently dependent on an advocate's knowledge of numerous rent arrears and rent subsidy programs. Adequate training programs covering this material takes several weeks and must be offered repeatedly. Funding and caseload expectations for newly hired attorneys must take this into account. Finally, most attorneys are never formally trained to be managers. When experienced attorneys are making the transition to supervisors, legal service providers must be able to provide them with development opportunities to ensure our on the ground staff receive appropriate supervision at all levels.

(v) The 10% penalty should be discarded.

The 10% penalty for failure to perform 100% of contract deliverables should be wholly discarded. The provider community is working in partnership with the City to meet a common goal – to provide effective high-quality legal representation for low-income New Yorkers facing eviction. Any insufficiencies in contract deliverables should be viewed in the context of the challenges faced by providers including the lingering effects of COVID-19, the difficulties recruiting and hiring, and high staff attrition. The City should work with providers to address these challenges and ensure any mechanism for accountability does not further inhibit providers' ability to meet our common goal. Legal service providers are not in a position to have varied funding on a yearly

basis. They need predictable budgets to have sufficient staff to meet the deliverables of the program and to provide high quality legal services. Any variance in that funding has a huge impact in being able to keep a sustainable program. Providers, unlike the City, rely on consistent funding to programs so that budgets can be made and projected over a period of time and are not in a position to fill funding gaps that could occur with this type of penalty. Consistent and continued funding of the program is paramount to the provider community.

(vi) Providers should be given adequate time to review and implement the results of the RFX.

While providers have been told the decision on the RFX will be announced sometime in January 2024, as of date no decisions have been announced. When decisions are announced, providers should be given ample time to negotiate the contract and plan its implementation which should be no less than six (6) months.

(b) Administrative Part Pilot

We strongly recommend that OCJ consider the following suggestions and we are happy to meet with all relevant stakeholders to further discuss these suggestions in greater detail.

(i) Develop clear goals and metrics for the Administrative Part

Now that the Brooklyn Pilot Part has been in effect for around a year, it's important for OCJ to engage with providers and the Office of Court Administration to work on determining what the goals for the administrative part are and how success will be measured. A successful administrative part would create conditions where the vast majority of eligible respondents appear in the administrative part, engage with DSS/HRA, and see a legal services provider within a reasonable timeframe so tenants can return to their busy lives. Anecdotally, we believe that since the implementation of the administrative part, fewer tenants are making it to see a legal services provider. Some are being screened out as over income, but we fear that other tenants are falling through the cracks. To ensure the Administrative Pilot Part is achieving its purpose of easing implementation of UA/RTC, OCJ should aim to ensure 100% of income-eligible tenants are able to meet with a provider on their first court appearance

Another metric of success would be how long it takes a nonpayment case to resolve from start to finish. A successful administrative part implementation should result in most nonpayment cases being resolved and discontinued within a reasonable amount of time from the first appearance.

It's also important for OCJ to solicit tenant feedback through a survey or other means about the administrative part and how it and their experience in the courthouse for their first appearance can improve. While we as legal services providers have lots of suggestions and feedback based on our experience as practitioners, we are not a substitute for our clients' voices and our clients have important feedback to offer that will be very helpful in shaping the goals of the administrative part. Developing these goals and metrics will help OCJ, OCA, and the providers better align our mutual and individual objectives, and we look forward to discussing this matter further with OCJ.

(ii) Enable Court-based HRA/DSS Staff to Process One Shot Deal Applications from Start to Finish

HRA/DSS should have staff from the Rental Assistance Unit (RAU) deployed to the courthouse to process one shot deal applications along with staff who can complete the Bureau of Eligibility Verification (BEV) interviews required for those applications. We hear from many clients who spend hours on the telephone trying to conduct their BEV interview and are unable to reach anyone. Often clients' one shot deal applications time out because of their inability to connect with anyone from HRA/DSS for their BEV interviews, despite clients' best efforts and our zealous advocacy. In addition, if any documents or parts of the application are missing, the HRA worker should give the tenant a list of any missing documents and precise instructions on how to submit the missing documents.

If HRA/DSS transformed its space in Housing Court to an outpost of a Job Center in this way, it would dramatically increase the speed and efficiency of one shot deal or FHEPS applications and make it possible for many clients to return to their second court date with an approved one shot deal or FHEPS application ready or near-ready to resolve their Housing Court matter. Streamlined one shot deal and FHEPS application processes would make eviction cases resolve much faster with less work for all involved and preserve attorney capacity to handle motion practice and other substantive legal work.

(iii) Require Petitioners to Provide Current Rent Breakdowns to the Administrative Part

We also strongly recommend that OCJ urge the Office of Court Administration to develop a rule requiring all petitioners in nonpayment cases to provide a current rent breakdown to the administrative part for a tenant's first appearance. Given the time that can elapse between the petition's filing date and the first court date, it's essential for tenants, legal services providers, and HRA/DSS staff to have a current rent breakdown, which will facilitate the prompt resolution of the eviction case. We also strongly encourage OCJ to engage with the Office of Court Administration to put pressure on the landlord's bar to file stipulations of discontinuance for

resolved cases prior to the first court date so there is no wasted effort by court staff, HRA/OCJ, or legal services providers.

(iv) Develop Talking Points for OCJ and Court Staff to Engage Tenants about Right to Counsel Legal Services and Have a Fact Sheet in Multiple Languages Given to All Respondents

We also suggest that OCJ develop talking points for its own staff and court staff so respondents in Housing Court hear a consistent message about how to engage with a Universal Access/Right to Counsel legal services provider and the benefits of this service. Furthermore, a plainly written fact sheet for respondents available in multiple languages would also be a very helpful resource to make the process more transparent, accessible and efficient.

(c) Caseload Standards Report

The Caseload Standards Report provides an invaluable starting point around how tenant protection and eviction defense work can be effectively and ethically conducted. Thus far, OCJ has provided no insight into how, or even if, the City is considering the report in UA/RTC program implementation and funding decisions. Given the extensive data collection and analysis that went into the report, OCJ should carefully consider the report's recommendations and give providers details on how these recommendations can be incorporated into the UA/RTC program.

VII. CONCLUSION

As we move through the many stages of this housing and health crisis, we remain on the frontline of efforts to ensure that the needs of New York's marginalized communities are met. We will continue to make the case for justice and equity. As our clients undergo this unparalleled crisis, we stand right there beside them. On behalf of Bronx Defenders, Brooklyn Legal Services Corporation A, CAMBA Legal Services, Housing Conservation Coordinators, Legal Services NYC, Mobilization for Justice, Neighborhood Association for Inter-Cultural Affairs, Neighborhood Defender Services, New York Legal Assistance Group, Northern Manhattan Improvement Corporation, RiseBoro Legal Empowerment and Assistance Program, and The Legal Aid Society, we thank you for your continued support, and for allowing us to testify today.

If you want to learn more about RTC and the issues discussed in the testimony, we invite you to read the RTC Concept Paper authored by the Legal Services Providers which can be found at <https://docs.google.com/document/d/14Vtdi7vfdw67YbnlUtYq9OkXP9WE55sAx24ZTjbVv38/edit?usp=sharing> and is attached to the version of this testimony submitted on-line.

LEGAL SERVICES PROVIDERS

BRONX DEFENDERS

The Bronx Defenders (“BxD”) is a public defender non-profit that is radically transforming how people in the Bronx are represented in the legal system, and, in doing so, is transforming the system itself. Our office’s staff of over 450 includes interdisciplinary teams comprised of civil, criminal, immigration, and family defense attorneys, as well as social workers, benefits specialists, legal advocates, parent advocates, investigators, team administrators, and policy, organizing, and community engagement specialists who collaborate to provide holistic advocacy to address the causes and consequences of legal system involvement and push for systemic reform at the local, state, and national level.

Through this integrated, comprehensive, referral-based structure, we have pioneered a groundbreaking, nationally-recognized model of direct services representation we call “holistic defense” that achieves transformative outcomes for the people we represent. Each year, we defend over 20,000 low-income Bronx residents across civil, criminal, immigration, and family legal systems, and reach thousands more through our community intake, youth mentoring, and outreach programs. We take what we learn from the people we represent and communities that we work with and launch innovative programs designed to bring about real and lasting change.

Our Civil Action Practice

The Civil Action Practice provides comprehensive civil legal services to clients and their families by integrating civil representation. Our goal is to actualize the civil right to counsel – including for tenants – and minimize the severe and often unforeseen fallout from housing, criminal, family, and immigration court proceedings and facilitate the seamless reintegration of our clients into the community. Our Civil Action Practice attorneys, social workers and benefits & legal advocates represent clients in every forum in New York City – administrative, state, and federal – to address these problems and assist our clients in overcoming civil legal barriers to housing, eviction, employment, and public benefits, as well as addressing instances of police misconduct, criminal record errors, and civil forfeiture.

An Example of Our Work:

Client A, a disabled individual living in their home for more than 20 years with his two children was at risk of homelessness and was facing family separation through an article 10 case alleging neglect based on unstable housing conditions. Client A was unable to pay the rent for his apartment and owed more than \$25,000 coming out of the pandemic. This was despite being approved for a one-time grant through the Emergency Rental Assistance Program (ERAP). In addition to needing emergency and long-term financial assistance, Client A needed support from Adult Protective Services (APS) due to deteriorating health and other needs, but he was denied assistance.

BxD was appointed as the attorneys of record for Client A, and our social worker, part of our advocacy team, met with Client A and did a thorough assessment regarding his medical conditions of multiple sclerosis, diabetes II, retinopathy, and other impairments and how they impacted his functioning and adult daily living skills. Our social worker worked hand in hand with the benefits advocate and housing attorney to advocate for services with APS and assisted Client A apply for CityFHEPS. The advocacy team successfully obtained APS services, which in turn allowed for CityFHEPS to pay the \$25,000 and safeguard Client A's housing for the long term which led to the dismissal of the neglect charges in Family Court.

BROOKLYN LEGAL SERVICES CORPORATION A

Brooklyn Legal Services Corporation A (Brooklyn A) believes all New Yorkers should have equal access to legal services to seek justice, make their voices heard, and overcome systemic racism and oppression. We represent low- and moderate-income individuals and families throughout New York City. Our clients live in rapidly-gentrifying neighborhoods where many residents and small business owners have been displaced or are facing displacement and harassment. For over half a century, Brooklyn A has provided high-quality, low-barrier neighborhood-based legal services to individuals, families, nonprofit community-based organizations, community development corporations, coalitions, and small business owners, interested in developing and sustaining vibrant, healthy communities. Our Preserving Affordable Housing (PAH) Program uses legal and advocacy strategies to preserve and protect affordable housing, prevent evictions, combat tenant harassment and discrimination, and ensure that working families, individuals, older adults, and others live in stable environments and within their financial means. Brooklyn A's PAH Program has 39 staff attorneys, paralegals, social workers, and supervising attorneys, in addition to other supporting staff.

An Example of Our Work:

Brooklyn A represented Client B in a nonpayment case where the Tenant was withholding rent due to conditions in her apartment. We conducted a 4-day trial which resulted in an order granting the client a 30% abatement for all arrears through the petition to the date of trial. The order also directed the landlord to correct the repair issue she had been suffering from for the last couple of years.

CAMBA LEGAL SERVICES

CAMBA Legal Services, Inc. (CLS) is a community-based law practice in Brooklyn and Staten Island that provides free civil legal assistance to low-income New York City residents. Our mission as a dedicated and diverse staff of lawyers and paralegals is to provide our clients with the highest

quality of legal representation while standing committed with our communities in the fight for racial, social, and economic justice. CAMBA Legal Services' Housing Unit provides anti-eviction legal services to tenants, including legal advice and representation in non-payment proceedings, holdovers, HP actions for repairs, HCR overcharge complaints, administrative hearings (NYCHA and HPD), Article 78s and other related proceedings. The CLS Housing Unit has a staff of more than 56 attorneys and paralegals. CLS prides itself on being guided by the following principles; compassionate case handling, decentering the attorney to empower the client, tenacious advocacy, collaborative learning, and a commitment to legal excellence.

An Example of Our Work:

Client C was a home health aide Guyanese national who was also 80 years old. She began occupying the subject premises to help take care of a family member of the family who owned the building. The owners failed to pay her the agreed amount of compensation for her services and instead commenced a holdover against her. The owners engaged in harassment (removing the stove, personal effects, threats of violence, etc.) with the use of self help. We were able to induce a settlement through creative legal theories and by threatening to go to trial. The settlement included a significant amount of time for Client C to vacate along with monetary damages in the amount of \$5,000.00, which allowed her to relocate to her home country of Guyana. We got her a settlement to allow her to return to her home country with dignity which was a very satisfying and just outcome for a very kind but vulnerable woman despite the limited defenses available to her.

HOUSING CONSERVATION COORDINATORS

Housing Conservation Coordinators (HCC) is dedicated to advancing social and economic justice and fighting for the rights of poor, low-income, and working individuals and families. With a primary focus on strengthening and preserving affordable housing, we seek to promote a vibrant and diverse community with the power to shape its own future. Since its founding in 1972, HCC has been devoted to preserving the character and diversity of the Hell's Kitchen Community and guaranteeing that high quality affordable housing remains in the neighborhood. Each year the organization helps more than 4,000 individuals and families by preventing evictions, educating them about their rights, and weatherizing their buildings.

Since the implementation of Right to Counsel (RTC) in 2017, HCC has been an RTC provider in Manhattan's Housing Court, ensuring that tenants have competent and zealous representation as well as support from advocates and a social worker in eviction proceedings.

An Example of Our Work:

HCC represented Client D in a non-payment court case. Client D is 65-years old, disabled, and wheelchair-bound, and she lives in a walk-up Section 8 apartment. There were various issues with

the landlord's petition, such as laches, charging rent for months already paid, charging full rent for months in which a \$1 DHCR Rent Reduction Order was in place following a fire in the building and a building-wide vacate order. As a result of extensive negotiations with the landlord's attorney, HCC obtained a \$2,726.58 rent abatement, reducing the outstanding balance by 50% to \$2700. HCC advocated for repairs to be completed, including installation of grab bars in the bathroom and replacement of a broken bedroom door. The client was able to remain in her apartment, the case was discontinued with prejudice through September 2023, and Client D has a zero balance through September 2023.

LEGAL SERVICES NYC

Legal Services NYC (LSNYC) fights poverty and seeks racial, social, and economic justice for low-income New Yorkers. LSNYC is the largest civil legal services provider in the country, with an over 50-year history and deep roots in all of the communities we serve. Our staff of nearly 700 assists more than 110,000 low-income New Yorkers each year. LSNYC's housing practice, along with other legal services organizations in the City, is at the forefront of the fight to prevent evictions, preserve affordable housing, and uphold tenants' rights. Legal Services NYC is also a proud member of the Right to Counsel NYC Coalition, a tenant- and organizer-led coalition of tenant organizing, advocacy and legal services organizations, which fought for the right to counsel for NYC tenants facing eviction and which is working to ensure just implementation of the right to counsel law.

An Example of Our Work:

Client E, an 86-year-old Spanish speaking tenant, living with her blind, wheelchair-bound husband came to us with over \$50,000 in arrears. Client E and her husband had lived in their rent-stabilized apartment in Washington Heights for over 40 years, raising three kids there. However, after their son passed away, they no longer had enough income to afford the apartment. While they tried to seek help from city agencies, their age, disabilities, limited English proficiency, and limited access to technology made it extremely difficult for them to do so. Through extensive litigation and advocacy, we worked with Adult Protective Services to obtain a City Family Homelessness and Eviction Prevention Supplement (CityFHEPS). CityFHEPs paid off their arrears and provided ongoing rental assistance, limiting their future rent obligations to 30% of their income. As a result, the nonpayment proceeding against them was discontinued and Client E and her husband can spend the rest of their lives in the home they've built over the past 4 decades.

MOBILIZATION FOR JUSTICE

Mobilization for Justice's (MFJ) mission is to achieve justice for all. MFJ prioritizes the needs of people who are low-income, disenfranchised, or have disabilities as they struggle to overcome the effects of social injustice and systemic racism. We provide the highest-quality free, direct civil legal assistance, conduct community education and build partnerships, engage in policy advocacy,

and bring impact litigation. MFJ has a staff of more than 165 attorneys, paralegals, social workers, and support staff. It is a diverse, unionized, and collegial workplace where staff share the organization's mission to achieve social justice.

MFJ's housing practice is honored to engage in RTC/Universal Access work in the Bronx and Manhattan, where we deploy a wide array of litigation and advocacy strategies to prevent eviction and to protect tenants' rights.

An Example of Our Work:

Client F defaulted in a non-payment proceeding, likely because the landlord failed to properly serve her with the petition, whereupon the Manhattan Housing Court awarded monetary and possessory judgments against the client. Client F and her family – including two minor children, the youngest of whom was 8 years old – were forcibly evicted from their home and later entered the shelter system. When Client F filed a *pro se* order to show cause, the judge who signed the order sent Client F to consult with MFJ, which was serving as the Manhattan Right to Counsel provider on intake duty in the courthouse.

Despite having a full caseload and parental leave close on the horizon, the MFJ attorney who conducted the in-court intake offered to represent Client F and immediately began advocacy efforts, including making three court appearances in short succession and submitting a one-shot deal application to HRA. When HRA approved Client F for a one-shot deal for the full amount of rental arrears, MFJ's attorney picked up the checks from HRA and hand-delivered them to the landlord's office. After receipt of the checks, however, the landlord refused to restore Client F and her family to possession of their apartment and tried to extort an additional \$4,000 from Client F, claiming for the first time that she owed legal and marshal fees. MFJ's attorney then filed an affirmation and a memorandum of law to supplement Client F's *pro se* order to show cause and appeared in court for argument. In a written decision issued the next morning, the Court rejected the landlord's extrajudicial claim for additional monies and ordered that the landlord "shall restore [Client F] to possession forthwith and provide [Client F] with keys for the subject premises forthwith." Client F and her family left the shelter system and regained possession of their apartment three weeks after their eviction.

NEIGHBORHOOD ASSOCIATION FOR INTER-CULTURAL AFFAIRS

The Neighborhood Association for Inter-Cultural Affairs, Inc. (NAICA) is a not-for-profit corporation that has been providing housing intervention and assistance services to residents of the Bronx since its establishment in 1974. NAICA's mission is to provide culturally and linguistically client-centered housing, legal, and social support services that promote self-efficacy and quality of life improvements for individuals and families in New York. Our core methods of

service include affordable housing development, housing management, free legal assistance, homelessness prevention, case management, community education, and community development.

An Example of Our Work:

Client G came to NAICA after being sued in a holdover proceeding. She was a month-to-month tenant in an unregulated apartment and her landlord refused to offer a renewal lease. A NAICA attorney was able to determine that her landlord has been accepting public assistance shelter payments after having served Client G with a notice of termination and without receiving leave from the Court to do so. The attorney filed a motion to dismiss based on acceptance of rental payments, which provided leverage in negotiations. He was able to get the tenant a renewal lease and assisted Client G with an application to pay the rental arrears. As a result the case was discontinued.

NEW YORK LEGAL ASSISTANCE GROUP

New York Legal Assistance Group (NYLAG) uses the power of the law to help New Yorkers experiencing poverty or in crisis combat economic, racial, and social injustice. We address emerging and urgent needs with comprehensive, free civil legal services, financial empowerment, impact litigation, policy advocacy, and community partnerships. We aim to disrupt systemic racism by serving clients whose legal and financial crises are often rooted in racial inequality. Our Tenants' Rights Unit (TRU) fights for housing justice: fair, safe, and affordable housing for adults and families so that they can stay in their communities and thrive.

An Example of Our Work:

On January 9, 2024, NYLAG received a favorable decision after trial dismissing a nonpayment case against our client, Client H, a 27-year-old single mother of a young child who has lived in the subject project-based Section 8 apartment in Harlem for her entire life. Our client was facing eviction because the landlord had terminated the Section 8 subsidy in 2018 when our client's mother was the tenant of record. NYLAG retained Client H in the Court Attorney Part in May 2021 on this case, which the landlord had commenced in December 2020. The case went to trial in May 2023 and the NYLAG attorney moved for a directed verdict at the close of the landlord's case-in-chief on the basis that the landlord had failed to prove its *prima facie* case since it had failed to serve VAWA notices required by federal law and because it had failed to serve proper notice when the Section 8 subsidy was terminated. While the judge denied NYLAG's motion and continued the trial, which was culminated over five days, in the judge's decision after trial, the judge reconsidered NYLAG's motion for a directed verdict and dismissed the case against our client, holding that the predicate notice was improper because of the landlord's failure to serve the proper VAWA notices and its failure to give our client's mother proper notice when terminating the Section 8 subsidy.

NORTHERN MANHATTAN IMPROVEMENT CORPORATION

Northern Manhattan Improvement Corporation (NMIC) is a community-based settlement house founded in 1979 which has grown into a leading multi-service agency with a staff of over 120 employees. Available to all of New York City, our core catchment area is Upper Manhattan and the Bronx. Our mission is to serve as a catalyst for positive change in the lives of the people in our community on their paths to secure and prosperous futures. We serve about 14,000 clients each year with a variety of programs to address Housing, Immigration, Education/Career, Finance/Benefits, Health, and Holistic needs. We provide crisis intervention with legal or social services as a part of our legal, organizing, and advocacy initiatives. NMIC is ideally situated with offices in Upper Manhattan and the Bronx, where the large immigrant and mostly Spanish speaking populations in these communities can easily access the broad range of services available. NMIC has advocated for the housing rights of its community since its founding almost 45 years ago, and has represented tenants in housing court for decades. NMIC has been a RTC provider since the program's inception.

An Example of Our Work:

NMIC's client, Client I, who suffers from severe physical and cognitive disabilities, sought to succeed to his deceased brother's NYCHA apartment, where he was born and lived his entire life. NMIC received the case in 2019 in housing court as a Right-to-Counsel referral, after NYCHA brought a holdover proceeding against the client. Prior to retaining NMIC, NYCHA denied succession because the client's brother, who also suffered from disabilities, had not listed him as a member of the household on annual recertifications prior to his death. Rental arrears had accumulated, and NMIC assisted the client with a One Shot Deal application in order to satisfy the arrears and overcome that barrier to succession. Recognizing that the defense required a dispute at the administrative level, NMIC successfully sought a stay of the holdover proceeding and appeared in the NYCHA administrative process. In 2023, after a 3-day hearing at NYCHA, NMIC prevailed on the Client I's behalf and NYCHA recognized the Client I as a remaining family member entitled to succession, preserving the tenancy permanently. In addition, NMIC set an important precedent for the many cases in which disabled NYCHA tenants mistakenly fail to list remaining family members due to their disabilities.

RISEBORO

RiseBoro Legal Empowerment and Assistance Program (LEAP) began as Ridgewood Bushwick Senior Citizen Counsel 50 years ago. From its beginnings the goal has always been to keep New Yorkers and especially Brooklynites in their homes in Bushwick and Queens. As the organization has grown, a number of other programs have been added or expanded. LEAP is one of those programs. LEAP takes a holistic approach in assisting our clients and works closely with our Homebase(s) in seeking resources, financial and otherwise, to find solutions for our clients.

Our vision and mission is to provide legal services and community empowerment to vulnerable Brooklynites. LEAP assists tenants in gaining access to justice with dignity by preventing evictions and preserving thousands of housing units. Our dedicated staff consisting of community organizers, paralegals, legal service navigators, managers, administrators, and attorneys are committed to providing low-income Brooklynites with high quality legal representation, with a core aspect of our holistic approach to legal representation focused on addressing the underlying economic issues that bring our clients into contact with the legal system.

An Example of Our Work:

In June 2022, Client J was referred to our office for representation after being brought to Court for nonpayment of rent by a family member who owned the home. The client has lived at the subject apartment for more than 55 years and suffers severe physical disabilities. The client had been given misinformation by a friend and told not to pay her rent because of a personal dispute with her family.

After reviewing the petition and notice of petition and ACRIS and speaking with the client, it was discovered that the Predicate Notice was defective, in that the petitioner did not own the building during a majority of the time of the alleged arrears and nonpayment of rent as stated in the predicate notice and petition.

As a result of the predicate notice being deemed defective, the case was dismissed. The client was advised to make ongoing rent payments and to file an ERAP application for the accurate arrears owed so that if the petitioner filed another petition the client would be in a position to have the arrears satisfied.

NEIGHBORHOOD DEFENDER SERVICE OF HARLEM

Neighborhood Defender Service of Harlem (NDS) is a community-based public defender office that provides high-quality legal services to residents of Northern Manhattan and a member of the LEAP coalition. Since 1990, NDS has been working to improve the quality and depth of criminal and civil defense representation for those unable to afford an attorney through holistic, cross-practice representation. With the early implementation of Right to Counsel in key Northern Manhattan zip codes, NDS joined the Right to Counsel Coalition and began serving the community through the Right to Counsel Program. As a holistic public defender office, NDS is particularly familiar with the collateral consequences of homelessness, including an increased chance of entering the criminal legal system.

An Example of our Work:

Last year, Client K was locked out of her apartment after the death of her father – the tenant of record. The Court held a hearing where Client K, a monolingual Cantonese speaker, attempted to prove that she had been illegally locked out of her home without the assistance of counsel. Only after Client K rested her case, did she have an opportunity to speak to a Right to Counsel attorney from NDS. Within hours, NDS attorneys successfully convinced the Court to re-open Client K’s *prima facie* case, allow them to redirect their client on the facts, and to briefly adjourn the matter for additional documentary evidence and witnesses. Further testimony revealed that the landlord used the pretext of inspecting the apartment as a way to get Client K to surrender a set of keys and sign a statement that her father’s valuable possessions had been removed. NDS successfully argued that there had been no unequivocal surrender of the rent stabilized apartment. Client K was awarded a possessory judgment and restored to her home.

THE LEGAL AID SOCIETY

The Legal Aid Society (LAS), the nation's oldest and largest not-for-profit legal services organization, was founded in 1876 to provide free legal representation to marginalized New York City families and individuals. The Legal Aid Society’s legal program operates three major practices – Civil, Criminal, and Juvenile Rights – and through a network of borough, neighborhood, and courthouse offices provides comprehensive legal services in all five boroughs of New York City for clients who cannot afford to pay for private counsel. Each year, LAS handles more than 250,000 cases and legal matters for clients, taking on more cases for more clients than any other legal services organization in the United States.

Our Civil Practice works to improve the lives of low-income New Yorkers by helping vulnerable families and individuals to obtain and maintain the basic necessities of life - housing, health care, food and self-sufficiency. We serve as a “one-stop” legal resource for clients with a broad variety of legal problems, ranging, among others, from government benefits and access to health care, to immigration and domestic violence. Our depth and breadth of experience is unmatched in the legal profession and gives the Society a unique capacity to go beyond any one individual case to create more equitable outcomes for individuals, and broader, more powerful systemic change at a societal level.

Our work has always taken an explicit racial and social equity lens and the current housing crisis has further focused our efforts to advocate for the needs of New York’s marginalized communities.

An Example of Our Work:

Client L is a 74 year old woman who has lived in her project-based Section 8 apartment in the Morrisania neighborhood of the Bronx for 40 years. Client L’s subsidized rent is set based on approximately 30% percent of her household income. However, Client L fell behind in rent when her adopted son, Child L, moved out of the apartment and could no longer pay the rent calculated

using his income. Client L quickly began the process of removing him from her household composition to readjust her rent. At the same time, Client L sought to add her other son, Child M, to her household so she could help take care of him. Child M is a disabled veteran who had in recent years suffered multiple strokes that left him partially paralyzed on his right side. His sole source of income is Social Security Disability. Client L's efforts to remove Child L and his income and add Child M to her household were rejected by the landlord and they refused to recertify her subsidy as well as denied inclusion of Child M based on his credit score.

The landlord then commenced a non-payment case and Client L retained LAS through the RTC/UA program. LAS appeared on the case in November 2022 and sought to negotiate with the landlord to reinstate Client L's subsidy and adjust her household composition. However, the landlord refused all resolutions proposed by LAS. In September 2023, LAS filed a federal case in the United States District Court for the Southern District of New York against the landlord alleging they had violated the Fair Housing Amendments Act, the New York State Human Rights Law, and the New York City Human Rights Law by refusing to make a reasonable accommodation to their alleged credit policy for Child M, a disabled veteran with stable, government income as well as for violating the Fair Credit Reporting Act by refusing to provide a copy of the credit report used as the basis for the denial. Recently, in January 2024, we were able to negotiate a settlement wherein Client L's subsidy will be restored and Child M will be added to the household composition. All rent arrears owed through January 2024, which are in excess of \$37,000, will be waived and the household will receive a \$50 rent credit for the next twelve months, thus preserving the 40 year subsidized tenancy.

DISTRICT OFFICE
37-04 QUEENS BOULEVARD, SUITE 205
QUEENS, NY 11101
TEL: (718) 383-9566
FAX: (718) 383-9076

CITY HALL OFFICE
250 BROADWAY, ROOM 1749
NEW YORK, NY 10007
TEL: (212) 788-7370
FAX: (212) 513-7195
jwon@council.nyc.gov



THE COUNCIL OF
THE CITY OF NEW YORK
JULIE WON

COUNCIL MEMBER, 26TH DISTRICT, QUEENS

CHAIR
CONTRACTS

COMMITTEES
CONSUMER AND WORKER PROTECTIONS
FINANCE
OVERSIGHT AND INVESTIGATION
PUBLIC HOUSING
TECHNOLOGY
TRANSPORTATION AND
INFRASTRUCTURE

CAUCUS
BLACK, LATINO AND ASIAN CAUCUS
PROGRESSIVE CAUCUS
WOMEN'S CAUCUS

February 28, 2024

I write on behalf of my constituents in Woodside, Sunnyside, Astoria, and Long Island City, Queens. Almost half of my constituents are rent burdened. This leaves far too many of our struggling neighbors in constant danger of being evicted if their financial circumstances get even slightly worse – and they will certainly not be able to afford legal counsel if that happens. I therefore write to urge the Office of Civil Justice (OCJ) to protect and uphold the Right to Counsel law.

Today, across New York City, more than 46,000 households are facing eviction. Most are low-income Black and brown tenants, furthering inequities in city housing. It is the OCJ's job to implement the Right To Counsel law and protect our neighbors from losing their homes.

I urge OCJ to:

- Ensure there are enough attorneys to represent everyone entitled to RTC.
- Immediately implement the RTCNYC coalition's recommendations for improving the Brooklyn Administrative Pilot to ensure RTC is upheld.
 - Ensure that tenants are connected with an RTC attorney first to allow them the time and space they need to raise and litigate defenses.
 - Publicly release any existing metrics and data OCJ has on the impact of the Administrative Pilot.
 - Engage in a process of deep evaluation of the Administrative Pilot with the RTCNYC Coalition and other stakeholders.
- Demand OCA and the state legislature defend and uphold Right to Counsel:
 - OCA must reduce the volume of eviction cases on the court calendars so the number of cases matches legal service providers' capacity to provide full representation to eligible tenants.
 - The state legislature must pass our Statewide DEFEND RTC Legislation (S3254/A4993), which would mandate that tenants have the time they need to get RTC and our Statewide Right to Counsel Legislation (A1493/S2721) for all New York tenants, which would also create rules for the courts to uphold and implement RTC.

OCJ must uphold Right to Counsel and stop evictions. As a tenant and New York City resident, I urge you to fight to protect the Right to Counsel so residents can continue to use this powerful right to defend their homes.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Won", with a long horizontal stroke extending to the right.

Council Member Julie Won
26th District
New York City Council
jw:gcib

The logo for the New York City Bar, featuring the text "NEW YORK CITY BAR" in a serif font, centered between two horizontal blue bars.

NEW YORK
CITY BAR

**TASK FORCE ON THE CIVIL RIGHT TO COUNSEL
BEFORE THE NEW YORK CITY OFFICE OF CIVIL JUSTICE**

FEBRUARY 28, 2024

TESTIMONY OF THE NEW YORK CITY BAR ASSOCIATION

This testimony is presented on behalf of the New York City Bar Association's Civil Right to Counsel Task Force (the Task Force). The Task Force was formed in the spring of 2018 to advocate for the most effective implementation of New York City's newly enacted legislation providing for a right to counsel in eviction cases (RTC), to support the expansion of that right to other jurisdictions, and to advocate for the extension of the right to counsel in other civil matters where fundamental human needs are at stake. The Task Force Co-Chairs are Alison King, Pro Bono Counsel at Kirkland and Ellis, New York Law School Professor Andrew Scherer, and Sara Wagner, Associate Director of Teamsters Local 237 Legal Services Plan. Membership includes the two past Presidents of the City Bar as well as the current President who sits *ex-officio*, prominent members of the bar, judiciary and legal academia, leading housing rights advocates and liaisons to relevant City Bar committees. By design, the Task Force does not include representatives of organizations with an immediate stake in the RTC program.

New York City's passage of legislation guaranteeing a right to counsel for low-income tenants facing eviction proceedings was a monumental step toward equal justice, one that was decades in the making. For the first time anywhere in the United States, tenants facing legal proceedings that could lead to loss of their homes, displacement from their communities and the threat of homelessness were guaranteed representation by an attorney. Since New York City passed this landmark legislation, seventeen additional localities have adopted their own RTC laws, including Newark, San Francisco, Cleveland, Philadelphia, Boulder and Baltimore, as well as the states of Washington, Maryland, Delaware and Connecticut.

The right to counsel for tenants in New York City has been an enormous success. Actual evictions and eviction filings have been significantly reduced. Over 83% of represented tenants are able to remain in their homes. RTC is leveling the playing field in Housing Court, giving people a fighting chance to assert their legal rights, and sending a message that New York City's low-income tenants are entitled to be treated with dignity and respect. RTC preserves affordable housing, stabilizes low-income communities, stems displacement, promotes family stability, and reduces the incidence of homelessness among low-income New Yorkers together with concomitant human and governmental costs. And RTC is transforming the culture in Housing

About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has 23,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.

Court, to a more balanced forum with greater civility and deeper attention to legal rights and principles. During the pandemic, RTC saved lives as well as homes, as attorneys funded by the City assured that tenants were able to avail themselves of pandemic-related protections against eviction as well as pre-existing rights. New York City is to be applauded for leading the nation in adopting this measure, for enthusiastically moving forward with the massive undertaking of its implementation, and for engaging in ongoing dialogue with key stakeholders to further ensure its success.

Yet at present the promise of the right to counsel is far from being fully realized. As advocates predicted, when New York State lifted its COVID eviction moratorium in January 2022, New York City's Housing Courts were flooded with eviction cases. Legal services providers' staffing and resources were not sufficient to meet the onslaught in need for representation. Despite stakeholders' efforts to right the ship after the tidal wave of eviction proceedings, New York City's RTC program is still struggling. Simply put, there are not enough attorneys available to meet the need, with the result that thousands of tenants are going unrepresented. And legal services providers report that Housing Court operations are sliding back to the system of chaos and one-sided-justice that RTC sought to end. This crisis is not simply an issue of access to justice: given the vastly disproportionate rate of eviction proceedings brought against people of color, it is an issue of racial justice as well.

The Task Force's goal is to be a supportive and positive voice for implementation of RTC in a manner that is the most responsive to the needs of the community, with the bedrock understanding that no one no one should be evicted or face an eviction proceeding without counsel. The Task Force is currently undertaking an assessment of RTC implementation, looking at both its successes and challenges. Members have met with a range of stakeholders, including, earlier this month, with New York City Human Resources Administration (HRA) leadership. When this work is complete, the Task Force will issue a report on its findings, with detailed recommendations for measures and approaches to assure the most effective full implementation of RTC. In the interim, however, the Task Force urges HRA's Office of Civil Justice (OCJ), which is tasked with RTC implementation, to take two immediate steps.

First: OCJ is currently considering responses from legal services providers to its request for qualifications for the next round of funding. The Task Force strongly urges OCJ to ensure that this funding be increased in order that RTC's underlying goals be met. Providers must have sufficient funding to hire and retain enough attorneys and support staff to provide the highest quality legal representation to meet the needs of eligible clients. Funding must be sufficient to ensure that caseloads are manageable and employee compensation is at a level that will support recruitment and retention of qualified candidates. The Task Force urges the City to fund RTC legal services sufficiently to enable service providers to use multi-role teams (which, in addition to attorneys, would include social workers, paralegals, public benefits advocates and mental health professionals) to provide holistic RTC representation, and to compensate those team members adequately. In addition, the Task Force urges OCJ to maintain funding for existing programs that provide affirmative litigation, building-wide work, or population-specific legal services.

Second: The City should support, and urge the New York State Legislature to pass and the Governor to sign, the state-wide Right to Counsel bill (S06678A/A07570A).¹ Besides providing for a right to counsel to tenants in all parts of the state, this legislation would improve upon the NYC law in key respects and would greatly assist OCJ with effective implementation of the NYC program and averting evictions. The proposed legislation would:

- cover any case that could result in tenants losing their homes, no matter the legal forum. Administrative hearings, appeals, affirmative litigation, would all be covered, and more,
- require courts, judges, and landlords to ensure that tenants know about their right to counsel and how to use it, and
- require courts to adjourn cases until tenants have had time to retain and consult with their RTC attorney.

One final note. The Task Force has long supported the term “right to counsel” to describe the RTC program. We greatly appreciate that OCJ has adopted this term and shifted away from the confusing and opaque phrase “universal access.” This small gesture is important: tenants and their allies fought hard to win the *right* to counsel, and RTC has inspired a movement to replicate this right in jurisdictions across the country.

Thank you for your time and consideration, and please do not hesitate to call upon the Task Force if we can be helpful in any way. We look forward to continuing these important discussions.

Task Force on the Civil Right to Counsel

Co-Chairs

Alison McKinnell King
Andrew A. Scherer
Sara Nicole Wagner

Members

Stephanie Aguirre	Hon. (Ret.) Allan Gropper	Deborah Rand
Deborah N. Archer	Laura Katz	Nicholas Rodin
Ellen P. Chapnick	John S. Kiernan	Joseph S. Rosenberg
Maria Cilenti	Roger Juan Maldonado	Sudha N. Setty
Hon. (Ret.) Marcy S. Friedman	Oksana Mironova	Lauren Springer
Glenna Goldis	Silky Misra	David S. Udell
	Sateesh Nori	Judith M. Whiting

¹ See *Report in Support of Creating a Statewide Right to Counsel in Eviction Proceedings*, NEW YORK CITY BAR ASSOCIATION, May 25, 2022, https://www.nycbar.org/reports/report-in-support-of-creating-a-statewide-right-to-counsel-in-eviction-proceedings/?back=1#_ftn6 (Website last accessed on February 27, 2024) (supporting the legislation while leaving to the legislative debate the question of whether tenants should meet an income eligibility cap prior to receiving counsel).

Member Ex Officio

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Rene Kathawala

Advisor

Hon. (Ret.) Chief Judge Jonathan Lippman

David Jones

Consultant

Neil Steinkamp

Contact

Maria Cilenti, Senior Policy Counsel | 212.382.6655 | mcilenti@nycbar.org



Association of Legal Aid Attorneys UAW 2325 (AFL-CIO)



**NYC OFFICE OF CIVIL JUSTICE UNIVERSAL ACCESS TO LEGAL SERVICES
PROGRAM FOR TENANTS FACING EVICTION
Sixth Annual Public Hearing
February 28, 2024**

**TESTIMONY OF THE ASSOCIATION OF LEGAL AID ATTORNEYS (ALAA)
Presented by: Joanna Laine, Atusa Mozaffari, Bryan Fotino, Conor Hyatt, John Francis,
& Jeremy Bunyaner**

Joanna Laine

Good evening. My name is Joanna Laine, and I am an Executive Board member of The Legal Aid Society's chapter of the Association of Legal Aid Attorneys, Local 2325 of the United Auto Workers, otherwise known as ALAA. ALAA comprises a diverse group of attorneys, paralegals, investigators, social workers, and other workers at The Legal Aid Society, CAMBA Legal Services, New York Legal Assistance Group, Neighborhood Defender Services of Harlem, Catholic Migration Services, Bronx Defenders, and other legal services organizations who are dedicated to safeguarding the rights of tenants. I am testifying today on behalf of ALAA, along with other union members who are also testifying. I thank the Office of Civil Justice for allowing ALAA to testify about our experience on the front lines of implementing the Right to Counsel (RTC) program.

In addition to my role as a union leader, I am a staff attorney in the Brooklyn Neighborhood Office of The Legal Aid Society. I have seen first-hand how powerful the Right to Counsel has been for my clients: so many of my clients were on a path to eviction before I took on their case, but after strenuous litigation, the landlord relented and gave my clients a new lease, or after complex benefits advocacy, my clients became able to afford their apartments and avoid homelessness. It's no wonder that almost 85% of tenants who have Right to Counsel stay in their homes.

Unfortunately, I have also seen first-hand that the Right to Counsel has been gravely threatened by the crushing caseloads that our attorneys are facing. OCJ and the Courts are well on their way to destroying RTC by underfunding legal services organizations, pushing unmanageable caseloads on tenant attorneys, and allowing cases to be calendared at rates faster than our attorneys can take them. As a result, workers at ALAA organizations are leaving at

unprecedented rates, and those who stay are often forced to take mental health leaves of absence due to the grueling and unhealthy demands of their work. The RFX that OCJ has recently put forth will only compound our existing caseload and attrition crises, by grossly underfunding our organizations and imposing unrealistic caseload standards on our staff.

If OCJ is serious about the Right to Counsel in Housing Court, it must fully fund Right to Counsel so that our attorneys, paralegals, tenant organizers, social workers, and other staff can stay at this job long-term. The current attrition crisis is devastating because we need experienced attorneys to supervise and mentor the new classes of housing lawyers that join our union each year. We need manageable caseloads and fair wages so that staff can stay at this job throughout their lives, balancing a reasonable caseload with home and family life. We also need manageable caseloads so that we can actually DO the complex legal work that we're hired to do: fighting rent overcharges, enforcing tenants' right to repairs, going to trial to prove a client's succession rights, and so on. Without manageable caseloads, RTC will become no more than "conveyor-belt" justice, and our clients will be denied the high-quality legal services they deserve.

Our union requests that OCJ work directly with ALAA and other legal services unions to re-envision its RFX process and establish a funding process and caseload guidelines that accurately reflect the needs of our clients. A starting point for this conversation should be the report issued by the Universal Access to Justice Caseload Working Group on August 31, 2023. This report recommended a guideline of *no more than* 48 new case assignments per year for RTC attorneys, with even fewer case assignments for new attorneys and for attorneys who did not receive full administrative support for their cases. (As of now, *all of us* lack adequate administrative support). Based on this report and our own experiences, we demand that, as a ceiling, attorneys receive no more than 4 new cases per month and that attorneys should have no more than 30 open cases at any given time. We hope that OCJ will incorporate these guidelines when negotiating contracts with our employers and that RTC be fully funded at the levels needed to sustain the Right to Counsel.

Atusa Mozaffari

Good evening and thank you for your time. My name is Atusa Mozaffari, and I am a Civil Vice President for the Association of Legal Aid Attorneys, Legal Aid Chapter, and am joined by fellow members and officers of ALAA on tonight's panel.

In addition to my role as a union leader, I am a staff attorney in the Queens Neighborhood Office of The Legal Aid Society. I, like many others here tonight, have been able to preserve housing for my clients and assist with related benefits issues that have a monumental impact on their housing, often following extensive litigation and rigorous advocacy. While I am proud of the work I do and grateful that Right to Counsel exists, I am also acutely aware of its limitations. Two major issues that I want to bring to your attention are (1) the number of tenants being turned away by RTC due to inadequate staffing, and (2) the lack of recourse for tenants who need immediate referrals for post-evict and illegal lockout cases.

As to the first, it should be of no surprise to anyone here tonight that there simply are not enough attorneys to meet with every tenant who is screened and eligible for free legal services. My colleague Joanna Laine explained how high caseloads have caused an attrition crisis among Right to Counsel attorneys. While our inability to provide lawyers to every tenant can be attributed in part to attrition or to a lack of candidates during hiring periods, much of it has to do with the lack of funding the providers receive in order to attract, hire, and retain qualified staff in order to provide such services. If we are ever to see RTC as a civil parallel to Gideon, then we must prioritize funding it as such. To not do so would mean an unimaginable number of tenants who are at risk of eviction and homelessness.

But it's not simply an issue of staffing. Even with adequate staffing, the current intake process for Right to Counsel has a flaw. Right-to-Counsel legal service providers are connected with tenants at their first Housing Court appearances. I emphasize "first" because by connecting to tenants on the first appearance only, this creates a barrier for tenants who need assistance later down the road. This means that tenants who already have judgments against them and seek assistance thereafter are not prioritized, when they are at considerably higher risk of eviction than tenants who retain counsel early on. In such a scenario, it is not atypical to see tenants returning to court after receiving a Notice of Eviction, and there is absolutely no guarantee that their cases are calendared by the clerks on RTC intake dates. Effectively, they are without means to seek legal representation or advice and are entirely reliant on the discretion of the clerk, the judges and/or the availability of providers who happen to be present in court but are not necessarily assigned to an intake shift. Having done this work for 8 years, I remember when there used to be an emergency rotation for cases like this, but no such system is in place now, when attorneys get all their cases assigned during a single intake, leaving vulnerable tenants with limited options. There must be a fail-safe mechanism implemented so that all tenants, regardless of when they are seen, are afforded the right to connect with attorneys.

The current intake process is short-sighted in that there is an assumption that if tenants meet with counsel ahead of time, evictions will not occur. However, there is always the possibility that landlords will engage in unlawful evictions, circumventing the legal process and summary proceedings altogether. That shifts the burden to those tenants to now navigate the legal system and file Orders to Show Cause without any guidance after already being displaced. By then, tangible harm has been done and again, there is no guarantee that they'll be able to meet with an attorney. There is no procedure wherein clerks automatically assign illegal lockout cases to intake dates, which I highly encourage the courts to immediately adopt and implement. I have personally advised tenants who end up coming to our court-based offices on strategies and arguments to raise in lockout cases, fully knowing I had no capacity to take on their case, but wanting desperately to advise them of options. However, by no means does it prevent harm from occurring in the first place, nor is there a functioning mechanism to assist tenants who have suffered harm.

Unlawful evictions are not the only type of harm tenants can suffer without recourse. For example, constructive and actual evictions because of failure to make repairs and ongoing harassment contribute to these numbers. The ability to affirmatively enforce tenants' rights to habitable, safe homes should be a priority as much as defending their rights. In addition to its funding for eviction defense, the City must fund tenant organizing and representation for

individuals and groups in HP actions to force landlords to make repairs and to combat tenant harassment. We call on the City to fully fund the Right to Counsel for all tenants, at every stage in their cases, and in all types of cases including illegal lockout proceedings and HP actions.

Bryan Fotino

My name is Bryan Fotino and I'm a Tenant Organizer at Catholic Migration Services and a member of the Right To Counsel NYC Coalition and ALAA. It is critical that funding for Right to Counsel include funding for all staff, including community organizers, paralegals, social workers, and administrative staff.

I'd like to share the story of one of our members, Hanny Chandra, who lives in Jackson Heights. I met Hanny during our court-watch program, where organizers and tenant leaders visit Queens Housing Court to inform tenants of their rights. Hanny was in tears. She had received a judgment of possession, informing her that she might be evicted in two weeks—even though her landlord had never served her with an initial notice to come to court.

Hanny wasn't given an attorney. When we asked HRA why not, they said that it wasn't her first court date. But this was her first time that she had been at court.

To us at the Right To Counsel NYC Coalition, this was unacceptable. Hanny had the right to an attorney who could help her raise defenses, like improper service, and give her a fighting chance at her home. So I, along with organizers across the city, mobilized tenants to show up to Hanny's day in court. Wearing our yellow Right To Counsel shirts, we packed the courtroom and demanded that the court attorney adjourn her case to a date when legal services providers were giving full legal representation. Despite protests from the landlord's attorney, the court attorney listened to the tenant movement. Hanny got an adjournment, an attorney, and that fighting chance. Sadly, most tenants aren't as lucky.

Community organizing is an essential component of ensuring tenants know about their rights, can use their rights effectively to protect against eviction, and can fight to both protect those rights and expand them so more tenants can benefit. Right to Counsel has been proven to stop evictions in NYC, but many tenants who are eligible for Right to Counsel don't know about it or are too afraid to use it.

The consequences of underfunding community organizing are severe: when tenants don't know they have a Right to Counsel, they might decide not to appear in court, decline representation, sign agreements with their landlord's lawyer prior, decide not to ask for repairs in fear of being evicted, or face a variety of other serious consequences.

When tenants don't know or use their rights, they are more easily harassed out of their apartments. This leads to displacement, especially of Black and brown New Yorkers. According to the New York Times, "The city's Black population has declined by nearly 200,000 people in the past two decades, or about 9 percent. Now, about one in five residents are non-Hispanic Black, compared with one in four in 2000, according to the latest census data." The situation is

especially dire for LGBTQ people of color. According to a report by the Williams Institute, 30 percent of LGBTQ people of color were behind on rent, and 51 percent of LGBTQ people of color feared eviction.

OCJ, we call on you to do the right thing and advocate that the city fully fund our Right To Counsel program.

Conor Hyatt

Good evening. My name is Conor Hyatt, and I am a housing staff attorney at CAMBA Legal Services, Inc., a member of the Association of Legal Aid Attorneys, and a right to counsel worker. I would like to address the failures of the Human Resources Administration to adequately process applications for public assistance, emergency rental assistance, food stamps, and other benefits and the impact this has on the Right to Counsel and evictions.

Housing attorneys and the Courts can agree: we need the issues at the benefits center level of the Human Resources Administration to be addressed as soon as possible, as part and parcel to overall prevention of evictions in New York City. Hundreds of thousands of New Yorkers rely on the state's various forms of public assistance. As Right to Counsel workers, we engage closely with our clients' public benefits, as they are often central to the resolution of their housing court cases.

What we are seeing is regular and significant errors and delays in the processing of these public benefits. Whether ongoing payments in the forms of a housing voucher, a SNAP cases allowing a tenant to pay tent out of their small social security income, or an Emergency Cash Assistance case (also known as a "One Shot Deal"), too many New Yorkers are being hauled into court for eviction proceedings, and waiting endlessly for resolutions, as the city's Human Resources Administration Centers delay or fail to update these benefits cases. Cases often languish for months without resolution, and tenants receive few updates or responses from their assigned caseworker. Or, in the alternative, tenants receive arbitrary denials of public benefits due to mishandling of provided documents or failure to acknowledge completed telephone interviews.

Simultaneously, their Right to Counsel attorneys experience the same delays and lack of response when attempting to resolve these outstanding cases with the agencies or offices. Public benefits systems in New York should not require an attorney to navigate—but with the poorly resourced Human Resource Administration Centers, they often do. And this takes valuable time away from Right to Counsel offices, limiting our ability to handle eviction cases in which tenants are experiencing discrimination, overcharge, contract issues, or other eviction proceedings that are not wholly reliant on public benefits.

An example: a case of my own. In Spring 2023, I began representing an elderly tenant with severe physical disabilities. He had cancer and extremely limited mobility. He had no friends or relatives and lived alone. He was many thousands in arrears, due only to a failure to reinstate what was formerly a SEPS voucher into a CityFHEPS voucher. I made an immediate Adult Protective Services referral for a caseworker to be assigned so as to assist him with this renewal.

The case was accepted around a month later, and the caseworker represented that all paperwork had been submitted for the voucher renewal. Four months and many court appearances later, we were informed the no paperwork had been submitted and the renewal was not processing. A further two months later, this paperwork had been submitted, but no updates were made by Adult Protective Services. The judge in this eviction proceeding went so far as to issue a written decision ordering one office of HRA to send necessary documents to another office of HRA. No resolution was ever reached in this case. Eight months after his initial referral to Adult Protective Services for renewal of his benefits, my client passed away in the middle of the eviction proceeding.

This is not a fall-through-the-cracks story. Numerous tenants experience these exact same delays and mishandling of their cases, often leading them to the brink of eviction.

We need properly resourced benefits centers, and an increase in caseworkers. The AccessHRA app is wonderful, but it doesn't allow a tenant to explain to their caseworker that this three-month processing time for their housing voucher is likely going to result in them, and their family, entering one of the city's already overcrowded shelters. Now more than ever, as new programming is implemented for the CityFHEPS voucher to allow tenants to seek residence outside the City, and to reduce the hoops one must jump through to obtain the voucher, we need a properly funded Human Resources Administration.

John Francis

Good Evening. My name is John Francis and I am a Senior Staff Attorney at Catholic Migration Services and a member of the Association of Legal Aid Attorneys. I urge the Office of Civil Justice to fully fund the Right to Counsel to ensure that every tenant has access to high-quality legal services.

Housing, above all, is necessary for participation in society. You often can't get a bank account, apply for benefits, go to school or get scholarships, or obtain a job without a stable home. Housing is a bedrock need and it should be the highest priority that tenants have lawyers so that they are able to remain in their homes.

As a housing attorney, I know first-hand how great of a difference my representation makes to a tenant's case. In most cases, having a lawyer allows tenants to stay in their homes, whether by preventing illegal evictions, resolving disputes with landlords, getting much needed repairs to keep homes safe, or resolving rental arrears. In a minority of cases, where a tenant absolutely must move out, it is still necessary for that tenant to have a lawyer to safeguard their rights. In these cases, my representation provides tenants adequate time to find alternative housing and often helps tenants obtain vouchers in order to move into a new, affordable home.

Unfortunately, however, there are not enough tenant attorneys to meet the demand for Right to Counsel in housing court. Each day, we are forced to turn away tenants who need and deserve representation because the City has failed to fully fund the Right to Counsel. As a result of this

lack of funding, our organizations don't have the ability to hire the number of attorneys needed to cover all of the cases that are brought in housing court each day.

As of December, there are 91,343 people sleeping in the shelter and many more on the streets. Many of these individuals end up homeless via housing court. So many of their evictions were preventable and they would not have been in the shelter today if they had a lawyer in housing court. If the City is serious about combating homelessness, fully funding the right to counsel must be its top priority.

Of the over 90,000 people in shelter, a devastating 33,000 of them are children. This is the most important part of the Right to Counsel conversation: the kids are often left behind. The Right to Counsel is not just a protection for the adults who are sued in housing court, but also for their children who cannot fight for themselves. We have the power to end family homelessness in New York City, and it starts with fully funding the Right to Counsel in Housing Court.

Jeremy Bunyaner

Good evening, my name is Jeremy Bunyaner. I am a tenant attorney at CAMBA Legal Services and a constitutional officer of the Association of Legal Aid Attorneys, Local 2325 of the United Autoworkers. I am proud to do this work and would like to add further perspective in addition to the other essential points raised by my colleagues as we grapple with how to improve Right to Counsel.

One of the benefits of our union is the opportunity to get to know tenant attorneys throughout Brooklyn, where I practice, and New York City as a whole. I have come to notice a crucial flaw in our system through speaking with my colleagues. Tenants who are represented by multiple members of the Right to Counsel bar over the course of several years will repeatedly face litigation without the underlying issues giving rise to this litigation being addressed. Usually one would think that getting an eviction case thrown out of court would be good for a tenant. But under the current system there are serious consequences to getting a case dismissed when a client may not get a lawyer in their subsequent case.

There are many underlying reasons a tenant may be in landlord-tenant court through no fault of their own but a few examples, as well as why these tenants are not currently being sufficiently served by the program, are as follows.

Nonpayment proceedings are often dismissible because of a failure by landlords to properly cash rent checks. But having an attorney simply dismiss one case does not mean a landlord does not continue to make the same mistake. It is a big problem that the same tenant who previously had a case dismissed is not guaranteed representation going forward, even if it is the same landlord mistake being made that is threatening them with eviction.

New Yorkers are also facing terrible difficulties with the administration of public benefits. This not only will drag out landlord-tenant cases, but it will also give rise to repeated nonpayment proceedings. I often have clients who I know are legally eligible for public benefits but are

repeatedly denied by social service agencies. No one should be obtaining a One-Shot Deal in frustration when they are eligible for a longer-term subsidy.

Sometimes it is only possible to piece the reality together of what is actually going on in any given situation through the context of multiple litigations. Over the course of the COVID-19 pandemic, Right to Counsel attorneys had the opportunity to represent clients over multiple cases. Post Emergency Rental Assistance Program (ERAP), nonpayment cases were satisfied and landlord's immediately brought holdover proceedings. I had one case where a bizarre nuisance holdover brought to overcome an ERAP-stayed nonpayment proceeding revealed just how discriminatory the landlord was treating my client with regard to both rent collection and repairs.

Tenants will sometimes stop paying rent because of conditions in their apartment. From the attorney's perspective, you do not know the first time a case is on if there is simply a logistical error preventing repairs or if the landlord is being very problematic. The truth often only becomes clear over the course of representing a tenant across multiple cases. This underscores the necessity of repairs advocacy and affirmative litigation, including group representation, to enforce repairs. These things must also be brought into the Right to Counsel framework.

It is by actually addressing the underlying causes of landlord tenant cases that we can reduce the volume of litigation. Why are Right to Counsel attorneys playing hot potato with our clients? Why do we not simply address everything at issue in a case? We need to have more nuanced ways of getting cases beyond just through whoever happens to be in the court on any one particular day. This should include representing former clients in their subsequent cases, representing multiple tenants in one building, and simply ensuring that a tenant will always be able to exercise a right to have counsel in landlord-tenant proceedings. We call for a Right to Counsel that deserves the name.