

# The Bronx Defenders

Redefining public defense

## TESTIMONY OF THE BRONX DEFENDERS FOR THE OFFICE OF CIVIL JUSTICE'S HEARING ON UNIVERSAL ACCESS TO LEGAL SERVICES FOR TENANTS FACING EVICTION

November 12, 2019, 6:00 PM

The Bronx Defenders thanks the Office of Civil Justice for the opportunity to testify today.

The Bronx Defenders is a public defender non-profit that is radically transforming how low-income people in the Bronx are represented in the legal system, and, in doing so, is transforming the system itself. Our staff of over 350 includes interdisciplinary teams made up of criminal, civil, immigration, and family defense attorneys, as well as social workers, benefits specialists, legal advocates, parent advocates, investigators, and team administrators, who collaborate to provide holistic advocacy to address the causes and consequences of legal system involvement. Through this integrated team-based structure, we have pioneered a groundbreaking, nationally-recognized model of representation called holistic defense that achieves better outcomes for our clients. Each year, we defend more than 20,000 low-income Bronx residents in criminal, civil, child welfare, and immigration cases, and reach thousands more through our community intake, youth mentoring, and outreach programs. Through impact litigation, policy advocacy, and community organizing, we push for systemic reform at the local, state, and national level. We take what we learn from the clients and communities that we serve and launch innovative initiatives designed to bring about real and lasting change.

Within The Bronx Defenders' Civil Action Practice, our work focuses on defending tenants from eviction, so we are proud to be one of the legal services providers participating in the implementation of the right to counsel. It is from this perspective that we submit these comments and recommendations.

In addition to our comments, we support and incorporate the comments and recommendations submitted by the Right to Counsel NYC Coalition.

### CONTINUING OBSTACLES TO EARLY LEGAL INTERVENTION

Many of the tenants that become our clients connect with us for the first time in the frenzy of a court hallway, with the stress of a court appearance and often without the necessary documents to allow for a meaningful assessment of their defenses. When tenants want lawyers,

their cases often get adjourned for further interviewing and investigation. Many tenants instead decide to go *pro se* because they prefer to immediately resolve their cases rather than wait for a lawyer to catch up on their situation.

For example, KL, a tenant in eviction proceedings, was in housing court for the first time. The courtroom was packed, she was forced to wait in the hallway and missed the announcement informing tenants about the right to counsel. It was late in the morning when she was finally referred to us by court personnel, who upon reviewing the agreement offered to her by the landlord's attorney, recommended that she speak to an attorney. After explaining that we would need to adjourn her case to investigate defenses, including a possible rent overcharge, KL opted to proceed on her own despite the pitfalls pointed out in the agreement proposed by landlord's attorney. For her, taking more time off work was simply not an option she could afford.

### **Recommendations**

- The city should pass Intro 1529 to fund and support neighborhood-based community organizing groups to do outreach and education about the right to counsel in housing court.
- OCJ should support neighborhood community providers to open their doors to eligible tenants in advance of the first court date and develop a system for access to a lawyer pre-litigation.
- The city should hire a Central Coordinator who would be equipped and trained to connect tenants with legal service providers who are most convenient to the tenant and who have capacity to represent them *in advance of their first appearance*.
- OCJ should work closely with the Office of Court Administration (OCA) to make sure that tenants who file answers at the clerk's office are informed of their right to a lawyer and assisted in connecting with a legal services provider.
- OCJ should take a holistic approach to right to counsel and establish a system to inform individuals with active cases in criminal, family and immigration court of their rights to representation in housing court. OCJ should also notify agencies with multidisciplinary services with clients in housing court of their cases and allow for continued representation by those same agencies. This would encourage comprehensive, multidisciplinary representation.
- OCJ should take greater pains to communicate policy decisions in advance of implementation. The office has sometimes shared details of significant developments—like the addition of new zip codes—shortly before those changes went into effect. OCJ's second-year report was released just four days before today's hearing. Just as we cannot comment on a report released less than a week ago, so too do legal services providers

struggle to do the work of representing tenants when information is released on short notice.

### **EXPAND ELIGIBILITY UNDER RIGHT TO COUNSEL**

The law, as is, is too restrictive with respect to who is currently eligible. The right to a lawyer is rolling out based on designated zip codes and is available only to those with household incomes at or below 200% of the federal poverty guidelines. Because of these restrictions, many people in need of a lawyer are falling through the cracks.

For example, AV faced eviction because police found drugs in the apartment she shares with her granddaughter. The District Attorney demanded that the landlord bring a holdover proceeding to evict her. Though AV was elderly and financially eligible for a free lawyer, she did not live in a qualifying zip code. The court referred her to the legal services provider on intake when the case started but they were unable to assist. AV went back and forth to court and did not obtain legal assistance until her home health aide, who recalled seeing a Bronx Defenders flyer detailing our expertise in drug holdovers, brought AV to our office as a walk-in client. Through aggressive motion practice, we were able to save AV's apartment and keep her family together. Had the home health aide not chanced upon our flyer, AV would have been at grave risk of losing her home.

Additionally, for the right to counsel to be meaningful, it must expand to cover a broader range of cases. Many of our clients live in abominable conditions. They routinely report rodent infestations, moldy ceilings, and peeling lead paint. HP actions can be an important tool for forcing landlords to fix such problems, but tenants do not currently enjoy a right to counsel for affirmative litigation. That should change.

In one recent case, NS, a single mother with a one-year-old daughter, retained The Bronx Defenders to help her with a nonpayment case. The conditions in her apartment were awful. She had photos showing leaking ceilings, hopelessly dilapidated fixtures, and a refrigerator covered in roach droppings. She lamented that her daughter struggled to take her first steps on the warped, uneven floors. NS sued her landlord in an HP action but when she asked if The Bronx Defenders could represent her in that proceeding, we had to decline. To be sure, the right to counsel helps tenants like NS address dangerous living conditions in the context of defensive litigation. But while the nonpayment case drags on, NS and her daughter continue to live in terrible conditions, and NS will be forced to navigate the complexities of the HP action largely on her own.

### **Recommendations**

- OCJ should consider enmeshed justice involvement a priority for access to legal assistance as the right to counsel rolls out. This means if a tenant is facing eviction because of an arrest/criminal court case (i.e. drug holdover) or is at risk of having children removed in family court based on housing conditions and instability, the tenant should be given an automatic priority for representation. This should be effective immediately.

- The city should pass Intro 1104, increasing the income threshold to 400% of the federal poverty line. Currently, the law's income restrictions mean that a single New Yorker earning a \$15-per-hour minimum wage would not be eligible for representation.
- Alternatively, OCJ should decrease income restrictions and adopt an indigency standard (as used in criminal and family court).
- Expand the right to counsel to cover additional categories of cases, like HP actions.

### COURTHOUSE RESOURCES AND CHALLENGES

Inadequate court resources and facilities present additional challenges to implementation of the right to counsel. As highlighted in the *Special Commission on the Future of the New York City Housing Court Report to the Chief Judge* (January 2018), there is a lack of space in Bronx Housing Court. This continues to be a huge challenge to legal services providers: we are forced to assess eligibility and then establish relationships and have conversations with tenants who are sharing confidential information in crowded courthouse hallways.

Tenants who miss the announcements about access to counsel in the courtroom may not even be aware of their right to counsel, as there is very limited signage in the Bronx Housing Court explaining the program. Many tenants, even those in the already-covered zip codes, are not aware of the right to counsel, and as such regularly fall prey to landlord attorneys who pressure them to sign agreements before meeting with counsel.

The burden falls on the providers to inform tenants about the right to counsel, determine eligibility, and establish trust despite these impediments.

For example, GM and his elderly mother, AF, both non-English speakers eligible for a free lawyer, came to us during our intake shift in housing court. The landlord and his attorney were following them, pressuring for a settlement or immediate trial. The tenants were intimidated and would only speak in whispers. Our attorney huddled with the tenants, both to shield them from their landlord and to listen as they quietly shared the sensitive details of their case. They were both undocumented and said that the landlord had threatened to report them to ICE. When attorneys are forced to meet their clients for the first time under these circumstances, the right to counsel is severely compromised.

The proposed move of the Bronx Housing Court building to 851 Grand Concourse in 2020 presents a unique opportunity to develop plans for the new space that create confidential intake space adjacent to the courtrooms, ADA accessibility, sufficient seating, and clear signage. Unlike the current space, which had to be retrofitted for right to counsel intake and has led to numerous challenges, construction of the new space allows for plans that actually meet the implementation recommendations below. It will be critical that the proposed plans are developed in close collaboration and communication with the legal services providers and Right to Counsel Coalition NYC to ensure that the results realize these implementation goals.

## **Recommendations**

- OCJ should work closely with the OCA to make the following changes:
  - Make space adjacent to courtrooms available for confidential meetings between tenants and counsel.
  - Create space for all providers to review and copy tenant documents and information, as well as view and print electronic records from agencies such as the Division of Housing and Community Renewal, Department of Housing, Preservation and Development, and others.
  - Create signage about the right to counsel and informing tenants where to go.
  - Increase language access resources, including interpreters and multi-language signage and translated materials, in the court to facilitate the right to counsel for non-English speaking tenants;
- OCJ should implement the following changes:
  - Assist tenants in connecting with providers prior to making court agreements without receiving legal advice.
  - Play a more direct role in addressing incivility and bias in the courthouses.
  - Develop resources for tenants with mental health impairments and cognitive issues to ensure they can avail themselves of their right to counsel.



**CAMBA**  
Legal Services

**TESTIMONY**

On

**NEW YORK CITY'S  
UNIVERSAL ACCESS TO LEGAL SERVICES  
FOR TENANTS FACING EVICTION**

Presented before:

**THE HUMAN RESOURCE ADMINISTRATION'S  
OFFICE OF CIVIL JUSTICE (OCJ)**

Presented by:

**SARAH COHEN**  
Supervisor, CAMBA Legal Services

November 12, 2019

Thank you for the opportunity to testify today. My name is Sarah Cohen and I am a Supervisor at CAMBA Legal Services. CAMBA Legal Services is very proud to be one of the legal service providers of the Universal Access to Legal Services for Tenants Facing Eviction in Brooklyn and Staten Island. CAMBA Legal Services is also a member of Leap, a coalition of eighteen New York City civil legal services providers, many of whom are also Universal Access providers. In addition to CAMBA, Leap includes Bronx Defender Services, Brooklyn Defender Services, Brooklyn Legal Services Corporation A, Catholic Migration Services, The Door, Goddard Riverside Law Project, Housing Conservation Coordinators, JASA/ Legal Services for the Elderly, Lenox Hill Neighborhood House, Make the Road New York, MFJ Legal Services, Neighborhood Defender Services of Harlem, New York Lawyers for the Public Interest, Northern Manhattan Improvement Corporation Legal Services, Take Root Justice, the Urban Justice Center/ Community Development Project, and Volunteers of Legal Services. The LEAP organizations came together to form a coalition in 2004 to enhance the breadth and depth of legal services provided to indigent, near indigent, and working poor persons throughout New York City.

CAMBA Legal Services congratulates the City Council and Mayor for adopting the Universal Access to Legal Services for Tenants Facing Eviction; the Administration for implementing the law; and our partners for working with us to make Right to Counsel a reality for New York City tenants. We also would like to congratulate, and thank the Right to Counsel Coalition, the Community Based Organizations, tenants, and tenant organizers across the City whose hard work, diligence and persistence made this legislation possible.

Right to Counsel is already making a huge difference in the lives of tenants, and we see that every day in our work.

Congratulations to the Office of the Civil Justice on releasing the Year Two Implementation Report on Universal Access to Legal Services. This is a really nice opportunity to take a step back and take note of our collective accomplishments. These accomplishments include but are not limited to the huge increase in legal services to tenants in housing court – a 74% increase in the number of tenants represented compared to those served in FY 2017. This enormous increase in tenant representation has helped to level the playing field for New York City tenants in Housing Court. This tremendous accomplishment would not have happened if not for the hard work, dedication and collaboration of all the stakeholders – the elected officials, the City, the Courts, the Tenants, Tenant Organizers, Legal Service Providers, and Community Organizations, among others.

While it is important to celebrate our shared accomplishments, it is also important to learn from the growing pains and bumps in implementation so that we can continue to move forward effectively. There is still so much left to be done. While 32% of tenants are represented, still 68% are not. As a community based legal service provider, CAMBA Legal Services, and our Leap partners, feel very strongly that a community based approach to implementation of Right to Counsel is critical. Some of the components that we believe are key to full implementation are the following:



- **Tenant awareness, outreach and education** is critical to the long term success of Right to Counsel. Many tenants never make it to housing court and give up their apartments through intimidation. With tenant representation in housing court on the rise, we already see landlords resorting to other means to get tenants to give up their apartments. Tenants must be able to rely on neighborhood based groups who have a history of tenant organizing and community service to get good reliable information out to them on Right to Counsel and other housing issues like inadequate services and landlord harassment.

**Another component that we strongly believe is key to the full implementation of Right to Counsel is**

- **Neighborhood based intake** – while intake in the court house has been a critical component of the implementation of Universal Access that should continue, there also needs to be a neighborhood based process so that tenants can find an attorney before they go to housing court. We all know that some tenants will not make it to housing court on their own. They will however, come to their trusted neighborhood based providers, ensuring true universal access to legal services to tenants facing eviction. In some cases, neighborhood based intake would mean that tenants would never need to go to court to empower the tenant, it will reduce the pressure on the housing court, increase the capacity of the providers, and reduce the service cost to the City.

We have accomplished so much in this first 2 years of implementation – we have kept well over 100,000 people in their homes, leveled the playing field in housing court for New York City tenants, and seen a huge drop in evictions citywide. What we at CAMBA Legal Services are so proud of is the work we have been able to do to help tenants who would be homeless but for Right to Counsel. One such case is a recent intake that I had in court the other week. A young woman was referred to us through the UA program who had a post eviction case, meaning that she had already been evicted. She had filed a pro se OSC to get her belongings out of her apartment or to just be restored for a temporary period of time. She did not realize that she had a current lease that was still in effect that the Petitioner should not have even brought the case let alone obtained a judgment and warrant. We argued her OSC and the judge ended up dismissing the case and restoring the tenant to possession that same day.

Thank you again for giving us the opportunity to testify. There is so very much to be proud of, to celebrate, and to be thankful for. We look forward to working together to ensure that all tenants have a Right to Counsel to preserve their housing.



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Research. Development. Justice. Reform.

Greg Berman, Director

Center for Court Innovation Testimony  
NYC Office of Civil Justice's Programs to Provide Universal Access to Legal Services for  
Tenants Facing Eviction  
Tuesday November 12<sup>th</sup>, 2019

*Who we are:*

Good evening. My name is Ignacio Jaureguilorda. I oversee Legal Hand, a project of the Center for Court Innovation. We thank you for the opportunity to provide testimony regarding the NYC Office of Civil Justice's Programs to Provide Universal Access to Legal Services for Tenants Facing Eviction.

The Center for Court Innovation works to create a more effective and humane justice system by launching operating programs to test new ideas and solve problems, performing original research, and providing expert assistance to justice reformers around the world. We operate programs in all five boroughs ranging from community-based violence prevention programs to reentry initiatives, civil access to justice programs, and court-based programs that reduce the use of unnecessary incarceration, just to name a few. In all of our work, we start with understanding the full range of needs of our communities.

Three of these programs in particular - the Red Hook Community Justice Center, the Harlem Community Justice Center, and Legal Hand – work directly with New York City residents who are facing housing instability, whether through the threat of eviction, the need for permanent housing, or living conditions that pose risks to their safety and well-being. Both Red Hook and Harlem operate neighborhood-based housing courts in partnership with the New York State Unified Court System, with Harlem handling both public and private housing cases that arise within two local zip codes; and Red Hook handling exclusively public housing cases from the Red Hook Houses. Finally, our Access to Justice civil programs provide assistance to thousands of New Yorkers with housing issues through Legal Hand and the Lippman Fellows Program.

Taken together, from our work serving tenants in both court and in community settings, and training new housing attorneys, we have learned a great deal about preventing evictions, addressing human needs of litigants, increasing access to justice, advancing fairness and reaching vulnerable populations including returning citizens. We appreciate the opportunity to give testimony and share our most successful practices with you today in the hopes they can inform greater investments the City is making in housing stability, affordability and legal protections for New York City tenants.

*What we do:*

Eviction Prevention:

As is the case in Housing Courts everywhere, in both Harlem and Red Hook, eviction proceedings initiated by landlords in the form of nonpayment cases represent the majority of the cases. In 2018, Harlem handled **2,578** nonpayment cases, and Red Hook handled 822. In all of our work we take a problem-solving and individualized approach to cases, meeting the human and not just legal needs of the litigant. We don't just ask the what, but the why. How did someone end up with rental arrears? If they are in public housing, is their rent being calculated accurately? Beyond arrears, are their other factors contributing to financial strain or instability in the home?

We hear stories every day of the extreme challenges and stresses faced by young renters, working parents and fixed-income seniors to pay their rent. To respond to their needs, we have transformed our Red Hook and Harlem housing courts into not just a forum for adjudicating their case but a true **resource hub**. Tenants can receive support with on-site benefits assistance from the Human Resource Administration (HRA) for not only Emergency Assistance (One-Shot Deal), but also SNAP and cash assistance. While assisting tenants to complete NYCHA's annual household income recertification, we are able to help tenants ensure their rent is calculated accurately, maximize deductions, and maintain affordability according to HUD's standards. Our Help Center staff regularly turn to the team of social workers and victim specialists based on-site at the Justice Centers to respond to issues of victimization, domestic violence, elder abuse, mental health, and substance abuse as they come up and provide the counseling and listening ear we all can benefit from during a destabilizing period in our lives. We regularly host health insurance providers, job recruiters and free home health providers to table during court, and display information on financial-literacy and worker-rights from the Department of Consumer Affairs. We offer free tax-preparation in partnership with the Food Bank for New York City and NYCHA's REES. Lastly, our Red Hook Peacemaking mediation program has been an indispensable resource to addressing intra-family or neighbor disputes that surface regularly during housing court. Holistic supportive services and resources integrated into the civil justice system and available to the community at-large allows for families to not only remain in their homes, but to rebound and thrive after in instability of facing eviction.

Another all too common reason families face eviction is due to default judgements (or non-appearance by tenants) to their court date. In Red Hook, we have launched several housing court attendance strategies, including: conducting reminder calls before court dates; giving tenants an organizer folder when they answer petitions for important documents; supplying healthy breakfast snacks at the start of court; making the space kid friendly; and, providing extra space for litigants to negotiate. These efforts have contributed to our low rate of default judgements. In 2018, only 1 in 10 warrants in Red Hook were issued by default, compared to 1 in 4 citywide.

Advancing fairness:

All of our work is animated by the principles of procedural justice, which at its essence is treating people with dignity and respect. Research has shown that when court users perceive the justice system to be fair, they are more likely to comply with court orders and follow the rules in the future—regardless of the outcome of their case. Researchers such as Tom Tyler of Yale Law School have boiled down procedural justice to a handful of

key elements: treating court users with dignity and respect, ensuring that they understand the process, that they have a voice, and that decisions are made neutrally. At the Justice Centers, this means clear signage throughout the building and a team atmosphere between court officers, clerks, and program staff to ensure litigants understand the process and that decisions are transparent, non-biased and communicated in plain language. Our Red Hook AmeriCorps service members and history of local hiring ensures that the communities served by the court are represented in our staffing.

These efforts together are altering the reality of housing court as an “eviction factory” to a place where tenants seek justice. Tenants in Red Hook have increasingly come to court to file Housing Part (HP) Actions on housing maintenance issues, including health hazards of lead paint, mold and chronic leaks. Citywide in 2018, tenant-initiated HP actions accounting for less than 3% of total housing court filings, while in Red Hook 18% were initiated by tenants. This year alone, 172 households have filed HP Actions leading to city inspectors recording over 600 violations at the NYCHA Red Hook Houses which has significant unmet building capital needs. City inspections and the access to the housing court process have the potential to provide public housing tenants with localized accountability and code compliance to ensure the safety and habitability of their homes.

Increasing access to justice:

Our Legal Hand project has become a model in the city for increasing access to justice for tenants outside of the courts by bringing justice to the neighborhoods they live in. Legal Hand empowers community residents to support their neighbors with free legal information. Our trained local volunteers at storefront centers directly support eviction prevention, addressing habitability issues and assistance finding housing.

There is a substantial need for this kind of non-court based, pre-litigation service. Legal Hand, through our five sites, has worked on 4,545 housing matters with our visitors in 2019 year to date. That is up from last year when we saw 4,273 for the whole year. Assistance can take many forms, including help with navigating the social services system, completing online legal forms, and drafting form letters. A legal services attorney is on-site at each Legal Hand office to train and assist volunteers. Neighborhood workshops run by staff, local partners and legal services organizations address civil legal issues affecting the community.

Legal Hand’s recruitment and training of community volunteers on civil legal issues supports our understanding of new developments in legal issues and on-going education throughout the community. These brief services can prevent cases before they even come to court and offers a model of efficient deployment of legal services diffused throughout the city’s neighborhoods.

Supporting returning Citizens:

Without stable housing and protected tenant rights, a returning citizen faces the likelihood of returning to incarceration. The reentry programming at the Harlem Community Justice Center operates on the immediacy of providing preventive support to individuals re-entering the community. Yet, 30% of Harlem’s clients returning to community list a homeless shelter as their address. Secure and stable housing is the foundation on which successful reentry is built, however returning citizens seeking housing face a shortage of available supportive or transitional housing which is often exacerbated by restrictive criminal background policies. Further efforts are needed to help individuals to understand their rights and to succeed in temporary/transitional housing. This

challenge is of increased importance with legislative changes from Albany on distinctions between tenant/licensee notices, and lock-out situations.

Additionally, we applaud and provide numerous client referrals to NYCHA's and the Vera Institute's Family Reentry Program. An individual's positive reentry efforts despite a criminal record should neither jeopardize their family's housing nor forever bar them from applying to housing. We know that further efforts by Universal Access counselors as well as my colleagues and I at CCI can help individuals apply to lift their permanent exclusion from NYCHA and prevent termination of tenancy hearings and holdover proceedings.

*Looking at the future and the rollout of UA*

Challenges and opportunities of Universal Access:

The promise of Universal Access is incredible. As a former legal services attorney specializing in housing court, I consistently observe better outcomes when tenants have legal counsel, even in cases when the tenant does not retain their apartment.

Unfortunately, universal access is not at this point yet universal and is not the only necessary service. We strongly support the inclusion of public housing residents within UA because access to legal services makes a difference for public housing residents in both L&T housing court and at NYCHA's administrative termination of tenancy hearings. Tenants of all housing types benefit from legal services when facing evictions and is needed for public housing residents now more than ever with the uncertain future of public housing in New York City.

Additionally, we strongly encourage the City to consider ancillary services, including pre-court information that can prevent the need for housing court litigation and clinical services, that can ensure that clients are served in a holistic manner.

Thank you for taking the time to listen.

Testimony of The Legal Aid Society

Before a Hearing of the Human Resources Administration's Office of Civil Justice

November 12, 2019

Introduction

The Legal Aid Society (the Society) is the nation's oldest and largest not-for-profit legal services organization advocating for low-income individuals and families in civil, criminal and juvenile rights matters, while also fighting for legal reform. With a staff of more than 2,000 lawyers, social workers, investigators, paralegals and support and administrative staff — and a network of borough, neighborhood, and courthouse offices in 26 locations — the Society provides comprehensive legal services to clients who cannot afford to pay for private counsel in all five boroughs of New York City.

The Society exists for one simple yet powerful reason: to ensure that no New Yorker is denied their right to equal justice because of poverty.

The mission of the Society's Civil Practice is to improve the lives of low-income New Yorkers by providing legal representation and advocacy to vulnerable families and individuals so that they are able to obtain and maintain the basic necessities of life, and to access the benefits to which they and their families are entitled. The Society's Civil Practice focuses on enhancing individual, family and community stability by serving our clients in resolving a full range of legal problems in the areas of housing, public benefits, foreclosure prevention, immigration, domestic violence and family law, health law, employment, elder law, tax law, community economic development, health law and consumer law.

The Society's Civil Practice maintains an annual caseload of some 50,500 individual cases and legal matters benefitting over 125,000 persons. Additionally, the Society's Civil Law Reform Practice benefits more than 1.7 million low-income families and individuals in New York City through its legislative advocacy and affirmative litigation. Many of the rulings the Society has won have had a State-wide and national impact. The Society is counsel on hundreds of cases concerning the rights of tenants in regulated and unregulated apartments

across the city, and strongly supported the State legislature's passage of landmark tenant protection reforms in June 2019.

### **NYC's Right to Counsel in Housing Court**

The Society has been representing low-income New Yorkers in Housing Court for many decades. In addition to defending our individual clients in eviction cases and fighting for repairs on their behalf, the Society has also long been involved in efforts to reform Housing Court to ensure that it fairly and justly serves the poorest and most vulnerable. Part of that effort has been to work to expand access to free legal services and representation in Housing Court. The Society is proud to be a member of the Right to Counsel NYC Coalition whose organizing and leadership were instrumental in the 2017 passage of our City's first-in-the-nation law providing the Right to Counsel in Housing Court (RTC).

The RTC law contemplates that the right to counsel for tenants in Housing Court will be available to all low-income New Yorkers by July 31, 2022. This coming year, as we reach the half-way point in the five-year period leading to full implementation of RTC, we need to redouble our efforts to make RTC an integral part of the City's culture, and a part of its legal and social services infrastructure. RTC is here to stay! We must increase public awareness of RTC, expand it, fully integrate the right into the daily functioning and operations of Housing Court, and ensure that the poorest and most vulnerable New Yorkers have access to public benefits and supportive services that will empower them to exercise RTC to achieve their goals.

The passage of the historic Housing Stability and Tenant Protection Act of 2019 (HSTPA), coupled with RTC, has the potential to dramatically strengthen tenants' rights, reduce evictions and homelessness across the City, prevent the loss of affordable rent-regulated apartments, and the displacement of long-time residents. The HSTPA provides powerful legal protections for tenants, and through RTC, low-income tenants have the means by which to secure counsel to enforce those protections. The Office of Civil Justice's 2019 Annual Report on RTC shows that residential evictions have continued to decline through 2018 even as the percentage of tenants and occupants in Housing Court who have counsel continues to increase.<sup>1</sup>

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<sup>1</sup> See New York City Human Resources Administration's Office of Civil Justice, *Universal Access to Legal Services: A Report on Year Two of Implementation in New York City*. (Fall 2019) (available at: [https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ\\_UA\\_Annual\\_Report\\_2019.pdf](https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ_UA_Annual_Report_2019.pdf))



This past year the State court system has continued to implement reforms to New York City's Housing Courts aimed at integrating RTC.<sup>2</sup> The Office of Civil Justice should continue to engage with the legal service providers to ensure that there is adequate space, resources and support within the courthouses, which is where most tenants will obtain attorneys through RTC. Other stakeholders, such as bar associations and community-based organizations, should also be engaged to make the exercise of RTC in its third year a daily reality throughout the City.<sup>3</sup>

To that end the Society makes the following recommendations to expand and improve the implementation of the Right to Counsel in Housing Court.

**Recommendations for the Human Resources Administration and Office of Civil Justice**

- Continue funding for other types of litigation that keep people in their homes including affirmative litigation in HP parts, Supreme Court, and administrative agencies.
- Work to maximize tenant income by funding related legal services including, but not limited to: consumer, benefits, disability, and expansion of the City's current investment in low-wage worker legal services. Without funding for these services tenants will continue to struggle to remain in their homes.
- Connect tenants more easily to public benefits resources and housing subsidies administered by HRA.
  - Develop and expand HRA offices in each Housing Court and provide them with the authority and resources to assist tenants and advocates with the emergency applications, and information related to emergency application for assistance,
  - Enable tenants and others facing eviction to obtain information about eligibility for public benefits and eligibility for HRA housing subsidies.

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<sup>2</sup> See New York State Office of Court Administration, *Reforming New York City Housing Court: A One-Year Update*. (February 2019) (available at: [http://ww2.nycourts.gov/sites/default/files/document/files/2019-02/19\\_Housing\\_Court-Report\\_Update.pdf](http://ww2.nycourts.gov/sites/default/files/document/files/2019-02/19_Housing_Court-Report_Update.pdf)).

<sup>3</sup> See, e.g. The Association of the Bar of The City of New York, *State of New York City's Housing Court*. (April 18, 2019) (available at: [https://s3.amazonaws.com/documents.nycbar.org/files/2019506-State\\_of\\_Housing\\_Court.pdf](https://s3.amazonaws.com/documents.nycbar.org/files/2019506-State_of_Housing_Court.pdf)).

- Enable tenants and others facing eviction to more easily apply for rental assistance and HRA housing subsidies.
- Enable tenants and others facing eviction to easily obtain information about the status of their applications for rental assistance and HRA housing subsidies.
- Permit legal service providers to advocate with HRA on behalf of clients who obtained counsel in eviction cases.
  - Expedite opening of cash public assistance applications where client is facing eviction.
  - Allow legal service providers to submit Family Homelessness and Eviction Prevention Supplement (FHEPS) applications on behalf of their clients facing eviction.
- Adult Protective Services (APS) must have a more active and prominent role in the Housing Courts where the tenant is elderly, disabled, or has some other impairment.
- Build Sustainability for Legal Service Providers:
  - The City must procure and fund office space for legal services providers near the courthouses. Without a local, adequate and private space in which to interview clients and prepare cases, the Society struggles to provide the high-quality services our clients deserve.
  - Provide adequate notice when there is a change in funding levels and performance expectations. As a non-profit organization, the Society relies on longer-term planning and forecasting. The year-to-year changes in expected staffing capacity has rendered planning, including the procurement of office space, a significant obstacle to performance.
  - Funding for housing programs must be at a level sufficient to maintain quality services. As, the Society expands under additional RTC funding, the quality of our legal services in representing our client is the utmost priority.

- As RTC expands City-wide, provide formal guidance or issue regulations in consultation with legal service providers concerning commonly recurring issues providers face.
- Meet more regularly with legal service providers in each borough to addresses issues arising from RTC implementation.
- Allow for flexibility in implementation by zip codes. A rigid focus on certain zip codes may result in the loss of affordable, rent regulated housing in other communities across the city.
- Fund neighborhood based community organizing groups to do outreach, education and to respond to landlord intimidation and harassment. We continue to see aggressive displacement tactics by landlords across the city seeking to take advantage of tenants outside of Housing Court. Without access to organizing and education, RTC will do little to stem the trend towards displacing low-income communities and communities of color.
- Engage in a significant public awareness campaign promoting RTC in eviction proceedings.
- Create a web portal. The City should create web-based portal for tenants to determine their eligibility for Right to Counsel and to identify legal service providers in their neighborhood. This portal should be modeled after [www.evictionfreenyc.org](http://www.evictionfreenyc.org) and until the city creates its own portal, it should refer tenants to this portal.

#### **Recommendations for the Courts in Implementing RTC**

- Expand and outfit intake areas for tenants seeking counsel under the Right to Counsel law. A number of the courthouses do not have private space for attorney-client interviews. In some courts, the space is too small, in some, the spaces are not private. The spaces that do exist could be greatly enhanced by the addition of copiers, strong Wi-Fi, scanners and other technology. All intake areas should include sufficient private intake spaces that are confidential and ADA accessible.
- The Office of Court Administration should consult with the Right to Counsel NYC Coalition, tenant advocates, and the legal services community regarding

plans to move the Housing Courts in two of the boroughs to new facilities, to ensure that the new facilities contain all of the resources necessary for just and effective implementation of the right to counsel.

- Expand courtroom waiting areas so tenants do not have to wait in the halls or in antechambers outside of the courtrooms.
- Increase awareness of the Right to Counsel by providing information to unrepresented tenants about how to access legal services (via slide shows or videos, written materials, and regular announcements).
- Expand services to tenants with disabilities, to homebound tenants, and to tenants with limited English proficiency so that they can access all of the court's facilities and procedures, and so they can access legal representation without barriers. The courts are in need of expanded interpretation staff.
- Provide documents to the legal service providers to speed up the assignment of counsel – documents including lists of cases, copies of the case file, and printouts from city or state agencies especially printouts of rent histories of rent-stabilized and rent-controlled apartments from the State agency Housing and Community Renewal (HCR).
- Provide additional court clerks and court attorneys to assist with the Right to Counsel intake process and to assist with the settlement process.
- Improve wayfinding in the Housing Courts so that tenants can easily navigate the court and find their way to the legal service providers.
- Provide childcare and food facilities in the courts for people (and families) who are forced to wait hours for the resolution of their cases.
- A review must be conducted of the Guardian Ad Litem (GAL) program to assist in reform necessary to effectuate the purpose of the program. As tenants gain access to representation, tenant advocates must be confident that the assignment of a GAL can be done efficiently in the context of a summary proceedings. The Society is aware that the program is inadequately funded while failing to recruit or maintain staff that is capable of handling the number of cases in which they are needed.

- Clear signage about Right to Counsel, and directing tenants to resources, should be installed throughout the courthouses.
- With the aim of informing as many tenants as possible, information about the right to counsel should be communicated in as many ways as possible, with full accessibility provided for Limited English Proficient tenants and tenants who are deaf and/or vision-impaired, including but not limited to: all court staff making announcements and directing people to tenant attorneys (especially judges, court clerks and court attorneys), adequate signage throughout the courts, more and better information on all court documents including the postcards, notice of petitions and hearing notices, etc.
- Improve Language Justice in the Courts: Language access is a racial justice issue and a right to counsel will only provide meaningful access to justice if it is made fully accessible to Limited English Proficient (LEP) tenants. The courts should ensure all RTC materials (documents and signs) are in the most 12 most common NYC Languages, use language line, conduct regular language justice training for all court personnel, regularly review and evaluate the interpretation services they use, adequately advertise interpretation services and ensure interpretation is available in all court interactions (not just in the courtroom).
- The right to counsel must be fully accessible to tenants with disabilities and homebound tenants. Therefore: all courtrooms should have space to accommodate tenants in wheelchairs and also sufficient seating for tenants with disabilities; all publicity, signage, and other information about Right to Counsel should be made accessible to vision and hearing impaired tenants; tenants with disabilities should not have to wait in security lines; courts should contact ADA liaisons for tenants; Marshals should contact APS if they arrive and find a homebound person.
- Work with legal service providers to implement electronic-filing in Housing Court in a manner which makes RTC more effective and efficient.

#### **Recommendations for Expanding and Improving RTC**

- Expand the types of cases covered
  - While most eviction cases occur in Housing Court, hundreds of cases are heard in higher courts or administrative hearings, including:

- NYCHA administrative hearings (in addition to termination of tenancy hearings);
    - Supreme Court Ejectment cases;
    - Housing Development Fund Corporation (HDFC) cases; and,
    - HPD administrative hearings for Mitchell-Lama residents.
  - Though the current law guarantees tenants get an attorney for the entirety of their cases, it does not cover appeals. With more tenants than ever being represented and winning their cases, landlords are filing more appeals. Without legal representation to defend their victories, tenants will be left alone when the final, most consequential, decision is made.
    - Similarly, a tenant who is entitled to appeal a determination after an administrative hearing must be afforded access to a legal service provider for an Article 78 proceeding, appealing the administrative decision.
- In accordance with adopting the language of a right, the City should ensure that funding is provided to legal service providers without being “subject to appropriation.”
- Connect tenants to attorneys *before* they arrive at court by funding community-based organizations to conduct outreach and engagement to inform tenants of their right to an attorney. Neighborhood-based groups with histories of tenant organizing and community service are trusted community partners and therefore are best positioned to do the outreach and education work that is critical to the law’s success. The right is only as effective as tenants’ ability to know and claim their rights.
  - Tenants who have been served with a 14-day rent demand could be referred to a legal services provider by OCJ, or by HRA when the tenant applies for emergency rental assistance or some other HRA administered housing subsidy.
  - Tenants who have full cash-assistance Public Assistance cases and have been served a 14-day rent demand could be referred to a legal services provider by OCJ.
- Tenant access to representation in Housing Court allows legal service providers to identify not only the potential housing crisis, but also the related matters that are symptomatic of institutionalized oppression and poverty.

- Funding must encourage the participation of social workers in Housing Court to address the needs of the communities who are most likely to appear as Respondents in summary eviction proceedings.
- Stakeholders should jointly sponsor regular trainings and continuing legal education (“CLE”) themed and built around RTC for all housing practitioners, advocates, community members, and court staff, as a means to build a common language and culture of RTC in Housing Court.

The Society looks forward to continuing to work with City agencies, the State court system, and other stakeholders to improve RTC and make it a reality for all low-income New Yorkers.

Respectfully Submitted:

Nakeeb Siddique  
Director of Housing  
Brooklyn Neighborhood Office  
The Legal Aid Society  
111 Livingston Street, 7th Floor  
Brooklyn, New York 11201



November 12, 2019  
NYC Human Resources Administration  
Office of Civil Justice  
150 Greenwich Street, 31<sup>st</sup> Floor  
New York, NY 10007

**ATTN: Annual Public Hearing on the NYC Office of Civil Justice's Programs to Provide Universal Access to Legal Services for Tenants Facing Eviction**

On behalf of Robin Hood, New York City's largest organization focused on lifting families out of poverty, we strongly recommend that the Office of Civil Justice continue to support and expand the City's Universal Access to Counsel law for tenants facing eviction. Universal Access to Counsel (UAC), or Right to Counsel, is one of the most powerful poverty-fighting tools across the city and the nation. For more than three decades, Robin Hood has worked with and funded housing and legal services organizations throughout New York City to prevent tenant evictions. This work, coupled with our partnerships with leading poverty research institutions, such as Columbia University, has shown us that eviction is not simply a symptom of a poverty—it is a driver of it, pushing New Yorkers deeper into hardship and further away from economic opportunity.

As this testimony will underscore, stable housing is vital to any efforts to help New Yorkers escape poverty and hardship and it sits at the heart of the city and Robin Hood's efforts to reduce poverty and improve economic opportunity. The City Council and the de Blasio administration, alongside tenant organizing groups, legal services organizations, and countless other organizations that provide vital social services throughout New York City, exercised tremendous leadership in establishing the UAC program to provide legal services to tenants facing eviction. Now is the time to double down on this program through initiatives that increase knowledge of its availability and expand its inclusivity.

Robin Hood supports the further expansion of the program through two pieces of legislation currently under consideration in the New York City Council and urges the de Blasio administration to support the strengthening of UAC through these initiatives: Intro 1529, which will provide more resources to increase awareness among tenants about UAC; and Intro 1104, which will make UAC more inclusive by broadening access to legal services for tenants with incomes between 200 and 400 percent of the Federal Poverty Level. According to an HRA survey, Intro 1104 could cover an additional 31 percent of tenants in housing court, which projections show could help between 55,000 and 70,000 households fight to stay in their homes.<sup>1</sup>

For the last 30 years, Robin Hood has supported more than 250 non-profit organizations that meet the daily needs of tens of thousands of low-income New Yorkers experiencing homelessness, food insecurity, health crises, unemployment; and other hardships. Since our founding, Robin Hood has invested more than \$2 billion in programs to fight poverty in New York City. Robin Hood continues to invest in programs that keep families stably housed. Each year we spend more than \$8 million dollars on homelessness and eviction prevention, services for those in shelters, and supportive housing. These programs, along with many others that we support, help sustainably and measurably

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<sup>1</sup> Mironova, Oksana. "NYC Right to Counsel: First Year results and potential for expansion." *Community Service Society*. March 25, 2019. <https://www.cssny.org/news/entry/nyc-right-to-counsel>





move families out a poverty and provide a window into the multiple dimensions of material hardships that individuals and households living below and just above the Federal Poverty Level face.

Since 2012, Robin Hood and Columbia University's Center on Poverty and Social Policy have conducted a longitudinal representative survey of 4,000 New Yorkers, known as the Poverty Tracker, that examines multiple dimensions of disadvantage. The Poverty Tracker is the first local survey to capture information on evictions and other types of moves in New York City alongside data on poverty, material hardship, health, and other measures of well-being.

Through our Poverty Tracker research and funding experience, we know that housing stability is fundamental to any efforts to fight poverty, yet far too many New Yorkers do not have a safe and affordable place to live. Evictions threaten families' safety, security, and economic mobility prospects and according to a survey by the Independent Budget Office, more than one-quarter of the families that enter the New York City shelter system have identified eviction as an immediate cause of homelessness.<sup>2</sup> Two-thirds of children who live in the New York City shelter system are chronically absent from school<sup>3</sup> and adults who face housing instability struggle to stay employed.

Below we discuss key findings from the Poverty Tracker which highlight the need to strengthen and expand eviction prevention policies like UAC – the full report is attached below.

### **1. More than 100,000 New Yorkers are forced out of their homes every year.**

Our Poverty Tracker relies on the methodology developed by scholar Matthew Desmond which classifies groups who move into three categories: Forced Moves, due to formal or informal eviction (landlord harassment or fear of future eviction) and building foreclosures, condemnations, and sales; Responsive Moves, in response to neighborhood or housing conditions such as rent hikes or maintenance issues; and Voluntary Moves, intentional and unforced moves, often with a quality of life improvement such as moving closer to work. The Poverty Tracker finds that more than 56,000 families, or 100,000 New Yorkers, are forced out of their homes every year through evictions and building foreclosures, sales, and condemnations. The Poverty Tracker also finds that one in seven of those who are forced to move are children under the age of 13; studies (discussed below) find that housing and neighborhood changes have the biggest long-term impacts on future earnings for children under the age of 13.

Among families who are forced to move, one-fifth of them (12,000) move because of an informal eviction – meaning they were not actually served with an eviction filing but instead moved out of fear of a future eviction or the landlord told them that they had to leave. These New Yorkers may feel more confident remaining in their homes and fighting a potential future eviction in court if they knew they may be entitled to access to a free attorney to represent them. This underscores the need to adopt Intro 1529, which will improve tenant education on UAC and may also discourage landlords from taking their tenants to court if these tenants will have legal representation. Tenant education efforts contemplated under Intro 1529 would empower tenants to mitigate housing quality issues,

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<sup>2</sup> "The Rising Number of Homeless Families in NYC, 2002-2012: A Look at Why Families Were Granted Shelter, the Housing They Had Lived in & Where They Came From." *New York City Independent Budget Office*. November 2014.

[https://www.ibo.nyc.ny.us/iboreports/2014/filhs\\_families\\_entering\\_NYC\\_homeless\\_shelters.html](https://www.ibo.nyc.ny.us/iboreports/2014/filhs_families_entering_NYC_homeless_shelters.html)

<sup>3</sup> "Not Reaching the Door: Homeless Students Face Hurdles on the Way to School." *Independent Budget Office*. October 2016.

<https://ibo.nyc.ny.us/iboreports/not-reaching-the-door-homeless-students-face-many-hurdles-on-the-way-to-school.pdf>



which are often precursors for eviction, directly with landlords outside the court system, potentially reducing the number of eviction cases.

Intro 1529 also stands to help those tenants who have already decided to fight their evictions in court but do not know they could be entitled to free legal counsel. According to a recent survey by tenant organizers and leaders, 53 percent of tenants in the Bronx Housing Court who were eligible for UAC did not know about it.<sup>4</sup> Adopting Intro 1529 will help more New Yorkers know that in the event that they are faced with an eviction, they will not have to fight it alone. This will enable more New Yorkers to remain in their homes and will likely discourage landlords from seeking evictions – and preventing evictions is one of the most cost-effective tools to fight homelessness. Beyond the severe emotional and financial toll homelessness takes on families, the current cost of homelessness in New York City is not sustainable. According to a report by the Coalition for the Homeless, the city's shelter system costs \$2.3 billion dollars per year to operate and in 2018, it cost \$81,700 on average to provide emergency shelter to a family for the average length of stay.<sup>5</sup> According to the Mayor's Management Report for 2018, it cost the city \$192 per day to provide shelter for a family, that translates to almost \$6,000 a month.<sup>6</sup>

## **2. New Yorkers who are forced to move already experience high rates of disadvantage and hardship.**

Families who are forced to move are significantly more likely to have experienced poverty, material hardship, and health problems than those who move for other reasons. The Poverty Tracker finds that 29 percent of New Yorkers who are forced to move have lived in poverty at some point over the last year, compared to only 13 percent of those who chose to move. Fifty-three percent of forced movers report being rent burdened (spending more than 30 percent of income on rent) compared to responsive and voluntary movers (32 to 34 percent). According to the Poverty Tracker, 55 percent of New Yorkers who are forced to move experience material hardship, such as running out of food or having utilities cut off because of a lack of money, 36 percent experience health problems, and 22 percent struggle with mental health issues.

## **3. New Yorkers who are forced to move end up in neighborhoods with less opportunity and with poverty rates more than twice as high as those they lived in before moving - undermining their prospects for permanently escaping poverty.**

Forced moves not only disproportionately impact disadvantaged New Yorkers, they also lead to worse outcomes. We find that following an eviction, families end up in neighborhoods with higher rates of poverty and less economic opportunity. Twenty-six percent of families who are evicted relocate to high-poverty neighborhoods (poverty rate above 30 percent), but before the move, only 10 percent of these families lived in high-poverty neighborhoods. This suggests that evictions also play a key role in concentrating poverty in New York City.

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<sup>4</sup> "Right to Counsel, Power to Organize" Campaign. *Right to Counsel New York City Coalition*.

<https://www.righttocounselnyc.org/right-to-counsel-power-to-organize-campaign>

<sup>5</sup> Routhier, Giselle. "State of Homelessness 2019." *Coalition for the Homeless*. 2019. <https://www.coalitionforthehomeless.org/state-of-the-homeless-2019/>

<sup>6</sup> Holliday Smith, Rachel. "Halfway Into Homeless Revamp, Work Lags as Hotel Use Grows." *The City*. August 26, 2019.

<https://thecity.nyc/2019/08/halfway-into-homeless-revamp-work-lags-as-hotel-use-grows.html>

# ROBIN HOOD



Beyond the Poverty Tracker, peer-reviewed and longitudinal studies provide causal evidence about how the neighborhood a person grows up in can impact their potential for economic mobility. Raj Chetty, Nathaniel Hendren, and Lawrence Katz determined that rates of upward mobility vary substantially based on where children grow up, and that even a few blocks can have a tremendous impact.<sup>7</sup> They found that moving within one's metro area from a below-average to an above-average opportunity neighborhood (in terms of upward mobility) can increase lifetime earnings for a child from a low-income family by \$200,000. In addition, children under the age of 13 who grow up in lower mobility areas are more likely to be incarcerated and more likely to become parents as teenagers. These findings, coupled with data from the Poverty Tracker, show that evictions destabilize families, drive families away from economic opportunity, and hinder children's future earning potential.

The Poverty Tracker provides convincing evidence that evictions are a serious problem in New York City; that they disproportionately impact disadvantaged families; and that they drive families away from opportunity and deeper into poverty. It is from this perspective that **Robin Hood strongly recommends continuing, strengthening, and expanding the City's Universal Access to Counsel law** which helps families avoid eviction and stay in their homes. We urge the City to adopt Intro 1104 and Intro 1529 which will ensure that more New Yorkers have access to this essential poverty-fighting tool.

Sincerely,

Sarah Oltmans, Managing Director

Jason Cone, Chief Public Policy Officer

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<sup>7</sup> Raj Chetty, Nathaniel Hendren, Lawrence Katz, "The Effects of Exposure to Better Neighborhoods on Children: New Evidence from the Moving to Opportunity Experiment." *American Economic Review* 106 (4): 855-902, 2016. May 2015.

\*Robin Hood testimony completed with research and analysis support from Chloe Sarnoff, Public Policy Analyst and Amanda Stern, Senior Program Officer, Income Security & Survival.

**POVERTY  
TRACKER**



**ROBINHOOD**

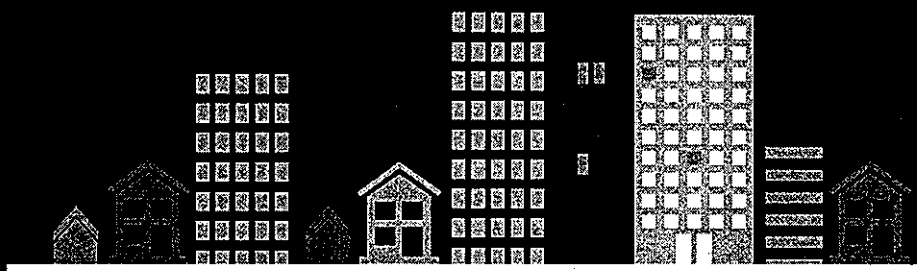
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MONITORING POVERTY AND WELL-BEING IN NYC

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Spotlight on  
**Forced Moves and  
Eviction in New York City**

A first look at the experiences and trajectories of  
New Yorkers who are forced out of their housing.



SOPHIE COLLYER

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MAY 2019

ROBINHOOD.ORG

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## EXECUTIVE SUMMARY

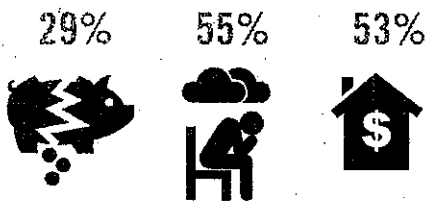
Forced moves, such as evictions, have drawn attention in recent years as research has highlighted the toll that displacement takes on families and neighborhoods.<sup>1</sup> Data on these types of moves, however, particularly at the individual and local level, remain scarce. The Poverty Tracker is the first local survey to capture information on evictions and other types of moves in New York City alongside data on poverty, material hardship, health problems, and a host of other measures of well-being. Further, this information is collected both before and after a move, allowing us to understand the potential consequences of forced displacement and other types of moves on individuals and neighborhoods. This report employs this new and unique data to take a first look at the experiences and trajectories of this population of New Yorkers and how forced moves play a role in widening the opportunity gaps between neighborhoods. We also examine the efficacy of housing policies in curbing rates of forced moves at a time when lawmakers in Albany and New York City are contemplating reforms to the soon-to-be expired statewide rent-stabilization laws and the city's recently enacted "Right to Counsel" eviction prevention program.

### We find that:



Over **100,000** New Yorkers are forced out of their housing within a year by evictions, building foreclosures, building sales, or building condemnations.

*Nearly one in seven of these is a child under age 13.*



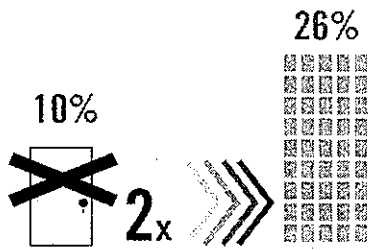
Compared to other renters, those who are forced to move are more disadvantaged across a host of measures of well-being collected by the Poverty Tracker: prior to moving, they are more likely to be in poverty (29%),<sup>2</sup> experience a material hardship (55%) such as running out of food or having utilities cut off due to nonpayment, and be rent burdened (53%).<sup>3</sup>

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<sup>1</sup>Desmond, M. (2016). *Evicted: Poverty and profit in the American city*.

<sup>2</sup>We measure poverty using the Supplemental Poverty Measure (SPM). A family is considered in poverty if their annual post-tax cash and transfer income falls below the SPM threshold for their household size. For example, being in poverty is defined as having an annual income below \$15,268 for individuals who rent their apartment, and below \$32,943 for a family of four with two children who rent.

<sup>3</sup>Rent burdened is defined as spending more than 30 percent of household income on rent.

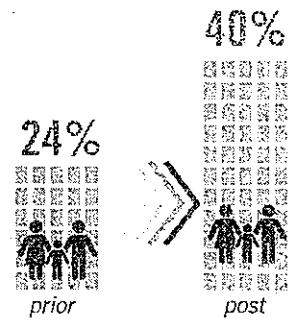


Evictions play a role in concentrating poverty in New York City. Renters who are evicted are more likely to live in a high-poverty neighborhood after moving than renters who did not move, regardless of where they lived prior.

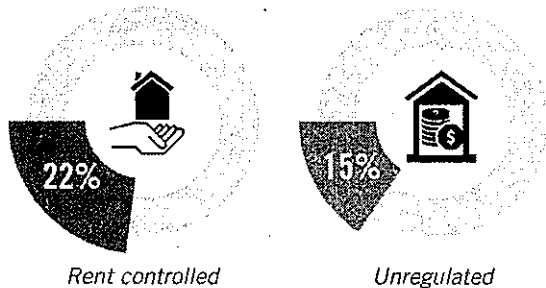
Only 10 percent of evicted New York City families live in a high-poverty neighborhood at the time of eviction. After an eviction, the picture changes and the likelihood that evicted families live in high-poverty neighborhoods increases more than two-fold to 26 percent.

Other types of moves related to high housing costs also concentrate poverty and disadvantage. Like forced movers, renters who move because they found more affordable housing face higher levels of disadvantage and end up in higher poverty neighborhoods after moving.

Households that moved voluntarily because they found a more affordable apartment were the most likely to end up in a high-poverty neighborhood at (40 percent). Prior to moving, only 24 percent of these renters lived in a high-poverty neighborhood.



**Forced Moves**



Rental protections help curb rates of forced relocation but are not fully protective. Moving is slightly less common among families with rent control and stabilization (12 percent) versus households in unregulated apartments (14 percent). But among those who move, families with these protections are more likely to be forced out of their housing (22 percent versus 15 percent). Rates of forced moves would likely be even higher among these families absent rental protections, but that does not mean this group is completely shielded from displacement.

Among those who move, families with rental protections are more likely to be forced out of their housing (22 percent versus 15 percent).

This Poverty Tracker analysis reveals that New Yorkers who endure a forced move already face disadvantage on multiple fronts, so these moves serve to concentrate disadvantage and widen the opportunity gap between neighborhoods. This is also true for renters who move to find more affordable housing. These moves — whether forced or voluntary — are serving to concentrate disadvantage and widen the opportunity gap between neighborhoods and dampen prospects for families. Rental protections and affordable housing policies must be bolstered if they are to fully counter the trends and consequences of forced relocation and high housing costs in New York City.

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# Introduction

Recent work by scholar Matthew Desmond and others highlights how the gaps between neighborhoods grow when low-income residents are displaced from higher-income neighborhoods through evictions, foreclosures, or other forms of “forced moves.” While people who are better off voluntarily move to neighborhoods with more opportunity, those who are forced to leave often end up in neighborhoods with lower performing schools, higher crime rates, and fewer job opportunities. Like any form of inequality, neighborhood stratification is a problem with far-reaching consequences, particularly with regard to future income opportunities for young children living in or relocating to neighborhoods with more challenges.<sup>4</sup> Understanding trends in both voluntary and forced relocation is key for policymakers who want to close the opportunity gap between neighborhoods and ensure that New Yorkers have access to stable housing, which is an essential building block for economic and social mobility.

In this brief, we take a first look at the prevalence of forced moves in New York City using data from the Poverty Tracker, one of the only local surveys in the country that captures information on evictions and other types of moves alongside data on poverty, material hardship, health problems, and a host of other measures of well-being. Further, this information is collected both before and after a move. This data allows the Poverty Tracker to trace the trajectories of renters who are forced out of their housing in order to determine whether evictions and other types of forced moves are further concentrating poverty and disadvantage in New York City. Lastly, we examine the current policies that protect renters and these policies' efficacy in countering broader trends in forced relocation. More specifically, we answer the following questions:

- ▮ How common are forced moves among New York City's renters?
- ▮ How are those who are forced to move faring with regard to the Poverty Tracker's key measures of disadvantage?
- ▮ Are particular demographic groups overrepresented among those who are forced to move?
- ▮ Do forced moves in New York City deepen the inequality between neighborhoods?
- ▮ Do housing policies like rent control and rent stabilization help protect renters from forced moves?

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Chetty, R. & Hendren, N. (2018). "The impacts of neighborhoods on intergenerational mobility I: Childhood exposure effects." *The Quarterly Journal of Economics*, 133(3), 1107-1162.

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We begin by explaining how the Poverty Tracker measures forced moves and then turn to our results.

Launched in 2012, the Poverty Tracker is a groundbreaking study of disadvantage in New York City. Unlike typical surveys of poverty that take an annual snapshot, the Poverty Tracker checks in with the same 4,000 households, quarter after quarter, for several years, providing a unique lens on the dynamics of poverty and other forms of disadvantage over time.

## The Poverty Tracker's Measure of Forced Moves

Unstable housing conditions and forced moves are closely tied to experiences of poverty and hardship in the United States.<sup>5</sup> Knowing this, the Poverty Tracker housing module was designed to understand the nature of moving in New York City, particularly moves that are forced.<sup>6</sup> The Poverty Tracker uses the classification of types of moves employed in the Milwaukee Area Renters Study, a project led by Matthew Desmond.

**DESMOND'S TYPOLOGY GROUPS MOVES INTO THE FOLLOWING THREE CATEGORIES:**



### Forced Moves

Moves due to eviction (formal or informal), building foreclosures, building sales, and building condemnations.



### Responsive Moves

Moves in response to housing or neighborhood conditions, such as rent hikes, neighborhood violence, and maintenance issues.



### Voluntary Moves

Intentional and unforced moves, often with a quality of life improvement, such as moving closer to work or moving to a larger or more affordable apartment.

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<sup>5</sup>Desmond, M. (2016).

<sup>6</sup>The Poverty Tracker's housing module is included on the 21-month and 33-month Poverty Tracker surveys. The results that we present in this tract are based on a two-year average of reports of moves in the 12 months prior to the 21-month and 33-month surveys.



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In the Poverty Tracker's housing module, all respondents were asked if they moved in the 12 months prior to the survey. Those who moved were given a list of possible reasons and asked, *did any of the following contribute to your most recent move?*



Moves were categorized as **forced** if respondents gave at least one of the following reasons for moving:

- ▣ The landlord told you or the person you were staying with to leave
- ▣ You or the person you were staying with missed a rent payment and you thought you might be evicted
- ▣ The house or apartment went into foreclosure
- ▣ The city condemned the building
- ▣ You were evicted
- ▣ The landlord was harassing you



Moves were categorized as **responsive** if respondents gave at least one of the following reasons for moving:<sup>7</sup>

- ▣ The landlord raised the rent
- ▣ The neighborhood was dangerous
- ▣ The landlord wouldn't fix anything and your place was getting run down



Moves were categorized as **voluntary** if respondents gave at least one of the following reasons for moving:<sup>8</sup>

- ▣ You wanted to be closer to work/easier commute
- ▣ You found a more affordable house or apartment

With this question and with other Poverty Tracker data, we can determine how many New York City families and individuals move per year and the rate of forced moves relative to other types of moves. Our results cover moves that occurred between 2016 and 2017, as well as moves between 2017 and 2018.

For the remainder of the report, we focus on New York City's renters — about 65 percent of the city's households. Although some homeowners are also burdened by housing costs and can face forced moves due to foreclosure, overall the city's renters are both more mobile and more vulnerable to forced moves.

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*This group was limited to respondents who did not select any of the reasons for moving that could have been classified as forced.*

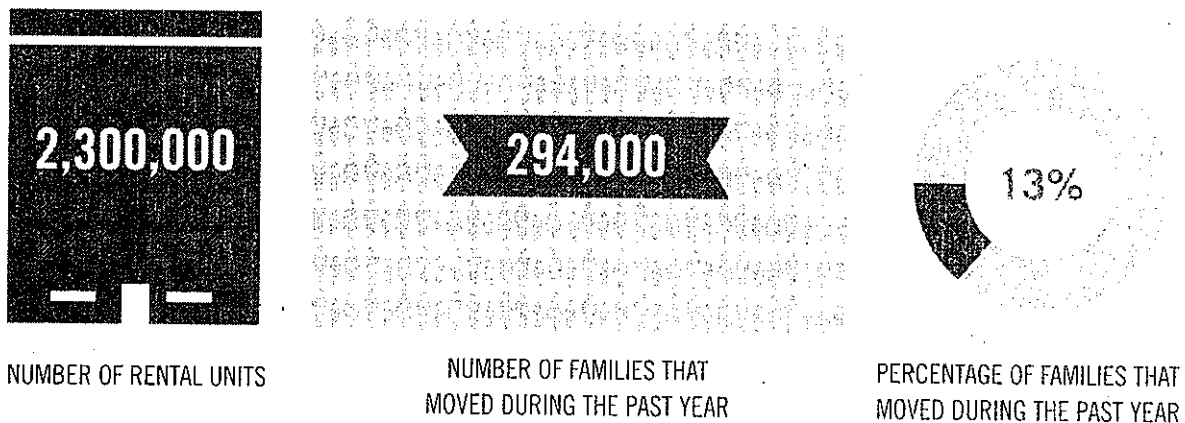
*This group was limited to respondents who did not select any of the reasons for moving that could have been classified as forced or responsive.*

## How common are forced moves among New York City's renters?

According to the latest Poverty Tracker data, about 13 percent of families<sup>10</sup> in rental housing move within a given year (Figure 1).<sup>10</sup>

Figure 1

### Prevalence of Moving among New York City Families (Two-Year Average)



Nineteen percent of these families that move, or about 56,000 families, are forced to move out of their homes (Figure 2). This translates to more than 100,000 New Yorkers being forced to move, and nearly one in seven of these was a child under age 13.<sup>11</sup> Responsive moves are also quite common in New York City, comprising almost 25 percent of moves. Just over half of moves by families in rental housing in New York City are voluntary.

More than

**100,000**

New Yorkers were forced to move within a given year, and nearly **1 in 7** of these was a child under age 13.



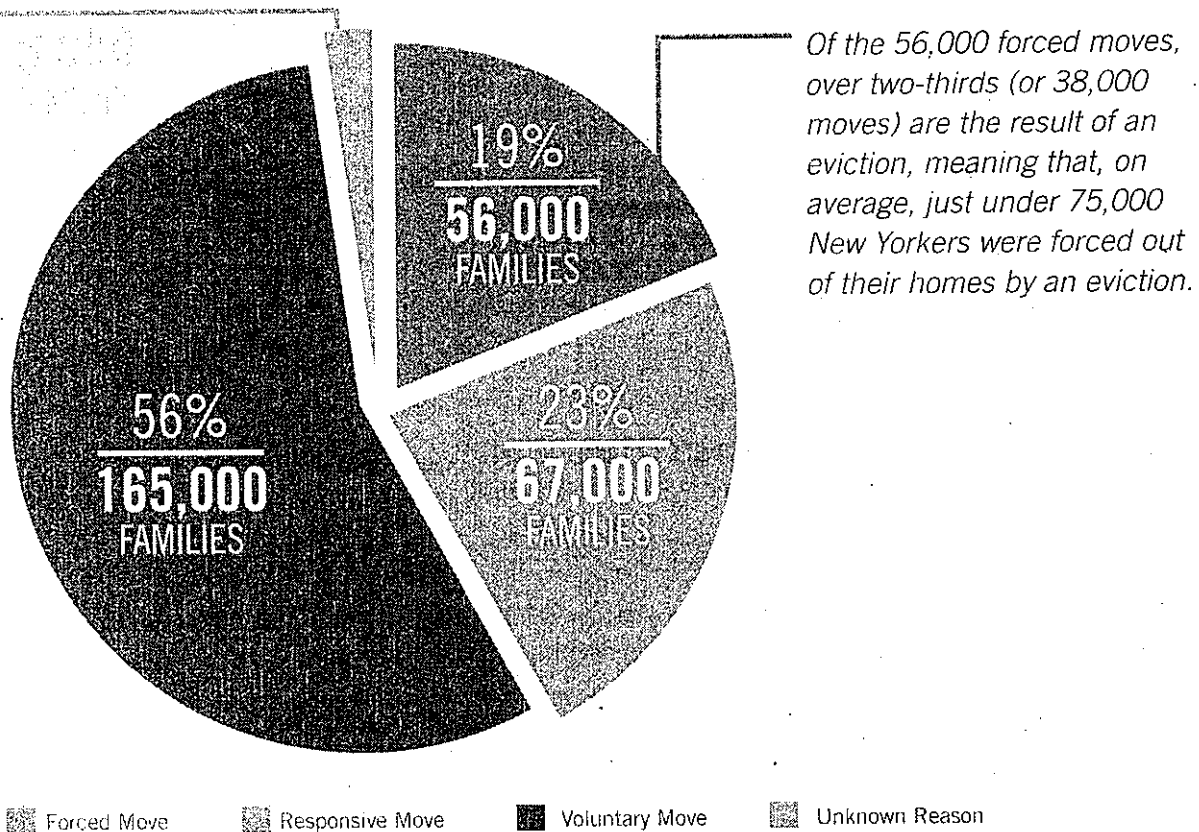
<sup>10</sup>The Poverty Tracker allows us to identify if a respondent moved; we assume that respondents' family members move with them, but know that there are also instances where families are divided during moves (e.g., through divorce). Our weights do not adjust for moves that divide families until the annual survey, but when testing these results with adjusted weights, our topline results remain steady.

<sup>11</sup>This estimate is based on a two-year average of reports of moves by Poverty Tracker respondents on the 21-month and 33-month surveys. (See Appendix C for additional details.) The Poverty Tracker estimate is quite close to the estimate from the 2012 New York City sample from the American Housing Survey, which found that about 11 percent of New York City families who rented their housing moved in 2012.

<sup>12</sup>Of the 100,000 New Yorkers who were forced to move, approximately 20,000 were children under 18 and 16,000 were children under 13.

Figure 2

### Prevalence of Forced, Responsive, and Voluntary Moves in New York City among Families in Rental Housing




Of the 56,000 forced moves, over two-thirds (or 38,000 moves) are the result of an eviction, including formal and informal evictions, meaning that, on average, just under 75,000 New Yorkers were forced out of their homes by an eviction in the 12-month periods we examined.<sup>12</sup> The remaining forced moves are driven by building foreclosures, condemnations, sales, and harassment by the landlord (Table 1).<sup>13</sup>

*Note that these results only capture evictions that ended in a move; additional families had evictions filed against them but were not forced to move. According to administrative estimates, there were 21,074 evictions and 2,183,064 occupied rental units in New York City in 2017 (authors calculations based on reports in: <https://www1.nyc.gov/office-of-the-mayor/news/066-18/je-blasio-administration-reports-record-27-decrease-evictions-across-129-1-assistance-fa> and <https://www1.nyc.gov/assets/rent/guidelinesboard/pdf/18HSR.pdf>), meaning approximately 1 percent of New York City renters were evicted from their housing unit in that year. In the years before the 21-month and the 33-month Poverty Tracker surveys, 1 percent of Poverty Tracker families in rental housing were formally evicted, on average, meaning that the Poverty Tracker estimates match the rate calculated from administrative data (1 percent).*

<sup>13</sup> See the share of forced moves by each type in Appendix A.

**Table 1**

**Composition of Forced Moves among New York City Rental Families**

	 NUMBER OF FAMILIES	%
	PERCENTAGE OF FAMILIES THAT MOVED	
Evictions (Formal and Informal)	38,000	68%
<i>Formal Eviction Reported</i>	26,000	46%
<i>Informal Eviction Reported</i>	12,000	21%
Other Forced Moves	18,000	32%
<b>TOTAL NUMBER OF FORCED MOVES</b>	<b>56,000</b>	<b>100%</b>

**How are those who are forced to move faring with regard to the Poverty Tracker’s key measures of disadvantage?**

In Table 2, we present the rates of poverty, material hardship,<sup>14</sup> and health problems — the Poverty Tracker’s key measures of disadvantage — for New York City renters who relocated.<sup>15</sup> We disaggregate these measures by type of move and compare these rates to those of New York City renters who did not move. We also look at experiences of mental health (as measured by the Kessler-6 Distress Scale<sup>16</sup>), and rent burden.<sup>17</sup> Note that for movers, these results reference the period before a move. We find that:

Renters who are forced to move are significantly more likely to have experienced poverty, material hardship, and health problems than those who move for other reasons (i.e., responsive and voluntary movers). The profile of disadvantage among forced movers is more similar to those renters who did not move. These results suggest that both voluntary and responsive movers are, on average, less disadvantaged than other renters, particularly when it comes to health status. This makes sense, as these movers have made a choice to move and have the resources and ability to do so.

<sup>14</sup>We measure material hardship in five domains: food, housing, bills, medical care, and general financial hardship.

<sup>15</sup>Note that here and for the next two sections of this report we examine the experiences of adult renters (as opposed to families). We focus on adults as the Poverty Tracker collects most information at the individual level.

<sup>16</sup>The measure of mental illness used here is the K-6 nonspecific distress scale. It is used to identify serious mental illness that would meet the criteria of a DSM-IV disorder. Prochaska, J. J., Sung, H. Y., Max, W., Shi, Y. & Ong, M. (2012). Validity study of the K-6 scale as a measure of moderate mental distress based on mental health treatment need and utilization. International journal of methods in psychiatric research, 21(2), 88-97.

<sup>17</sup>A renter is defined as rent burdened if their household’s total annual rental payments exceed 30 percent of their household’s annual cash income.

Renters who are forced out of their housing are more likely to have faced a mental health issue (22 percent) than both renters who did not move and voluntary movers (9 percent and 7 percent). Mental health issues flagged by the Kessler-6 scale include depression and anxiety disorders, among others classified in the DSM-IV.<sup>18</sup> Note that these results are the first of their kind as the Poverty Tracker is the first survey to capture indicators of mental distress alongside data on forced moves and eviction. Due to small sample size, these results should be interpreted with caution, but we will continue to produce this estimate to see if it holds true in future years.

Compared to all other renters, over half of those who are forced to move were rent burdened before moving, which speaks to a correlation between the lack of affordable housing and forced relocation. Rent burden, however, is notably high among all renters, including those who move voluntarily.

**Table 2**

**Rates of Disadvantage by Type of Move among New York City Renters**

Prior to Move	Renters Who Moved			Renters Who Didn't Move
	Forced	Responsive	Voluntary	
Poverty	29%	23%	13%	25%
Material Hardship	55%	39%	30%	41%
Health Problems	36%	12%	7%	25%
Serious Mental Illness	22%	13%	7%	9%
Rent Burden	53%	32%	34%	43%

### Are particular demographic groups overrepresented among those who are forced to move?

Like many challenges faced by New Yorkers, forced moves are more common among some groups than others. To identify these groups, we compare the composition of renters who move by type of move to renters who did not move (see Table A2 in Appendix A for this compositional analysis).

<sup>18</sup>Stein, D. J., Phillips, K. A., Bolton, D., Furrer, K. W. M., Säntler, J. Z. & Kendler, K. S. (2010). "What is a mental/psychiatric disorder?" From DSM-IV to DSM-V. *Psychological Medicine*, 40(11), 1759-1765.

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### We find that:

Looking at age, those who are forced to move are similar to those renters who do not move, while responsive movers and voluntary movers are generally younger.

The racial composition of the population that is forced to move compared to renters who do not move is again largely similar. Among voluntary movers, on the other hand, white New Yorkers are overrepresented. Nearly half of voluntary movers were white, while this population makes up about a quarter of renters who did not move.

Renters with a high school degree or less are overrepresented among those forced to move. Over half of the adults who are forced to move have a high school degree or less; this group makes up under half of nonmovers and about a quarter of voluntary movers.

New Yorkers who are foreign born do not appear to be overrepresented in the population of forced movers.

Our findings on the demographic composition of the group of New Yorkers who are forced to move indicate that they are generally similar to New York City renters who do not move, with the important exception of education levels, a demographic characteristic that is highly correlated with income levels, poverty, and disadvantage.

## Do forced moves in New York City deepen the inequality between neighborhoods?

Using data from the Milwaukee Area Renters study, Matthew Desmond and Tracey Shollenberger find that “renters who experienced a forced move relocate to poorer and higher-crime neighborhoods than those who move under less-demanding circumstances...implying that involuntary displacement is a critical yet overlooked mechanism of neighborhood inequality.”<sup>19</sup> With Poverty Tracker data, we are able to test if this trend is true of renters in New York who are forced to relocate compared to their neighbors who did not move.

For this analysis, we have pulled out renters who were evicted from the larger category of forced movers. We also pulled out voluntary movers who moved because they found a more affordable apartment from the larger category of voluntary movers, given that their trajectories run counter to what we would have expected of voluntary movers more generally.

In Figure 3, we present the likelihood that a renter will live in a high-poverty neighborhood<sup>20</sup> before and after a move, by type of move. New York renters who are evicted are, on average, less likely to live in a high-poverty neighborhood before being evicted than the average New York City renter who doesn't move (10 percent vs. 19 percent). After an eviction, the picture changes. The likelihood that a renter lives in a high-poverty neighborhood increases to 26 percent post-eviction (which is significantly higher than the average New York City renter who does not move). This finding falls in line with reports of tenants being pushed out of gentrifying

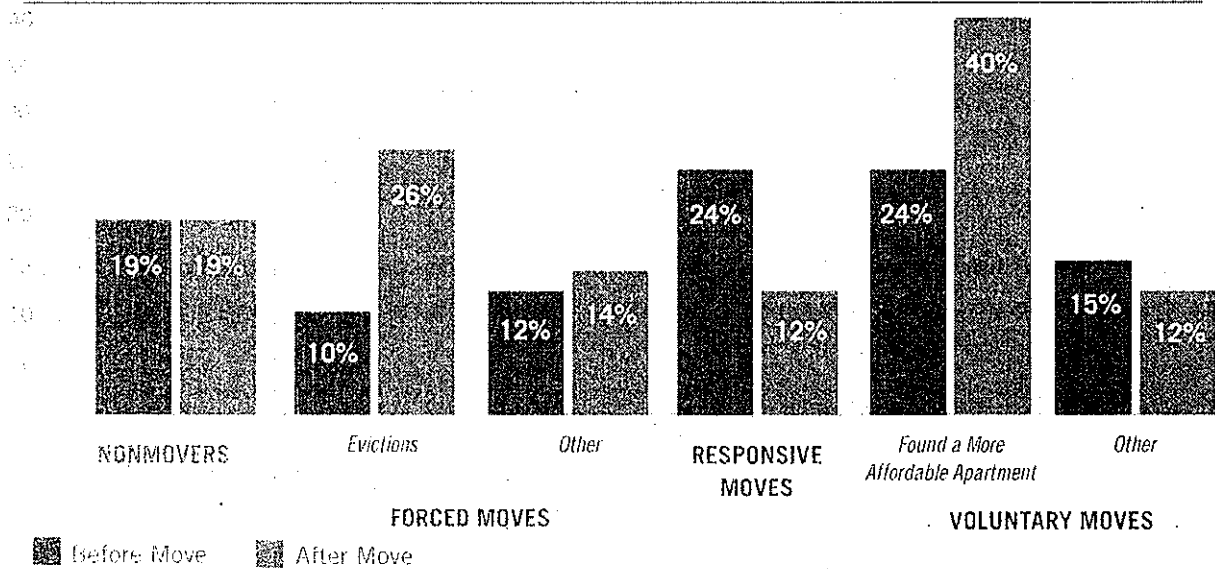
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<sup>19</sup>Desmond, M. & Shollenberger, T. (2015). “Forced displacement from rental housing: Prevalence and neighborhood consequences.” *Demography*, 52(5), 1751-1772.

<sup>20</sup>We define high-poverty neighborhoods as zip codes where more than 30 percent of residents live below the Official Poverty Measure.

Figure 3

Probability of Living in a High-Poverty Neighborhood before and after a Move by Type



neighborhoods. Forced movers who move for reasons other than formal or informal eviction are not significantly more likely to end up in a higher poverty neighborhood, but the sample size for this group is small and these results should be interpreted with caution.

Another finding of note concerns the trajectories of voluntary movers who move because they found a more affordable apartment; this group makes up about 34 percent of households that move voluntarily — translating to roughly 60,000 New Yorkers, a quarter of whom are children under the age of 13.<sup>21</sup> Renters in this group are already more likely to live in high-poverty neighborhoods before moving; and the likelihood that they live in a high-poverty neighborhood after moving, regardless of the neighborhood they started in or demographic characteristics, is 40 percent — the highest among all renters. We have also examined these movers' experiences with disadvantage and found that they are very likely to be rent burdened and in material hardship before moving — among renters who move to find a more affordable apartment, nearly half are in poverty, 48 percent face material hardship, and 75 percent are rent burdened (see Table B1 in Appendix B).

60,000 New Yorkers moved because they found more affordable housing. This group was the most likely to end up in a high-poverty neighborhood after moving (40 percent).

<sup>21</sup> The Milwaukee Area Renters Study from which the typology of forced, voluntary, and responsive moves emerged does not ask renters if they moved because they found a more affordable apartment. For this reason, this type of move has not been formally designated as "responsive" or "voluntary" in the literature, and it could arguably be classified as either. Regardless, the experiences and trajectories of movers in this group are different from other voluntary and responsive movers.

We also find that 62 percent of renters who move for this reason live below 200 percent of the poverty line. These “voluntary movers” are thus not immune to the pressures of the housing market, and their trajectories do not fit the rosier picture of moving to improve one’s quality of life that is thought to typify a voluntary move. Renters who move voluntarily for reasons other than finding a more affordable apartment, however, are less likely to live in a high-poverty neighborhood before moving and typically end up in low-poverty neighborhoods after moving.

Finally, responsive movers (i.e., those who move in response to neighborhood conditions or maintenance issues) begin in significantly higher-poverty neighborhoods before moving, compared to the average renter who does not move, but are significantly less likely to live in a high-poverty neighborhood after a move.

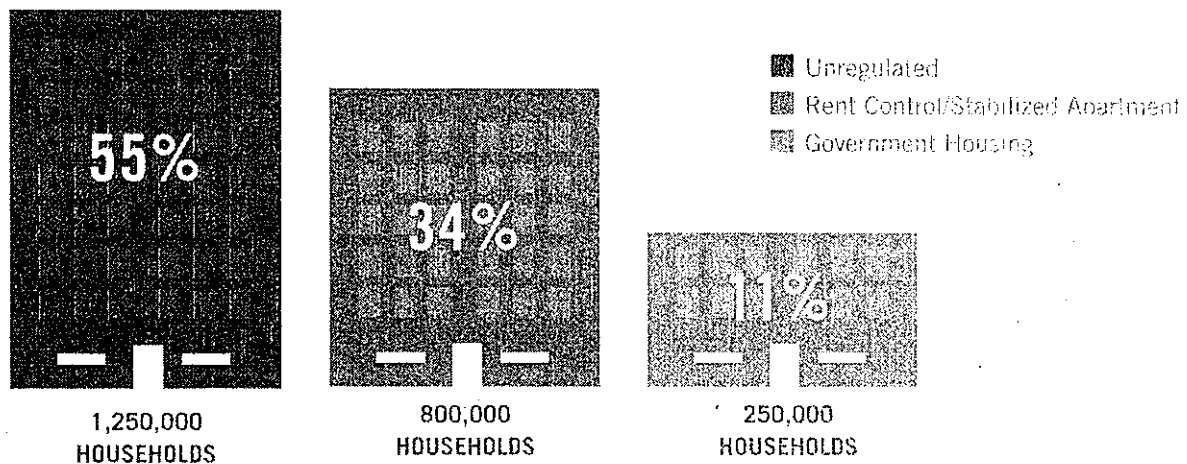
These results suggest that renters who endure a move due to high housing costs in New York City are more likely to be pushed into higher-poverty neighborhoods when they move; a forced move through eviction is one way that this happens, but simply finding more affordable housing when your own has become unaffordable is another. Those who have the ability to move in response to neighborhood conditions (responsive movers) and those who move voluntarily for reasons other than housing costs, on the other hand, end up in lower-poverty neighborhoods. Both of these trends appear to be playing a role in deepening inequality between neighborhoods.

## Do rental protections help curb the rates of forced moves?

So far, this report has looked at the experiences and trajectories of renters who are forced to move in New York City in order to better understand the challenges they face and what happens to them after a forced move. Here, we turn to housing policies in New York City in order to understand how they interact with trends in forced relocation. We examine whether rent control and stabilization laws that restrict rents that landlords can charge might limit forced moves and moves more generally. To begin, we categorized families in

Figure 4

### Prevalence of Rental Protections in New York City

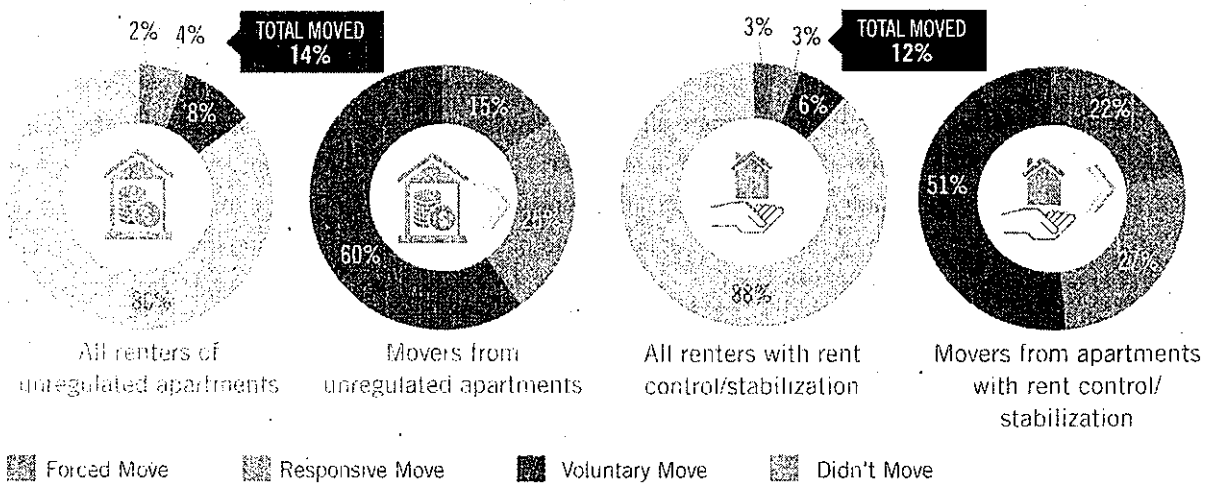




rental housing by type of rental protection or lack thereof. Figure 4 shows that roughly half of New York City families in rental units live in an unregulated apartment, and the other 45 percent have some type of rental protection: 34 percent live in rent controlled or rent stabilized units, and the remaining 11 percent live in government housing (defined as living in a public housing unit or receiving a Section-8 voucher). This might underestimate the share of families with rent control or stabilization, however, given that the Poverty Tracker relies on self-reports, and many may not be fully aware of their status.<sup>37</sup>

**Figure 5.**

### Rental Protections, Moving, and Forced Moves



While 13 percent of New York City families in rental housing moved within the 12-month periods examined, this rate varies by housing type: 14 percent of families in unregulated units moved and 12 percent in rent controlled or stabilized units moved. Though these differences are small, they suggest that families with rent control or stabilized apartments have housing arrangements that are slightly more stable than they would be if their apartments were unregulated (Figure 5).

Families who moved from rent controlled or stabilized apartments are more likely to be forced out of their housing (22 percent) than families moving from unregulated apartments (15 percent).

<sup>37</sup>According to the 2017 New York City Housing and Vacancy Survey (NYCHVS), for instance, approximately 46 percent of New York City renter occupied apartments were rent stabilized or controlled. The lower rates of rent control and stabilization reported in the Poverty Tracker may be due to the fact that some respondents are not the leaseholder for their apartment and might be unaware that the apartment is protected by these policies. [https://www1.nyc.gov/assets/hpd/downloads/pdf/aboutrent\\_regulation\\_memo-1.pdf](https://www1.nyc.gov/assets/hpd/downloads/pdf/aboutrent_regulation_memo-1.pdf)

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Looking specifically at families in rental housing who moved, however, we found that 22 percent of moves from rent controlled or stabilized apartments were forced — meaning forced moves were more common among families moving from rent controlled or stabilized apartments than families moving from unregulated apartments; 15 percent of moves from unregulated apartments were forced (Figure 5). On the other hand, rent control and stabilization are associated with lower levels of responsive moves, which makes sense as these policies hold rents down and thus renters are less likely to give up these housing protections in response to neighborhood conditions. When times are tight, however, making a rent payment, even one that is regulated through rent control or stabilization, is a challenge. Anecdotal stories of tenants with rent controlled apartments in gentrifying neighborhoods being pushed out are common, and our results follow this narrative.

Overall, rent control and stabilization appear to be protective, such that tenants are not constantly in search of more affordable housing; rent control and stabilization are also associated with housing stability, evidenced by the fact that families in rent controlled or stabilized apartments are slightly less likely to move than those in unregulated apartments. And while it is highly probable that there would be more evictions among tenants of rent controlled apartments absent rent control, these tenants are still subject to elevated rates of forced moves. This finding is important for policymakers currently considering strengthening New York State's rent stabilization laws. These efforts present an opportunity to improve how rental regulations can serve to limit forced relocations and thus increase housing stability, an essential building block for escaping poverty.

#### **MOVES AMONG RESIDENTS OF GOVERNMENT HOUSING**

We also found that 4 percent of families in government housing moved in a 12-month period, and evidence suggests that the most common type of move for these families was a responsive move. We have not highlighted these results due to the Poverty Tracker's small sample size of government housing residents that moved, but we are interested to see if this finding remains true as we collect more data on moves in New York City.

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## Conclusion

This brief takes a first look at New York City renters who are forced out of their housing through evictions and other types of forced moves. The Poverty Tracker is the first local survey to capture data on evictions and other types of moves in New York City alongside data on general demographics, poverty, material hardship, health problems, and a host of other measures of well-being. Further, this information is collected before and after a move. Thus, the data we present here is truly a first look at the composition and actual experiences of this population. We find that before moving, individuals who are forced to move are, on average, more likely to be in poverty, material hardship, suffer health problems, and be rent burdened in comparison with all other renters. And after moving, renters who are forced out of their housing through evictions are more likely to reside in a high-poverty neighborhood than the average renter who does not move, suggesting that evictions play a role in widening inequality between neighborhoods; evicted tenants who are more likely to be in poverty and material hardship often end up moving to neighborhoods where poverty is more common, thus further concentrating disadvantage in New York City. This also appears to be true of New Yorkers seeking more affordable housing, perhaps to avoid an eviction down the road. Lastly, we ask, can rent control and stabilization policy counter these trends? Our results suggest that tenants with rent control are less likely to move compared to market-rent tenants but are more likely to experience a forced move. It is highly probable that forced moves would be more common among this group if their apartment was not under rent control, but that does not mean that they are fully protected from forced relocation. Our findings speak to the need for housing policies that protect vulnerable tenants from housing instability and forced relocation when their rent becomes unaffordable.

# Appendix A.

## Forced Moves by Type

**Table A1**

Forced moves by type

Type	Number of Families	Share of Forced Moves
Formal Eviction	26,000	46%
Informal Eviction	12,000	22%
<i>Landlord Told Tenant to Leave</i>	7,000	13%
<i>Missed Rent and Feared Eviction</i>	5,000	9%
Building Condemned	2,000	3%
Building Went into Foreclosure	1,000	1%
Landlord Sold Building	4,000	8%
Landlord Harassed Tenant	6,000	10%
Other Form of Forced Displacement	6,000	10%
<b>Total</b>	<b>56,000</b>	<b>100%</b>

**Table A2**

Demographic composition of the population of renters who move by type of move

	Renters Who Move			Renters Who Didn't Move
	Forced	Responsive	Voluntary	
<b>Age</b>				
18 to 44	54%	77%	85%	52%
44 to 64	31%	18%	14%	35%
65 +	14%	5%	1%	14%
	100%	100%	100%	100%
<b>Race/Ethnicity</b>				
Black	30%	19%	30%	30%
White	36%	39%	47%	26%
Hispanic	34%	42%	23%	44%
<b>Educational Attainment</b>				
High School or Less	55%	33%	25%	47%
Some College	14%	27%	27%	27%
College +	31%	40%	48%	27%
<b>Immigration Status</b>				
Foreign Born	51%	51%	46%	51%

## Appendix B.

### Rates of Disadvantage and Demographic Composition of New York City Renters Who Move to More Affordable Housing

**Table B1**

Rates of disadvantage among New York City renters who move to more affordable housing

Prior to Move...	Forced Movers	Found a More Affordable Apartment	Renters Who Didn't Move
Poverty Status	29%	49%	25%
Material Hardship	55%	48%	41%
Health Problems	36%	3%	25%
Faced a Severe Mental Health Problem	22%	9%	9%
Rent Burdened	53%	75%	43%

**Table B2**

Demographic composition of New York City renters who move to more affordable housing

	Eviction (Formal and Informal)	Found a More Affordable Apartment	Renters who Didn't Move
<b>Age</b>			
18 to 44	50%	89%	52%
44 to 64	30%	11%	35%
65 +	19%	0%	14%
<b>Race/Ethnicity</b>			
Black	33%	34%	30%
White	28%	19%	26%
Hispanic	39%	47%	44%
<b>Educational Attainment</b>			
High School or Less	65%	49%	47%
Some College	15%	28%	27%
College +	20%	23%	27%
<b>Immigration Status</b>			
Foreign Born	49%	50%	50%

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# Appendix C.

## Data and Methods

### Data

All estimates in this report come from the second panel of the Poverty Tracker, a joint effort between Robin Hood and Columbia University. The second panel, which was recruited in 2015, consists of over 4,000 adults in New York City who are, as of this writing, surveyed every three months. Questions specific to forced moves and other types of moves are asked on the 21-month and 33-month surveys. Measures of poverty, material hardship, health, rent burden, and other demographic questions come from the baseline, 12-month, 24-month, and 36-month surveys, which are referred to as the annual surveys.

### Methods

Below, we describe the methods used to answer the different questions addressed in this report.

#### **How common are forced moves among New York City's renters?**

The prevalence of forced moves and other types of moves were calculated after categorizing the types of moves that respondents reported (as discussed in the body of this report). To determine the count of New Yorkers who experienced each type of move, we use the Poverty Tracker's longitudinal weights. For additional details on the construction of the Poverty Tracker's longitudinal weights, see Appendix B in the Spring 2014 Poverty Tracker report. Our reported estimates are based on a two-year average of reports of moves by Poverty Tracker respondents on the 21-month and 33-month surveys.

#### **How are those who are forced to move faring with regard to the Poverty Tracker's key measures of disadvantage?**

To measure the prevalence of poverty, material hardship, health problems, mental health problems, and rent burden among New Yorkers classified as forced movers relative to other renters and those who moved for other reasons, we used data on these forms of disadvantage that was captured on the annual survey prior to the respondent's reported move. Identifying the annual survey that a respondent took prior to a move required some additional analysis, described below.

The questions used to identify movers and the type of move they experienced are on the 21-month and 33-month surveys. The questions on these survey refer to any move in the 12 months prior to the survey. Thus, for a move reported on the 21-month survey, poverty status prior to move, for example, could be measured on the 12-month annual survey or the baseline survey depending on when the move occurred. The same is true for all other measures of disadvantage that are recorded on the annual surveys. To determine the period in which the move occurred, and thus identify which annual survey preceded the move, we looked for

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moves reported at each quarterly survey.<sup>23</sup> For movers identified on the 21-month survey who reported a move between the baseline and 12-month surveys, we used baseline reports of disadvantage as the status prior to moving, while for those who reported a move between the 12-month and 21-month surveys, we used reports of disadvantage from the 12-month survey. The same rule applied for movers identified at the 33-month survey, using the 12-month and 24-month surveys respectively.

**Are particular demographic groups overrepresented among those who are forced to move?**

To answer this question, we examined the demographic characteristics of the population that was forced to move compared to the composition of the population of New York City renters who did not move in the period in question.

**Do forced moves in New York City deepen the inequality between neighborhoods?**

For this analysis, we matched respondents with their zip code level poverty rate in the periods before moving and after moving. Data on zip code level poverty rates came from the American Fact Finder tables that source the American Community Survey. We then categorized respondents as living in a high-poverty neighborhood if over 30 percent of residents of their zip code lived below the official poverty line. Using a logistic regression, we predicted the likelihood that a respondent lived in a high-poverty neighborhood in the period after moving using the type of move they experienced as our main explanatory variable. The model also included controls for the neighborhood poverty status of their neighborhood in the period before moving, as well as demographic controls for education, age, race, educational attainment, and immigration status. Using this logistic regression, we produced marginal predictions of the likelihood of living in a high-poverty neighborhood after moving based on the type of move that renters experienced.

**Do rental protections help curb the rates of forced moves?**

To understand the relationship between rental protections and forced moves, we determined the prevalence of moving among those with rental protections compared to those who do not have rental protections and then determined the prevalence of different types of moves among movers in each group.

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<sup>23</sup>On every quarterly survey, we learn if a respondent moved in the three months prior, but we do not collect information on the type of move (forced, responsive, or voluntary) on these surveys.

<https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>

A binary indicator of living in a high-poverty neighborhood in the period prior to the move.



RTCNYC Coalition Testimony on Right to Counsel Implementation  
November, 2019

The Right to Counsel (RTC) NYC Coalition, which led the campaign for a Right to Counsel in eviction cases in NYC, is proud of the city's new groundbreaking legislation and applauds the City Council and Mayor for adopting the legislation and the Administration for moving forward enthusiastically to implement the law. As you know, the law has already had tremendous impact: evictions are down 5 times faster in zip codes with RTC than in comparable zip codes, 84% of tenants who had RTC in the first two years were able to stay in their homes, filings are down, shelter entries from evictions are down, and community organizations and tenant associations are using it as a powerful tool to preserve communities and protect and advance tenants' rights.

This victory for civil and human rights in NYC is having an impact across the United States. San Francisco, Cleveland, and Newark have all passed Right to Counsel legislation and more than 20 cities across the country are moving campaigns forward. Having eyes in other jurisdictions looking at how NYC implements its law and looking to NYC as a model is all the more reason why we have to get this right.

We recognize that the implementation of the Right to Counsel law is a massive, multifaceted undertaking, and we appreciate the city's efforts to maintain an ongoing dialogue with the Coalition and other key stakeholders. Implementing the new law in a way that provides the most effective advocacy, rooted in community organizing and focused on preserving low-income housing and stable communities, is in all of our interests.

We offer the following recommendations in the spirit of collaboration and commitment to fulfill the full promise of the law.

**RECOMMENDATIONS FOR IMPROVEMENT:**

**Enforcing Tenants Right to Claim RTC:**

We applaud the city for creating a hotline that Housing Court Answers staffs, for finally linking to [Evictionfreenyc.org](http://Evictionfreenyc.org) on the city's website, and for including Right to Counsel in one of the flyers in a recent ad campaign. However, the city has yet to engage in a robust public outreach and awareness campaign or do many of the things we agreed to back in October of 2017. We are calling on the city to do much more aggressive outreach.

We are deeply concerned that not enough tenants who have the right, know they have it, and that many who do know about it are too intimidated to use it. In October of this year, two coalition members, Community Action for Safe Apartments and the Northwest Bronx Community and Clergy Coalition, released a [report](#) that outlines the lack of awareness about RTC and high level of landlord intimidation





within the courts. According to their report, 53% of tenants surveyed did not know about RTC before arriving in court.

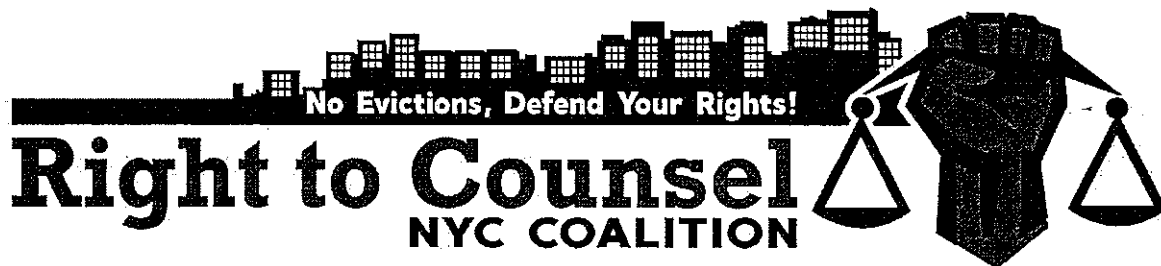
Also earlier this year, the coalition released a new website, [www.worstevictorsnyc.org](http://www.worstevictorsnyc.org) documenting the landlords who evict the most tenants. The website also documents how often landlords use the courts. In some cases, landlords like Ved Parkash, Moshe Pillar and Sam Applegrad sue more tenants than apartments they own, demonstrating their widespread use of housing court and indicating a pattern of fraud and harassment. The city should actively investigate all of the landlords on the worst evictors list and issue injunctions against them, barring them from suing anyone in court until their case is resolved. The city is spending money on the backend, helping tenants defend themselves against frivolous cases, when it could be preventing those cases in the first place.

In order for RTC to be truly universal, everyone needs to know about it, understand it, and use it as a tool to also address other housing issues, like inadequate services and landlord harassment.

#### RECOMMENDATIONS

In order to increase tenant awareness of this new right and encourage tenants to use it, the city should:

- Adopt the language of a right: use the language 'Right to Counsel' in all city materials and communications.
- Pass and fund Intro 1529, mandating that the city work with and fund neighborhood based community organizing groups to do outreach, education and respond to landlord intimidation and harassment.
- The city should investigate the worst evictors.
- Monitor and develop a response to landlord attorneys who pressure tenants in the courts who are eligible for RTC not to use their right. The fact that the city and the state allows landlord attorneys to talk to tenants in the hallways before the courtrooms open, while the judges make their announcements, and all throughout the morning, violates tenants' rights and is simply unacceptable. The city needs to monitor this closely in the Bronx, sanction landlord attorneys where necessary, and develop a solution to stop this from happening.
- Engage in a large public awareness campaign (as was committed to the RTCNYC Coalition in a meeting on 10/5/17 but have not been implemented) including but not limited to:
  - Paid subway & other media ads;
  - Tele-Town Halls;
  - Robo calls by zip codes;
  - Mailers w/co-branding with organizing groups if possible (including mailers targeting SCRIE/DRIE recipients)
- Create neighborhood based intake processes so that tenants can find an attorney, before they ever go to court. The fact that tenants don't talk to an attorney or often even know about RTC until their first court date is hugely problematic. Neighborhood based clinics would mean that



some tenants never have to go to court. It would also greatly increase the number of tenants who claim RTC.

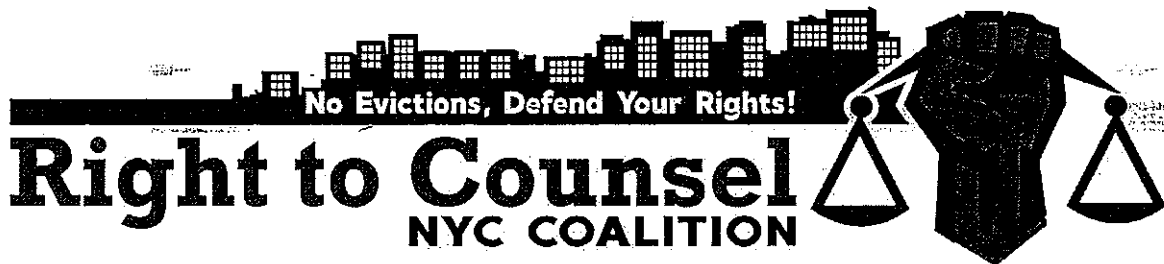
- The city should establish a Right to Counsel Central Coordinator that is housed alongside the new hotline and which is equipped and trained to connect tenants with legal services organizations who are most convenient to the tenant and who have the capacity to represent them.
- The city should refer tenants to [www.evictionfreenyc.org](http://www.evictionfreenyc.org), in all of its materials because it's the only web based portal that allows tenants to determine their eligibility for the Right to Counsel and identify legal service providers and community organizing groups in their neighborhood.

#### **Increase and strengthen Right to Counsel:**

We have to think to the future. By 2022, all income eligible tenants will have a right to an attorney. What about over income tenants who can't afford lawyers? What about cases that aren't in housing court? How can we expand the legislation to cover the full cost of RTC, which goes beyond funding attorneys, to include the costs of education, outreach and organizing? Below is a summary of our recommendations to expand and strengthen the legislation.

#### **RECOMMENDATIONS:**

- **Pass Intro 1104:**
  - **Increasing the income threshold to 400% of the federal poverty line:** Currently, while the majority of tenants in housing court are eligible for the Right to Counsel under the current 200% threshold, a single New Yorker earning a \$15 an hour minimum wage is not. Doubling the income threshold would mean almost everyone who is in housing court now, would be eligible for RTC.
  - **Expanding the types of cases covered:**
    - While most eviction cases occur in City Housing Courts, hundreds of cases are heard in higher courts or administrative hearings, including:
      - HPD administrative hearings for Mitchell-Lama residents;
      - Supreme Court Ejectment cases; and
      - Housing Development Fund Corporation (HDFC) cases.
    - **Covering Appeals** Though the current law guarantees tenants get an attorney for the entirety of their cases, it does not cover appeals. With more tenants than ever being represented and winning their cases, landlords are filing more appeals. Without legal representation to defend their victories, tenants will be left alone when the final, most consequential, decision is made.
- **Pass Intro 1529:**
  - **Funding Community Organizing:** It's essential to that tenants are connected to attorneys *before* they arrive at court. Passing Intro 1529 would enable community based organizations to conduct outreach and engagement to inform tenants of their right to an attorney. Neighborhood based groups with histories of tenant organizing and



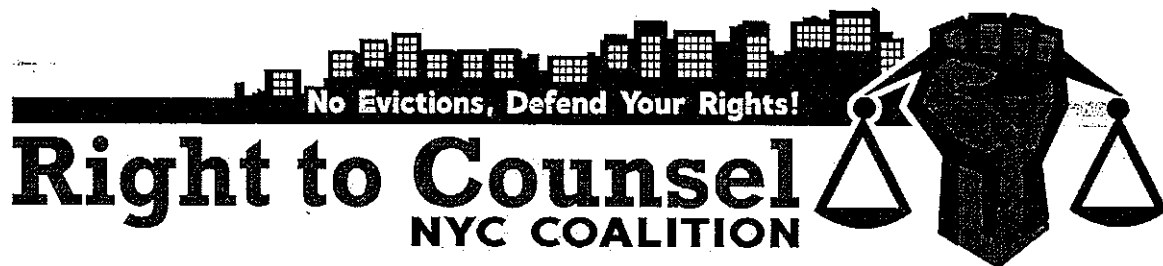
community service are trusted community partners and therefore are best positioned to do the outreach and education work that is critical to the law's success. The right is only as effective as tenants' ability to know and claim their rights.

#### **Court Based Implementation:**

Institutionalizing a Right to Counsel in eviction proceedings requires significant change to many aspects of how eviction proceedings are conducted, including developing the necessary physical infrastructure within each of the city's Housing Courts. Since the right to counsel law was passed, progress on this front has moved slowly. Below is a series of recommendations to take in order to successfully implement Right to Counsel, many of which we have communicated to the City and the Office of Court Administration repeatedly throughout the past two years. As tenants, organizers, advocates and lawyers, we see the problems and pressures confronting NYC tenants on a daily basis, and we bring to the task our specific expertise in working closely with NYC tenants facing eviction, including extensive experience in eviction cases in the city's housing courts.

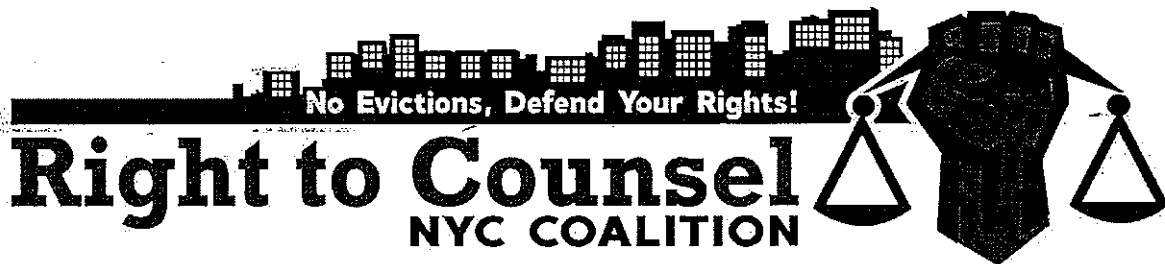
#### **RECOMMENDATIONS:**

- All intake areas should include sufficient private intake spaces that are confidential and ADA accessible.
- Right to Counsel intake spaces should also include: Electrical outlets; Free copy machines with scanning and printing capability; Good wifi with a secure connection; Court provided computers; Secure, lockable space for each legal services organization to be able to store a certain amount of supplies; A waiting area with sufficient seating.
- All court rooms should have sufficient seating for the number of litigants on the calendar in a given session and also ample space for case conferencing and waiting in line to check in.
- Courthouses should have ample seating in the hallways and sufficient room for litigants to move through the court space.
- There should be private attorney-client conferencing spaces so that attorney-client conversations can be confidential.
- There must be sufficient elevators for the volume of litigants.
- The security line area should be sufficient for the volume of litigants, such that people do not have to wait in line outside of the courthouse.
- HRA should have office space near the relevant court rooms and near the legal service organizations intake space.
- Clear signage about Right to Counsel, and directing tenants to resources, should be installed throughout the courthouses.
- All courthouses that have a no food policy should revoke it.
- The court should provide free childcare facilities for tenants at each housing court location
- With the aim of informing as many tenants as possible, information about the Right to Counsel should be communicated in as many ways as possible, with full accessibility provided for Limited



English Proficient tenants and tenants who are deaf and/or vision-impaired, including but not limited to: all court staff making announcements and directing people to tenant attorneys (especially judges, court clerks and court attorneys), adequate signage throughout the courts, more and better information on all court documents including postcards, hearing notices, etc.

- Improve Language Justice in the Courts: Language access is a racial justice issue, and a Right to Counsel will only provide meaningful access to justice if it is made fully accessible to Limited English Proficient (LEP) tenants. The courts should ensure all RTC materials (documents and signs) are in the most 12 most common NYC Languages, use language line, conduct regular language justice training for all court personnel, regularly review and evaluate the interpretation services they use, adequately advertise interpretation services and ensure interpretation is available in all court interactions (not just in the courtroom).
- The Right to Counsel must be fully accessible to tenants with disabilities and homebound tenants. Therefore: All courtrooms should have space to accommodate tenants in wheelchairs and also sufficient seating for tenants with disabilities; All publicity, signage, and other information about Right to Counsel should be made accessible to vision and hearing impaired tenants; Tenants with disabilities should not have to wait in security lines; courts should contact ADA liaisons for tenants; Marshal shall contact APS if they arrive and find a homebound person.
- The court should provide adequate scanning machines and court officers to reduce wait time on the lines entering the courts. All courthouses should have sufficient functioning elevators to accommodate the volume of litigants and their representatives. Courts should allow individuals to enter the court with food and water. Courts should also provide HRA's Office of Civil Justice (OCJ) with space nearby Right to Counsel courtrooms and intake spaces to ease intake waiting times and confusion.
- Bronx Housing Court: We are aware that the Office of Court Administration (OCA) is currently planning relocation of the Bronx Housing Court to 851 Grand Concourse, and that there could be a delay in the move. Currently, in the Bronx Courthouse, most of the Right to Counsel legal services organizations do not have intake spaces and instead are still conducting intake in the crowded hallways. The City should work with OCA as a matter of urgency, to ensure that intake spaces for these legal services organizations are established immediately. In addition, as the plans for the new Bronx Housing Court are developed, the City should ensure that OCA and DCAS consult with the Right to Counsel NYC Coalition to ensure best practices for implementation of Right to Counsel overall.
- Brooklyn Housing Court: In collaboration with the City, the court has recently constructed additional interview space on the 9th floor of 141 Livingston Street. However, the space needs to be monitored for confidentiality issues as the right to counsel phase-in continues – as the volume of intakes increases, there is a risk that the cubicle spaces will not be confidential once the 9th Floor intake space is being used at full capacity. While OCA ultimately intends to relocate Brooklyn Housing Court to 210 Joralemon Street (currently, the Municipal Building), this could take at least five years. In the meantime, it is imperative that OCA consult with the Right to Counsel Coalition as it develops its plans for the new space at 210 Joralemon Street.



- Staten Island Housing Court: The first-floor intake spaces are not confidential - there is a volunteer lawyer occupying one of the spaces and HRA in another. On the second floor, the intake space is an anteroom that is not accessible to individuals with disabilities and is also impractical for parents who must bring young children to court in strollers. Further, the intake space does not provide for confidential interviews as there is extra traffic by attorneys, clients and court personnel who must pass through the area to enter and leave the civil courtroom on the second floor. The City should work with OCA, in consultation with the Right to Counsel NYC Coalition, to establish an intake space that meets tenants' essential confidentiality, ADA and space needs.

#### **Supporting Legal Services Organizations:**

The coalition fought hard to ensure that the organizations providing RTC are non-profit legal services providers, because they have a long history of doing the work, holistic models, and long-standing missions to fight inequality and injustice. In order for them to do RTC and live up to their missions, RTC needs to be funded in a way that supports aggressive litigation and defense and holistic approaches to meet tenants' multifaceted needs.

#### **RECOMMENDATIONS:**

A fully funded Right to Counsel must be funded at a level that supports high quality litigation practices. This funding must take into account:

- Supervision, training, support, and infrastructure at legal service providers, including funding levels that support public benefits specialists, social workers, investigators, space needs, ample supervision and management support, and all other holistic practice needs. .
- The funding levels should reflect supporting a caseload that incorporates aggressive eviction defense so that attorneys can use all available law and effective strategies to file counterclaims, fight for repairs, return rents to legal and affordable levels, etc. in the context of an eviction case.

#### **Rejecting Alternative Dispute Resolution(ADR) in the New York City Housing Courts:**

We understand that the court is prepared to implement mandatory referrals to ADR in the Housing Court in the coming months. We would like to join with other voices in opposing this plan. If the court's goal is to "advance the delivery and quality of civil justice", ADR would move the Housing Court in the opposite direction. We call on the city to reject this plan as well as it would undermine the work of Right to Counsel, which has already provided thousands of tenants meaningful access to justice by providing them with legal representation in their eviction cases.

For more information, contact Susanna Blankley: [susanna@righttocounselnyc.org](mailto:susanna@righttocounselnyc.org); 212-590-9508



[www.righttocounselnyc.org](http://www.righttocounselnyc.org)

[www.worstevictorsnyc.org](http://www.worstevictorsnyc.org)

[www.evictionfreenyc.org](http://www.evictionfreenyc.org)

**Testimony before NYC HRA's Office of Civil Justice  
Annual Public Hearing, November 12, 2019  
Jenny Laurie, Executive Director, Housing Court Answers**

Housing Court Answers was founded in the early 1980's with a mission to advocate for access to justice for unrepresented people and to provide eviction prevention services for low and moderate-income tenants. We talk to about 30,000 people a year from our help desks in the five county Housing Courts and to about 10,000 over our phones. The just implementation of the Right to Counsel Law satisfies both parts of our mission.

Housing Court Answers is very proud to have played a supporting role in the Right to Counsel Coalition which won passage of this law.

The latest report by the city on the implementation of Right to Counsel is filled with good news: the vast majority of represented tenants avoid eviction and NYCHA tenants are finally getting representation in both Housing Court cases and in administrative termination cases.

Those of us in the room tonight understand why counsel is important in an eviction case. We've been observing Housing Court and talking to tenants who went to court without counsel. Many tenants, even those who have been to court before, are unfamiliar with all of the great reasons to have a lawyer. The city could do more to educate tenants about Right to Counsel and about the benefits of counsel.

The city should adopt all recommendations of the RTC Coalition to advertise Right to Counsel and to encourage tenants to use it as a tool to preserve their homes. Housing Court Answers supports legislation pending before the City Council to fund organizing in

the covered zip codes. We also support legislation that would increase the income limit so that RTC covers all tenants who cannot afford to pay out of pocket for counsel.

The Housing Courts are still chaotic, noisy, disagreeable places for tenants facing eviction. Even with Right to Counsel, landlords and their attorneys still have enormous power. We urge the city to use its special relationship with the court to push for changes including enhancing private, peaceful intake areas, improving language access and providing better facilities for the legal service providers. We would also ask the city to lean on the court to reject the implementation of Alternative Dispute Resolution in Housing Court. ADR flies in the face of all that Right to Counsel stands for - and threatens to take badly needed resources, including space, away from the fair implementation of Right to Counsel. Mediation works for resolving disputes between two parties of equal power and those types of disputes are rarely seen in Housing Court.





Legal  
Services NYC  
DEMAND JUSTICE

**LEGAL SERVICES NYC TESTIMONY,  
OFFICE OF CIVIL JUSTICE HEARING ON RIGHT TO COUNSEL  
NOVEMBER 12, 2019**

Legal Services NYC (LSNYC) is a non-profit organization that 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 members assist more than 110,000 low-income New Yorkers each year and, along with other legal services organizations in the City, Legal Services NYC's housing practice 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 now working to ensure just implementation of the right to counsel law.

We recognize and commend the city's Office of Civil Justice (OCJ), for its tireless work in close collaboration with legal services organizations and the Right to Counsel NYC Coalition, to ensure the best possible implementation of this groundbreaking initiative.

As the data in the most recent annual progress report by OCJ demonstrates, the right to counsel initiative continues to increase the number of tenants with legal representation in eviction cases, even just two years into the 5-year phase-in. With 84% of represented tenants successfully remaining in their homes with their tenancies preserved, right to counsel is clearly a powerful tool in preventing tenant displacement and all of the ancillary consequences of eviction, including adverse impacts relating to education, health, employment, family and community ties, and much more. Through aggressive litigation in eviction cases our attorneys and advocates are succeeding in keeping New Yorkers in their homes. Even in the small minority of cases where our staff are not able to keep families in their homes, we are able to get families time to secure other housing and to move without forceful ejection by a marshal, and often we are able to secure other outcomes that minimize families' future debt and maximize their financial resources while they are searching for a new home.

As was raised in our 2018 submission, the right to counsel has allowed New York City's tenant advocacy community to build a powerful cohort of housing attorneys and advocates, who are collectively shifting the practice of housing law to better serve NYC

tenants. As a result of strong tenant lawyering, we continue to see increased published legal decisions favorable to tenants, thereby strengthening the body of case law that upholds tenant rights, and improving tenants' ability to get justice in housing court. As a more robust and powerful community in housing court, tenants and tenant lawyers are confronting head-on the issues of racism, sexism and civility that have long plagued NYC housing courts, with organized committee formed to work with the judiciary and landlord bar on these issues in several boroughs. We also continue to advocate for improvements to courthouse systems and procedures in order to rectify historic imbalances resulting from decades where less than 10% of tenants litigated their cases with legal representation.

At the level of our own housing practice, we continue to see an escalation in the volume of eviction defense cases we are handling. Our housing staff has increased to an unprecedented level, including attorneys, supervisors, paralegals and other essential staff. We are preventing more evictions than ever before. And even though the legal merits of a case are no longer a factor in deciding whether to provide representation, this has not diminished our success rate in eviction cases - we are still winning nearly as many cases as when we used to select cases using a legal merits assessment.

To provide some real examples of the type of success our advocates are able to achieve providing eviction defense representation:

*Mr. K is a rent-stabilized Queens tenant with a 30-year tenancy. . Mr. K came to LSNYC after he was evicted from his apartment for non-payment of rent. A charitable organization had been trying to help him secure the arrears, but it had not yet been able to do so, and in the meantime, Mr. K was evicted. To win this difficult post-evict case, we had to engage in multiple litigation strategies and a lengthy court battle in which we filed three separate orders to show cause to get the judgement of possession vacated and Mr. K's case reopened. While we struggled to secure all of the outstanding arrears and fees, the first order to show cause was denied but we were able to stop the landlord from re-letting the apartment to get us more time. Then when we filed our second order to show cause, we had secured all of the arrears and costs, however the court did not factor in this key information and the judge still denied Mr. K relief. Based on the Court's failure to consider key information, we then moved to reargue that decision and we were ultimately successful. In a lengthy decision, the Court agreed that Mr. K had indeed met all the requirements for having the judgement against him vacated and being restored to his apartment. After a long and persistent struggle, Mr. K was able to return to his home. A description of the case was published on the front page of the New York Law Journal on June 26, 2019.*

*In June 2019, a representative from Housing Court Answers approached LSNYC staff in the Staten Island Housing Court and asked them to speak with a Spanish-speaking tenant, Ms. M, from the West New Brighton section of Staten Island (10310), who was attempting to file a pro se order to show cause (OSC). Ms. M had resided in her apartment for approximately eight years with her three minor children. LSNYC learned that she had a live marshal's notice, from a judgment in October 2017, and could be evicted any day. The judgment was part of a stipulation in which Ms. M had agreed to pay \$11,000 in arrears, but since then the arrears had accumulated to over \$30,000. Though Ms. M lives in a right to counsel zip code, and would have been assigned counsel if her*

*OSC was signed, previous pro se OSC's were denied because of the high arrears and because Ms. M could not show how they would be paid. She had tried to get assistance from other organizations and had been unsuccessful. LSNYC conducted an intake, and learned that Ms. M formerly had FEPS, and that both she and the landlord had been working with multiple agencies over the last two years to get the arrears paid. We scheduled a meeting with the landlord the next day and convinced the landlord to reduce the arrears down to \$18,000. LSNYC completed the FHEPS application the following day and submitted it that same week. We received an approval. Thus, LSNYC successfully prevented an eviction, negotiated a substantial abatement, and got Ms. M a FHEPS subsidy to ensure that she will be able to afford her rent in the future.*

LSNYC advocates are dedicated to the pursuit of social justice, so we are honored to be part of this historic initiative and we are excited to be working with OCJ, our fellow legal services organizations and the Right to Counsel NYC Coalition to implement the right to counsel. We are also committed to ensuring that the right to counsel realizes its full potential for building tenant power and making housing court a place where tenants can achieve justice. In that spirit, we want to bring to OCJ's attention several factors that are impacting the successful implementation of the right to counsel.

Some current challenges to implementing the right to counsel law are:

- (1) Expanding the capacity of legal services providers to meet the need for representation;
- (2) The need to ensure that funding levels for right to counsel reflect the true cost of providing high quality, holistic legal services;
- (3) Inadequate courthouse facilities, in particular the intake spaces;
- (4) Connecting eligible tenants to legal services organizations for services;
- (5) Onerous data-tracking requirements;
- (6) Non-right to counsel referrals;
- (7) A lack of cooperation by the New York City Housing Authority (NYCHA) in the phase-in of right to counsel of NYCHA tenants in termination of tenancy proceedings;
- (8) The Office of Court Administration's proposed new Alternative Dispute Resolution program

#### Staffing and Capacity Challenges

The challenge of organizational expansion is inevitable with an initiative of this magnitude. It remains critical, therefore, that we ensure legal services organizations are able to expand capacity in a way that is responsible and sustainable, so that the end result will be a community of tenant legal services providers who are fully prepared to meet the long-term mandate of the law to provide comprehensive and high-quality legal assistance to tenants facing eviction. In our experience, staffing up is still our most immediate challenge – both finding qualified attorneys who are ready to engage in this work, and just as importantly, finding qualified supervisors to help guide these attorneys, most of whom are new lawyers, or at least new to housing practice.

Since 2015, with the beginning of the city's expansion of its eviction prevention and anti-displacement initiatives, LSNYC's housing attorney staff has increased exponentially. Each burst of growth does not immediately come with a comparable expansion of

capacity – new staff must be trained in the complex array of New York City, New York State, and Federal housing laws and regulations as well as practice skills and procedure; so most new attorneys cannot handle a full caseload for at least a year. We are also committed to ensuring that our attorneys are fully trained so that they will stay and become experts in the field, perhaps moving into supervisory roles themselves. This requires us to be vigilant about managing the risk of burnout among our staff and ensuring ample professional development, both of which impact the volume of cases we are able to handle at a given time. The long term benefits of this moderation, in terms of retaining staff, developing tenant attorneys who can provide holistic and empowering representation, and cultivating future leadership, are well worth any short term limits on case capacity created by this approach. We are now starting to see this strategy come to fruition, as many of our newly hired attorneys from a few years ago are moving into supervisory and mentoring roles for our continually expanding new staff.

Nonetheless, we continue to experience challenges recruiting new staff at a pace that keeps up with the right to counsel phase-in. All of our offices are constantly in a hiring pattern, which itself occupies significant organizational resources. We also continue to find it challenging to recruit sufficient attorneys and supervisory staff, in a citywide environment where a large number of legal services organizations are also simultaneously recruiting. We are well aware that this abundance of tenant advocate jobs is also impacting the attrition rates in most legal services organizations. This is in part because advocates who acquire some experience become desirable candidates to other organizations and may choose to move for geographic location, type of organization/practice, or a variety of other reasons. In part it is also because the large number of people hired, means that the number of attorneys who realize they are not suited to a fast-paced housing litigation practice and move to different fields, is also increased.

In response to these challenges, we are working to adapt our hiring, training, supervision and personnel/HR practices to the new right to counsel environment. We are hopeful that as the phase-in of right to counsel continues, we will increasingly see the results of these efforts.

#### The Need to Ensure Adequate Funding Levels for Right to Counsel

We know that OCJ is cognizant of the need to ensure adequate funding levels for the right to counsel initiative, and we commend OCJ for its efforts to work with legal services organizations to ascertain what appropriate staffing and funding levels would be. We are pleased to participate in meetings with OCJ and other legal services organizations around questions of resources, salaries, case caps, case rates, supervision and essential staffing needs, and all other factors that influence the funding levels for the right to counsel initiative. We hope that these efforts will result in funding levels that allow us to provide holistic, high quality right to counsel representation by ensuring the following:

- (a) Adequate number of attorneys for the volume of right to counsel cases, 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. These numbers also need to take into account the reduced caseloads that new are able to handle in their first year of practice;
- (b) Adequate paralegal staffing for the number of attorneys and cases;

- (c) Proportionate numbers of public benefits advocates to ensure that all necessary public benefits advocacy can be encompassed in each tenant's eviction defense representation;
- (d) Sufficient funding to attract and retain experienced supervisors in numbers that reflect the high supervisory needs of the many new attorneys coming into our right to counsel practice;
- (e) Funds allocated for the increased infrastructure that is required to accommodate such a rapidly expanding housing practice, including in the areas of operations management, human resources, grants management, finance and accounting, and IT, as well as needs relating to equipment and physical space;
- (f) Funding that takes into account the training needs of new attorneys and paralegals, the ongoing professional development needs of all staff, and new supervisor development.

Relatedly, we reiterate our recommendation from 2018, that right to counsel funding should also cover affirmative litigation that is directly needed to prevent eviction. This is already contemplated to the extent that the statute covers affirmative illegal lockout cases brought by tenants who allege that they have been illegally evicted. But there are other contexts in which affirmative litigation is equally as critical to preventing a tenant's eviction as an illegal lockout proceeding. For example, where we determine that an appeal of an adverse court decision is warranted, and where the tenant will be evicted without the appeal, the initiative should fund that appeal as a separate case. This is particularly relevant to the roll-out of the right to counsel initiative to NYCHA public housing tenants. In many NYCHA eviction cases, particularly in holdover proceedings, by the time the tenant is in housing court, the only way to prevent the tenant's eviction is to appeal the underlying administrative determination in an Article 78 proceeding in Supreme Court. If legal services organizations are not funded to engage in that litigation, there will be nothing we can do to stop the tenant's eviction in the housing court proceeding, even though the tenancy may otherwise legally be able to be preserved. Given that right to counsel in termination of tenancy cases is presently being offered to seniors only, it is critical that we be able to provide Article 78 representation to NYCHA tenants in the right to counsel zip codes when they reach us in housing court. Finally, we often encounter cases in the RTC zip codes where apartment conditions are so deplorable that tenants are at risk of homelessness, even though there is no eviction proceeding pending. In the best interests of tenants, HRA should fund legal services organizations under the right to counsel initiative to bring HP (repairs) proceedings before such constructive eviction occurs to compel landlords to make the apartment habitable. Waiting for a constructive eviction in order to bring an illegal lockout case is traumatizing and unsafe for tenants and entirely avoidable.

#### Courthouse Facilities

New York City's housing courts have not yet fully adapted to the right to counsel. In particular, there remain challenges of: insufficient seating for litigants and their attorneys in the courtrooms, insufficient seating in the hallways, overcrowding in the hallways (in particular in the Bronx Housing Court), poor restroom facilities, lack of childcare, long waiting lines for security in the morning, and no availability of food and beverages even where litigants might be waiting in court all day. One of the greatest challenges we see is

the inadequate right to counsel intake facilities, in particular in the Bronx, Brooklyn and Staten Island:

**Bronx Housing Court:** We are aware that the Office of Court Administration (OCA) is currently planning relocation of the Bronx Housing Court to 851 Grand Concourse, and that there could be a delay in the move. Currently, in the Bronx Courthouse, most of the Right to Counsel legal services organizations do not have intake spaces and instead are still conducting intake in the crowded hallways (even though the trial spaces on higher floors were freed up by moving trials to the Bronx Supreme Court building). While we do have an office space at the courthouse, it is at times insufficient space for the number of tenants waiting to meet with our advocates, resulting in longer wait times. In addition, while the plans for the new Bronx Housing Court are being developed, OCA and DCAS have expressed that they are unwilling to consult with legal services organizations such as ourselves or the Right to Counsel NYC Coalition to ensure that the new space meets tenant and tenant advocates' needs.

**Brooklyn Housing Court:** In collaboration with OCJ, in the past year the court constructed additional interview space on the 9th floor of 141 Livingston Street. However, the space needs to be monitored for confidentiality issues as the right to counsel phase-in continues – as the volume of intakes increases, there is a risk that the cubicle spaces will not be confidential once the 9th Floor intake space is being used at full capacity. There are also concerns that we are losing many potential right to counsel clients as a result of the distance of the intake space from the right to counsel courtrooms, not to mention that it is an inefficient use of our advocates' time to be traveling up and down from the 9th floor to the right to counsel parts. This issue is exacerbated by the poor functioning of the elevators in the Brooklyn courthouse. While OCA ultimately intends to relocate Brooklyn Housing Court to 210 Joralemon Street (currently, the Municipal Building), this could take at least five years. As with the Bronx Housing Court, OCA and DCAS have expressed that they are unwilling to consult with legal services organizations such as ourselves or the Right to Counsel NYC Coalition to ensure that the new space meets tenant and tenant advocates needs.

**Staten Island Housing Court:** The first-floor intake spaces established for right to counsel intake are not confidential - there is a volunteer lawyer occupying one of the spaces and HRA in another. On the second floor, the intake space is an anteroom that is not accessible to individuals with disabilities and is also impractical for parents who must bring young children to court in strollers. Further, the second floor intake space does not provide for confidential interviews as there is extra traffic by attorneys, clients and court personnel who must pass through the area to enter and leave the civil courtroom on the second floor. Staten Island Housing Court continues to require an intake space that meets tenants' essential confidentiality, ADA and space needs.

Right to counsel intake space also needs to be proximate to the courtrooms. Our experience has been that when tenants have to travel to other floors to find an attorney they have never met before, they are more likely to drop off. The experience of being sued in an eviction proceeding is inherently stressful. Tenants are rightfully fearful of moving too far from their courtroom when their case is pending, and the issue of tenant drop-off is exacerbated by the very poor signage in all of our housing courts and the poorly functioning elevators in some of them. Having intake spaces for attorneys to meet

with tenants right next to the courtroom also greatly improves the efficiency of the court process, for tenants and also for judges and court personnel. We have received feedback from judges in the right to counsel parts that it is their preference that our staff be located nearby, both for ease of referring tenants but also to make administration of the day's calendar of cases more efficient. We have repeatedly raised this issue with OCA and OCJ since the inception of the right to counsel but have not seen any progress towards a solution of this kind, even though it would clearly ensure greater success in the right to counsel initiative

#### Tenants Access to Right to Counsel

Another significant challenge is ensuring that tenants can access the legal representation guaranteed in the right to counsel law. Currently, eligible tenants have been primarily connecting to legal services providers through courthouse intake directly in housing court at the time that their cases are on the calendar. While this arguably presents the most expeditious opportunity to connect tenants with lawyers, it also presents significant logistical challenges. We applaud OCJ for establishing the right to counsel hotline this year and we hope this will help address this challenge.

At court, however, there is still not a uniform method by which clients are connecting with legal advocates on their first court date citywide. In some boroughs, OCJ is serving as the initial point of contact; in others, the legal services staff are tasked with this role. Neither of these systems has proven to be entirely efficient and effective. Our understanding is that OCJ wants to move away from playing this role altogether, but it is imperative for tenants that another system is established and tested before that change is made, and it must be a system that does not rely on legal services staff. It is not a good use of resources to have attorneys and legal staff circulating in the courtrooms trying to connect with tenants while tenants are waiting to be seen, especially given the staffing challenges discussed above. Also, leaving this role to individual legal services organizations results in a lack of consistency in how tenants are introduced to the right to counsel.

Rather than relying on legal services organizations to facilitate these connections, a more effective methodology would be to have a not-for-profit tenant advocacy group, one that is trusted and known by tenants, develop and implement a uniform system to connect tenants with legal services groups in each courthouse. Having a consistent process with an easily identifiable facilitator, particularly if they are seen to be connected to the tenant advocacy process, will lend legitimacy to the program and give tenants confidence in seeking and accepting legal assistance. Once such a role is established, it is also imperative that OCA staff also play a consistent role in informing tenants about the right to counsel and how to access it. Currently there is inconsistency across courthouses and across individual OCA staff within courthouses. As a result, we are missing many opportunities to connect with tenants at the same time that they are already interfacing with the court – for example, at the time that they answer a petition or check in for their cases in court.

Housing court should not be the only – or even principal – method through which tenants access the right to counsel. We would like to collaborate with OCJ to think expansively and develop frameworks for introducing tenants to the right to counsel outside of housing

court. One part of this is developing consistent points of access to counsel. It is critical that tenants are informed about the right to counsel as soon as they receive court papers, as well as at every time that they interact with the court – like when they file their court papers, or in the event of a default, when they file an order to show cause. While we appreciate OCJ's collaborative efforts to get language informing tenants of the right to counsel in the revised Notice of Petition/Petition template, the language arrived upon is not a clear advisory about the right to counsel and it lies un-highlighted in the middle of a dense and wordy document, which raises concerns that tenants will not notice this information. There is also inconsistency across courts and personnel, in terms of the role the court is playing in connecting tenants to the right to counsel initiative. Currently, whether a tenant is given access to right to counsel at times other than their first court appearance – for example, when they file an answer – depends wholly on the borough or even the particular court personnel.

Consistent messaging and language is also critically important to maximizing tenant uptake of the right to counsel. Referring to it as “universal access to counsel” is confusing to most tenants. The mayor (and OCJ at times) are publicly calling this initiative a right to counsel. This messaging should be made consistent across city agencies and the courts. There also needs to be more information about right to counsel at court – for example, posters and flyers, and adding it to the video screening in the courtrooms. And all information about the right to counsel should be accessible to limited-English-proficient tenants and tenants with disabilities.

#### Onerous Data Requirements

We appreciate the data tracking requirements of the right to counsel statute and that it is important to recognize and publicize the tremendous work that is being done under the right to counsel initiative. However, the data collection and reporting obligations as they stand continue to be a substantial and ever-growing burden on the legal services providers, with the expansion of the volume of both the program itself as well as the data that is being required by OCJ. The extensive data we collect from tenants also deters some tenants from accessing counsel. This could be improved if OCJ works with legal services providers to identify a streamlined and targeted set of data that will provide the most meaningful analysis of the tenants who are being served and the outcomes that are being reached on these cases. In particular, we reiterate our recommendation of last year, that brief service cases should not require the same level of data collection as full representation cases. Our experience is that income-ineligible tenants are often reluctant to provide extensive personal data and sign multiple intake forms in order to obtain brief advice or assistance.

Providers continue to be required to submit monthly reports of both new cases and updating any data or information on previously reported cases. This monthly reporting process is still extremely onerous, requiring a wide range of employees from our grants, housing and administrative staff citywide to be engaged in a constant process of preparing and cleaning-up reporting data. The amount of right to counsel resources deployed to grant reporting alone detracts from legal services organizations' ability to use those resources for legal representation. We therefore reiterate our suggestion from our 2018 submission, that this issue could be addressed by reducing the frequency of grant reporting, for example, to a quarterly rather than a monthly basis.



### Non-Right to Counsel Referrals

One continued impediment to successful implementation of the right to counsel that we must address, is the massive volume of referrals received by legal services providers at court, that are not part of the current right to counsel phase-in. In most boroughs, the volume of these referrals has far exceeded the volume of right to counsel cases legal services providers are receiving. For example in Brooklyn, these out-of-zip referrals have recently outnumbered the right to counsel referrals at a ratio of three to one. Given the staffing challenges discussed above, the large volume of those referrals is impeding the ability of legal services organizations to fully staff and implement representation in the right to counsel zip codes. These out-of-zip courthouse referrals are also diminishing the ability of legal services providers to maintain the neighborhood-based legal services intakes that have long been part of the fabric of the communities where our various offices are located. This means that many tenants in zip codes which have not been phased in yet, have little possibility of securing legal representation in their neighborhood. This problem is created by a combination of circumstances: the overwhelming number of out-of-zip referrals received at court that far exceed our current capacity, as well as the challenges of staffing up (as discussed above) and necessary deployment of all staff to the right to counsel work. We appreciate the steps taken by OCJ in recognition of these concerns, such as making these out-of-zip referrals non-mandatory for full representation and not requiring us to conduct immediate intake appointments at court. However, based on the volume of cases being referred in some boroughs, even giving these tenants appointments at our offices can be enough to exceed our intake capacity and cause us to shut down all other pre-existing neighborhood intake streams. As these cases are all eviction cases, it also has the effect of turning our HPLP services into solely eviction defense, whereas the HPLP contract contemplated capacity to provide tenants with legal assistance in a range of proactive and affirmative case types. To the extent that these out-of-zip referrals are eroding neighborhood based services for tenants and depleting legal assistance for imperative cases to enforce tenant rights, we must continue to improve our approach to this issue. We are committed to working with OCJ to ensure that we tackle this problem head-on and maintain the vital neighborhood and affirmative legal services tenants depend upon.

### Right to Counsel in NYCHA Termination of Tenancy Proceedings

We are aware that OCJ worked hard to initiate the roll-out of right to counsel for tenants in NYCHA termination of tenancy proceedings and we are proud to be one of the legal services organizations providing these vital services. From our work at the NYCHA Hearings Office we have seen firsthand what a critical intervention right to counsel is for public housing tenants facing eviction, and intervening at the administrative hearing stage allows us the best possible chances of preventing eviction. We are also grateful for the outstanding work of the OCJ staff present at the NYCHA hearings office on the right to counsel intake day. The assistance they provide to tenants and their role coordinating the connection of tenants with our advocates is invaluable. We hope that this level of collaboration will continue.

Throughout the process of establishing the intake at the NYCHA Hearings Office we have been disappointed with NYCHA's demonstrated lack of timely cooperation to get this

essential program up and running. Now that we have indeed established the service delivery, we continue to experience some challenges in securing the cooperation of the Housing Authority. Specifically, there are some NYCHA attorneys who willfully obstruct tenants' ability to connect with counsel by trying to intercept them before they meet with a lawyer and by coercing them into resolving their cases by telling them they will not get a favorable outcome if they insist on having a lawyer. There are also occasions where NYCHA attorneys will conference cases with tenants, while those tenants are on the list to meet with legal services attorneys and are waiting for their consultation. Our attorneys end up playing catch up and tenants miss out on the opportunity to speak with an attorney before those case conferences.

Our mutual efforts with OCJ to secure commitments from NYCHA to publicize the right to counsel in the hearing notice packets they serve on tenants were not successful. This is still an impediment to implementing the right to counsel, in that tenants are learning of their right to an attorney for the first time when they arrive at the Hearings Office. This makes it more difficult to obtain tenants' agreement to utilize the right to counsel services, and it is also likely that this is impacting the default rate, in particular given the inaccessible location of the Hearings Office.

NYCHA's decision to relocate their Hearing Office to a Brooklyn location with limited subway access, is likely impacting the default rate and putting tenants at risk of eviction. During our right to counsel intake, we frequently hear accounts of all the difficulties tenants experience and expenses tenants incur traveling to the Hearings Office. This issue is particularly acute for tenants from the Bronx and Staten Island, as well as for senior tenants and tenants with disabilities. We have been working to ensure that right to counsel-eligible tenants who do not attend on their first hearing date are not defaulted, but the geographic impediments will likely surpass our ability to secure adjournments after that first return date when tenants no longer appear on our intake list.

Finally, in our discussions with NYCHA prior to establishing the Hearings Office right to counsel intake, NYCHA was unwilling to consent to providing complete file copies to counsel on the day of intake. This means that our advocates have very limited information when we meet with tenants and can accomplish little more than adjourning all of the cases we encounter, even in the situation where cases are perhaps quickly resolvable. We ask that OCJ continue the discussion with the Housing Authority in an effort to secure their cooperation on immediately providing file copies where requested by legal services organizations. This will benefit tenants, legal services organizations, and NYCHA itself.

#### The Impact of OCA's Proposed Alternative Dispute Resolution (ADR) Requirement

LSNYC has deep concerns regarding OCA's proposed Presumptive ADR Initiative in Housing Court. We believe that Presumptive ADR will be inimical to the purposes of the right to counsel initiative and that it will cause substantial harm, in particular to unrepresented tenants.

Representatives from legal services organizations and the Right to Counsel NYC Coalition have repeatedly met with OCA since the right to counsel law passed in 2017, to discuss the need for additional space and resources necessary to ensure the proper functioning of the right to counsel initiative. As noted above, legal services organizations

providing right to counsel representation lack appropriate and private space in which to consult with newly assigned prospective clients, let alone space proximate to the relevant court rooms. Repeatedly, OCA has responded that the current level of space and resources is the most that it can provide. We were therefore troubled to learn that OCA now has the ability and the will to provide space and resources to its proposed new ADR program, space that was not made available for right to counsel intake. We believe this represents a misallocation of scarce resources which will have a detrimental effect on tenants and the whole right to counsel initiative.

Beyond the misallocation of scarce resources, the proposed ADR Initiative is likely to confuse unrepresented tenants and dissuade them from accessing the legal representation available under right to counsel. Currently, numerous tenants fail to take advantage of right to counsel representation, both because the current physical configuration of the court makes it difficult to connect and consult with attorneys, and because the entire set-up at the court does not create an environment conducive to tenants appreciating the benefits of legal representation when first learning about right to counsel upon arrival. Under OCA's proposed ADR Initiative, unrepresented tenants will now potentially be directed to two different places at the same time, but with the difference being that the initial ADR conference will be mandatory and attorney consultation will not be. The inevitable result will be that unrepresented tenants will be further discouraged from retaining lawyers and encouraged to believe – incorrectly – that ADR can afford them equivalent benefits.

We are also skeptical that mediators in the ADR Initiative will possess the experience and knowledge of housing law necessary to ensure that unrepresented litigants do not inadvertently waive important rights, rights that otherwise could have been protected with a right to counsel attorney. As OCJ is aware, housing litigation in New York involves a complex combination of City, State and sometimes federal law, which even experienced housing judges struggle to master. This complexity has only been amplified by the wide-ranging reforms in the newly enacted Housing Safety and Tenant Protection Act. It is difficult to have confidence that OCA could recruit and train a sufficient number of mediators capable of mastering this body of law and protecting the rights of unrepresented tenants, let alone in a context where the power imbalance between tenants and their usually corporate landlords is so extreme. We believe mediation is likely to lead to rushed, pro forma agreements in which tenants' rights, particularly under the Rent Stabilization Law, will be unknowingly waived. It will then be even more difficult for right to counsel attorneys to intervene to vacate these improvidently signed agreements, when all of the discussions leading to them have taken place confidentially, entirely off the record. This will undoubtedly add to the work of right to counsel attorneys and will increase the costs associated with right to counsel cases.

OCA has also indicated that there will be adverse consequences to litigants who fail to attend their first presumptive ADR appointment. While it is still unclear what those consequences might be, any disadvantage a tenant faces in their case as a result of their choice not to attend an ADR appointment will potentially be a violation of due process and will likely have legal consequences, both of which their right to counsel attorney will have to address. This will inevitably create additional work for right to counsel attorneys. As such, it will also certainly add to the funding requirements of the right to counsel initiative,

in particular once right to counsel is fully phased in and in the event that ADR is mandated in every single eviction case filed in housing court.

We therefore hope that OCJ will respond in opposition to OCA's proposed ADR program and that the City will stand with legal services organizations and the tenant advocacy community in opposing this harmful new initiative.

#### Conclusion

LSNYC remains deeply passionate and committed to our role in ensuring that NYC's right to counsel initiative is the strongest and best defender initiative it can possibly be. As such, we remain undeterred in our resolve by the many challenges of such a massive endeavor. We continue to see these challenges as our collective opportunity to shape NYC's right to counsel into the powerful anti-displacement and tenant rights tool that the tenant movement envisioned. We therefore greatly appreciate the partnership of NYC tenant leaders, tenant organizers, and our fellow legal service providers in implementing the right to counsel; and importantly, we applaud OCJ for continuing to work in close collaboration with all of us, and for its willingness to hear our honest feedback and act on it. We thank you for the opportunity to submit our feedback at this juncture and we look forward to continued collaboration in the year ahead.

## **CASA-New Settlement (Community Action for Safe Apartments) Testimony on the Right to Counsel Implementation**

**November, 2019**

Community Action for Safe Apartments (CASA) helped found and organize the Right to Counsel NYC Coalition, which led a grassroots and historic campaign to establish a Right to Counsel in eviction cases in NYC, is proud of the city's new groundbreaking legislation and applauds the City Council and Mayor for adopting the legislation and the Administration for moving forward enthusiastically to implement the law. As you know, the law has already had tremendous impact: evictions are down 5 times faster in zip codes with RTC than in comparable zip codes, 84% of tenants who had RTC in the first two years were able to stay in their homes, filings are down, shelter entries from evictions are down, and community organizations and tenant associations are using it as a powerful tool to preserve communities and protect and advance tenants' rights.

This victory for civil and human rights in NYC is having an impact across the United States. San Francisco, Cleveland, and Newark have all passed Right to Counsel legislation and more than 20 cities across the country are moving campaigns forward. Having eyes in other jurisdictions looking at how NYC implements its law and looking to NYC as a model is all the more reason why we have to get this right.

We recognize that the implementation of the Right to Counsel law is a massive, multifaceted undertaking, and we appreciate the city's efforts to maintain an ongoing dialogue with the Coalition and other key stakeholders. Implementing the new law in a way that provides the most effective advocacy, rooted in community organizing and focused on preserving low-income housing and stable communities, is in all of our interests.

We offer the following recommendations in the spirit of collaboration and commitment to fulfill the full promise of the law.

### **RECOMMENDATIONS FOR IMPROVEMENT:**

#### **Enforcing Tenants Right to Claim RTC**

We applaud the city for creating a hotline that Housing Court Answers staffs, for finally linking to [evictionfreenyc.org](http://evictionfreenyc.org) on the city's website, and for including Right to Counsel in one of the flyers in a recent ad campaign. However, the city has yet to engage in a robust public outreach and awareness campaign or do many of the things we agreed to back in October of 2017. We are calling on the city to do much more aggressive outreach.

We are deeply concerned that not enough tenants who have the right, know they have it, and that many who do know about it are too intimidated to use it. In October, CASA and the Northwest Bronx Community and Clergy Coalition, released a [report](#) that outlines the lack of awareness about RTC and

high level of landlord intimidation within the courts. According to their report, 53% of tenants surveyed did not know about RTC before arriving in court.

Also, earlier this year, the coalition released a new website, [www.worstevictorsnyc.org](http://www.worstevictorsnyc.org) documenting the landlords who evict the most tenants. The website also documents how often landlords use the courts. In some cases, landlords in the Bronx like Ved Parkash, Steven Finklestein, and Brooke, Ryan, and Scott Morgan sue more tenants than apartments they own, demonstrating their widespread use of housing court and indicating a pattern of fraud and harassment. The city should actively investigate all of the landlords on the worst evictors list and issue injunctions against them, barring them from suing anyone in court until their case is resolved. The city is spending money on the backend, helping tenants defend themselves against frivolous cases, when it could be preventing those cases in the first place.

In order for RTC to be truly universal, everyone needs to know about it, understand it, and use it as a tool to also address other housing issues, like inadequate services and landlord harassment.

### **RECOMMENDATIONS**

In order to increase tenant awareness of this new right and encourage tenants to use it, the city should:

- Pass and fund Intro 1529, mandating that the city work with and fund neighborhood-based community organizing groups like CASA that have a demonstrated commitment to building grassroots leadership to do outreach, education and respond to landlord intimidation and harassment.
- The city should investigate the worst evictors
- Engage in a large public awareness campaign (as was committed to the RTCNYC Coalition in a meeting on 10/5/17 but have not been implemented) including but not limited to:
  - Paid subway & other media ads;
  - Tele-Town Halls;
  - Robo calls by zip codes;
  - Mailers w/co-branding with organizing groups if possible (including mailers targeting SCRIE/DRIE recipients)
- Monitor and develop a response to landlord attorneys who pressure tenants in the courts who are eligible for RTC not to use their right. The fact that the city and the state allow landlord attorneys to talk to tenants in the hallways before the courtrooms open, while the judges make their announcements, and all throughout the morning, violates tenants' rights and is simply unacceptable. The city needs to monitor this closely in the Bronx, sanction landlord attorneys where necessary, and develop a solution to stop this from happening.

- Advocate directly to the Office of Court Administration (OCA) to adopt policy changes that would support tenants against harassment and help navigate a confusing housing court system so that they feel empowered to claim and use their rights. These changes, as outlined in the CASA and NWBCCC report include:
  - OCA should issue a rule that until the judge takes the bench, no communication between opposing parties should take place where either party is unrepresented.
  - OCA should require the supervising judge should periodically walk and monitor the hallways to observe and enforce court rules, regularly from 8:30am-10am.
  - OCA should require the tenant attorneys wear consistent badges to identify themselves as tenant attorneys.
  - The court calendar should list who may be eligible for Right to Counsel.
  - OCA should require a stronger review process of stipulations. For RTC eligible tenants, judges and court attorneys should take numerous steps to ensure and encourage the tenants consult with an RTC attorney.
  - OCA should prioritize fair trials by guaranteeing all tenants have access to an RTC attorney and unrepresented tenants have their cases heard by a judge. Additionally OCA should not use court appointed mediators.
- Create neighborhood-based intake processes so that tenants can find an attorney, before they ever go to court. The fact that tenants don't talk to an attorney or often even know about RTC until their first court date is hugely problematic. Neighborhood based clinics would mean that some tenants never have to go to court. It would also greatly increase the number of tenants who claim RTC.
- The city should establish a Right to Counsel Central Coordinator that is housed alongside the new hotline and which is equipped and trained to connect tenants with legal services organizations who are most convenient to the tenant and who have the capacity to represent them.
- The city should refer tenants to [www.evictionfreenyc.org](http://www.evictionfreenyc.org), in all of its materials because it's the only web based portal that allows tenants to determine their eligibility for the Right to Counsel and identify legal service providers and community organizing groups in their neighborhood.

#### **Increase and strengthen Right to Counsel:**

We have to think to the future. By 2022, all income eligible tenants will have a right to an attorney. What about over income tenants who can't afford lawyers? What about cases that aren't in housing court? How can we expand the legislation to cover the full cost of RTC, which goes beyond funding

attorneys, to include the costs of education, outreach and organizing? Below is a summary of our recommendations to expand and strengthen the legislation.

#### RECOMMENDATIONS:

- **Pass Intro 1104:**
  - **Increasing the income threshold to 400% of the federal poverty line:** Currently, while the majority of tenants in housing court are eligible for the Right to Counsel under the current 200% threshold, a single New Yorker earning a \$15 an hour minimum wage is not. Doubling the income threshold would mean almost everyone who is in housing court now, would be eligible for RTC.
  - **Expanding the types of cases covered:**
    - **While most eviction cases occur in City Housing Courts, hundreds of cases are heard in higher courts or administrative hearings, including:**
      - HPD administrative hearings for Mitchell-Lama residents;
      - Supreme Court Ejectment cases; and
      - Housing Development Fund Corporation (HDFC) cases.
    - **Covering Appeals** Though the current law guarantees tenants get an attorney for the entirety of their cases, it does not cover appeals. With more tenants than ever being represented and winning their cases, landlords are filing more appeals. Without legal representation to defend their victories, tenants will be left alone when the final, most consequential, decision is made.
- **Pass Intro 1529:**
  - **Funding Community Organizing:** It's essential so that tenants are connected to attorneys *before* they arrive at court. Passing Intro 1529 would enable community-based organizations to conduct outreach and engagement to inform tenants of their right to an attorney. Neighborhood based groups with histories of tenant organizing and community service are trusted community partners and therefore are best positioned to do the outreach and education work that is critical to the law's success. The right is only as effective as tenants' ability to know and claim their rights.

#### Court Based Implementation:

Institutionalizing a Right to Counsel in eviction proceedings requires significant change to many aspects of how eviction proceedings are conducted, including developing the necessary physical infrastructure



within each of the city's Housing Courts. Since the right to counsel law was passed, progress on this front has moved slowly. Below is a series of recommendations to take in order to successfully implement Right to Counsel, many of which we have communicated to the City and the Office of Court Administration repeatedly throughout the past two years. As tenants, organizers, advocates and lawyers, we see the problems and pressures confronting NYC tenants on a daily basis, and we bring to the task our specific expertise in working closely with NYC tenants facing eviction, including extensive experience in eviction cases in the city's housing courts.

### **RECOMMENDATIONS:**

- All intake areas should include sufficient private intake spaces that are confidential and ADA accessible.
- Right to Counsel intake spaces should also include: Electrical outlets; Free copy machines with scanning and printing capability; Good wifi with a secure connection; Court provided computers; Secure, lockable space for each legal services organization to be able to store a certain amount of supplies; A waiting area with sufficient seating.
- All court rooms should have sufficient seating for the number of litigants on the calendar in a given session and also ample space for case conferencing and waiting in line to check in.
- All courtrooms should fully and consistently implement standardized slideshow presentations on monitors and overview of the court process by judges as well as slideshow presentations provides in multiple languages to ensure all tenants have access to the same information and resources.
- Courthouses should have ample seating in the hallways and sufficient room for litigants to move through the court space.
- There should be private attorney-client conferencing spaces so that attorney-client conversations can be confidential.
- There must be sufficient working elevators for the volume of litigants.
- The security line area should be sufficient for the volume of litigants, such that people do not have to wait in line outside of the courthouse.
  - Ensure expedited security line process for people with disabilities, the elderly, medical conditions both visible and not visible, and families with children.
- Clear signage in all Housing Courts with a list of tenants' rights and resources that include information about Right to Counsel, and directing tenants to resources, should be installed throughout the courthouses.

- Clear signage should be placed at the court entrance to guarantee as much visibility as possible and should be provided in multiple languages to comply with Language Access.
- All court staff wear visible identification at all times.
- All courthouses that have a no food policy should revoke it.
- The court should provide free childcare facilities for tenants at each housing court location
- With the aim of informing as many tenants as possible, information about the Right to Counsel should be communicated in as many ways as possible, with full accessibility provided for Limited English Proficient tenants and tenants who are deaf and/or vision-impaired, including but not limited to: all court staff making announcements and directing people to tenant attorneys (especially judges, court clerks and court attorneys), adequate signage throughout the courts, more and better information on all court documents including postcards, hearing notices, etc.
- Improve Language Justice in the Courts: Language access is a racial justice issue, and a Right to Counsel will only provide meaningful access to justice if it is made fully accessible to Limited English Proficient (LEP) tenants. The courts should ensure all RTC materials (documents and signs) are in the most 12 most common NYC Languages, use language line, conduct regular language justice training for all court personnel, regularly review and evaluate the interpretation services they use, adequately advertise interpretation services and ensure interpretation is available in all court interactions (not just in the courtroom).
- The Right to Counsel must be fully accessible to tenants with disabilities and homebound tenants. Therefore: All courtrooms should have space to accommodate tenants in wheelchairs and also sufficient seating for tenants with disabilities; All publicity, signage, and other information about Right to Counsel should be made accessible to vision and hearing impaired tenants; Tenants with disabilities should not have to wait in security lines; courts should contact ADA liaisons for tenants; Marshal shall contact APS if they arrive and find a homebound person.
- The court should provide adequate scanning machines and court officers to reduce wait time on the lines entering the courts. All courthouses should have sufficient functioning elevators to accommodate the volume of litigants and their representatives. Courts should allow individuals to enter the court with food and water. Courts should also provide HRA's Office of Civil Justice (OCJ) with space nearby Right to Counsel courtrooms and intake spaces to ease intake waiting times and confusion.
- Bronx Housing Court: We are aware that the Office of Court Administration (OCA) is currently planning relocation of the Bronx Housing Court to 851 Grand Concourse, and that there could be a delay in the move. Currently, in the Bronx Courthouse, most of the Right to

Counsel legal services organizations do not have intake spaces and instead are still conducting intake in the crowded hallways. The City should work with OCA as a matter of urgency, to ensure that intake spaces for these legal services organizations are established immediately. In addition, as the plans for the new Bronx Housing Court are developed, the City should ensure that OCA and DCAS consult and meet with the Right to Counsel NYC Coalition to ensure best practices for implementation of Right to Counsel overall.

### **Supporting Legal Services Organizations:**

The coalition fought hard to ensure that the organizations providing RTC are non-profit legal services providers, because they have a long history of doing the work, holistic models, and long-standing missions to fight inequality and injustice. In order for them to do RTC and live up to their missions, RTC needs to be funded in a way that supports aggressive litigation and defense and holistic approaches to meet tenants' multifaceted needs.

### **RECOMMENDATIONS:**

A fully funded Right to Counsel must be funded at a level that supports high quality litigation practices. This funding must take into account:

- Supervision, training, support, and infrastructure at legal service providers, including funding levels that support public benefits specialists, social workers, investigators, space needs, ample supervision and management support, and all other holistic practice needs.
- The funding levels should reflect supporting a caseload that incorporates aggressive eviction defense so that attorneys can use all available law and effective strategies to file counterclaims, fight for repairs, return rents to legal and affordable levels, etc. in the context of an eviction case.

**Rejecting Alternative Dispute Resolution(ADR) in the New York City Housing Courts:** We understand that the court is prepared to implement mandatory referrals to ADR in the Housing Court in the coming months. We would like to join with other voices in opposing this plan. If the court's goal is to "advance the delivery and quality of civil justice", ADR would move the Housing Court in the opposite direction. We call on the city to reject this plan as well as it would undermine the work of Right to Counsel, which has already provided thousands of tenants meaningful access to justice by providing them with legal representation in their eviction cases.

For more information and to set up a meeting with CASA, contact Yeraldi Perez at:

[y.perez@newsettlement.org](mailto:y.perez@newsettlement.org), 718-716-8000 x117

[casapower.org](http://casapower.org)

[www.righttocounselnyc.org](http://www.righttocounselnyc.org)

[www.worstevictorsnyc.org](http://www.worstevictorsnyc.org)

[www.evictionfreenyc.org](http://www.evictionfreenyc.org)



**NEW YORK CITY  
CENTRAL LABOR COUNCIL, AFL-CIO**

President  
VINCENT ALVAREZ  
Secretary-Treasurer  
JANELLA T. HINDS

**Testimony on Universal Access to Legal Services for Tenants Facing Eviction  
New York City Office of Civil Justice  
November 12, 2019**

Good afternoon, my name is Xiomara Loarte, and I am the Community Outreach Coordinator at the New York City Central Labor Council, AFL-CIO. Comprised of 1.3 million members across 300 affiliated unions, the New York City Central Labor Council, AFL-CIO represents workers in practically every industry in the five boroughs, and particularly related to this hearing, workers in the legal services industry. The Labor Movement of New York City has engaged through the Right to Counsel (RTC) NYC Coalition to work collaboratively to combat housing and income inequality. It is imperative to include the workforce of legal service providers whenever universal access to counsel is discussed to ensure that this crucial step forward for tenants does not impede on worker rights and the quality of services.

Currently tenants who fall within 200% of the federal poverty guidelines and live within one of the handful of zip codes in the five boroughs have universal access to counsel in housing court. Someone could work full time at minimum wage and not be eligible for universal access while also not being able to afford rent or private counsel in an eviction proceeding. The New York City Central Labor Council, AFL-CIO, representing and advocating for all working people, calls for universal access to counsel to be strengthened and expanded to include families within 400% of the FPL as proposed in Int. No. 1104-2018.

RTC has demonstrated great success in decreasing eviction rates in zip codes where implementation has begun to occur. However, legal service providers are now being tasked to take on more cases without an increase in funding. The severe lack of resources allocated from OCA to legal service providers has caused them to reorganize hiring priorities and has jeopardized their ability to devote sufficient time and resources to their clients' cases.

There is a huge team that powers the work of legal service providers, including not only attorneys but process servers, secretaries, social workers, case handlers, and paralegals. Insufficient funding has led to an imbalance all around for legal service workers. The high caseloads and limited funding leaves little time for attorneys and support staff to provide their clients with resources and quality representation. In order for Right to Counsel to achieve its goal the City must prioritize adequate funding, strengthen awareness and education efforts, and expand access to ensure that more working New Yorkers are protected against evictions.



Advocacy & Legal Services Since 1963

**Testimony on**

**Universal Access to Counsel**

**Presented Before:**

**Office of Civil Justice  
Human Resources Administration  
City of New York**

**Presented By:**

**Andrew Darcy  
Supervising Attorney  
Mobilization for Justice, Inc.**

**November 12, 2019**

## **I. Introduction**

Mobilization for Justice, Inc. (“MFJ”) envisions a society in which there is equal justice for all. Our mission is to achieve social justice, prioritizing the needs of people who are low-income, disenfranchised, or have disabilities. We do this through providing the highest quality direct civil legal assistance, providing community education, entering into partnerships, engaging in policy advocacy, and bringing impact litigation. MFJ assists more than 25,000 New Yorkers each year.

MFJ is thankful for the opportunity to share with OCJ information about the great work it has done because of the Universal Access to Counsel (“UAC”) law, as well as some thoughts about how the implementation of UAC can be improved.

## **II. MFJ’s UAC Work**

MFJ participates in UAC in the Bronx, where there are currently three court parts dedicated to zip codes covered by UAC. Each Monday, a team of approximately ten advocates (supervising attorneys, staff attorneys, and paralegals) conducts intakes for around 30-40 tenants who are at risk of eviction. A significant percentage of these intakes are for tenants who are referred to MFJ from HRA or the court.

In part because of UAC, MFJ is making a substantial impact in preserving tenancies and neighborhoods in the Bronx. For example, in calendar-year 2019, MFJ has successfully prevented nearly 500 evictions, while further assisting another 500 Bronx tenants.

These successful outcomes were due in part to the tremendous benefits advocacy that MFJ attorneys and paralegals do on a regular basis. As a result of our advocacy, through programs such as FHEPS and emergency rental arrears grants, in fiscal year 2019, MFJ helped our clients obtain assistance in the amount of over \$3,500,000.00. Furthermore, in calendar year 2019, we have obtained approvals on close to 250 FHEPS applications, including approximately 20 that have been submitted in-house by our FHEPS-trained paralegal staff.

MFJ does not, however, just settle cases. Some of the greatest impact we have made through UAC has been the numerous trials we have won, abatements achieved, motions granted, and appellate advocacy undertaken. Indeed, we regularly see situations in which, but-for our zealous legal assistance, tenants likely would have succumbed to the massive eviction machine and signed an agreement that deprived them of their rights under the law. Through our strong litigation skills, MFJ attorneys regularly have precedential and impactful decisions published in the New York Law Journal and in the New York Official Reports. Thus, it is not hyperbole to say that MFJ’s UAC work is changing the law for the better.

Accordingly, we are extremely thankful for UAC because it provides MFJ with the opportunity to fulfill our mission and to make a greater impact for low-income New Yorkers.

### III. Ways to Better Serve New Yorkers

MFJ also believes that, given the relative youth of UAC, there is room for it to be improved so that we can better fulfill our obligations. Here are some ways in which we think the process would better benefit attorneys, clients, and the court:

- Tenants should have an opportunity to speak with counsel prior to filing an answer or any other pleading. Tenants regularly waive certain defenses in pro se answers that could potentially be dispositive. Even a system in which courts provided space, time, and resources to attorneys to assist tenants file pro se answers would be better than the current one in which critical legal filings are submitted without the benefit of counsel. We can of course move to amend the answers, but that requires additional legal work that could be obviated by seeing the tenant earlier in the process. Furthermore, there may be defenses that the court will deem permanently waived, precluding the tenant from asserting an otherwise viable and potentially dispositive defense
- The referral process needs to be consolidated and systematized. Currently, a judge has complete discretion to refer a case to the provider on UAC duty on a particular day, as does HRA's OCJ. As such, there are days in which the referrals are overwhelming, resulting in providers' inability to provide quality intakes for each tenant who is in a UAC part and referred to us. One way to resolve this problem would be to centralize all referrals with HRA and to cap the number on any given day.
- MFJ is one of a few providers without space in the courthouse, which raises confidentiality and privilege concerns, as well as more practical issues like the frequent lack of any place to sit or write. Especially as UAC grows, we cannot continue to conduct intakes in crowded hallways that were not designed for this purpose. Needless to say, this situation has an even greater negative impact on our clients who are elderly or who have disabilities.
- Legal services providers should remain authorized to prepare FHEPS applications in house. The outsourcing of these applications creates inordinate delays, and places tenants at risk of eviction. While we appreciate our partners at HomeBase and understand that they are dealing with a massive volume of cases, our reliance on them results in miscommunication and uncertainty; that circumstance, in turn, places tenants at risk of eviction. Allowing our paralegals to handle the process from start to finish has greatly benefited out clients, sped up the process, and allowed our attorneys to make fewer emergency motions to prevent evictions and focus on legal work for other clients.

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**New York City Human Resources Administration  
Annual Hearing re: Office of Civil Justice's Programs to Provide  
Universal Access to Civil Legal Services for Tenants Facing Eviction  
Tuesday, November 12<sup>th</sup>, 2019, at 6:00 pm  
Testimony RE: Veteran Homelessness in New York City**

Good evening. My name is Jess Penkoff. I am a Staff Attorney at Volunteers of Legal Service (VOLS). VOLS was established in 1984 in response to federal cuts in legal services funding. At that time the City's largest and most respected law firms teamed up with the New York City Bar Association to establish VOLS, whose purpose was to leverage private attorneys to provide free legal services to low income New Yorkers hoping to fill some of the gap left by the cuts in federal funding. We are now 35 years into our existence and VOLS runs five projects including a Microenterprise Project focused on providing legal services to small businesses; Incarcerated Mothers Law Project where we provide family law assistance to incarcerated women; our Immigration Project which assists undocumented minors seeking legal status; our Children's Project which teams up law firms with schools and medical providers in communities of need; and our Elderly Project and Veterans Initiative, which I am a part of, and through which we serve elderly Veterans in New York City.

Our Elderly Project and Veterans Initiative conducts regular free legal clinics in senior centers around the City; we provide legal support to community based organizations serving low income senior veterans; we provide training to community based organizations and to the public regarding proper end of life planning; we publish An Advocate's Guide to SCRIE and A Guide to Burial Assistance and Funeral Planning for New Yorkers in Need; and we access the pro bono services of the private bar by training, supervising and pairing up volunteer lawyers with low income seniors and senior veterans seeking wills, other advance directives and provide representation in housing matters. We are also proud to participate in the New York City Veterans Law Working Group, a group of legal service providers who serve the City's low income veterans, active duty service members and their families facing a variety of legal issues.

We thank the Office of Civil Justice for holding this important annual hearing on the progress and impact of Universal Access. November is the month we reflect on those who served our nation, and yesterday we celebrated Veterans Day. As attorneys serving low income elderly veterans we see every day the legal issues they face, including and especially those involving housing and eviction. As has been widely reported, veterans make up a disproportionate percentage of the nation's homeless population and many of these homeless veterans suffer from mental health conditions related to their military service. Thanks to federal programs like HUD-VASH Section 8 and the Supportive Services for Veteran Families (SSVF), as well as local efforts, in December 2015, New York City became the largest city in the country to be certified by the federal government for having "ended" veteran homelessness. New York City achieved functional zero – a designation where all new homeless veterans are rehoused within 90 days of entering the homeless system. Sadly, we have experienced a backslide and New York is no longer certified as a functional zero city.

When we talk about reducing homelessness generally we also need to be asking what we are doing specifically for veterans as part of that effort. The overall statistics about the impact of Universal Access on eviction rates in New York City are positive and impressive – what is missing from these statistics is any measure of how Universal Access has impacted veterans and veteran homelessness.

As an attorney who practiced eviction defense for low income tenants in Brooklyn for years, I was surprised to recently learn that Universal Access providers can apply for waivers on a case by case basis to be able to represent a veteran that does not reside in one of the covered zip codes or that has income above 200% of the federal poverty line. Let me say that again for the Universal Access provider attorneys and advocates in the room – you can ask HRA for a waiver to allow you to represent a veteran who may not otherwise qualify.

These waivers are an essential tool in the effort to end veteran homelessness. Without these waivers, disabled veterans may find themselves facing eviction without counsel. Veterans who are considered totally and permanently disabled due to injuries sustained in service receive benefits from the United States Department of Veterans Affairs in excess of 200% of the federal poverty level and therefore are disqualified from receiving counsel under the Universal Access program. These are the veterans who sacrificed the most in service to the nation and the guidelines for Universal Access deny them access to the program, unless their attorneys know that they can apply for a waiver. We must ask ourselves whether or not those waivers are being sought, why if not, or whether they are being granted, and why if not.

What is HRA doing to educate legal service providers about seeking exceptions? Does HRA screen for military service before denying someone a referral under Universal Access because they are outside of the zip codes or have too much income? How, when, and where does an attorney from a legal service provider seek an exception to represent a veteran? How many veterans have been covered by Universal Access? How many waivers have been sought? How many waivers have been granted? Why have certain waiver requests been denied, and does HRA refer these individuals to providers who have other funding to represent veterans?

More broadly, we need to know how Universal Access has impacted veterans. How many Veterans have stayed in their homes due to Universal Access? Has the number of eviction proceedings filed against veterans decreased? How many veterans were actually evicted in the last year or the year before?

We laud the achievements of the advocates working within the Universal Access program, and encourage the City to take the above questions into account in the continued rollout of Universal Access so that our City can fulfill its goal of ending veteran homelessness and achieving functional zero on a sustained basis. Thank you again for this opportunity to testify, and Happy Veterans Day.

Jess Penkoff  
Elderly Project/Veterans Initiative

Tuesday, November 12, 2019

## Catholic Migration Services Tenant Leaders Team Testimony on Right to Counsel Implementation

Our tenant leadership team is very proud and excited to have fought alongside our families, neighbors, and allies and won the Right to Counsel for tenants facing eviction in housing court. We believe this is a very important step towards changing the culture and increasing our chances of finding justice in housing court, and ultimately shifting power so the courts are no longer controlled by landlords.

Even though we still have a long way to go, we are so excited about the success Right to Counsel has already shown. We know that many more tenants are getting representation, landlords are suing less people, evictions across the city have decreased and the most exciting part is that tenants are organizing and taking stronger actions to assert their rights and defend their homes.

However, there is still a lot to do to improve the implementation and increase the success of the Right to Counsel. Most tenants who are already covered by the right, still don't know they have or how to use it and the majority of tenants learn about it when they get taken to court. That's too late because many tenants are too afraid to appear in court so they don't go, others go but decline representation because they only have enough time to appear and get back to work or to pick up their kids. We need the city to implement a robust public awareness campaign now so everyone who qualifies for the Right to Counsel knows about it and can assert it.

We are so happy to have the support of attorneys from legal services organizations that have worked with our communities for many years and that are skillful around housing law. But many of us are in need of assistance around other areas to be able to defend our cases and to stay in our homes. Therefore, we call on the city to fund Right to Counsel at a level that supports a holistic model so that organizations can

have social workers, public benefits specialists, paralegals, etc, and attorneys feel more supported.

For this next piece I'm going to address a question to the attendees, who attended the Tribunal on Evictions last week? We had a lot of people and brave tenants, who gathered to publicly call on the worst evictors to say "Stop! You're not allowed to keep using the courts as a weapon and a business tactic" and the city should join us by investigating the worst evictors. According to the data, these landlords are responsible for a big percentage of the evictions that happen in the city and/or suing everyone who is housed by them or suing tenants over and over again. But the worst part is that the city allows for this horrible behavior to happen and it needs to stop. So again, we call on the city to investigate these worst evictors and while the investigation goes on, they shouldn't be allowed to bring cases to housing court.

Lastly, but equally as important is that we need the city to pass bills Intro 1104 and Intro 1529 if you want Right to Counsel to really give most New Yorkers an opportunity to defend their homes.

Many hard working tenants who earn a minimum wage currently don't qualify for the right to counsel, but they also don't earn enough money to hire a private attorneys so the passing of 1104 would increase the income threshold to 400% of the federal poverty line and allow for these tenants to be covered by the right to counsel law.

Housing court is not the only space where eviction cases are brought, there are tenants who are taken to Supreme Court or have administrative hearings but if right to counsel only applies to housing court, many other tenants again will be left out of that fighting chance. Intro 1104 will cover all types of cases where an eviction is possible and will cover appeals which right now it doesn't do. And with more tenants winning their cases, the right needs to be expanded to cover appeals so we don't end up in square 1 again.

Intro 1529 also needs to be passed so that trusted community organizations can reach community members about the right to counsel and this way, tenants can get

connected to attorneys before going to court. And because community organizations are already known and trusted for their work, as community members we feel more comfortable letting them into our buildings and learning about our rights through them. And again, if we don't know about our rights, we're going to continue to be pushed out and harassed by our landlords.

We hope your office and the city hears our suggestions and asks and continues to include us in the process of implementing the right to counsel so we can continue the work of making NYC eviction free!



New York  Legal Assistance Group

**Testimony by the New York Legal Assistance Group (NYLAG)  
Annual Public Hearing on the NYC Office of Civil Justice's Programs to Provide  
Universal Access to Legal Services for Tenants Facing Eviction  
November 12, 2019**

Good evening and thank you for the opportunity to speak at today's annual hearing on the Office of Civil Justice's programs to provide Universal Access to Legal Services for Tenants Facing Eviction. My name is Kathleen Brennan and I am a Supervising Attorney in the Tenants' Rights Unit at the New York Legal Assistance Group (NYLAG). NYLAG uses the power of the law to help New Yorkers in need combat social and economic injustice. We address emerging and urgent legal needs with comprehensive, free civil legal services, impact litigation, policy advocacy, and community education. NYLAG serves veterans, immigrants, seniors, the homebound, families facing foreclosure, renters facing eviction, low-income consumers, those in need of government assistance, children in need of special education, domestic violence victims, people with disabilities, patients with chronic illness or disease, low-wage workers, low-income members of the LGBTQ community, Holocaust survivors, as well as others in need of free legal services.

The groundbreaking Universal Access for Tenants Facing Eviction program (UA) has already made an incredible impact on the lives of low-income tenants in New York City. Access to counsel exponentially increases the chances that tenants will be able to stay in their homes, or at least be given the time they need to find alternative housing and avoid homelessness. Now that we're more than halfway to full implementation, the program continues to make an enormous difference in the lives of our clients, especially

with the rights and protections that the state's Housing Stability and Tenant Protection Act (HSTPA) gives our clients.

For example, shortly after the passage of HSTPA, a NYLAG attorney made a motion to dismiss an owner's-use holdover on behalf of a Rita, who had lived in her apartment her whole life. The holdover was predicated on the fact that the owner's son was allegedly recently married and would allegedly have kids and need a larger apartment. The recent changes through HSTPA made these prospective. After a number of appearances, rather than attempt to oppose the motion, the landlord withdrew its case and Rita was able to continue living in her home of many decades. Without a lawyer, it's highly unlikely that Rita would have been able to assert her rights under this recent technical legal change, and she would have faced the loss of the affordable apartment in which she has always resided.

The data clearly show that having access to a lawyer in Housing Court is key to avoiding eviction. The Office of Civil Justice's most recent report on the program shows that more than 32% of tenants were represented in Housing Court in the last quarter of FY19, a nearly 3% increase from the previous year<sup>1</sup>. According to a report released by the Community Service Society in March 2019, the rate of decline in evictions from FY 2017 to FY 2018 was over five times greater in UA zip codes than it was in comparable non-UA zip codes<sup>2</sup>. Evictions declined 11% in UA zip codes and only 2% in comparable non-UA

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<sup>1</sup> Office of Civil Justice, New York City Human Resources Administration. "Universal Access to Legal Services: A Report on Year Two of Implementation in New York City." Fall 2019. [https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ\\_UA\\_Annual\\_Report\\_2019.pdf](https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ_UA_Annual_Report_2019.pdf)

<sup>2</sup> Mironova, Oksana. "NYC Right to Counsel: First year results and potential for expansion." 25 March 2019. <https://www.cssny.org/news/entry/nyc-right-to-counsel>

zip codes. As UA expansion continues and the HSTPA affords tenants significant additional rights in areas such as challenging overcharge claims and the regulatory status of their apartments, it's likely that those dramatic declines in eviction will continue in the new zip codes covered by UA expansion.

### **Expanding UA to Include Additional Proceeding Types**

In order to continue building on the success of the program, it is crucial that Universal Access expands to allow providers the discretion to represent tenants in HP proceedings, appeals, Article 78 proceedings, and administrative proceedings. There are many instances in which representation in Housing Court will not prevent a tenant's eviction or stabilize a tenant's housing situation if the tenant is not also able to obtain representation in proceedings other than summary eviction proceedings.

As an example, NYLAG recently represented a client who would have been evicted from her home without representation in both the holdover eviction proceeding and her appeal at Appellate Term. Tamara and her family were facing eviction from their rent-stabilized home of over 36 years in a chronic nonpayment holdover proceeding. The holdover proceeding was initially settled pursuant to a probationary stipulation. Subsequently, Tamara was late in making a payment under the probationary stipulation, but with NYLAG's assistance, she was able to make the payment, and her CityFHEPS benefits were substantially increased. Despite being current with her monthly rent, and having her rental subsidy significantly increased, the Housing Court judge ordered Tamara and her family evicted. NYLAG filed an appeal at Appellate Term, obtained a stay of the eviction pending the outcome of the appeal, briefed, and argued the appeal.



The appeal was successful and Appellate Term stayed Tamara's family's eviction and restored her to the probationary stipulation.

Without the attorney's tireless appellate advocacy Tamara and her family would have lost their home of nearly four decades and been forced to enter the shelter system. In addition to appeals, Administrative Section 8 voucher termination proceedings at HPD, DHCR, or NYCHA are often vital to maintaining stable housing. If the provider is representing a UA client in a Housing Court proceeding and a Section 8 voucher termination proceeding is commenced in which the client has legal defenses, it is critical for the client to be represented in the voucher termination proceeding, as the loss of the voucher will likely result in the client losing their housing .

#### **Advocating for Legal Changes to Facilitate UA Implementation and Expansion**

With After several years of experience with implementing UA, OCJ is uniquely well situated to work with providers to advocate with the State Senate and Assembly for additional resources and legal changes that will ensure the success of UA in New York City and serve as a model of excellence for the expansion of similar programs to other areas of the state where tenants face immense housing instability and displacement pressures. While OCJ has undertaken tremendous efforts to ensure UA implementation is as seamless as possible given the current resources and infrastructure available in the Housing Court system, it is clear that without significant infrastructural resources and the passage of legislation that would standardize and systematize the way the Housing Courts operate, it will be extremely challenging for landlord and tenant's counsel, judges, and litigants to realize the vision of UA in which the Housing Court becomes a respected

venue for true housing justice. NYLAG would welcome the opportunity to meet with OCJ, along with other providers and stakeholders, to discuss the changes needed on the state level to ensure that the program can meet its goal of ensuring that all low-income tenants in New York City have access to counsel in Housing Court.

Once again, NYLAG truly appreciates the opportunity to be part of the implementation of the UA program, which will provide a roadmap to cities across the country in revolutionizing access to justice in when a low-income household's housing is threatened. With a few minor adjustments, we believe the program will realize its full potential as it expands to cover all of New York City. We look forward to continuing our strong partnership with the Office of Civil Justice, and I am happy to answer any questions or provide additional information.

Respectfully submitted,

New York Legal Assistance Group

Thank you to OCJ for hosting this hearing, and to the RTC Coalition for mobilizing folks to highlight the improvements that can be made to RTC as it rolls out toward the goal of full representation in 2022.

My name is Meaghan Whyte, and I am a staff attorney at Mobilization for Justice. MFJ is a RTC provider in the Bronx, and we serve tenants in Bronx, Kings, and New York Counties in our housing practice. I'm speaking on behalf of the legal workers, paralegals, social workers, process servers, support staff, and attorneys who make up Legal Services Staff Association 2320 - as staff at Mobilization for Justice and Legal Services NYC, we provide RTC representation in every borough of New York.

Our members, some of whom have been doing housing work for decades, and others who are brand new to housing court, have recognized a number of issues that the implementation of RTC has raised:

- Of primary concern to our membership - for RTC to work properly, the City must make funding available for people other than lawyers. Right now, I am a lawyer, a social worker, a financial counselor, a real estate broker, and a benefits specialist. I am only trained and qualified to be one of those things. The legal services providers who provide RTC have a history of providing holistic representation, but the funding that our organizations receive has created a great imbalance of lawyers versus other essential staff at our orgs. Though the City has provided millions of dollars in RTC funding, this funding still only covers roughly half of what it would cost to properly and fully staff the work and provide the full level of quality services that tenants deserve. The City's partial funding of the work forces our organizations to cut corners and not hire staff other than lawyers, and forces the lawyers to spend less time on each case than tenants deserve.
  - Social workers, paralegals, organizers, benefits specialists, and process servers are vital to this practice. I cannot stress enough how much these folks are needed. To throw money at lawyers without hiring other staff creates a system in which cases are settled without support for the tenant - a system in which actual systemic issues of rent overcharge are not addressed, or tenants are left on their own to navigate social services bureaucracies or are not screened for additional, needed benefits, or are not given the attention they may need because of their attorney's caseload is a system that does not put the tenant first.
  - Lower case caps. In order to provide full representation, the numbers must be lowered. Our members recognize that quality representation can only be provided to our clients when our caseload is under a certain number. We are not a factory. Our organizations want to provide meaningful, quality representation to our clients - representation that includes defense in housing court, but also sometimes affirmative litigation, full litigation of counterclaims and defenses, and may take more time than a few court appearances and settling a case. It is not just for our client to agree to pay in exchange for repairs, and for us to close their cases before the repairs are fully made or the relief to which they are entitled is not realized. Reducing case caps would allow us to help our clients exercise their rights fully.
- Additionally, as others before me have mentioned, our membership believes that it is critically important to raise awareness among tenants of their RIGHT to an attorney. The passage of Intro 1529 - which would fund CBOs and organizers to go into communities and do outreach about the RIGHT to counsel - would have a positive, empowering impact on tenants throughout the City.

- Investigate the worst evictors. Unscrupulous slumlords with bottomless purses are able to harass and intimidate their tenants by bringing court cases with abandon - the City has a duty to investigate these people and stop them from using the Courts as a tool of harassment against their tenants.
- In conjunction with that, there is a real need for the City to address issues with the landlord's bar. It is patently unjust that landlord's attorneys are able to speak with unrepresented folks in the hallway of housing court before the doors of the courtrooms open - if they deign to arrive before 11 am - to harass tenants or encourage them to settle their cases without being able to assert their RIGHT to an attorney. Especially in the Bronx, the landlord's bar exhibits racist, misogynist, and transphobic attitudes openly and without consequence. Civility issues abound in the Bronx, and there has been little to nothing done to deal with them.
- To strengthen the program - as RTC is fully implemented in 2022, there will still be folks lost in the middle - who cannot afford to pay for a decent lawyer, but who are income ineligible for RTC services.
  - The coalition recommends raising the income limit to 400% of the FPL. Right now, NYC law mandates a \$15/hr minimum wage. A single person working full time on that salary is ineligible for RTC representation.
  - In addition, to deny RTC rep to folks who live in certain housing goes against the spirit of the program. RTC should fully fund representation in ejectment actions in Supreme Court, administrative hearings at HPD and NYCHA, and HDFC cases.
  - RTC should also cover appeals. With more tenants represented, more tenants are winning motions and trials, and landlords are appealing - if a tenant is left without representation at the Appellate Term or Division, they are missing critical representation where the final and most consequential decisions are being made.
- Issues with Court itself: As I mentioned earlier, our membership represents folks who do RTC city-wide, and we are very concerned about the physical state of housing court itself. Oftentimes, the first time a tenant meets their lawyer is in the hallway of housing court, and there are insufficient facilities for lawyers or legal workers to do intake in private. Many intakes are conducted in the hallways of housing court, where there are real concerns about confidentiality and unintentional waiver of privilege. Further, our members have real concerns over the ways that tenants are treated by court staff.
  - The City MUST provide adequate facilities for RTC organizations. This includes private meeting rooms, reliable and secure WiFi, printing and scanning facilities, adequate seating, and the ability to store and lock up belongings.
  - Tenants often wait on lines that stretch around the block of the courthouse. They are not allowed to bring food or drink into the courthouse, though they are often there for hours. There is often insufficient seating in the hallways of the courthouse, as well as in the courtrooms themselves. In fact, Kings county recently removed all seating in the hallway of court. Many courtrooms do not allow folks to have their cell phones out, even if they are on silent, and tenants who bring children to court are often yelled at by court personnel if their children get fussy or start to speak in the courtroom. It is a rare occasion that the Court treats tenants like humans, and this is an institutional practice that MUST change.
  - There must be more - and meaningful - information IN court about the RTC program. The information must be accessible to folks who have limited english proficiency, and the Court must provide services for folks who have LEP - translator services, information in the 12 most

common languages in NYC. Additionally, the City must address the needs of folks who are...  
homebound - there must be a more robust outreach to folks about each borough's ADA liaison,  
and how they can participate in their court case, even if they are not physically able to come to  
court.

# NEW YORK CITY BAR

## TASK FORCE ON THE CIVIL RIGHT TO COUNSEL

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### Testimony of the New York City Bar Association Before the New York City Office of Civil Justice

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Pro Bono Counsel, Arnold &  
Porter

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Adjunct Professor, Fordham  
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**Rene Kathawala**  
Pro Bono Counsel, Orrick

By **Andrew Scherer,**  
**Task Force on the Civil Right to Counsel Co-Chairs**  
**November 12 2019**

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 NYC's newly established right to counsel in eviction cases, to support the extension 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. New York Law School Professor Andrew Scherer and Alison King, Pro Bono Counsel at Arnold & Porter, are the Task Force Co-Chairs. The Task Force includes the President of the City Bar in an ex officio capacity, the immediate past President of the City Bar, prominent members of the bar, judiciary and legal academia, leading housing rights advocates and liaisons to other relevant City Bar committees. By design, the Task Force does not include representatives of organizations with an immediate stake in the right to counsel program.

New York City's passage of legislation guaranteeing a right to counsel for low income tenants was a monumental step toward equal justice. For the first time anywhere in the United States, a tenant who faces loss of her home, displacement from her community and the threat of homelessness in a court of law, will be guaranteed legal representation. This new right is already leveling the playing field in Housing Court, giving people a fighting chance to assert their legal rights, and sending a message that the lives and homes of New York City's low-income households are entitled to be treated with dignity and respect. It has the potential, done right, to preserve low-income housing, stabilize low-income communities, stem the displacement of low-income households, and reduce the incidence of homelessness and its concomitant human and governmental costs. It has the potential to transform the culture and nature of the Housing Court to a more balanced forum with greater civility and deeper attention to legal rights and principles. The City is to be applauded for adopting this measure, for enthusiastically moving forward with the massive undertaking of implementation and for engaging in ongoing dialogue with key stakeholders.

THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK  
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**David Jones**  
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**Hon. Jonathan Lippman  
(Ret.)**  
Of Counsel, Latham & Watkins

**Robert Sheehan**  
Of Counsel, Skadden

The Task Force hopes to be a supportive and positive voice for an effective program. To that end, the Task Force is at this point gathering information on the early stages of implementation of RTC by:

1. Visiting Housing Court in each of the 5 boroughs and observing court proceedings and facilities. While there, we have been noting signage and accommodations that would alert tenants to their right, assist them in finding and communicating with their lawyers and provide space for confidential attorney/client communications. We have been exploring the logistics and systems being set up for qualifying for the program (including interactions with HRA). We have also been meeting with the Chief Administrative Judge in each borough, and meeting with legal services providers in the courthouse.

2. Inviting the relevant stakeholders for informal discussions with the task force. Thus far, we have invited or had presentations by representatives of the legal services providers that are participating in the program, the Supervising Judge of the NYC Housing Court, one of the Housing Court Judges assigned to a right to counsel part, the NYC Civil Justice Coordinator, and representatives from the NYC Criminal Justice Coordinator's office (to discuss the conditions of the Housing Courts).

At our Task Force meetings, we have been brainstorming about both short-term, low resource interventions to facilitate implementation and long-term measures that will be needed for the success of the program. It is our intention to share these observations with you not in the nature of a formal report, but as a way to communicate areas that require further attention, consideration and discussion by all of us. Certain common principles are emerging from our observations and discussions. These include:

- Language should not be a barrier to justice, but in Housing Courts in every borough there are not enough interpreters to meet the need of the tenants. Some Court staff and the landlord attorneys have indicated, in their interaction with RTC Staff, that they do not recognize the need and claim they aren't necessary. We disagree. The Task Force recommends that funding be made available to create a system that will provide necessary interpreters for the tenants.
- There is insufficient information made available to the tenants about the right to counsel and where to find the legal services lawyers. There is insufficient signage in the Court house and

no consistent and effective method of communication to tenants in the Court. In Queens, tenants are directed to the legal services lawyers only after that have filed their answer. Tenants in the Bronx are referred to the third floor of the courthouse generally without details about for whom they are supposed to look. There are often too many people in the hallway on the third floor and it is difficult to identify the tenant lawyers specifically. Some Parts are run efficiently and go out of their way to make an announcement to all about the right to counsel process but others do not. The Task Force recommends that there be legible and informative signage in the Court house, better communication in the Parts about the right to counsel, and more concrete directions provided to tenants about how to determine if they are eligible and where in the courthouse to find the legal service providers.

- There is also insufficient information being provided to the legal services providers. The Court in Staten Island is the only one to provide a list of all the eligible tenants the night before. This lack of information lends itself to chaos in the other courthouses, with each organization attempting to gather the information they need from the courtrooms and to connect with their potential clients to provide advice and service. The Task Force recommends that all of the Courts follow Staten Island's practice of providing the tenant information the day before.
- Further, this lack of information about the right to counsel allows the inequities of the Housing Courts in the past to continue and can undermine the right. More specifically, clients typically want to get out of the Court as soon as possible, so they agree to deals and enter into stipulations before they know they have a right to counsel. If the tenant lawyers were to have the physical file in their hands, before the Court does, as it happens in Staten Island, this would protect the clients because no stipulations can be entered until the client speaks with the tenant lawyers. The Task Force would go further and recommend that the Courts and HRA provide a mechanism that would allow the lawyers to meet with the tenants before their hearing date.
- Space in the courthouses is an issue and will only continue to get worse as the roll out happens. The Staten Island, Bronx, and Brooklyn court houses do not have enough space for the lawyers to be able to have confidential conversations. There are far too many people in the small physical space of the Court. In Staten Island, the attorneys for the tenants share space with the attorney for the landlords, making it impossible to have confidential conversation. The Manhattan court provides an unused courtroom which does allow for confidential conversations, but it has immediate maintenance needs, for example, the roof leaks. The Task Force recommends that HRA and the Courts consider connecting eligible potential clients to the legal services organizations before requiring the tenant to go to Court to be represented.



Thank you for your time and consideration, and please do not hesitate to call upon the Task Force if we can be helpful with these or other implementation issues. We look forward to continuing these important discussions.

## **ALAA TESTIMONY FOR THE OFFICE OF CIVIL JUSTICE HEARING ON UNIVERSAL ACCESS**

**November 12, 2019**

Good evening. My name is Benjamin Levine, I am a Vice President of the Civil practice of The Association of Legal Aid Attorneys, local 2325 of the United Auto Workers. I have worked as a staff attorney at the Legal Aid Society for over three years and have represented tenants in the Bronx and Brooklyn. ALAA is comprised of a diverse group of compassionate, driven, and remarkably intelligent attorneys at The Legal Aid Society who believe in safeguarding the rights of tenants. I thank the Office of Civil Justice for allowing ALAA to testify about our experience at the front lines of implementing the Right to Counsel program.

ALAA strongly believes in the mission of the Right to Counsel program and looks forward to the day when every tenant will have an attorney to zealously advocate for them to keep their home. The City's annual report on the right to counsel program clearly demonstrates the dramatic impact of RTC in successfully lowering the number of evictions and housing court cases since first being implemented. RTC has created a far more level playing field for tenants when facing their landlords. However two and a half years into the program, there is much more the City can do to ensure that the goal of RTC is fully achieved.

Since this hearing last year we still lack the funding to effectuate robust legal representation and to address the myriad injustices impacting tenant's lives that have forced them to come to court. Every day, we witness the ways in which the affordable housing crisis and community displacement affects our clients. As attorneys, it is our role to hold landlords accountable for filing frivolous lawsuits, fight back against tenant harassment campaigns and to secure repairs. However, this legal work is often not enough to keep tenants in their homes and we as attorneys cannot do this work alone. To do this work, we rely on being a part of a broader team of legal workers who are dedicated to assisting low income tenants. Without the proper funding for social workers, paralegals and administrative staff, our attorneys struggle to assist tenants in securing benefits and accessing resources to correct lease violations so that tenants can stay in their homes. Without funding for these workers our attorneys face the difficult choice of providing non-legal services for which we are not trained with the competing need to research and to prepare our clients for litigation. By forcing attorneys to take on these roles, we lose critical time necessary to litigate and are pushed into becoming stipulation mills where tenants and the city needlessly reward landlords who collect illegal rents and fail to maintain their buildings.

Additionally, our low pay due to inadequate funding and our large caseloads causes us to lose experienced attorneys at alarming rates. When this occurs, our clients are forced into being represented by inexperienced attorneys and to have multiple attorneys throughout the duration of their case. The disproportionately large number of inexperienced attorneys places great burdens on our supervisors, who must spend more time in court working with new attorneys and reviewing motions rather than helping to create and foster creative litigation strategies to deter unjust evictions. Having an experienced attorney gives confidence to our clients as they can

better explain to client's their cases and also can shorten cases by more quickly getting cases dismissed through litigation and negotiation. With more funding and better pay, we will be better positioned to retain experienced attorneys leading to better outcomes for tenants.

To further the mission of the Right to Counsel program, the City should expand the program by passing City Council Bills 1104 and 1529. The city should pass Intro. 1529 to fund neighborhood and community organizations to educate tenants about the RTC and on how to enforce their rights. While we as attorneys provide a backstop to evictions, by empowering tenants with the information about their rights, we believe it will discourage cases from even commencing. By giving tenants more information about cases before they come to court, tenants can start to gather information needed to defend their cases to reduce the amount of time they are in court. Additionally, the City should pass Intro. 1104 to expand the right to counsel to those at 400% of the federal poverty line and the types of cases where tenants have representation, including HPD hearings for Mitchell-Lama residents, Supreme Court ejectment cases and HDFC cases along with appeals. While a tenant may win in housing court, this is often not enough as landlords can appeal and a tenant can have their subsidies terminated. When this happens, the right to an attorney in court is essentially meaningless as it often results in a tenant being blindsided by a represented opponent and can readily lead to an unjust eviction. Further by raising the poverty threshold, the City will cover those who earn minimum wage, who despite their income could never hire an attorney and are thus at a disadvantage simply because they make too much for free an attorney, but not enough to hire their own counsel.

We believe that more must be done to fully achieve the purposes of the RTC program. Tenants deserve more than just assistance in paying their rent, they deserve workers who can assist them with their benefits and attorneys who can effectively and creatively litigate so that tenants can keep their homes and remain in their community. By providing more funding and expanding the types of cases where tenants have an attorney, we will be able to achieve these goals.

## **Testimony of Cecilia Gullas**

We call on all housing activists to IMPEACH HOUSING COURT JUDGE ANNE KATZ for unethical practices as a housing court judge when she was assigned in Queens County. Before being appointed as a Judge, Katz' bio states that she was employed as a lawyer by the Law Firm of Borah Goldstein Nahins Altschuler and Goidel, in New York. This is the same law firm that represented the coop board in the housing case 37-31 73rd Street Owners Corporation vs Paul Gullas. Judge Katz should have recused herself from this case. It is a time-honored ethical practice among judges worldwide that they recuse themselves from court cases if any of the parties involved were connected to a law firm that the judge had previously worked for.

Judge Katz did not recuse herself from this case. Instead she brazenly went forward and had Paul Gullas evicted even though Paul presented as his counterclaims New York State Real Property Law s.235 B, the warranty of habitability. Paul Gullas bought the cooperative studio apartment in Jackson Heights, Queens on an all-cash basis. Barely a year that he and his mother, Cecilia Gullas, occupied the apartment, water pipes broke within the walls of the apartment that flooded the apartment and rendered the place uninhabitable.

According to New York State law of the warranty of habitability, Paul Gullas did not have to pay rent until the place was habitable. Instead, the coop board brought Paul to Housing Court and got him evicted with the unethical Judge Anne Katz presiding. No trial ever occurred in this case.

No matter how much success housing activists have accomplished recently, all these is for naught if the housing court judge does not follow the laws.

Please help write to: Deputy Administrative Judge George Silver, 111 Centre Street, New York, N.Y. 10013, and to the Office of the Inspector General, OCA< 25 Beaver Street, New York, NY 10004.

Request that Judge Katz be removed from the Judiciary, and that all her decisions and orders in Housing court were the landlords and coop boards were represented by the Law Firm of Borah Goldstein be vacated. Thank you so much.

Testimonio de Inquilino en el primer año de implementación del  
Derecho de Representación Legal

I. Nombre: Kenia Suero

II. Dirección: \_\_\_\_\_

A. ¿Por cuánto tiempo has vivido en tu casa? 26

III. ¿Cómo describirías tu situación de vida? *Trazar un círculo en todo lo que aplique:*

- A. Acoso
- B. Mi apartamento o mi edificio necesita reparaciones
- C. Mi renta es demasiado alta

D. OTRO: El elevador tiene que ser reparado y más cámara en todo lado

IV. ¿Recibió un abogado a través de RTC en la corte de vivienda? SI NO

A. Si es así, ¿cómo fue esa experiencia?

B. Si no, ¿por qué no?  
Porque no estado en la corte todavía

V. ¿Por qué crees que el derecho a representación legal es importante?

Es importante porque los abogados saben más y tienen experiencia

VI. ¿Cómo cree que se podría mejorar la implementación de la ley de representación legal para lograr justicia para los inquilinos? *Trazar un círculo en todo lo que aplique:*

- A. Mejor alcance e información para que los inquilinos conozcan sus derechos. La ciudad debe colocar carteleras, carteles y tener una campaña de concientización más amplia.
- B. Coordinación de mensaje. Todos lo conocemos como el derecho a representación legal. La ciudad debería llamarlo así en lugar de acceso universal. ¡Es confuso
- C. Mejor aplicación de la intimidación de los dueños y comportamiento poco ético por parte de los abogados de los dueños.
- D. Aumentar el umbral de elegibilidad de ingresos
- E. RTC debe aplicarse a más tipos de viviendas
- F. Dejar que los inquilinos pueden encontrar abogados fuera de la corte, antes de que sus casos empiezan.
- G. Dar fondos a organizaciones comunitarias y community based para hacer alcance y educación.
- H. OTRO:

Firma: Kenia Suero Fecha: 11/5/19

**Testimonio de Inquilino en el primer año de implementación del  
Derecho de Representación Legal**

I. Nombre: huesa Rodriguez

II. Dirección: \_\_\_\_\_

A. ¿Por cuánto tiempo has vivido en tu casa? 20

III. ¿Cómo describirías tu situación de vida? *Trazar un círculo en todo lo que aplique:*

- A.  Acoso
- B. Mi apartamento o mi edificio necesita reparaciones
- C. Mi renta es demasiado alta
- D. OTRO: \_\_\_\_\_

IV. ¿Recibió un abogado a través de RTC en la corte de vivienda? SI

NO

A. Si es así, ¿cómo fue esa experiencia?

B. Si no, ¿por qué no?

V. ¿Por qué crees que el derecho a representación legal es importante?

*para que los inquilinos conozcan sus derechos y tenga derecho a apelar la decisión de un juez.*

VI. ¿Cómo crees que se podría mejorar la implementación de la ley de representación legal para lograr justicia para los inquilinos? *Trazar un círculo en todo lo que aplique:*

- A. Mejor alcance e información para que los inquilinos conozcan sus derechos. La ciudad debe colocar carteleras, carteles y tener una campaña de concientización más amplia.
- B. Coordinación de mensaje. Todos lo conocemos como el derecho a representación legal. La ciudad debería llamarlo así en lugar de acceso universal. ¡Es confuso
- C. Mejor aplicación de la intimidación de los dueños y comportamiento poco ético por parte de los abogados de los dueños.
- D. Aumentar el umbral de elegibilidad de ingresos
- E. RTC debe aplicarse a más tipos de viviendas
- F. Dejar que los inquilinos pueden encontrar abogados fuera de la corte, antes de que sus casos empiezan.
- G. Dar fondos a organizaciones comunitarias y community based para hacer alcance y educación.
- H. OTRO: \_\_\_\_\_

Firma: huesa Rodriguez Fecha: 11/5/19

# Testimonio de Inquilino en el primer año de implementación del Derecho de Representación Legal

I. Nombre: Albia Marquez

II. Dirección:

A. ¿Por cuánto tiempo has vivido en tu casa? 3 1/2 años.

III. ¿Cómo describirías tu situación de vida? *Trazar un círculo en todo lo que aplique:*

- A. Acoso
- B. Mi apartamento o mi edificio necesita reparaciones
- C. Mi renta es demasiado alta
- D. OTRO: \_\_\_\_\_

IV. ¿Recibió un abogado a través de RTC en la corte de vivienda? SI  NO

A. Si es así, ¿cómo fue esa experiencia?

B. Si no, ¿por qué no?

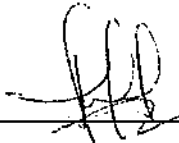
V. ¿Por qué crees que el derecho a representación legal es importante?

*Porque los inquilinos sufrimos muchos problemas y no tenemos suficiente dinero para costear abogados y luchar contra el landlord.*

VI. ¿Cómo cree que se podría mejorar la implementación de la ley de representación legal para lograr justicia para los inquilinos? *Trazar un círculo en todo lo que aplique:*

- A. Mejor alcance e información para que los inquilinos conozcan sus derechos. La ciudad debe colocar carteleras, carteles y tener una campaña de concientización más amplia.
- B. Coordinación de mensaje. Todos lo conocemos como el derecho a representación legal. La ciudad debería llamarlo así en lugar de acceso universal. ¡Es confuso
- C. Mejor aplicación de la intimidación de los dueños y comportamiento poco ético por parte de los abogados de los dueños.
- D. Aumentar el umbral de elegibilidad de ingresos
- E. RTC debe aplicarse a más tipos de viviendas
- F. Dejar que los inquilinos pueden encontrar abogados fuera de la corte, antes de que sus casos empiezan.
- G. Dar fondos a organizaciones comunitarias y community based para hacer alcance y educación.
- H. OTRO:

Firma: \_\_\_\_\_



Fecha: \_\_\_\_\_

11/05/2019

**Testimonio de Inquilino en el primer año de implementación del  
Derecho de Representación Legal**

I. Nombre: Bienvenida Rodriguez

II. Dirección:

A. ¿Por cuánto tiempo has vivido en tu casa? 20

III. ¿Cómo describirías tu situación de vida? *Trazar un círculo en todo lo que aplique:*

A. Acoso

B. Mi apartamento o mi edificio necesita reparaciones

C. Mi renta es demasiado alta

D. OTRO: \_\_\_\_\_

IV. ¿Recibió un abogado a través de RTC en la corte de vivienda? SI

NO

A. Si es así, ¿cómo fue esa experiencia?

B. Si no, ¿por qué no?

V. ¿Por qué crees que el derecho a representación legal es importante?

*Por nuestro derecho y representación legal*

VI. ¿Cómo cree que se podría mejorar la implementación de la ley de representación legal para lograr justicia para los inquilinos? *Trazar un círculo en todo lo que aplique:*

A. Mejor alcance e información para que los inquilinos conozcan sus derechos. La ciudad debe colocar carteleras, carteles y tener una campaña de concientización más amplia.

B. Coordinación de mensaje. Todos lo conocemos como el derecho a representación legal. La ciudad debería llamarlo así en lugar de acceso universal. ¡Es confuso

C. Mejor aplicación de la intimidación de los dueños y comportamiento poco ético por parte de los abogados de los dueños.

D. Aumentar el umbral de elegibilidad de ingresos

E. RTC debe aplicarse a más tipos de viviendas

F. Dejar que los inquilinos pueden encontrar abogados fuera de la corte, antes de que sus casos empiezan.

G. Dar fondos a organizaciones comunitarias y community based para hacer alcance y educación.

H. OTRO:

Firma: Bienvenida Rodriguez Fecha: 11-5-19



Hola mi nombre es Floriberto Galindo y soy un líder de mi asociación de inquilinos de 3425 Gates place y la coalición del noroeste del Bronx.

Yo tengo 15 años viviendo en mi apartamento.

Hace un año que mi asociación está en huelga para eliminar el MCI. Nuestros dueño Morgan Group remodelo los Baños y cocinas pero causó más problemas como goteras, se tapa los inodoros por ejemplo y nos dejó todo más pequeño.

Estamos pagando una renta muy alta y no se puede también pagar un abogado para pelear el caso. Es importante tener este derecho para pelear para nuestro derechos como inquilinos.

Vine esta noche para pedir la ayuda y más recursos a las organizaciones comunitarias que están presentes esta noche. Necesitamos más recursos para ayudar a los inquilinos y abogados.

Dos de mis vecinos en la huelga de renta han recibido representación legal para pelear sus caso en la corte y ganaron gracias a los abogados y esta coalición que nos están ayudando con nuestros derechos.

Estoy de acuerdo con la lista de demandas que la coalición de derecho a abogada está presentando a ustedes.

Se podría mejorar la implementación de la ley de representación legal para lograr justicia para los inquilinos en las siguientes maneras:

ueMz

1. Mejor alcance e información para que los inquilinos conozcan sus derechos. La ciudad se colocar carteleras, carteles y tener una campaña de compartir más información.

ldslsz Ze s/

2. Zn de mensaje. Todos lo conocemos como el lsll a representación legal. La ciudad ldebería llamarlo así en lugar de acceso szn.

s

3. eoTambién debe aplicarse a Porsl qué crees que el derecho a representación legal es ss?

4.

5.

6. VI. ¿Cómo cree que se podría mejorar la sOimplementación de la ley de representación legal para lograr justicia para los inquilinos? Mo ls un círculo en todo lo que aplique:

7.

8. A. Mejor alcance e información para que los inquilinos conozcan sus derechos. La ciudad debe colocar carteleras, carteles y tener una campaña de concientización más amplia.

9. B. Coordinación de mensaje. Todos lo conocemos como el derecho a representación legal. La ciudad debería llamarlo así en lugar de acceso universal. ¡Es confuso
10. C. Mejor aplicación de la intimidación de los dueños y comportamiento poco ético por parte de los abogados de los dueños.
11. D. Aumentar el umbral de elegibilidad de ingresos
12. E. RTC debe aplicarse a más tipos de viviendas
13. F. Dejar que los inquilinos pueden encontrar abogados fuera de la corte, antes de que sus casos empiezan.
14. G. Dar fondos a organizaciones comunitarias y community based para hacer alcance y educación. tipos de casos no solo de defensa de desalojo.

S

15. Dejar que los inquilinos puedan encontrar z
16. Oeeabogados fuera de la corte, antes de que sus scasos empiecen.

No eupodemos pagar los MCIs y también y pagarles a los seabogadosZPor qué crees que el derecho a representación legal es importante?

uns

VI. ¿Cómo cree que se podría mejorar la implementación de la ley de legal para lograr sjusticia para los inquilinos? Wi un círculo en todo lo que aplique:

Jsz

- A. Mejorjs alcance e información para que los u conozcan sus derechos. La ciudad debe colocar carteleras, carteles y tener una campaña. de concienstizaciónznzs más amplia.
- B. w wsjns de mensaje. Todos lo z como el derecho a representación legal. La ciudad debería llamarlo así en lugar de acceso universal. ¡Es confuso
- C. Mejor aplicación de la intimidación de los dueños y z poco ético por parte de los abogados de los ex sdueños.
- D. uJsnzAumentar el umbral de elegibilidad de ingresos
- E. RTC debe aplicarse a más tipos de viviendas
- F. Dejar que los inquilinos pueden encontrar abogados fuera de la corte, antes de que sus casos empiezan.
- G. Dar uwfondos a organizaciones comunitarias y community based para hacer alcance y educación. S zesw.

Por eso es importante expandir este s. Muchas gracias por su Sw y ayuda.

My name is nova Lucero and I'm a tenant organizer at nwbccc. RTC has been really helpful for my family, friends and neighbors. This year alone a number of close friends and family faced eviction and are still fighting their cases.

It has been the only way to fight back and actually win against landlords abusive practices. We all know it's a really long process with HCR and we know that even if you win an HP action case in housing court there is no enforcement of any fines or repairs and justice is rarely seen.

For this reason, community groups and legal service orgs are the only resources that share tenants rights information but we are all under funded so our reach is not far and often to those who are already far in their housing court case. So we need your support to pass Intro 1529 and fund community organizing to reach more people through more organizers that will conduct more workshops, outreach and 1 on 1 counseling and referrals.

RTC has been so important to providing tenants with a more effective way to fight injustice. But we all know it is only effective when people can take advantage of it. So this is why we need the RTC recommendations that have been shared with you about housing court to be implemented. Issues like poor signage in housing court about right to counsel, judges not telling tenants about their right to counsel, and Landlord attorneys still intimidating tenants in hallways before courtrooms are open shouldn't still be happening. RTC attorneys should not be forced to have "confidential" meetings in crowded hallways, tenants shouldn't have to spend entire days in court, waiting to be seen, losing money or getting more sick from spending entire day indoors waiting anxiously. Landlords should have to start the paperwork again if they are going to okay these games.

Every week my team and I do door knocking at buildings owned by some of the worst evictors like Steven Finkelstein and Morgan Group who are currently suing tenants in bronx housing court and week after week we find that these buildings have just recently become homeless shelters or coops, or that they're recently vacant due to evictions both formally and through intimidation, not honoring succession rights, construction as harassment and rent increases. If the city is unable to do a MTA ad campaign about RTC the City they should at least conduct a mail campaign to inform tenants living in buildings owned by the worst evictors living in RTC zip codes that they have rights. And for those that don't have RTC, they should be given information about their rights and the nearest tenants rights group to them. The city should do this aside from investigating the worst evictors across the city and in each borough, as was decided at our people's tribunal on evictions 2 weeks ago.

We also need your help to pass Intro 1104 so my elderly neighbors and long time friends who have SSI, SSD or make more than \$15 can have an attorney. A majority of tenants I work with are people who just barely make \$15/hr working 2 jobs, receive disability benefits or SSI. And if you haven't noticed there is a growing number of people living in shelters doubled up apartments or on the street who come from service industry work or who are elderly or disabled and no longer working full time jobs. This expansion of RTC is important to ensure that a

growing number of the homeless population stops growing. The vulnerability and health risks of these specific neighbors of ours increases when they are housing insecure or homeless.

I'd also like to share that casa and nwbccc published a report about our recommendations for housing court recently so please read that and the RTC recommendations. We plan on engaging both the office of civil justice and court administrations to use the power and influence of your offices ensure impactful changes are done immediately for tenants with RTC and for all tenants across nyc who are fighting for their homes in and out of housing court. Thank you.