

Testimony of Jordan Dressler, Civil Justice Coordinator, Office of Civil Justice, Human Resources Administration and Steven Foo, General Counsel, Department for the Aging, before the New York City Council's Aging Committee on Int. No. 96 – October 26, 2016

Good morning, Chairperson Chin and members of the Aging Committee. Thank you for the invitation to provide testimony on Int. No. 96, in relation to providing legal counsel for senior citizens subject to eviction, ejection or foreclosure proceedings, as well as to discuss the Office of Civil Justice at the New York City Human Resources Administration (HRA). My name is Jordan Dressler, the City's first Civil Justice Coordinator based at HRA, and with me is Steven Foo, General Counsel at the New York City Department for the Aging (DFTA).

HRA, which houses the Office of Civil Justice (OCJ), is the nation's largest social services agency assisting more than three million New Yorkers annually through the administration of more than 12 major public assistance programs, playing a key role in advancing one of this Administration's chief priorities: reducing income inequality and leveling the playing field for all New Yorkers.

In my testimony today, I will discuss the City's extraordinary investment in civil legal assistance for low-income tenants as one of the tools this Administration is utilizing in combating poverty, addressing income inequality and reducing homelessness. I will discuss the work of the Office of Civil Justice and present recent findings from our first Annual Report, which has demonstrated a narrowing of the "justice gap" for tenants facing eviction, due in large part to the unprecedented investments in civil legal services and other tenant supports by the de Blasio Administration, the City Council and the State Judiciary.

Int. No. 96 would require the City to provide free assigned counsel to any individual who:

- is 62 years old or older; and
- is facing eviction or displacement from their home in a legal action or special proceeding, including in foreclosure; and
- is an occupant of a rental unit or an owner and occupant of a co-op (shares), a condo or a one-to-two family house; and
- has a household income that does not exceed \$50,000 (SCRIE eligibility; regardless of household size).

As we testified in September in connection with Intro 214-a of this year, we are reviewing the impact of the proposed legislation regarding the provision of counsel in Housing Court on the programs that we have funded and that are still ramping up to full implementation through this fiscal year. We look forward to continuing our work with the Council in analyzing these issues and discussing these proposals.

As a result of the ten-fold increase in tenant representation funding from this Administration, the legal services community is in the process of expanding the availability of counsel for low-income tenants in Housing Court. Even before these programs have been fully implemented, the percentage of represented tenants has already increased from 1%, reported by the Judiciary for

2013, to 27%, as we reported last August, and evictions by City Marshals are down by 24%. The programs will be fully implemented during Fiscal Year 2017 and we expect the percentage of represented tenants in Housing Court to continue to increase.

We look forward to hearing the testimony today as we evaluate the next steps that our City should take given the unprecedented commitment that we have made to expand legal representation for tenants so far.

Office of Civil Justice

In 2015, Mayor de Blasio and the New York City Council amended the City Charter with the signing and passage of Local Law 61, which created the Office of Civil Justice (OCJ). For the first time, New York City has a permanent office to oversee the City's civil justice services and monitor the progress and effectiveness of these programs. The establishment of OCJ was the latest part of our effort to enhance and coordinate these services at HRA that began at the start of the Administration in 2014.

Civil Legal Assistance Programs

In addition to consolidating contracts under one roof and establishing OCJ at HRA to oversee performance and progress, New York City has steadily and substantially increased investment in these programs since 2014, and today the City is a national leader in providing civil legal services for low-income people.

In Fiscal Year 2017, for the first time New York City's overall investment in civil legal services for low-income City residents will exceed \$100 million. This fiscal year, Mayoral programs exceeding \$83 million and City Council awards of nearly \$28 million will fund free legal services for low-income New Yorkers across a range of areas, including immigration, access to benefits, support for survivors of domestic violence, assistance for veterans and – the focus of today's hearing – anti-eviction legal services and other legal assistance for low-income tenants, including seniors.

The provision of quality legal representation for thousands of the City's low-income tenants facing eviction and displacement is a key component of our civil legal services initiatives. Mayoral funding for tenant legal services in Fiscal Year 2017 is approximately \$62 million, ten times the level in Fiscal Year 2013. HRA's Homelessness Prevention Law Project (HPLP) is the primary vehicle for our anti-eviction legal services. Through HPLP, HRA contracts with a dozen non-profit legal services providers, including both large citywide providers and smaller community-based organizations, to provide free legal representation and advice to low-income tenants at risk of homelessness because of eviction.

HPLP was funded at approximately \$4.9 million in FY13, but starting with the de Blasio Administration's first budget in FY14, funding for this program has substantially increased. In FY17, HPLP is funded at \$25.8 million, providing legal services for low-income tenant respondents in eviction cases throughout the City, with additional expanded legal services targeting specific high-need neighborhoods. The Expanded Legal Services (ELS) component of the HPLP program is intended to essentially provide universal legal representation for low-income tenants facing eviction from their homes in ten zones across the City, targeted because

they include the most at-risk households facing eviction and homelessness as reflected in rates of shelter entry.

In Housing Court, all tenants whose eviction cases involve a residence in one of the target zones are offered the opportunity upon their first appearance at court to meet with OCJ staff on site for an initial screening and determination of income eligibility. Eligible tenants are in turn referred to one of the contracted legal services providers for immediate screening and intake at the courthouse, where, barring a conflict of interest or other extraordinary factor, the tenant is provided free legal defense on the eviction case.

In total, HRA's anti-eviction legal services are expected to serve approximately 20,000 households in FY17.

The Anti-Harassment and Tenant Protection (AHTP) legal services program was launched at HRA by the de Blasio Administration in January of 2016. Whereas the anti-eviction legal services programs target tenants who are already involved in housing court proceedings, this new program provides resources for tenant outreach and pre-litigation services with the goal of preventing eviction and displacement. In addition to full representation and brief legal assistance for Housing Court and administrative proceedings, AHTP legal services providers offer community education, landlord-tenant mediation, and counsel on cooperative tenant actions and building-wide lawsuits.

Currently, AHTP services are targeted to seven neighborhoods across the City that have been identified as posing a high risk for landlord harassment and/or tenant displacement. AHTP providers work closely with the City's Tenant Support Unit (TSU) to assist households identified through TSU's outreach campaigns as in need of legal assistance. AHTP was launched in FY15 with a \$4.6 million initial startup allocation, was funded at \$18 million in FY16 and will be funded at \$32.9 million in FY17. The program is expected to serve approximately 13,000 households in FY17.

In total, through the Administration's investment of nearly \$62 million in tenant legal services, we expect that approximately 113,000 low-income New Yorkers in 33,000 households will receive free legal advice, assistance and representation this year. These programs are part of the Administration's effort to preserve and expand the availability of affordable housing for New Yorkers. Affordable housing, a precious resource, is permanently lost to the City when tenants are evicted from rent-regulated and rent-controlled apartments and rent is increased above affordable levels. Protecting these affordable units throughout New York City for families and seniors and protecting tenants in small buildings is critical. And the financial and human costs that we avert when tenants avoid eviction and preserve their tenancies are substantial; every family that stays in its home spares the City the expense of emergency shelter services – and more importantly spares the family the trauma of homelessness, including disruption of education, employment and medical care. Our legal services programs are aimed at keeping these New Yorkers in their homes, preventing displacement and preserving and protecting the City's affordable housing stock.

And we are already seeing results from our programs to protect tenants. As part of OCJ's first Annual Report this summer, we sought to update the research on the availability of legal assistance for tenants facing eviction in Housing Court. We partnered with the State Office of

Court Administration to undertake a new analysis to assess the current prevalence of legal representation among tenants in court for eviction cases and the need for counsel that remains. We found that a substantially higher proportion of tenants in court for eviction cases have legal representation than ever before. The data further indicate that among tenants with representation, more than half are low-income tenants served through not-for-profit legal assistance programs.

- Even before our housing legal assistance programs are implemented fully this year, more than one in four tenants in court facing an eviction case in New York City – 27 percent – is now represented by a lawyer, a marked increase compared to the Office of Court Administration’s findings that in calendar year 2013 only 1 percent of tenants in New York City Housing Court were represented by attorneys.
- More than half of in-court representation for tenants is provided by non-profit legal services organizations for low-income New Yorkers.
- Meanwhile, only 1 percent of landlords in eviction proceedings appeared in court without counsel.

These results suggest that we are on the right track with this investment. Furthermore, we see very encouraging signs that making access to legal representation leads to improvement in the courts and in the lives of New Yorkers:

- Residential evictions by city marshals declined 24 percent in 2015 compared to 2013, a period during which New York City substantially increased funding for legal services for low-income tenants as well as other rental support programs; and
- during 2015, orders to show cause in the City’s Housing Courts – motions by tenants to reverse a court’s order of eviction – also declined nearly 14 percent, while the volume of residential eviction cases filed remained largely stable, suggesting increased efficiency in the courts with the increase in legal representation.

Next Steps

The investment of resources in legal representation for civil legal services is taking hold and in 2017 providers will fully ramp up their services. Also in 2017, OCJ will be releasing its second Annual Report and along with it the City’s first five-year plan for increasing and enhancing civil legal services for low-income New Yorkers. We expect that the expansion and full funding of services will mean that even more tenants in need will have a more level playing field in court. However, we also know that we must study these programs carefully to fully understand the impact of the funding increases and how they relate to other investments this Administration has made with respect to fighting income inequality.

Homelessness Prevention Administration

To complement these direct investments in legal services, and as part of HRA’s overall reform effort, we created the Homelessness Prevention Administration. While HRA has always provided some homelessness prevention services, over the past two years we consolidated all of

the HRA homelessness prevention programs into a single unit, most recently, as a result of the Mayor's 90-day review of homeless services, including Homebase.

Homebase plays a critical preventative role, and in addition to transferring the unit from DHS to HRA, we are expanding the scope of Homebase as the first point of entry for those at risk of homelessness so that people can be served in their home borough. Further, we are realigning the roles of HRA staff at Homebase to prevent evictions and provide assistance. This integration will reduce inefficiencies and allow for more seamless and effective client service delivery.

Staff will use data analytics to proactively target prevention services for the most at-risk. There will be expanded onsite processing and triage for HRA benefits, including public assistance and rental assistance and Homebase nonprofit staff will expand their case management services to include family mediation, educational advancement, employment and financial literacy services.

Additionally, within the HRA Homelessness Prevention Administration, the Early Intervention Outreach Team receives early warning referrals from Housing Court Judges, early warning referrals from NYCHA for tenant arrears cases, Adult Protective Services referrals and referrals from New York City marshals. This team also works closely with the City's Tenant Support Unit to refer low-income New Yorkers to legal services providers under contract with HRA to help them avert eviction, displacement and homelessness.

Another key component of HRA's homelessness prevention work is rental assistance. The HRA budget reflects the Administration's continuing comprehensive initiatives to prevent and alleviate homelessness within the City, which has built-up over many years. During this same time, the Administration restored rental assistance programs that had been eliminated in 2011.

After Advantage – the State and City's rental assistance program supporting thousands of families – was cut in 2011, the City's shelter population increased exponentially from about 37,000 to nearly 51,000 between 2011 and 2014. Over the past two years, the new rental assistance programs and other permanent housing efforts have enabled 40,540 children and adults in 13,806 households to avert entry into or move out of DHS and HRA shelters.

We have also helped more people with emergency rent assistance, keeping thousands of New Yorkers in their homes. In FY13, HRA provided rent arrears to 42,000 households at a cost of \$124.1 million. In FY15, HRA provided rent arrears to nearly 53,000 households at a cost of \$180.7 million. The increase in spending of 46 percent resulted from increased monthly rents that families and individuals have to pay, additional households being found eligible due to the increasing gap between rents and income, and enhanced targeting of these services to prevent homelessness through partnerships with community-based organizations.

From January 2014 through June 2016, about 131,000 households – including about 390,000 people – received emergency rental assistance to help them stay in their homes, averaging about \$3,600 per case, which is much less than the \$41,000 a year for a family in a shelter.

Providing legal services and rental assistance is much less expensive than the cost of a homeless shelter. And, of course, no price can be put on averting the human costs of homelessness. I am very pleased to see that our efforts to help those in danger of losing their homes avoid eviction

are taking hold. There is certainly more to do, and we look forward to continuing to work with the Council to address the issues that are presented at this hearing.

Now I would like to turn it over to Steven Foo from DFTA who will detail legal services for seniors supported by DFTA.

Legal Services for Seniors Supported by DFTA

As the largest Area Agency on Aging (AAA) in the United States, DFTA administers and promotes the development and provision of accessible services for older New Yorkers. It is DFTA's mission to work to eliminate ageism and ensure the dignity and quality-of-life of New York City's diverse older adults, and for the support of their caregivers, through service, advocacy and education. As a City agency and an AAA under the Federal Administration for Community Living, DFTA receives Federal, State and City funds to provide essential services for seniors. Through contracts between DFTA and community based organizations, this funding provides congregate meals and activities at senior centers, home delivered meals, case management, home care, transportation, caregiver services, and legal services, among other programs.

The Federal Older Americans Act (OAA) designates legal assistance as a priority service under Title III-B¹ funding. The State Office for the Aging (SOFA) is responsible for the overall administration of the program, while direct legal services to older individuals are funded at the local level through Area Agencies on Aging and provided by their legal assistance providers. DFTA, as an AAA, operates its own legal assistance program. Legal services offered through the program are accessible and available to those individuals aged 60 and over in greatest economic and social need throughout the City.

To meet statutory and regulatory requirements, and consistent with this Administration's efforts aimed at reducing income inequality and combating poverty, DFTA targets its legal assistance programs to particularly needy populations of older New Yorkers. In accordance with the OAA, this includes those in greatest economic or social need, low-income minorities and rural elders. DFTA's legal programs are therefore targeted at senior New Yorkers who:

- Have assisted living needs;
- Have chronic health problems;
- Have particular problems of access to health care;
- Are homeless, or threatened with homelessness;
- Live on a subsistence income, or are threatened with the loss of subsistence income;
- Have language barriers; and
- Are victims of abuse, neglect or exploitation (including fraudulent and deceptive financial and consumer practices).

In FY16, DFTA received \$1.25 million for Title III-B funded legal services for seniors, which covered 28,795 direct service hours. The DFTA contracted legal assistance providers are LSNY Bronx Corporation for the Bronx, Legal Services NYC for Brooklyn, MFY Legal Services for

¹ 42 U.S.C. § 3026(a)(2); OAA § 306(a)(2).

Manhattan, JASA for Queens, and the Legal Aid Society for Brooklyn and Staten Island. These organizations provided legal assistance, advice and representation to senior New Yorkers in areas including:

- Income
- Health care
- Long-term care
- Nutrition
- Housing and utilities
- Defense of guardianship
- Abuse, neglect and exploitation
- Age discrimination

In addition, DFTA supports the Assigned Counsel Project (ACP), which is a joint project of DFTA and the New York City Civil Court Access to Justice Program, which pairs staff and supervised social work students with contracted community-based legal services providers to represent seniors in Housing Court eviction proceedings, assess these seniors for psychological-social needs and then connect these seniors with needed services and benefits. Seniors are eligible for ACP if they are Housing Court litigants who are 60 years of age or older with economic and social services needs. ACP was funded at \$868,700 in FY16, which covered 511 cases in Housing Court. The ACP contract providers are the New York State Unified Court System for the Bronx, Legal Services NYC and the Legal Aid Society for Brooklyn, MFY Legal Services for Manhattan, and JASA for Queens.

Thank you for the opportunity to testify today. We look forward to your questions.



Testimony before the City Council Committee on Aging:

Providing legal counsel for senior citizens subject to eviction, ejection or foreclosure proceedings.

October 26, 2016

Good morning. My name is Caroline Nagy, and I am the Deputy Director of Policy and Research at the Center for NYC Neighborhoods. I would like to thank Chair Chin and the members of the Committee on Aging for holding today's hearing on the important topic of legal representation for senior New Yorkers at risk of losing their homes through eviction, ejection or foreclosure proceedings.

About the Center for NYC Neighborhoods

The Center promotes and protects affordable homeownership in New York so that middle- and working-class families are able to build strong, thriving communities. Established by public and private partners, the Center meets the diverse needs of homeowners throughout New York State by offering free, high quality housing services. Since our founding in 2008, our network has assisted over 40,000 homeowners. We have provided approximately \$33 million in direct grants to community-based partners, and we have been able to leverage this funding to oversee another \$30 million in indirect funding support. Major funding sources for this work include the New York City Department of Housing Preservation and Development, the New York City Council, and the Office of the Attorney General, along with other public and private funders.

As part of our foreclosure prevention services, the Center also administers the Senior Homeowner Initiative, a City-Council funded program launched last year to reach out to and support some of the City's most vulnerable homeowners. During the first year of the initiative, over 200 senior homeowners received direct legal or counseling services, and over 5,000 senior homeowners were reached through combined outreach methods.

Supporting Senior Homeowners

Seniors are the fastest growing demographic in New York City, estimated to increase from 1.4 to 1.8 million persons over the next 15 years.¹ New York City seniors also have high homeownership rates: thirty-seven percent of all 1-4 family homeowners are seniors, and an additional 241,000 (42 percent) are ages 45-61 and will become seniors over the next 15 years.²

While foreclosures impact New Yorkers of all ages, senior homeowners are especially vulnerable for a number of reasons.

- **Income Insecurity:** Seniors typically live on a fixed income with limited resources, while the rising cost of living and medical expenses leave them vulnerable to financial shocks. Seniors

¹ Suzanne Travers, Aging in New York: City Wrestles with Poverty Among Seniors, City Limits, June 25, 2015. Available at: <http://citylimits.org/2015/06/25/nyc-wrestles-with-poverty-among-seniors/>

² U.S. Census Bureau; American Community Survey, 2014 New York City Housing and Vacancy Survey.

receiving foreclosure prevention services from the Center's network have an average income of \$29,600, compared to \$61,000 for homeowners of all ages served.

- **Vulnerability to Scams:** Seniors are also particularly vulnerable to foreclosure rescue scams, such as deed theft. Scammers will target seniors because they are more likely to have equity in their homes, and also because they may have health or cognitive challenges that make them more susceptible to scams and prevent them from seeking legitimate help.
- **Home Repair Needs:** Seniors also often reside in aging housing structures. With 41 percent of NYC's housing built before 1930, senior homeowners struggle to maintain roofs, windows and heating systems, in addition to needing retrofits that could enable them to age in place. Furthermore, many senior homeowners and social service providers are not aware of supports available to help manage these challenges.
- **Reverse Mortgages:** In addition to mortgage foreclosures, seniors are also at risk of reverse mortgage foreclosures. Reverse mortgages are a unique type of mortgage loan that allows homeowners 62 and older to tap into their home equity without repaying until they move out, sell the home, or pass away. This product is a useful and necessary resource for many senior homeowners with fixed incomes that are insufficient to cover their living expenses. However, if a senior falls behind on property taxes, insurance, or needed home repairs, the lender will move to foreclose, and we have seen a sharp increase in the number of reverse mortgage foreclosures in the last year.

The Foreclosure Process in New York

Today, tens of thousands of New York City seniors and their families are in foreclosure, while many more struggle to make monthly mortgage payments. Between February 2011 and August 2016, nearly 75,000 New York City homes received a foreclosure complaint from their mortgage lender, which starts the legal foreclosure process. Upon receiving a foreclosure complaint, it is very important that the homeowner files a timely answer: otherwise he or she will lose the right to raise certain defenses to the foreclosure, as well as other important protections.

For homeowners facing mortgage foreclosure, the next step in the process is a series of settlement conferences that are mandatory under New York state law. During settlement conferences, both parties are required to negotiate in good faith to try to resolve the issue. One such resolution could be a loan modification, which will allow the homeowner to begin paying their mortgage again under new terms and stay in their home. They might also agree to a short sale, which will allow an underwater homeowner to sell the property for less than what is owed on it. For seniors with substantial equity in their homes, they may be able to avoid foreclosure by taking out a reverse mortgage and using the proceeds to pay off the original mortgage. If a settlement is not reached, the foreclosure case will proceed in court, with the bank seeking default judgment if the homeowner did not answer, or summary judgment if they did. In rare cases, if the homeowner raised defenses, the case may proceed to a trial, though many homeowners without attorneys are unable to oppose a motion for judgment which is then granted on default.

For seniors facing reverse mortgage foreclosure, two major key protections under state law do not apply: seniors do not receive 90-day pre-foreclosure filing notices, and mandatory settlement conference law currently does apply, though there is pending legislation in Albany to change this. Therefore, reverse mortgages can move quickly and the assistance of counsel is essential to negotiate with the lender, attend hearings, and keep the homeowner in place.

The Importance of Obtaining Legal Counsel in Foreclosure Cases

The foreclosure process is highly complicated, and regardless of which outcome the homeowner seeks, it is crucial that he or she consult with a trustworthy attorney who is knowledgeable about New York state foreclosure law immediately upon receiving the foreclosure complaint. It is especially important to connect homeowners to trustworthy help because foreclosure rescue scams are highly prevalent in New York City.

Because foreclosure is a public process, once a foreclosure action is started against a homeowner, that homeowner's address is publicly available and he or she will quickly be deluged with fraudulent offers of assistance from so-called "foreclosure prevention experts" and out-of-state attorneys. For homeowners seeking a resolution to their foreclosure despair, it can be very difficult to know whether an offered service is legitimate, and scams can cost homeowners thousands of dollars and delay them from obtaining legitimate help. In the worst cases, we have even seen scammers tricking homeowners into signing over the deed to their homes.³

Homeowners Served by the Center

Today, New York City homeowners can obtain high-quality housing counseling and foreclosure prevention legal services available free-of-charge to all New Yorkers through Attorney General Eric Schneiderman's Homeowner Protection Program, which the Center manages in New York City. Homeowners can access these services through 311 or by calling the Attorney General's Homeowner Protection Program Hotline at 855-HOME-456. When New York City homeowners call the Center, we can make referrals to dozens of partnering nonprofits throughout the five boroughs that provide high quality housing counseling and legal services free of charge.

Of the 40,000-plus homeowners served by the Center and its partners since 2008, almost a third (27 percent) are over 62. The majority of these seniors (61 percent) would qualify for counsel under the proposed legislation. Overall, we've served nearly 5,700 seniors who earn less than \$50,000 over the last eight years.

Future Unclear for Foreclosure-Prevention Services Funding

While new foreclosures have returned to pre-crisis levels, tens of thousands of New York City families remain in the foreclosure process. Today these homeowners have access to a highly-funded network of

³ Stephanie Saul, Real Estate Shell Companies Scheme to Defraud Owners Out of their Homes, New York Times Nov. 7, 2015. Available at <http://www.nytimes.com/2015/11/08/nyregion/real-estate-shell-companies-scheme-to-defraud-owners-out-of-their-homes.html>

foreclosure prevention services that receive substantial funding from New York Attorney General Eric Schneiderman's Homeowner Protection Program, as well as funding from City Council, HPD, and private foundations.

Unfortunately, the Homeowner Protection Program, which is paid for by one-time settlements with financial institutions for their misdeeds leading up to the crisis, is set to end in October 2017. And, now that the foreclosure crisis is receding from the headlines, many private foundations have shifted their priorities away from funding foreclosure prevention services. This will leave a serious gap in foreclosure prevention funding, and will likely cause a large reduction in the number of homeowners we can serve going forward.

Moving to Solutions

At the Center, we are working to identify alternate sources of funding for foreclosure prevention legal services and to educate City and State decisionmakers about the importance of foreclosure prevention services funding going forward.

Thank you for the opportunity to testify today. We commend the City Council for your leadership in bringing this issue to the forefront and for proposing solutions that will ensure access to crucial legal services. We support you in this very important work, and we look forward to continuing to partner with you to keep more New Yorkers in their homes.

**New York City Council
Committee on Aging
Council Member Margaret Chin, Chair
October 26, 2016**

**Testimony by LiveOn NY
Intro. 0096-2014**

LiveOn NY thanks Committee Chair Margaret Chin and Council Member Rosie Mendez for holding a hearing on the Right to Counsel in Housing Court.

At the core of LiveOn NY's mission, is the desire to make New York a better place to age and to support our membership organizations, numbering over one hundred non-profits providing services to seniors throughout all five boroughs. We are pleased to focus our efforts towards promoting better policy which will provide for better aging both today and for the years to come.

LiveOn NY is an active member of the New York City Right to Counsel coalition, and has supported these eviction-prevention efforts for a number of years. We applaud Council Member Mendez in her initiative and foresight towards the need for a Right to Counsel in Housing Court. In part through Council Member Mendez's bill, this need for a Right to Counsel in Housing Court has since been recognized and expanded upon to include all low-income New Yorkers up to 200% of the poverty level, regardless of age. Seniors have remained at the forefront of all efforts regarding the Right to Counsel. Council Member Mendez's initiative of this dialogue has been both laudable and integral to the Coalition's success.

By providing low-income New Yorkers the right to a lawyer in housing court, the Right to Counsel is groundbreaking. For seniors, the prospect of eviction could not be more devastating, as research clearly shows the importance of aging in place to a senior's health and quality of life. The stress of possibly losing your home and being disconnected from the social networks built over decades can have substantial adverse effects on the health of an older adult. Rates of depression are decreased and life expectancy is increased by aging in place, which can only be achieved through secure and stable housing in a community.

Seniors are anchors in their communities and have often lived in their homes for decades. The inability to pay for legal representation should not undermine the community roots they have worked so hard to maintain. Currently, over 200,000 older New Yorkers sit on waitlists to secure affordable housing, as found by a research study, "Through the Roof- Waiting Lists for Senior Housing" conducted by LiveOn NY. With the increasing difficulties that all tenants face to merely secure affordable housing, their shelter should not be easily stripped away, nor should they live in fear of unjust eviction.

Further, currently an estimated 3,000 seniors are homeless, sleeping in shelters or on the street every night. Data shows an estimated 37% of homelessness having stemmed from eviction, meaning that many may have avoided the harrowing experience of homelessness, if they had only received proper legal representation. New York has a moral obligation to ward against these unjust evictions for all New Yorkers.

Seniors, and all New Yorkers, need and deserve due process of law. Affirmed in the Constitution and provided for in criminal court cases, due process of law cannot be maintained without representation. With so many tenants unable to afford representation, and landlords recognizing the unbalanced nature of housing court, it is time that the city tips back the scales towards a fair, equal, and just process.



Making New York a better place to age

Again, LiveOn NY recognizes that the benefits of the Right to Counsel are not limited to seniors alone, and supports the efforts of the Coalition to expand this right to all low income New Yorkers. LiveOn NY supports Council Member Mendez's impetus to these efforts and looks forward to joining together to support the Right to Counsel for low-income seniors, and the rest of New York City.

LiveOn NY is dedicated to making New York a better place to age. Founded in 1979, with a membership base of more than 100 organizations ranging from individual community-based centers to large multi-service organizations, LiveOn NY is recognized as a leader in aging. LiveOn NY's membership serves over 300,000 older New Yorkers annually and is comprised of organizations providing an array of community based services including elder abuse prevention and victims' services, case management for homebound seniors, multi-service senior centers, congregate and home-delivered meals, affordable senior housing with services, transportation, NORCs and other services intended to support older New Yorkers. LiveOn NY connects resources, advocates for positive change, and builds, supports and fosters innovation. Our goal is to help all New Yorkers age with confidence, grace and vitality.



**LEGAL
SERVICES**

INCORPORATED

TESTIMONY

IN SUPPORT OF

**INTRO NO. 96-2014, IN RELATION TO PROVIDING LEGAL COUNSEL FOR
SENIOR CITIZENS SUBJECT TO EVICTION, EJECTMENT OR
FORECLOSURE PROCEEDINGS**

PRESENTED BEFORE:

**THE NEW YORK CITY COUNCIL'S
COMMITTEE ON AGING**

SUBMITTED BY:

**JEANETTE ZELHOF
EXECUTIVE DIRECTOR
MFY LEGAL SERVICES, INC.**

OCTOBER 26, 2016

**MFY LEGAL SERVICES, INC., 299 Broadway, New York, NY 10007
212-417-3700 www.mfy.org**

Introduction

MFY Legal Services (“MFY”) 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, community education, partnerships, policy advocacy and impact litigation. We assist more than 20,000 New Yorkers each year. The mission of MFY’s Housing Project is to prevent homelessness and preserve affordable housing in New York City. In furtherance of that mission, MFY provides advice and full legal representation to tenants citywide and litigates in Housing Court, New York State Supreme Court and before administrative agencies on behalf of tenants in all types of housing, including rent-regulated apartments, New York City Housing Authority apartments, single room occupancy hotel rooms (SROs), and Three-Quarter Houses.

MFY supports the passage of Intro 96-2014 (“Intro 96”) and believes that it is critical legislation that will ensure equal access to justice for elderly tenants who, without legal representation, would be unjustly stripped of one of the most fundamental human rights: a home. As the law currently stands, tenants in eviction proceedings do not have a right to an attorney. Therefore, most tenants are left alone to confront complex legal doctrines, an intimidating court system, and—in nearly every case—an experienced landlord’s attorney. The consequences of this imbalance of power are especially grave for elderly tenants, who are, on the one hand, more likely to be disabled, ill, and isolated, and on the other hand more likely to live in regulated housing targeted by aggressive landlords.

Intro 96 would help close the justice gap by establishing a right to free legal counsel for New York City seniors over the age of 62 who are facing an eviction proceeding with a household income at or below the eligibility ceiling for the Senior Citizens’ Rent Increase Exemption (“SCRIE”), which is currently \$50,000.00. This bill, if passed, will save countless elderly residents from homelessness or institutionalization. It will also save the City and State millions by allowing

senior citizens to age in place, avoiding unnecessarily long hospital stays, and relocation to adult homes and nursing homes.

MFY Legal Services also strongly supports Intro 214-2014 (“Intro 214”), which would provide a right to counsel for all New Yorkers with incomes below 200% of the federal poverty level facing eviction, ejection, or foreclosure. We support Intro-96 as complementary to, and not as a replacement of, Intro 214. The well-being of New York City’s senior citizens is tied to that of their younger neighbors and family members. If seniors avoid eviction only to become increasingly isolated as their communities are eroded around them, then our efforts will have been in vain.

Evictions Are Especially Frequent and Devastating for Senior Citizens

It is without question that New York City is in the midst of a homelessness crisis. In the last year alone, over 23,000 families in New York City were evicted from their homes.¹ Over the past fifteen years, the homelessness population has almost doubled and recently hit its highest rate since the Great Depression. While such statistics are shocking when looked at in a vacuum, they are not surprising given the high eviction rate. Eviction and homelessness are interconnected because many low-income families have no alternative options for housing in New York.

Older New Yorkers are especially vulnerable to eviction. As long-time residents, they are more likely to live in rent-regulated or subsidized homes that are coveted by aggressive landlords. In 2011, one predatory landlord was found to be wooing investors with a promise of 50% turnover in “under-utilized assets” that were largely senior citizen-occupied rent-regulated apartments. Because of periodic medical absences, elderly tenants are more likely to be taken to Housing Court based on allegations that they are not residing in their rent-regulated apartments. Isolated, disabled seniors are more likely to be evicted for “nuisances” such as forgetting to turn off a stove or failing to keep their apartments clean. Nearly all of these evictions can be prevented if the tenant is represented by a lawyer who can raise legal defenses and connect seniors with needed services.

¹ See New York City Housing Court Statistics, 2015 Summary of Evictions, Possessions & Ejections Conducted, available at http://www.nycourts.gov/courts/nyc/SSI/statistics/Stats_2015SEPEC.pdf.

While eviction and the resulting displacement are devastating for all households, they can be especially severe for the aged. The world becomes smaller as one ages. Elderly people become more focused on the local and the familiar: their local library, shopping at local stores and pharmacies, and seeing local health care providers. In addition, older people tend to rely on personal relationships to make up for the above losses of ability. Thus, they depend increasingly on relationships with their pharmacists, health care providers, bank tellers, and local merchants who can be relied on and trusted to provide personalized assistance. For older people experiencing memory loss, routine and familiar surroundings and relationships are essential in maintaining independence and daily life functions. For all of the above reasons, an unwelcome move can precipitate a rapid downward spiral for an older person. It can lead to depression, physical challenges that exacerbate existing health conditions, and isolation. The loss of trusted health care providers can mean less effective medical care or even missing care entirely if an older person is too overwhelmed to find new providers and establish new care relationships.

The consequences of the massive eviction rate in the City reverberate far beyond any individual. With the enormous rise in the elderly population projected over the next decade, attention must be paid to preserving housing in which seniors are already living. Unless this is done, the costs to the City (and State) will far outweigh the cost of providing a lawyer in Housing Court. MFY's daily experience shows this -- seniors who are evicted are placed in adult homes or nursing homes costing double the SSI rate for adult homes and upwards of \$100,000 per year for nursing homes.

Providing Free Legal Counsel Reduces Evictions

When tenants are summoned into Housing Court, they are lost without an attorney to help them navigate the legal system. The housing laws that apply in New York City are comprehensive and complicated. Housing Court can be an unforgiving place, where critical decisions are often made in crowded, noisy hallways. Tenants often do not understand the adversarial system, and frequently confuse a landlord's attorney as someone from whom to seek advice. In an effort to resolve a case under these circumstances, tenants fail to assert rights and defense, do not get necessary repairs, sign stipulations agreeing to vacate apartments without knowing they can access benefits to preserve their housing, do not challenge incorrect rent amounts and when they do agree to payouts, are pressured to do so without sufficient time and agree to judgments. All of this occurs because,

until recently, approximately 99% of tenants appeared *without counsel* in Housing Court.² In contrast, approximately 90% of landlords were represented.³

MFY Legal Services has seen firsthand the difference a lawyer can make to a senior in Housing Court. For over ten years, MFY, along with Northern Manhattan Improvement Corporation, has been the Manhattan provider for the Assigned Counsel Project (ACP), a Department for the Aging (DFTA) initiative, through which the Manhattan Housing Court refers approximately 130 eviction cases. ACP has been, in many ways, a pilot “right-to-counsel” project. Tenants who are over 60 years of age and in particular need of legal assistance are identified by judges and referred by the court to the legal services provider in that borough, which is obligated to provide representation regardless of the perceived merit of the case or income of the respondent, and DFTA provides case management services. ACP cases tend to be more complex and pose greater challenges than the average Housing Court case. The clients are elderly, disabled, isolated, and often homebound or hospitalized. Many have limited capacity, and most are unable to reach out to legal services providers on their own or have no knowledge that legal services are available. Those that may have contacted legal services providers are sometimes turned away because they present, at first, as seemingly “hopeless” cases, and legal services providers with insufficient staffing try to take cases in which they can make a difference. Yet once these tenants are assigned lawyers through the ACP, we prevent eviction in the vast majority of the cases. For the remainder, it may become clear that it is no longer appropriate for the tenant to live independently – for example, even if we were to obtain 24/7 home care for them they would still be unable to make decisions for themselves -- or the tenant simply may no longer be able to afford the apartment, even with available benefits. In the instances where we cannot prevent eviction, we work with DFTA and other service providers to provide as much support as possible to the tenant in finding another place to live -- support that is rarely available to unrepresented tenants.

ACP’s success rate can be attributed in part to experienced housing lawyers who find legal defenses not apparent on first look. The success can also be attributed to the change in landlord

² See New York State Courts Access to Justice Program 2010 Annual Report, 1; New York State Courts Access to Justice Program 2013 Annual Report, 32.

³ Id.

and landlord's counsel's behavior when the tenant is represented and, to a large extent, to the institutional support given by DFTA staff and social workers to address the ancillary social service issues that frequently put seniors at risk of eviction in the first place. Having a lawyer and social work support means not only avoiding eviction in the short term but stabilizing the person in the long term by addressing the underlying problems that led to the brink of disaster, such as loss of benefits or other income, need for physical and/or mental healthcare or a guardian, consumer debt problems, or need for home care. The lesson is clear: far more evictions are preventable than meet the eye, and even in the seemingly hopeless cases, legal representation makes a difference. And due to our ability to address the issues that cause tenants to be brought to court in the first instance, legal representation means there is a less likelihood of tenants ending up back in Housing Court. MFY also urges the Committee to consider allocating any funding to create a Right to Counsel for Senior Citizens to DFTA to maintain the existing synergy where an agency dedicated to a particular population is working with experienced lawyers and social workers and the court system.

The Need for a "Right," Not Simply Increased Funding

We are extremely appreciative of the commitment to, and the enormous efforts that have gone into providing, increased funding for anti-eviction work. Already this funding is making a difference in the lives and communities of low-income New Yorkers. But despite the increased funding committed by this administration, most elderly tenants still lack representation. Moreover, the funding is temporary and a policy change could cause all funding to cease. If that occurs, the progress that has recently been made would be for naught, and the City would experience a significant rise in eviction proceedings resulting in homelessness and more. In order to staunch the increasing gap between rich and poor in this City, this effort must be ongoing and not subject to political winds. A Right to Counsel will preserve the integrity of a court system intended to purports to mete out justice, showing that our justice system is for all, not just for some.

Conclusion

In conclusion, MFY Legal Services strongly supports Intro 96, which will give New York City seniors over the age of 62 who are facing an eviction proceeding with household income at or below \$50,000.00 protection from homelessness by guaranteeing a right to counsel in eviction

proceedings. The justice gap in Housing Court —where the vast majority of landlords are represented by experienced counsel—results in far too many unnecessary evictions and adverse impacts for tenants and the communities in which they live. Intro 96 is a cost-effective and socially responsible means to ensure that New York continues to be a vibrant city of economically, racially, and age-diverse communities.



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**TESTIMONY BEFORE THE NEW YORK CITY COUNCIL COMMITTEES ON AGING
REGARDING INTRO 96**

OCTOBER 26, 2016

Thank you Chairperson Chin, and members of the Committee on Aging, for the opportunity to provide testimony today. This testimony is submitted on behalf of The Legal Aid Society (the Society), the nation's oldest and largest not-for-profit legal services organization. The Society is more than a law firm for clients who cannot afford to pay for counsel. It is an indispensable component of the legal, social, and economic fabric of New York City – passionately advocating for low-income individuals and families across a variety of civil, criminal, and juvenile rights matters, while also fighting for legal reform. It has performed this role in city, state and federal courts since 1876. The Society's unique value is in its ability to go beyond any one case to create more equitable outcomes for individuals and broader, more powerful systemic changes for society as a whole. Through a network of borough, neighborhood, and courthouse-based offices in 26 locations in New York City, and nearly 2,000 attorneys, paralegals, social workers, investigators and support staff, along with volunteer help coordinated by the Society's *Pro Bono* program, we provide comprehensive legal services to fulfill our mission that no New Yorker should be denied access to justice because of poverty. Through three major practices — Civil, Criminal, and Juvenile Rights — the Society handles approximately 280,000 cases a year in city, state, and federal courts.

The Society's Civil Practice improves the lives of low-income New Yorkers who struggle daily to buy food, pay rent, achieve or maintain self-sufficiency, and keep themselves and their children healthy and safe. The Civil Practice is able to address a broad range of legal problems, including; housing, homelessness prevention, and foreclosure prevention; family law and domestic violence; employment issues faced by low-wage workers; public assistance; Supplemental Nutrition Assistance Program (SNAP) benefits; disability-related assistance; health law; HIV/AIDS and chronic diseases; elder law; tax law for low-income workers; consumer law; education law; immigration law; community development legal assistance; and reentry and reintegration matters for formerly incarcerated clients returning to the community.

The Civil Practice's Comprehensive Housing Practice is our largest practice area and comprised more than 45% of our total caseload during the last fiscal year. Through our

Comprehensive Housing Practice in all five boroughs, the Society provides comprehensive anti-eviction legal services to low-income New Yorkers to prevent homelessness. Since its inception in the 1870s, The Legal Aid Society has been at the forefront of the fight to protect the most vulnerable members of New York City. Whether through long-time advocacy for the right to counsel in criminal defense or juvenile justice issues earlier in our history; or to directly address emergent or systemic issues our client communities face, the Society acts as one of New York City's first responders, protecting and enforcing the legal rights of families and individuals. Amidst all-time record homelessness, high unemployment throughout our client communities, and the ongoing and increasingly acute affordable housing shortage, New York City's low-income families and individuals are in critical need of protection.

Introduction

In line with our support of the Council's efforts to provide counsel for all low income tenants, we support the Council's efforts to provide counsel for low income seniors(62 and over) that face losing their home in eviction, ejection or foreclosure proceedings.

The Legal Aid Society has prioritized housing assistance throughout our 140-year history. In recognition of the myriad of challenges our clients face, The Legal Aid Society organizes our housing practice through a number of programs. Our housing practice, which is present in all five counties, offers critical legal services to prevent homelessness through direct representation of tenants facing eviction in nonpayment and holdover proceedings. We are able to help low-income New Yorkers maintain affordable housing, ensure landlords maintain habitability standards, obtain and preserve rent subsidies for clients, fight illegal rent overcharges and prevent evictions. These efforts prevent homelessness and displacement and save the City and State millions of dollars each year in averted shelter costs alone.

Those that find themselves facing the loss of their home in Housing Court are typically amongst our most vulnerable populations. According to the 2014 Report of the New York Task Force to Expand Access to Legal Services, 99% of the tenants that appeared in eviction proceedings in 2013 did so without counsel. The respondents in these cases are typically low income families and single people struggling to pay their rent. Many elderly tenants rely on a fixed income and rely on some rental subsidy to pay a large portion of their rent or to prevent their rent from increasing. Within the City, the highest percentage of people over 65 living below the poverty level are Bronx County (at 22.8%), Kings County (at 22.3%), and New York County (at 17.6%). They are typically unaware of their rights, lack the resources to defend against an eviction proceeding and often have difficulty understanding the papers served upon them. Some are not even aware that they can seek legal counsel. In these proceedings, access to counsel is synonymous with access to justice. There can be no justice in any adversarial proceeding where one side has legal counsel and the other side has none. Providing counsel to this particularly vulnerable population is an essential tool in the fight to preserve affordable housing that is increasingly growing out of reach for many, as well as to prevent homelessness and save shelter costs for the government. It also stabilizes our communities, and reflects our highest values of fairness and equality.

Legal services are especially important given the nature of summary eviction proceedings where crucial events transpire before a tenant is able to seek legal counsel. No one can dispute that the housing laws in New York City are incredibly complex. Housing Court summary proceedings work against all tenants and in favor of owners whose objective is to secure an eviction as quickly as possible, avoiding judicial evaluation of any tenant defenses/claims or owner failures.

Also, homelessness is best addressed at the earlier stages of housing insecurity through eviction prevention. A right to counsel in Housing Court, is not only more humane, but also significantly more effective. The City's own studies as well as others have shown that tenants receiving legal assistance are significantly more likely to avoid eviction and the homelessness that often follows.

Finally, the current lack of affordable housing underscores the need for competent counsel that will seek comprehensive solutions and will help tenants identify and access the range of services available to ensure they remain in their homes. Having counsel is particularly crucial in light of the devastating effects of an eviction. Long term tenants who are evicted will face a rental market that is increasingly unaffordable to them. According to the Mayor's 2014 report entitled "Housing New York, a Five Borough, Ten Year Plan" in 2011, there were nearly one million households who earned less than 50% of Area Median Income (AMI), or less than \$41,950 for a family household of four, yet there were only 425,000 available rental units that were affordable to those households.¹ Typically, a tenant's rent is considered affordable if they are paying 30% or less of their income towards the rent; anything beyond this is considered a rent burden. Presently, the median gross rent to income ratio for rent stabilized tenants is 36.4% of their income, an increase of 1.6% since 2011. The U.S. Census Bureau's American Community Survey indicates that 90% of "extremely low income"² New Yorkers are rent burdened³ and 70 percent are "severely rent burdened," spending more than half their income on rent. For clients represented through our Housing Help Program, a courthouse based tenant defense program targeting some of the lowest income neighborhoods in the City, the average client income is \$13,136 annually and their average rent in FY 2016 was \$1,140 per month. It is no coincidence that for the seventh straight year overall homeless levels have increased and in July 2016 there were 60,456 homeless people, including 15,156 homeless families with 23,425 homeless children, sleeping each night in the New York City municipal shelter system. Families comprise just over three-quarters of the homeless shelter population.⁴

¹ These households break out into two categories: Extremely Low Income (0-30% AMI - annually income of less than \$25,150 for a household of four) and Very Low Income (31-50% AMI or annually income between \$25,151 - \$41,950 for a household of four).

² Families who earn less than 30% of AMI

³ Defined by HUD as "families who pay more than 30 percent of their income for housing and may have difficulty affording necessities such as food, clothing, transportation and medical care."

⁴ NYC Department of Homeless Services and Human Resources Administration and NYCStat shelter census reports

Housing Practice

The Legal Aid Society's Brooklyn Office for the Aging ("BOFTA") assists Brooklyn residents age 60 and older with civil legal matters. While services are provided for issues related to government benefits, rights of persons in congregate care facilities, family law, consumer, advance directives and estate planning, eviction prevention services are of particular concern. Over half of the elderly New York City residents that seek legal assistance from the Legal Aid Society are tenants dealing with a landlord tenant matter. Using a team of lawyers, social workers, a paralegal, volunteer attorneys and support staff, the office provides an interdisciplinary and comprehensive approach to tackle the myriad legal problems faced by the low-income elderly population of Brooklyn. Clients served through this project benefit not only from the services offered by BOFTA, but also from the in-house presence of legal services expertise in an array of practice areas throughout the Society.

Seniors are especially vulnerable to eviction, for reasons that don't affect the general population. They frequently live alone; their incomes are usually fixed; their health is in decline or already compromised; they are susceptible to financial and emotional abuse by family members or other individuals posing as caretakers; and their capacity to take care of themselves is diminished. Seniors are attractive targets for ruthless and profiteering landlords who seek the recovery of long-term rent-regulated tenancies. Landlords find it easier to intimidate seniors and often use scare tactics to force them to surrender their long term homes. A right to counsel program can prevent the campaign of baseless evictions against seniors by directly connecting these seniors to legal services. In addition to benefiting from legal counsel, seniors referred to offices like BOFTA are also linked with important social services that can further stabilize these seniors' lives.

The stories of two seniors citizens recently assisted by Legal Aid attorneys highlight the extraordinarily value of accessibility to legal counsel for the elderly facing eviction. Mr. M was a 67 year old senior with significant health issues and a limited education who subsisted on SSI. He had been residing in his home with his partner of 25 years until she passed away in 2013. His partner, Betty, had been the tenant of record of their rent-stabilized apartment. They had never been legally married but lived together as husband and wife for 25 years prior to her death. Apart from a "wedding" ring he wore on his ring finger, a few photographs, and the program from Betty's memorial service that identified him as her "husband", Mr. M had no physical evidence or documentation of their relationship. Such evidence was necessary to prove that he had succession rights to the apartment as the tenant of record's nontraditional family member. Mr. M's Legal Aid attorney was able to find and string together three other witnesses to testify on Mr. M's behalf and verify the spousal-like relationship between him and the tenant of record. Two of the witnesses were the tenant of record's family members. A third witness was security staff at the nursing home where Betty had been admitted a few months prior to her death. That witness testified that Mr. M had visited Betty every day and stayed with her for hours at a time. He was so present during her stay at the nursing home, that the security staff assumed he was her husband and referenced him as such. Had Mr. M not been able to access legal counsel through a referral from the court, he would have undoubtedly been evicted from his long term home. Mr. M would not have been able to present his case during trial nor would he have understood the burden of proof he had in demonstrating his relationship with the tenant of record. He would have lost his home of over 25 years and would not have been able to find

another affordable apartment to live in because of his limited income and resources. He would have certainly ended up in a shelter.

Ms. T was an 80 year old senior living in her long term home, a rent stabilized apartment, when her landlord commenced a baseless holdover proceeding in 2013. With Legal Aid's assistance Ms. T was able to force the landlord to discontinue the case and agree to complete extensive repairs in her apartment. Due to the invasive nature of these repairs, Ms. T agreed to temporarily relocate from her home for a year's time. Upon the expiration of the temporary relocation period, the landlord refused to give Ms. T access to her apartment and it was discovered that the landlord had in fact gut renovated the entire building. Legal Aid attorneys commenced an action in Supreme Court demanding that the landlord comply with the relocation agreement and allow Ms. T to move back into her apartment. The action also sought a declaration that Ms. T's tenancy would remain rent stabilized and that her rent would be calculated accordingly. The landlord, in a new settlement agreement, agreed to move Ms. T back into a new (larger) apartment at an affordable rent with a rent stabilized lease. Ms. T and her family have since moved back into the building into a new and fully renovated apartment. Ms. T, who subsists solely on SSI income, would have never had the resources or ability to defend her rights and ultimately return to an affordable and newly furnished home, if it had not been for the Legal Aid attorneys advocating and litigating on her behalf.

The Right to Counsel

We support the Council's efforts to expand the availability of civil legal services to those facing eviction whether through Intro 96 of 2014 or Intro 214 of 2014. The current administration rightly prioritized expanding the availability of civil legal services to low income City residents. New York City has more than tripled funding for civil legal services. For FY 2017, City funding for legal services addressing the needs of low income New Yorkers will total \$110 million; including \$82 million from mayoral initiatives, and nearly \$28 million from City Council discretionary funds. Through HRA, mayoral funding for housing legal services has increased to approximately \$62 million, 10 times the investment made by the previous City administration. The DeBlasio administration recognized tenants in some areas were exposed to high risk for landlord harassment and/or tenant displacement and commenced an Anti-Harassment and Tenant Protection (AHTP) legal services program which funds a large part of the housing expansion at The Legal Aid Society and other legal services providers. With a funding stream that has increased every year since its FY 2015 launch, the program, according to the NYC Office of Civil Justice Annual 2016 report, is expected to serve 13,000 households in FY 2017. It is in this climate that the NYC Office of Civil Justice Annual 2016 report notes that the percentage of tenants represented in evictions proceedings has increased to 27%.⁵ Correspondingly, the number of petitions filed seeking eviction have decreased since 2011 and there was a 24% decrease in the number of residential evictions executed from 2013 to 2015.⁶ The City's efforts to promote stability and prevent displacement in our communities are commendable and these results are encouraging. Unfortunately, there remain even more communities of low income people who are not eligible for the various programs and whose needs remain unmet. As it is for low income tenants the programs target, rent levels are also

⁵ Derived from a sample of 593 cases from April 2016

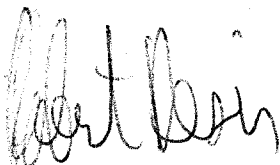
⁶ <http://cwtfhc.org/for-researchers/>

growing increasingly unaffordable to other growing segments of the population. Clearly, there is strong recognition these services are crucial. The families and people that the many programs do not reach, but are struggling nonetheless, remain in danger of displacement and should not continue to go unserved. In addition to the unserved, those that currently qualify for programs should have greater protection than they currently enjoy. With the fundamental issue of someone's home at stake, the level of legal services protection afforded should be elevated to a guarantee – a right – and not left to discretionary funding. Accordingly, we reiterate our support for urge the Council to guarantee tenants this fundamental protection.

Conclusion

Thank you for the opportunity to testify before this committee on this important issue. A right to counsel for those facing the loss of their home is critical to the stability of our communities and the families that inhabit them. No one should be placed in such jeopardy without the benefit of highly qualified counsel to protect their rights. We thank the City Council for introducing this legislation that will help vulnerable populations maintain their homes.

Respectfully submitted,



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TESTIMONY ON:

Int 0096-2014: A Local Law to amend the administrative code of the city of New York, in relation to providing legal counsel for senior citizens subject to eviction, ejection or foreclosure proceedings.

PRESENTED BEFORE:

THE NEW YORK CITY COUNCIL
COMMITTEE ON AGING

MARGARET S. CHIN, CHAIR
ROSIE MENDEZ, PRIME SPONSOR

PRESENTED BY:

CARMEN L. PEREZ
DIRECTOR, N-NORC PROGRAM
COOPER SQUARE COMMITTEE

OCTOBER 26, 2016

Cooper Square Community Development Committee
"Here Today...Here to Stay!"

My name is Carmen Perez and I am Director of the Neighborhood NORC program with the Cooper Square Committee (CSC), a tenants' rights organization in the Lower East Side. Our mission is to work with area residents to contribute to the preservation and development of affordable housing so that the neighborhood remains racially, economically, and culturally diverse. We also seek to maintain the intergenerational diversity of the neighborhood, which is only becoming richer as longtime residents age. Also as the elders in our community – and across New York City – become more numerous, we must recognize and prepare for the specific threats to their housing stability and affordability.

I am very delighted to submit testimony and show support for this bill (Int. 0096-2014) which will provide critical legal services to elders in our community facing eviction, ejection, or foreclosure proceedings.

Intro 96 will address the needs of a growing and distinctly vulnerable population. The CSC is accustomed to counseling low-income tenants on their rights and responsibilities as they confront the often confusing legal structures governing their housing. Through our decades of work, we have seen how easily eviction proceedings can overwhelm even the savviest of tenants, especially if the landlord is engaging in misinformation campaigns, deceitful practices of rental withholding or mortgage loan fraud, lease denials, harassment and outright bullying. The majority of people in housing court do not have an attorney about 75 percent and all too many cases are settled in the hallway in the landlord's favor. These intimidating pressures weigh more heavily on seniors, who account for about 10 percent of evictions.

For example, during the second half of 2014 CSC worked with a senior in his 80's who was sued by Jared Kushner's Real Estate Company, Westminster City Living. The senior in question did have a number of issues in the apartment at the time however Westminster was working through other problems in the building and despite open lines of communication with CSC and never disclosed problems with the senior in question. Westminster instead chose not to discuss the issues that led to them serving the senior with court papers and subsequently taking him to housing court. CSC has resources that could've helped avoid the situation going to court. We later learned about the court case through the senior (thankfully early enough to intervene with eviction) and implement a plan to provide the senior legal support in addition to other resources.

CSC was able to assist the senior and guide him through a potentially detrimental situation and preserve his housing. It frightens us to think of what might've happened had we not been involved. A seniors right to counsel would provide a comprehensive legal support network for seniors who are sued by their landlord that are not connected to resources such as CSC in other communities.

Displacement threatens many members of our community, but seniors are particularly susceptible to its worst manifestations. Many seniors in our community, whether they are renters or homeowners, live on fixed incomes. Their homes are the stable base from which to live healthy and connected lives within the community they helped to build, nourish, and sustain.

We have seen building owners prey on elders in their campaigns to remove rent-regulated tenants, viewing them as easy targets. Fortunately, we are able to prevent many of these cases from escalating through counseling, advocacy, and organizing. But not all seniors in New York City can depend on neighborhood housing advocates to provide that first line of defense, if they are even aware of their community resources at all. When swept up in the current of eviction, many seniors' sources of resilience – their deep social ties or support networks within their community – are weakened. The impacts fall harder on elders: the stress of dislocation puts seniors at higher risk for chronic health problems, psychological effects, and homelessness. The elderly homeless population is on the rise, in 2012 it was reported that number of elders in homeless shelters rose to 55 percent since 2002.

Yet there is evidence that points to a partial solution. The Assigned Counsel Project from the Department for the Aging has already implemented a program to assist seniors in housing court. This program has successfully prevented eviction in 99 percent of cases. With the measures proposed in Intro 96, adults over 62 years old facing eviction proceedings in both Housing Court and ejectment proceedings in Supreme Court would be able to access legal assistance provided by the City. Ejectment proceedings are an especially important part of this bill since seniors are subject to predatory lending and schemes to defraud owners of their homes. According to the Independent Budget Office, compared to the rate of seniors facing foreclosure, about 750 homeowners could be assisted with this legislation.

Intro 96 proposes the Senior Citizen Rent Increase Exemption (SCRIE) income threshold of \$50,000 per year as the income eligibility yardstick. The SCRIE level threshold is higher than the federal poverty level criteria included in Intro 214A, which means more seniors without the resources to defend their legal rights would be able to access essential counsel and representation. Of the 40,000-plus homeowners served by foreclosure-prevention partner organizations since 2008, the average family income of the household is \$46,500. Furthermore, of the families served, 36%, or just over 12,000 families, had incomes at or below 200% of the federal poverty level. Using a 200% poverty level leaves a large group ineligible for legal representation. This bill will expand access to low and moderate-income seniors. We know from experience that seniors making more than 200% of the poverty level are still very likely to be living on a fixed income and would be otherwise unable to afford these critical legal services.

In conclusion, we are pleased to support these common-sense measures to protect our elders as we continue to fight for the right to legal counsel for all New Yorkers.

Thank you for your attention and consideration.

Bronx

Legal
Services NYC

Testimony of Bronx Legal Services

on

Intro 96 of 2014: The Right to Counsel
for Senior Citizens Fighting Eviction or Foreclosure

Presented before:

The New York City Council
Committee on Aging

Presented by:

Jane Aoyama-Martin
Project Director

October 26, 2016

Bronx Legal Service welcomes this opportunity to give testimony before the New York City Council Committee on Aging regarding Intro 96. Providing free or low-cost legal services to low-income older adults who are facing eviction would be an important step in moving the City toward the goals of reducing homelessness and ensuring justice for all New Yorkers.

Bronx Legal Services is the Bronx program of Legal Services NYC, the largest civil legal services firm for low income people in New York City. With community-based offices and outreach sites located throughout each of the City's five boroughs, the mission of Legal Services NYC is to provide expert legal assistance that improves the lives and communities of low income New Yorkers. At Bronx Legal Services, we annually provide legal assistance to thousands of low income clients in matters relating landlord-tenant law, government benefits, family law, consumer issues, foreclosure prevention, employment, language access, disability, education, immigration, and bankruptcy.

The housing courts of New York City were established in 1972 to enforce laws regulating housing conditions. However, that original purpose was soon overwhelmed by landlords using the courts to evict tenants, which remains the principle function of the housing courts today. In 2015, there were over 230,000 eviction actions filed in the housing courts and less than

7,000 HP actions by tenant seeking repairs. Throughout the nearly 45 year history of the housing courts, this imbalance regarding the actions considered by the housing courts has also been mirrored in an imbalance in legal representation. Historically, only about one percent of tenants have had legal representation.

Although the causes of homelessness and loss of affordable housing are complex, there can be no doubt that the most direct and immediate cause of homelessness and the destruction of affordable housing in the City today is the power imbalance in the City's housing courts. Without lawyers, tenants have little to no chance of successfully navigating the complicated procedures of housing court and no hope of understanding the complex substantive laws that are meant to protect them. As a result, landlords are awarded judgments for rents tenants don't owe, rent overcharges go unchallenged, and landlords are not ordered to make repairs. In 2015, cases filed against New York City tenants in housing court led to the evictions of nearly 22,000 families, and an unknown but substantial number of families involuntarily vacated their apartments before a marshal could evict them. Each rent regulated unit vacated through eviction or because a family leaves just before the marshal arrives is immediately rendered unaffordable to low income families due to rent law provisions that permit enormous rent hikes

upon vacancies. Thus, each needless eviction represents not only a tragedy for the family involved, but the permanent loss of scarce and virtually irreplaceable affordable housing.

For decades, our attorneys have tirelessly worked to set this imbalance right. Until recently, it's been like pushing a boulder up a mountain. Our attorneys are stunningly successful in the cases they are able to take—we are able to prevent evictions in over 95% of the cases in which we provide representation—but we have always had far more people seeking our help than we can represent. The recent increase in civil legal services funding has begun to change this. The proportion of represented tenants has increased to over 25 percent and with that, there has been a 25 percent decrease in evictions – nearly 6,000 families who would otherwise have become homeless were able to remain in their homes due to the increased availability of legal assistance.

There are about 10,000 seniors in the five boroughs who may be eligible for free legal services to fight their evictions, and many others who may be eligible to fight foreclosures. When seniors lose their homes, the costs are tremendous – both financially for the City and in human costs. It is unconscionable that low-income seniors, amongst society most vulnerable populations, would lose their shelter because they cannot afford a lawyer.

These data reflect what legal services lawyers have known for decades: many, probably most, evictions are preventable with the help of experienced lawyers. Intro 96 would put this knowledge into action. Its passage would doubtless lead to an increase in justice in the City's housing courts, more enforcement of seniors' rights to fair rents and habitable apartments, and the eviction of fewer older adults.

The time has long since come to even the playing field in the City's housing courts. We thank the City Council for addressing this important issue, and look forward to working with the Council and with the Administration to make legal representation a right for all low income senior citizens facing eviction or foreclosure.

**TESTIMONY PRESENTED
TO THE
NEW YORK CITY COUNCIL COMMITTEE ON AGING
ON LEGAL COUNSEL FOR SENIORS IN EVICTION, EJECTMENT AND
FORECLOSURE MATTERS**

JASA thanks Councilwoman Chin and the Committee on Aging for this opportunity to submit testimony on Int. No. 96 and the important issue of the need of older New Yorkers to have legal counsel when facing loss of their home.

JASA was established in 1968 to respond to the needs of the most vulnerable elderly – the frail, the poor and isolated. The agency’s mission is to sustain and enrich the lives of the aging so that they can remain in the community with dignity and autonomy. Since 1981, JASA’s legal services program has provided civil legal services to Queens County residents aged 60 and older who have the greatest social and economic need. LSEQ provides legal advocacy and direct legal representation to approximately 2500 older adults annually. Its focus is on those areas that affect low income New Yorkers, including evictions, foreclosures and real property fraud; SSI and Social Security; and healthcare (including Medicaid, Medicare and long-term care issues). LSEQ along with JASA social services provides a team approach to resolving elder abuse situations in JASA’s LEAP (Legal/Social Work Elder Abuse Prevention) programs in Queens and Brooklyn and under sub-contract with Carter Burden Center for the Aging in Manhattan. The inter-disciplinary partnership offers an effective evidence based approach to addressing victimization and exploitation; many of our LEAP clients face eviction and foreclosure due to having been financially exploited.

As this Committee is aware, the New York City Council and Mayor de Blasio have made affordable housing one of the city’s highest priorities and have supported legal services to New York’s low-income tenants. As a result of this support, 27% tenants now have legal representation in housing court compared to 1% in 2013. Councilwoman Rosie Mendez has been at the forefront of this fight, introducing the right to counsel for senior tenants and homeowners a decade ago. The Councilwoman’s efforts have resulted in the groundswell and support for the right to counsel for all needy low income tenants.

JASA strongly supports the right to counsel for low income individuals facing eviction and foreclosure matters. The impact of having a lawyer in these cases is obvious in both its economic and human impact. Devastating and costly evictions and homelessness are avoided and seniors and other vulnerable New Yorkers can remain safe and with dignity and autonomy in their homes and contribute to their communities.

Queens County alone, with over 375,000 individuals over the age of 60, has one of the largest concentration of older adults in New York City. There is a large, growing population of older adults in Queens who are financially unable to afford legal representation in housing matters, and there is a lack of legal professionals available to provide these services pro bono. According to the latest census, 14.5% of Queens' seniors are living below the poverty line, 23.5% of the population lives alone and almost 25% have self-care or mobility difficulties.

JASA is based five (5) days a week inside the Queens housing court, allowing JASA to intervene immediately in cases where at-risk elderly tenants are navigating eviction proceedings unaided; assisting them to achieve long-term housing stabilization. LSEQ assisted over 375 individuals referred by the court by providing legal advice, prose assistance, referrals and representation. However due to limited resources full legal representation could only be provided to 130 of the 375 low income seniors referred by the court. If there was a right to counsel we could have represented almost all of these seniors. Well over ninety percent (90%) of all landlords are represented by legal counsel and there needs to be a right to counsel for low income New Yorkers facing loss of their homes, especially vulnerable seniors.

Thank you.

Donna Dougherty
Attorney-in-Charge
JASA/Legal Services for the Elderly in Queens
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718-286-1515
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THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 96 Res. No. _____

in favor in opposition

Date: 10/26/15

(PLEASE PRINT)

Name: Robert Desir

Address: _____

I represent: Legal Aid Society

Address: 199 Water St NY NY 10038

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Appearance Card

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in favor in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Bobbie Sackman

Address: 49 W 45 St, NY 10036

I represent: Live On NY

Address: Same

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Appearance Card

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in favor in opposition

Date: _____

(PLEASE PRINT)

Name: STEVEN FOD

Address: 2 Lafayette St

I represent: NYC DEPT FOR THE AGING

Address: Same as above

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 in favor in opposition

Date: _____

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Name: Jeanette Zelhof

Address: 299 B'way

I represent: MFY Legal Services

Address: _____

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Appearance Card

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 in favor in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: JORDAN DRESSLER Civil Justice Coordinator

Address: 150 Greenwich Street, NY, NY 10007

I represent: Administration / HRA

Address: _____

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I intend to appear and speak on Int. No. 0016 Res. No. _____
 in favor in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: JANE AOYAMA-MARTIN

Address: _____

I represent: Bronx legal Services

Address: 349 E. 149th St BX 10451

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in favor in opposition

Date: _____

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Name: Caroline Nagy

Address: 721 Franklin Ave

I represent: Center for NYC Neighborhoods

Address: 17 Battery Place

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in favor in opposition

Date: 10/26/16

(PLEASE PRINT)

Name: Carmen Perez

Address: 61 East 4th Street, N.Y. 10003

I represent: Cooper Square Committee - Neighborhood NOPC

Address: _____

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