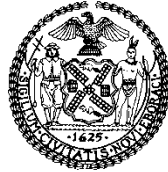


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THE COUNCIL OF THE CITY OF NEW YORK

COMMITTEE REPORT OF THE HUMAN SERVICES DIVISION
Matthew Gewolb, Legislative Director

COMMITTEE ON AGING
Hon. Margaret Chin, Chair

October 26, 2016

INT. NO. 96:

By Council Members Mendez, Chin, Dickens, Eugene, Johnson, Koo, Levine, Rose, Vallone, Rosenthal, Williams, Levin, Reynoso, Kallos, Van Bramer, Koslowitz, Palma, Menchaca, Rodriguez, Wills, Richards, Cohen, Mealy, Gentile, Cornegy, Miller, Barron, King, Treyger, Cabrera, Constantinides, Garodnick, Lancman, Espinal, Cumbo, Maisel, Crowley, Vacca, Deutsch, Dromm and Salamanca

TITLE:

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.

ADMINISTRATIVE CODE:

Title 21 of the Administrative Code of the city of New York is amended by adding a new Chapter 10.

I. Introduction

On Wednesday, October 26, 2016, the Committee on Aging, chaired by Council Member Margaret Chin, will hold a hearing on Int. No. 96, A Local Law to amend the administrative code in New York, in relation to providing legal counsel for senior citizens subject to eviction, ejectment or foreclosure proceedings. Those invited to testify include New York City Department for the Aging (“DFTA”), New York City Department of Housing Preservation and Development (“HPD”), New York City Public Housing Authority (“NYCHA”), legal service providers, tenant advocacy organizations, advocates for seniors, and members of the public.

II. Background

The 6th amendment to the United States Constitution stipulates a right to counsel in criminal cases, but does not extend that right to counsel in civil cases.¹ In civil cases, specifically Housing Court, an attorney is not guaranteed, despite the fact that a majority of tenants are low income individuals, who are typically fighting an eviction that was issued to them by their landlord.² In the majority of cases heard in housing courts in New York City, 99% of landlords who attend a housing court proceeding have legal representation, while 73% tenants are not represented.³

Seniors and Housing

In New York City 18.1% of the population is over the age of 60.⁴ New York City seniors currently face an increase in poverty. In 1990, the poverty rate for older New Yorkers was

¹ The Indigent’s “Right” to Counsel in Civil Cases. Fordham Law Review. Alan Jay Stein 1975
<http://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=2172&context=flr>

² A Tenant’s Guide to New York City Housing Court. The Association of the Bar of the City of New York. 2006 available at: <http://www.nycbar.org/pdf/report/tenantguide.pdf>.

³ New York City Office of Civil Justice 2016 Annual Report. June 2016 available at: https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ%202016%20Annual%20Report%20FIN%20AL_08_29_2016.pdf.

⁴ Department for the Aging Annual Plan Summary April 1, 2016 –March 31, 2017. Commissioner Dr. Donna M. Corrado. September 2015. Available at: <http://www.nyc.gov/html/dfta/downloads/pdf/DFTAAPS1617V2.pdf>.

16.5%, but as of 2013, the poverty rate for seniors has increased to 18.8%.⁵ The federal poverty level in 2013 was \$11,173 for a single person, and \$14,095 for a couple. The average social security benefit is \$1,294 per month, or \$15,528 a year for a retired person.⁶ This is not enough to cover the increasingly high cost of living in New York City as fewer apartments are available for under \$1,000 per month in the five boroughs.⁷

Housing affordability is defined as the ratio of housing costs to household income.⁸ The standard threshold for deeming a household rent burdened is when an individual is paying more than 30% of their monthly income on rent.⁹ Single seniors are the most severely rent burdened paying more than 32% of their monthly income in rent.¹⁰ In fact 130,715 seniors who live alone are either severely rent burden or moderately rent burdened in some way.¹¹

While housing subsidies for low income elderly are available such as Section 202 Supportive Housing, the Senior Citizen Rent Increase Exemption program (“SCRIE”), and New York City Housing Authority developments that are specifically allocated for seniors, due to the high cost of housing, these programs of fall short of assisting an elderly person with rent. According the Comptroller’s report from 2013, seniors over the age of 70 would pay more than 70% their monthly income on rent if they did not have some form of rental assistance.¹² The

⁵ Id at 8

⁶ Id. at 11

⁷ New York City Office of Civil Justice 2016 Annual Report. June 2016 available at: <https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ%202016%20Annual%20Report%20FIN%20AL%2008%2029%202016.pdf>

⁸ *Whose Burden is it Anyway? Housing Affordability in New York City By Household Characteristics*. Citizens Budget Commission. November 2015. Available at: http://www.cbcny.org/sites/default/files/REPORT_RENTBURDEN_11122015_1.pdf.

⁹ Id.

¹⁰ Id.

¹¹ Id

¹² Senior Housing in New York City: The Coming Crisis. New York City Comptroller’s Report. May 2013 available at: https://comptroller.nyc.gov/wp-content/uploads/documents/NYC_SeniorHousing.pdf.

report indicates that subsidies cover about 30% of the rent, forcing seniors to still pay more than 47% of their monthly income on rent.¹³

Housing Court

In New York City, Housing Court is a component of the city civil court system, which deals with land-lord tenant matters. A landlord wishing to evict a tenant in New York City must fulfill the requirements set out in the lease and/or by law.¹⁴ Once requirements are met, the landlord can start the eviction process by filing a petition and related documents in court. The majority of petitions are for non-payment, meaning that a landlord is attempting to recoup rental arrears and evict a tenant from a unit for failure to pay rent. According to survey data released in the 2016 report issued by the Office of Civil Justice, 14.5% of respondents were “near elderly,” between (55 to 64 years old) and 6.1% were over the age of 65.¹⁵

The De Blasio Administration has committed over \$100 million in legal service assistance programs in fiscal year 2017.¹⁶ Current findings suggest that there have been notable improvements to housing court as a result of the \$46 million that has already increased the legal representation.¹⁷ In fact, 27%, or one in four tenants in court facing an eviction proceeding had legal representation in 2015.¹⁸ This is a notable increase from 2013, where 1% of tenants had legal representation.¹⁹ Represented tenants may have improved the court’s efficiency by decreasing the number of motions filed in a case.²⁰

¹³ Id. at 8

¹⁴ A Tenant’s Guide to New York City Housing Court. The Association of the Bar of the City of New York. 2006 available at: <http://www.nycbar.org/pdf/report/tenantsguide.pdf>

¹⁵ Id.

¹⁶ New York City Office of Civil Justice 2016 Annual Report. June 2016 available at: https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ%202016%20Annual%20Report%20FIN%20AL_08_29_2016.pdf

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

²⁰ Id.

III. INT. NO. 96

Section 1 of Int. No. 96 amends title 21 of the administrative code of the city of New York by adding a new chapter 10 to include §§ 21-1001 – 21-1005.

New section § 21-1001 assigns definitions to the terms “covered proceeding,” “eligible individual,” “designated organization,” and “legal counsel.”

New section § 21-1002 requires the Department for the Aging to appoint a civil justice coordinator to establish and implement a program to provide free or low-cost legal services to low-income individuals 62 years of age or older who are facing eviction proceedings.

New section § 21-1003 designates eligibility criteria for organizations to provide free or low-cost legal services.

New section § 21-1004 assigns parameters to the civil justice coordinator’s method of assigning legal counsel.

New section § 21-1005 requires the civil justice coordinator to provide fair compensation to each organization providing legal services in accordance with this chapter.

Section 2 of Int. No. 96 provides a severability clause.

Section 3 of Int. No. 96 states that the local law takes effect 180 days after enactment.

IV. Conclusion

As New York City finds itself entrenched in a housing crisis it is becoming increasingly important to provide the necessary services to ensure that low-income elderly New Yorkers are able to remain in their homes without the threat of eviction, foreclosure or forfeiture.

By Council Members Mendez, Chin, Dickens, Eugene, Johnson, Koo, Levine, Rose, Vallone, Rosenthal, Williams, Levin, Reynoso, Kallos, Van Bramer, Koslowitz, Palma, Menchaca, Rodriguez, Wills, Richards, Cohen, Mealy, Gentile, Cornegy, Miller, Barron, King, Treyger, Cabrera, Constantinides, Garodnick, Lancman, Espinal, Cumbo, Maisel, Crowley, Vacca, Deutsch, Dromm and Salamanca

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.

Be it enacted by the Council as follows:

Section 1. Title 21 of the administrative code of the city of New York is amended by adding a new chapter 10 to read as follows:

Chapter 10

Provision of Legal Services in Eviction, Ejection and Foreclosure Proceedings.

§ 21-1001 Definitions.

§ 21-1002 Civil justice coordinator.

§ 21-1003 Designation of eligible organizations.

§ 21-1004 Method of assigning legal counsel.

§ 21-1005 Compensation.

§ 21-1001 Definitions. For purposes of this chapter the following terms shall have the following meanings: a. "Covered proceeding" means any action or special proceeding to evict an occupant of a dwelling unit or dwelling to which an eligible individual is a party, including those seeking possession for the non-payment of rent or holdover, or proceedings for ejection or foreclosure.

b. "Eligible individual" means an occupant of a rental dwelling unit, an owner of shares of a cooperative corporation who occupies the dwelling unit to which such shares are allocated, the owner and occupant of a dwelling unit owned as a condominium or the owner and occupant

of a one- or two-family dwelling where such dwelling unit or dwelling is located in the city of New York who is a defendant or respondent in a covered proceeding and who:

i. is sixty-two years of age or older; and

ii. is a member of a household in which the total income of the household does not exceed the maximum amount permissible for eligibility for benefits under section 467-b of the real property tax law as calculated in accordance with that section.

c. "Designated organization" means an organization that provides legal counsel and is identified and designated by the civil justice coordinator pursuant to section 21-1003 of this chapter.

d. "Legal counsel" means a lawyer or lawyers licensed to practice law in New York state.

§ 21-1002 Civil justice coordinator. The commissioner for the aging shall appoint a civil justice coordinator who shall be responsible for establishing and implementing a program for the provision of legal services to eligible individuals with respect to covered proceedings.

§ 21-1003 Designation of organizations. a. The civil justice coordinator shall identify one or more organizations eligible to provide legal counsel in accordance with the provisions of this chapter. An organization may be designated as an eligible organization by the civil justice coordinator if it:

i. has as a principal purpose the furnishing of free or low-cost legal services to persons who are unable to afford private legal counsel;

ii. has substantial expertise in housing law and landlord and tenant law and relevant experience in representing low-income tenants in the civil court of the city of New York;

iii. operates pursuant to the standards contained in section 4 (standards for relations with clients) and section 6 (standards for quality assurance) of the standards for providers of civil legal aid established by the american bar association; and

iv. satisfies such other criteria as may be established by the commissioner for the aging.

b. The commissioner for the aging shall by rule establish procedures for the monitoring by the civil justice coordinator of the services provided pursuant to this chapter to ensure that designated organizations are providing competent legal services.

c. The civil justice coordinator shall annually review the performance of designated organizations and may decline to renew the designation of any such organization.

§ 21-1004 Method of assigning legal counsel. a. The civil justice coordinator shall cause a designated organization to be expeditiously assigned to represent an eligible individual upon receipt of a request for such services from:

i. the eligible individual;

ii. a judge to whom a covered proceeding has been assigned or an administrative judge; or

iii. such designated organization.

b. The civil justice coordinator shall require each designated organization to identify the geographic areas from which the organization will represent eligible individuals, and for each geographic area shall maintain a list of such organizations that will represent such individual.

§ 21-1005 Compensation. a. The civil justice coordinator shall provide each designated organization assigned pursuant to this chapter with fair compensation which will allow each organization to provide an organizational structure with appropriate supervision, caseloads and oversight of staff and service delivery to promote high quality representation and legal work.

b. Services performed by a designated organization pursuant to this chapter or any contract or other agreement entered into pursuant to this chapter shall not be used to satisfy any obligations or responsibilities of such designated organization pursuant to any other program or any other agreement or contract.

§ 2. If any provision of this local law is for any reason found to be invalid, in whole or in part, by any court of competent jurisdiction, such finding shall not affect the validity of the remaining provisions of this local law, which shall continue in full force and effect.

§ 3. This local law shall take effect one hundred eighty days after enactment except that the commissioner for the aging shall promulgate any rules and take such actions as are necessary prior to such effective date.

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