

**Testimony of the New York City Department of Housing Preservation and Development to
the New York City Council Committee on Housing & Buildings and the Justice System
regarding Preconsidered Introduction T2020-6626**

September 17, 2020

Good morning, Chairs Cornegy and Lancman and members of the New York City Council Committees on Housing & Buildings and the Justice System. My name is Lucy Joffe and I am Assistant Commissioner of Housing Policy with the New York City Department of Housing Preservation and Development (HPD). Thank you for the opportunity to submit testimony regarding Preconsidered Introduction T2020-6626.

As the committees are well aware, rent stabilization and rent control are critical protections for the City of New York, which has been in a state of continued housing crisis since at least the 1960s. This housing crisis has stubbornly persisted over the decades through many economic cycles.

Periodically, New York City must conduct a survey of the supply of housing accommodations and related data. The survey provides the basis for determining the net rental vacancy rate, which is relevant to the continuation of rent regulation pursuant to the Emergency Tenant Protection Act of 1974. For decades, the New York City Housing Vacancy Survey (NYCHVS) has been the primary data source for calculating the City's net rental vacancy rate, and for other critical data relating to the state of housing in the City. It has been conducted since 1965 and provides reliable, citywide representative data. The most recent NYCHVS was conducted in 2017, and the determination of a housing emergency was made by the City Council in 2018. We believe that the conditions that underlie the housing crisis in New York City continue unabated. The severe shortage of low-cost units has persisted for decades despite significant new capital investment in the creation and preservation of affordable housing and increasing expenditures to address the challenge of homelessness. This is demonstrated by the fact that the number of applicants in our affordable housing lotteries continues to greatly exceed the number of available units.

In addition, as of the last NYCHVS, most New Yorkers were paying more than 30 percent of their income toward rent and one third of New Yorkers were paying as much as 50 percent of their income toward rent. Rent burdens are especially severe for the lowest income New Yorkers. It also seems clear that the COVID-19 pandemic is only exacerbating these conditions – there is currently record high unemployment in the City (having increased to 20 percent in July 2020 from 4.3 percent in July 2019) and much new residential construction was interrupted due to labor, supply chain, and other factors. At least in the near term, many new affordable housing construction and preservation projects in the City that are dependent on substantial public capital funding will experience delays. Further, there is undoubtedly significant uncertainty about the length of time needed for the City's economy to recover and for employment and business

activity ultimately to reach pre-pandemic levels. Nevertheless, the NYCHVS is the ideal data source on which the City can rely as it determines whether housing in the City remains in a state of emergency.

The Census Bureau has performed the data collection for the NYCHVS since 1965. It not only has a unique capacity to conduct such a large survey (thousands of interviews) over a short period (less than 9 months), but also provides unique data protections that protect the privacy of occupants. The NYCHVS collects data specific to New York City that is not found in other data sources. Unique features include the ability to: identify units that are vacant but not available for rent for various reasons; measure the vacancy rate within a narrower reference period; estimate the net rental vacancy rate at a high level of accuracy; provide double verification of each sampled unit identified as vacant; and parse out different types of housing, such as public housing, among others. No other Census Bureau survey has these features, which are necessary and appropriate for evaluating New York City's unique housing market.

The United States Census Bureau is conducting the decennial census in 2020; as a result of the need to prioritize the census, the Bureau is unable to complete the NYCHVS this year. The NYCHVS will instead be conducted in 2021, which means that the initial findings from the survey will not be ready before early 2022. Earlier this year, the State Legislature extended by one year the deadline for any declaration of a housing emergency under the Local Emergency Housing Rent Control Act (LEHRCA) because of the timing of the decennial census. Consistent with the State Legislature's action, Preconsidered Introduction T2020-6626 adjusts the present expiration date of the Rent Stabilization Law of 1969 so as to enable the City to assess whether there is a continued state of emergency in 2022 based on the updated NYCHVS findings.

Because the NYCHVS continues to be the most accurate and comprehensive source of information on the state of New York City's housing stock, the administration supports this legislation to extend the expiration date of rent stabilization by one year, thereby conforming to the State Legislature's adjustment of the date by which the formal determination of a housing emergency may be made following a survey.

Thank you again for the opportunity to provide this testimony.



PUBLIC ADVOCATE FOR THE CITY OF NEW YORK
Jumaane D. Williams

**TESTIMONY OF PUBLIC ADVOCATE JUMAANE D. WILLIAMS
TO THE NEW YORK CITY COUNCIL COMMITTEE ON HOUSING AND
BUILDINGS AND COMMITTEE ON JUSTICE SYSTEM
SEPTEMBER 17, 2020**

Good morning,

My name is Jumaane D. Williams, and I am the Public Advocate for the City of New York. I would like to thank Chairmen Cornegy and Lancman, as well as the members of the Committees on Housing and Buildings and the Justice System, for holding this hearing today. As we know, access to housing is a human right. Unfortunately, our City has not been able to safeguard that right for everyone. Given that thousands of New Yorkers have filed for unemployment since March, the Coronavirus pandemic has likely only exacerbated this issue. It is incumbent upon the Administration and the State to ensure that residents who are on the brink of eviction can remain in their homes through this pandemic and after.

New York City's Rent Stabilization Law of 1969 is an essential statute in establishing rent regulation in our City. Chair Cornegy's Preconsidered Int. T2020-6626 would extend the expiration date of this law from April 1, 2021 to April 1, 2022. I fully support this bill because it would protect tenants from unfair rent increases. During this period of uncertainty and job loss, we have to secure housing for New Yorkers who are facing financial instability. Yes, the State extended the eviction moratorium once more until September 30th and ordered additional protections from late fees, and I am hoping the Governor will extend it again. But an eviction moratorium does not stop landlords from increasing rent at unaffordable rates. If an individual can no longer afford to pay their rent due to a high increase, they may be protected from eviction, but their landlord can take them to housing court once the moratorium is lifted. The City needs to see to it that any New Yorker who was struggling to pay rent before COVID-19, will not be forced to enter shelter or otherwise become homeless post-COVID-19.

Despite this blindspot, I want to acknowledge the steps that City agencies have taken to help people who are at risk of eviction. The Human Resources Administration's Office of Civil Justice has partnered with nonprofit legal services providers across the City to offer universal phone-based access to free legal advice and counsel, which will benefit renters facing eviction. And any tenant who receives a petition for a Housing Court eviction case – filed on or after March 17th – has the ability to respond by phone instead of in-person. The City must ensure that these services and information are available in multiple languages aside from English. New York City is home to 3.1 million immigrants, who collectively speak more than 200 languages.

We need to ensure that they have access to this legal assistance in the languages they speak.. To my knowledge, there are 1250 motions to evict warrants that were filed on or before March 16 and none have been decided. It is likely that the tenants who received these eviction warrants will not be able to afford their rent throughout the duration of the pandemic, and could therefore be facing homeless in the aftermath of COVID-19. I am calling on the Mayor to ensure that these individuals stay in their homes.

There are about 60,000 homeless people in this City. Now, more than ever, we need to see to it that that number does not go up because of rent increases. Let's ensure that our City is doing all it can to prevent this from happening. Thank you.



Testimony by the New York Legal Assistance Group (NYLAG)

The Potential Eviction Crisis in the Midst of the COVID-19 Pandemic

Before the New York City Council Committees on Housing & Buildings and the Justice System

September 17, 2020

Chairs Cornegy and Lancman, Council Members, and staff, good afternoon and thank you for the opportunity to speak at today's hearing on the potential eviction crisis in the midst of the COVID-19 pandemic. My name is Jonathan Fox, and I am the Director of the Tenants' Rights Unit at the New York Legal Assistance Group (NYLAG). NYLAG uses the power of the law to help New Yorkers in need combat social and economic injustice. We address emerging and urgent legal needs with comprehensive, free civil legal services, impact litigation, policy advocacy, and community education. NYLAG serves veterans, immigrants, seniors, the homebound, families facing foreclosure, renters facing eviction, low-income consumers, those in need of government assistance, children in need of special education, domestic violence victims, people with disabilities, patients with chronic illness or disease, low-wage workers, low-income members of the LGBTQ community, Holocaust survivors, as well as others in need of free legal services.

The City Council's trailblazing initiative to pass the first Right to Counsel in Housing Court law in the nation in 2017 demonstrated the City's commitment to preserving housing security for all New Yorkers. In the midst of the coronavirus pandemic and the severe economic hardship it has wrought, which has had a profound disparate impact on communities of color, the Right to Counsel law functions as an enduring bulwark to keep New Yorkers in their homes. With an array of state

and federal eviction moratoria and an extremely complex rent stabilization legal landscape, the funding the City Council provides to Right to Counsel providers enables tenants citywide to get skilled legal representation in defense of their homes. This legal representation was critical to preserving New Yorkers' homes and communities before the pandemic and is even more important now with so many New Yorkers facing pandemic-related housing insecurity.

The Number of New Yorkers Who Cannot Pay Rent Has Increased Dramatically

A recent study has found that 46% of renters in New York will fail to pay rent during the pandemic.¹ Another has found that a quarter of New York City's renters have not paid rent since March.² It is estimated that 735,000 New York City households have lost employment income as a result of COVID-19.³ The economic damage caused by the pandemic is well-attested and stark. The pandemic has caused loss of employment and income and the closure of businesses and schools, all of which has exacerbated the already significant financial insecurity felt by many New Yorkers, including many of NYLAG's clients.

The economic devastation has already manifested in several ways: Applications for public benefits have increased dramatically.⁴ Food insecurity has risen and the need for food banks and public food assistance has increased accordingly.⁵ And unemployment filings are at record levels.⁶

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¹ McCarthy, Niall. "Over 40% of U.S. Renters Now At Risk of Eviction." *Statista*. 28 July 2020.

[https://www.statista.com/chart/22398/renter-households-facing-a-rental-shortfall-and-potential-eviction/?utm_source=Statista+Global&utm_campaign=82d8924440-](https://www.statista.com/chart/22398/renter-households-facing-a-rental-shortfall-and-potential-eviction/?utm_source=Statista+Global&utm_campaign=82d8924440-Multi_All_InfographTicker_COM_AM_KW31_2020_Th&utm_medium=email&utm_term=0_afecd219f5-82d8924440-299722933)

[Multi_All_InfographTicker_COM_AM_KW31_2020_Th&utm_medium=email&utm_term=0_afecd219f5-82d8924440-299722933](https://www.statista.com/chart/22398/renter-households-facing-a-rental-shortfall-and-potential-eviction/?utm_source=Statista+Global&utm_campaign=82d8924440-Multi_All_InfographTicker_COM_AM_KW31_2020_Th&utm_medium=email&utm_term=0_afecd219f5-82d8924440-299722933)

² Smith, Gillian. "Housing Crisis Looms As 1 in 4 NYC Tenants Can't Pay Rent: Report." *Patch.com*. 9 July 2020.

<https://patch.com/new-york/new-york-city/nyc-housing-market-struggles-25-renters-cant-pay-report>

³ "Policy Minute: Housing Stability and COVID-19 Recovery." *The Stoop: NYU Furman Center Blog*. 24 June 2020.

<https://furmancenter.org/thestoop/entry/policy-minute-housing-stability-and-covid-19-recovery>

⁴ New York State Department of Labor Press Release. 25 April 2020. <https://www.labor.ny.gov/pressreleases/2020/april-25-2020.shtm>

⁵ Mann, Brian. "In New York City, 2 Million Residents Face Food Insecurity, Officials Say." *NPR.org*. 21 May 2020.

<https://www.npr.org/sections/coronavirus-live-updates/2020/05/21/860312565/in-new-york-city-2-million-residents-face-food-insecurity-officials-say>

It is certain that without intervention, the number of tenants facing eviction for failure to pay rent will rise significantly. New York is likely to see a reversal of the 30% decrease in eviction filings from 2013 to 2019⁸ with a strong likelihood that evictions will surpass the highest levels ever seen in the state. Legal service providers are sure to be overwhelmed by the sudden onslaught of eviction filings,⁹ which would weaken what has proven to be an effective safeguard against mass displacement.

Public policy should favor keeping people in their homes. The scope of this crisis, with its potential to make many thousands of individuals and families homeless, mandates swift action from all levels of government to ensure that a crisis of rent arrears does not become a humanitarian crisis.

The Burden of the Eviction Crisis Would Fall Disproportionately on Black, Indigenous, and People of Color (BIPOC) Communities

The fact that the COVID-19 pandemic has particularly devastated New York's communities of color is well-documented.^{10 11} Black and brown New Yorkers have a mortality rate for COVID-19 at twice that of white New Yorkers. BIPOC (Black, Indigenous, and People of Color) individuals are more likely to be "essential" workers than white individuals, which increases the possibility of exposure to the virus for both the individual and their family. This disparity is further compounded

⁶ McGeehan, Patrick. "A Million Jobs Lost: A 'Heart Attack' for the N.Y.C. Economy." *The New York Times*. 7 July 2020. <https://www.nytimes.com/2020/07/07/nyregion/nyc-unemployment.html>

⁷ Pereira, Sydney. "Report: NYC Will End 2020 With 500,000 Fewer Jobs." *Gothamist*. 1 July 2020. <https://gothamist.com/news/report-nyc-will-end-2020-500000-fewer-jobs>

⁸ NYU Forman Center State of New York City's Housing & Neighborhoods. "State of the City 2019: Eviction Filings." <https://furmancenter.org/stateofthecity/view/eviction-filings>

⁹ Culliton, Kathleen. "NYC Prepares for Mass Evictions as Moratorium's End Nears." *Patch.com*. 15 June 2020. <https://patch.com/new-york/new-york-city/nyc-prepares-mass-evictions-moratoriums-end-nears>

¹⁰ NYC Health. COVID-19: Data. <https://www1.nyc.gov/site/doh/covid/covid-19-data.page>

¹¹ Oppel, Jr., Richard A., Robert Gebeloff, K.K. Rebecca Lai, Will Wright, and Mitch Smith. "The Fullest Looks Yet at the Racial Inequity of Coronavirus." *The New York Times*. 5 July 2020. <https://www.nytimes.com/interactive/2020/07/05/us/coronavirus-latinos-african-americans-cdc-data.html>

because BIPOC people have so far not been able to work remotely at the rates of their white neighbors. New York had conditions that were primed for a hugely disparate impact of the pandemic along racial lines for both health and economic stability.

Already, the impacts of the pandemic are concentrated in areas that were already seeing higher rates of displacement. NYLAG has surveyed the zip codes served by the City's Right to Counsel law and found that the economic shocks of the pandemic of being felt acutely in these areas (*see*, Schedule A). The people of these neighborhoods, already facing an eviction crisis in their neighborhoods, are likely to see things get much worse.

Without substantial rent relief assistance, Black and brown communities would bear the brunt of the economic devastation. Already endemic race-based inequalities would be further amplified. The murder of George Floyd and the widespread Black Lives Matter movement has brought the conversation about racial disparities to the fore in this country. New York should not through inaction allow communities of color to suffer the most during this pandemic and the eventual recovery.

NYLAG urges the City Council to pass a resolution to encourage the New York State legislature to pass the "Emergency Housing Stability and Tenant Displacement Prevention Act" (S. 8667/A. 10827), which prohibits the eviction of any residential or commercial tenant, and the issuance of a judgment of possession against a residential or commercial tenant or other lawful occupant, or a foreclosure of any residential or commercial property, during the COVID-19 emergency period. A serious and unprecedented emergency exists in the state of New York because of the novel coronavirus pandemic. The scope of this emergency is almost impossible to assess, which necessitates that New York respond forcefully to the crisis in order to minimize what

is certain to be catastrophic damage to the populace's health, safety, and social and economic well-being. Without decisive action, New York is likely to see a wave of evictions that will eclipse by many orders of magnitude any increases in displacement in the State's history.

Because addressing the inability of thousands of New Yorkers to pay rent during the pandemic is critical to resolving the looming eviction crisis, the City Council should also work closely with New York City's federal congressional representatives to build support for federal rent relief. The City Council could also work with leadership in other cities and make clear that nationwide rent relief is the only thing that will prevent an epidemic of evictions on the heels of the coronavirus pandemic. This rent relief is also critical to ensuring the fiscal health of cities. If landlords lack the resources to pay real estate taxes in the face of the inability to collect rent, the ensuing revenue shortfalls will be catastrophic to the city's budget for years to come. The bottom line is that eviction moratoria, while helpful at stopping evictions right now, only kick the can the road without resolving many New Yorkers' inability to pay rent for an extended period of time through no fault of their own.

I want to thank you for the opportunity to testify at today's hearing. NYLAG looks forward to continuing to work with the Council on this important issue.

Respectfully submitted,

New York Legal Assistance Group

Schedule A

Unemployment rates by borough (Right to Counsel zip codes)

Borough	Zip code	Unemployment rate	Unemployment ranking (borough comparison)	population
Brooklyn	11207	17.85%	#6/47	86,551
Brooklyn	11216	14.39%	#9/47	55,775
Brooklyn	11225	12.13%	#13/47	63,774
Brooklyn	11226	13.82%	#11/47	106,154
Brooklyn	11221	18.53%	#4/47	76,363
Manhattan	10025	6.68%	#22/43	97,086
Manhattan	10026	17.28%	#8/43	30,377
Manhattan	10027	19.31%	#5/43	56,168
Manhattan	10029	15.59%	#9/43	75,390
Manhattan	10031	17.69%	#6/43	60,221
Manhattan	10034	17.28%	#8/43	30,377
Queens	11373	8.6%	#17/61	105,723
Queens	11385	8.5%	#19/61	97,524
Queens	11433	12.6%	#4/61	28,435
Queens	11434	11.3%	#6/61	59,142
Queens	11691	13.4%	#3/61	56,184
Bronx	10457	21.41%	#3/25	69,048
Bronx	10462	10.01%	#16/25	72,077
Bronx	10467	12.09%	#15/25	94,342
Bronx	10468	16.83%	#12/25	78,309

Bronx	10453	19.59%	#8/25	76,775
Staten Island	10302	8.45%	#3/12	16,406
Staten Island	10303	9.83%	#1/12	23,530
Staten Island	10310	7.87%	#5/12	22,852
Staten Island	10314	4.80%	#7/12	84,821



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**Comments of Suhali Méndez
Senior Advocate, Disability Justice Progra
New York Lawyers for the Public Interest**

to the

**New York City Council
Committee on General Welfare
jointly with the
Committee on Civil and Human Rights**

regarding

**Prohibition against Discrimination in Housing Accommodations based on Lawful Source of
Income
Int. T2019-4051**

September 15, 2020

My name is Suhali Méndez and I am a Senior Advocate in the Disability Justice Program at New York Lawyers for the Public Interest (NYLPI). NYLPI is a civil rights organization with a robust disability rights practice, and housing advocacy for people with disabilities is an important part of our work.

NYLPI represents tenants in matters involving the need for reasonable accommodations, such as apartment and common area retrofitting, transfers to accessible apartments, and protection for use of service animals, as well as other housing discrimination issues. We appreciate the opportunity to provide testimony regarding accessible housing in New York City.

We commend Council Member Powers' bill in ensuring that people with disabilities continue to live meaningful lives within their communities.

Discriminatory Practices in Source of Income and Housing Accommodations

Although the federal Fair Housing Act was passed more than 50 years ago, and the New York City and New York State Human Rights Laws were having likewise long been in effect, countless people in New York City continue to face discrimination when it comes to their housing needs. Source of income discrimination has been illegal in NYC since 2008, which originated by then council member de Blasio who had sponsored a bill to include protections in the New York City Human Rights Law, one of the most expansive and original law in the topic of civil rights. It is one of the most robust anti-discrimination laws in the nation.

According to the 2017 report shown in the report of [Employment Trends for People with Disabilities in New York City](#), there are an estimated 930,100 people with disabilities that reside in New York City. Yet the housing stock in New York City is vastly inaccessible to people with disabilities. In our work, we often see various forms of housing discrimination which continues to be an issue for countless New Yorkers.

Source of income discrimination and failure to provide reasonable accommodations are often interconnected. Obviously, both actions are discriminatory in nature and can exclude people with disabilities that can face significant barriers twofold, obtaining housing and maintaining housing due to these factors. These actions can increase isolation and disengagement within communities. An example of source of income discrimination is a landlord refusing to accept a prospective tenant upon learning that they have a section 8 voucher. This is also particularly prevalent in New York City, and tenants who rely on government housing programs and vouchers to pay their rent are continually rejected from housing opportunities based on their participation in a voucher program. Source of income discrimination is a threat to the resilience of our communities, and most critically, is illegal.

Landlords' failures to provide reasonable accommodations for their tenants – for example, providing an individual who is deaf with a smoke alarm that flashes -- constitutes discrimination and impacts the resilience of our communities by causing displacement. Failure to provide these accommodations can be quite dangerous for individuals who need it.

Landlords are responsible to comply with anti-discrimination laws in New York City, and the City must enforce penalties for landlords who do not adequately address repairs or who otherwise discriminate against their tenants. This information is being compiled in New York City Housing Preservation and Development's (HPD) proposed [report](#) to enhance Fair Housing for all New Yorkers. The report covers Housing Discrimination and entities that enforce these laws. This report also covers Source of Income Discrimination and how it is enforced through the New York City Commission on Human Rights.

About New York Lawyers for the Public Interest

For more than 40 years, NYLPI has been a leader in advocating for marginalized New Yorkers, working to accomplish equality of opportunity for all. We utilize a community lawyering model to bridge gaps between traditional civil legal services and civil rights advocacy and to fortify capacity for both individual solutions and long-term impact.

Our work encompasses comprehensive organizing, policy campaigns, impact litigation, and individual legal services, and we are guided by the priorities of our communities as we advocate for the rights of people with disabilities, equal access to health care, immigrant opportunity, invigorated local non-profits, and environmental justice for low-income communities of color.

NYLPI's Disability Justice Program has represented thousands of individuals and triumphed in numerous campaigns improving the lives of New Yorkers with disabilities. We have long fought disability-based discrimination in housing, and our landmark housing victories include access to New York City Housing Authority housing for persons with disabilities, as well as ensuring that countless private landlords accommodate their tenants with disabilities.

Ongoing Support from NYLPI

We thank the City Council for convening this important hearing to promote accessible housing in New York City. We appreciate the opportunity to provide this written testimony on behalf of our clients with disabilities who seek and deserve equal access to services. Please feel free to contact us at (212) 244-4664 or smendez@nylpi.org.

The Real Estate Board of New York to The Committee on Housing & Buildings and the Committee on Justice System of the New York City Council Concerning the Potential Eviction Crisis in the Midst of the COVID-19 Pandemic

INTRODUCTION

The Real Estate Board of New York (REBNY) is the City's leading real estate trade association representing commercial, residential and institutional property owners, builders, managers, investors, brokers, salespeople, and other organizations and individuals active in New York City real estate. REBNY thanks the New York City Council Committee on Housing & Buildings and the Committee on Justice System for the opportunity to submit testimony to discuss the steps we have taken to help keep vulnerable New Yorkers in their homes during the Coronavirus (COVID-19) pandemic.

Residential property owners and managers have been working strenuously throughout the COVID-19 pandemic to help their tenants and residents stay safely in their homes. From frontline building service workers cleaning and disinfecting to property managers and managing agents developing new protocols, the entire industry has worked tirelessly to help New Yorkers stay healthy and help our City emerge from the pandemic.

Clearly, in the midst of a global health pandemic, keeping people in their homes is one of the most effective strategies to protect public health. That's why, on March 13, 2020, a full week before the State imposed a residential eviction moratorium, REBNY members and owners representing more than 155,000 rental units in the City [pledged not to execute any warrant of eviction for the next 90 days](#) in response to the ongoing COVID-19 crisis. As William C. Rudin, REBNY Chairman, and James Whelan, REBNY President, wrote, "With all the stress, health risk and economic suffering going on now, no one should have to worry about losing their place to live during this crisis." This commitment has since been overtaken by government action, including executive orders issued by Governor Cuomo, action by the State legislature and court system and most recently by the Federal Centers for Disease Control and Prevention. Combined, these actions effectively mean that residential tenants experiencing COVID-19 related financial challenges cannot be evicted.

Following the commitment to halt evictions, several REBNY members and others in the real estate community stepped forward to build new partnership called Project Parachute based on the shared commitment to help vulnerable tenants during the pandemic and in its aftermath. Project Parachute is a coalition of owners, non-profit organizations and service providers led by Enterprise Community Partners, which aims to work collaboratively to keep vulnerable New Yorkers impacted by the COVID-19 crisis in their homes. Over \$4.5 million was initially raised for Project Parachute, with additional pledges from philanthropic institutions secured in partnership with the Mayor's Fund.

Based on a data-driven approach to allocate funds Project Parachute has provided funding to the City's seven Homebase community-based providers: BronxWorks, CAMBA, Catholic Charities Brooklyn and Queens, Catholic Charities Community Services, HELP USA, RiseBoro Community Partnership and Services for the Underserved (S:US). These organizations are already on the frontlines of helping those experiencing or on the verge of homelessness and have the existing experience and infrastructure, such as walk-in clinics, to provide a range of social services to help more low-income New Yorkers impacted by COVID-19.

Project Parachute funding has been prioritized for those who do not qualify for traditional City assistance, such as those in the undocumented community or those in non-standard employment circumstances and has primarily been put to use in communities of color. Of funding distributed to date, 32% was provided to communities in the Bronx, 27% to Brooklyn, 22% to Queens, 14% to Manhattan and 5% to Staten Island.

Tenant-facing services launched in early August and provided resources to assist at least 1,600 vulnerable households stay in their homes in the wake of the COVID-19 crisis over the next 18 months. These 1,600 households will have access to a full range of social services and measures to remain stably housed. These include:

- Mediation, referral to benefits programs that the individual may be eligible for including SNAP, unemployment, SCRIE/DRIE, access to COVID relief related resources, financial counseling, and career support including job search assistance and referrals to workforce providers;
- One-time or short-term financial assistance that may include but are not limited to bridge housing costs (security deposit, first month rent, moving expenses), workforce development related costs (licensure, initial weeks of daycare), transportation costs, and immediate need grants (utilities, food, prescriptions); and/or
- Rental arrears assistance for those ineligible for Homebase due to immigration status and New Yorkers with nonstandard employment (e.g. temporary, intermittent, part-time, day labor, and contract workers) who are unable to prove future ability to pay their rent.

Project Parachute provides an effective model for helping New Yorkers facing housing instability and homelessness. Going forward, we believe it will be critical that policymakers develop programs that recognize both the need for direct relief to tenants struggling to pay rent and to property owners with obligations to pay mortgages, property taxes and their building service employees.

During this time of crisis, property owners are doing all they can to meet their responsibility of providing quality, safe and healthy housing for their tenants and meeting their financial obligations. However, as is the case with most businesses in this crisis, it has become increasingly difficult financially to find ways to cover the costs for maintenance, COVID-19 related cleaning and safety precautions and the other already burdensome financial obligations like mortgages, property taxes, labor, water and sewer charges, insurance and utilities.

It is precisely for this reason that the eviction moratorium itself is not a long-term solution, nor are proposals to cancel rent or have a blanket moratorium indefinitely. Instead, future policy must focus on providing direct support to struggling tenants combined with targeted relief to property owners.

As REBNY stated in testimony at this week's hearing on rental assistance, expanding access to vouchers is an effective tool to help integrate neighborhoods of opportunity and provide financial security for tenants in neighborhoods experiencing significant change and transition. While expanded rental assistance is a good use of taxpayer money given that it is more cost-effective for government intervention to keep or place someone in their home than it is to provide temporary shelter, it is also the right thing to do.

At the same time, while COVID-19 has impacted all of us, many New Yorkers still have the means to pay rent. Unfortunately, in some cases these individuals used the crisis as an excuse to not pay rent even though doing so would not present a financial burden. Tenants who have not suffered financial harm or who have the means to pay rent should continue do so.

Thank you for the opportunity to testify on steps REBNY has taken to help New Yorkers during the COVID-19 pandemic and how we believe policymakers can best help New Yorkers in need of greater support during these difficult times.

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**Written Testimony of Matthew Murphy, Executive Director, NYU Furman Center
Joint Hearing of the Committee on Housing and Buildings
and the Committee on Justice System**

The Potential Eviction Crisis in the Midst of the COVID-19 Pandemic
September 17, 2020

On behalf of the NYU Furman Center, thank you for the opportunity to submit written testimony related to **The Potential Eviction Crisis in the Midst of the COVID-19 Pandemic**. My name is Matthew Murphy and I am the Executive Director of the NYU Furman Center. We appreciate today's important hearing on the significant housing challenges facing New Yorkers due to the ongoing and growing economic crisis.

The NYU Furman Center advances research and debate on housing, neighborhoods, and urban policy. This includes providing essential data and analysis that helps policymakers, community organizations, and many others to examine pressing policy issues.

The New York City Council provides support for the NYU Furman Center to produce housing data and analysis for the public. Since March, we have analyzed and tracked data to help contextualize the impact of COVID-19 on New York's housing and neighborhoods. We would like to highlight a few findings from our recent work that we hope will assist today's discussion.

There are several data sources we rely on to examine the scale of the issue. According to the most recent Census Bureau Household Pulse Survey for August 19 – August 31, around 20% of New York City metro area renters were not caught up on rent payments, only around 45% reported a high level of confidence in their ability to pay September's rent, and around 34% reported they believed they were at least somewhat likely to be evicted in the next two months.ⁱ

We have also examined labor market data to analyze the scale of New York City renters struggling to pay rent.ⁱⁱ Using Unemployment Insurance claims filed through June 4, we found that nearly 735,000 households in New York City had at least one household member lose employment income as a result of the pandemic. Restoring these households to their pre-pandemic housing cost burdens, assuming a 25% recovery in employment, would require \$532 million per month in rental assistance. It is also important to note that over 50 percent of renter households were rent burdened, spending more than 30 percent of gross income on housing costs, even before the pandemic. This suggests that the Federal government is the only entity to be able to provide this level of assistance.

In regards to actual eviction filing data, New York City Housing Courts stopped accepting new eviction cases on March 20 and began accepting new cases on June 20, though new cases are automatically suspended.ⁱⁱⁱ Since then, there have been 6,988 residential eviction filings through September 6.^{iv} In prior years, there was an average of 42,665 filings over this same period.

Moreover, during the time housing courts were not accepting filings this year (March 20 – June 19), prior years received an average of 39,349 filings.

Though currently lower than previous years, we expect that the combination of normal filing activity that would have taken place and new activity caused by the economic fallout from COVID-19 will lead to a tremendous increase in filings once courts return to normal operations. Some factors might mitigate this expected cliff, such as whether Federal assistance comes through to help renters, or whether landlords and tenants privately agree to negotiated terms in order to avoid an eviction filing.

While new eviction filings are automatically suspended and a moratorium on executing warrants of eviction is currently in effect, substantial uncertainty remains for both tenants and landlords. Tenants remain at risk of housing instability due to the ongoing economic crisis. Though the Tenant Safe Harbor Act will permanently preclude rent arrears accrued during the pandemic from being used to evict financially impacted tenants, it is unclear whether landlords can use future, post-pandemic rent payments to cover rent arrears. If landlords apply the first post-pandemic payment to the rental arrears from the pandemic, they could then claim non-payment of rent for the first non-moratorium month and seek an eviction. Additionally, while the Tenant Safe Harbor Act provides protection to financially impacted tenants, it still requires tenants to prove their pandemic-related hardship in court, a particular burden on households with inconsistent income and tenants who do not have access to counsel. Landlords are also allowed to seek money judgements under the Tenant Safe Harbor Act, which threatens already vulnerable households with long-term debt and bankruptcy.

Landlords who collect less rent may also face difficulty due to the financial obligations of owning property, such as property taxes, building maintenance, capital repairs, and mortgage payments. This could potentially impact the quality of our city's rental stock. Additionally, our analysis of renter economic vulnerability found that more-vulnerable renters disproportionately live in smaller buildings.^v Owners of small buildings, having fewer rent payers, appear especially vulnerable to lost rental income.

We hope that this information is helpful for Council and thank you again for the opportunity to submit testimony. We will continue to examine the impact of COVID-19's economic fallout on housing and neighborhoods over the next several months and we would be happy to provide any additional data or analysis that assists the Council with examining housing issues during this unprecedented time.

ⁱ <https://www.census.gov/data/tables/2020/demo/hhp/hhp13.html>

ⁱⁱ NYU Furman Center, "Understanding the Potential Magnitude of Rent Shortfalls in New York Due to COVID" (June 4, 2020). <https://furmancenter.org/thestoop/entry/understanding-the-potential-magnitude-of-rent-shortfalls-in-new-york-state>

ⁱⁱⁱ Executive Order 202.28. Office of Court Administrative Order 160A (2020).

^{iv} New York State Office of Court Administration's Universal Case Management System.

^v NYU Furman Center, "COVID-19 and the Rental Market" (April 30, 2020). <https://furmancenter.org/thestoop/entry/covid-19-and-the-rental-market>

17th September 2020

Dear Council Members:

**RE: Affordable Housing Predatory Lending Schemes
in the City and State of New York**

We write to ask that you take direct action to help end the rampant abuse of the American legal system and the unjust application of the law, whether de jure or de facto in the City and State of New York. People are evicted, harassed and abused by those who use resources to manipulate the Courts. The Courts have failed in supervising themselves and the attorneys who capitalize on these unfortunate circumstances. Whether it is the lawyer that uses the legal system to throw families out of their homes or the judge that endorses them, things cannot continue like this. **I ask that you take direct action to order an outside independent agency to investigate how tax payer dollars are being coopted.**

The affordable housing programs in the City of New York are corrupted by the fraudulent use of federal HOME funds and other public monies in “economically targeted investments.”

Particularly egregious in facilitating the fraudulent use of public monies is the Tenant Interim Lease Program (TIL), the Third Party Transfer (TPT) Program and the Affordable Neighborhood Cooperative Program (ANCP) created and administered by the Department of Housing Preservation and Development (HPD) and its Participation Loan Program, under the auspices of Article 11 and Article 15 of the New York State Private Housing Finance Law.

HPD arranges sponsor/developer access to public monies ostensibly to provide affordable housing to residents. In fact, sponsors and developers are enriched and residents are left with damaged property and unmanageable debt. The predatory lending scheme threatens the retirements of workers vested in City of New York pension funds that are guaranteeing these programs i.e. “economically targeted investments”.

Furthermore, residents are subjected to “breaches of law” **that include deprivation of rights under the 5th Amendment to the U.S. Constitution**, mortgage fraud, inverse condemnation, regulatory taking (ultra vires, unjust enrichment) and violations of Truth in Lending Laws.

For example, in the City of New York, 644 Riverside Drive is saddled with a \$46 million dollar mortgage, 540-550 West 144th Street saddled with a \$14 million mortgage, 50 West 112th Street, 86 West 119th Street, 477 West 142nd Street and other buildings are at risk.

Since Fall of 2004, The Residents of 936-938 St, Nicholas Avenue have suffered the perpetuation of a fraudulent refurbishing/renovation that has resulted in a “sick” building that needs to be made whole. Renovation was not performed per the Scope of Work. Inferior [poisonous] building material was used. The shoddy work has resulted in creating environmental and structural conditions that effect residents’ health, morbidity and mortality. The building is mold infested, seen and unseen. Respiratory, cardiovascular, pulmonary illness and broken hearts abound.

For example, in this fifty-one (51) unit building, fifteen (15) residents have died from initial symptoms that include respiratory distresses and memory loss. The contractor was given a deposit of \$3,912,000.00 without scope of work compliance.

Residents have recently learned that the building’s lack of a Certificate for Occupancy is a violation of the City of New York Multiple Dwellings Law §301. How/Why was a mortgage granted without a Certificate of Occupancy?

Things cannot continue this way.

The **Job No. 103324653** which was/is the permit for the 2002-2004 construction work in 938 St. Nicholas Avenue, Block 2107, Lot 20 is still **Open** at the City of New York Department of Buildings (DOB). The Work remains Incomplete. The Contractor willfully misfiled the Job so that it did not reflect the true cost of the Scope of Work and compliance with the Multiple Dwellings Law. There was No Certificate of Occupancy in 2006. There is NO Certificate of Occupancy NOW. How/Why was a mortgage granted without a Certificate of Occupancy?

Please note the document file for the foreclosure action that commenced in 2013 under the auspices of Judge Joan Madden and dismissed dated July 31, 2018: “Ordered that plaintiff’s foreclosure action is dismissed in its entirety without prejudice; and it is further Ordered that the temporary receivership of Daniel R. Milstein is terminated and Mr. Milstein shall be fully discharged as Receiver upon court approval of his final accounting”:

850011—2013--

<https://iapps.courts.state.ny.us/nyscef/DocumentList?docketId=P7AHkVkAJoalJnTcmW>

wrEA==&display=all&courtType=New%20York%20County%20Supreme%20Court&resultsPageNum=1

Unfortunately, the mortgage note was transferred to a new lender for the third time during the dismissed foreclosure action. The new lender served the building and shareholders with a new foreclosure action on Wednesday, 5th September. It is assigned **Index No. 850233-2018**-- New York County Supreme Court

Short Caption: 938 ST. NICHOLAS AVENUE LENDER LLC, - v. - 936-938 CLIFFCREST HOUSING DEVELOPMENT FUND CORPORATION et al

Case Type: Real Property - Mortgage Foreclosure - Commercial

Case Status: Pre-RJI;

<https://iapps.courts.state.ny.us/nyscef/DocumentList?docketId=YjmbXxmT0PYGZOFID8uTig==&display=all&courtType=New%20York%20County%20Supreme%20Court&resultsPageNum=1>.

The Managing Member of 938 ST. NICHOLAS AVENUE LENDER LLC, Mr. David Aviram, is also the Principal and Director of Acquisitions for Maverick Real Estate Partners (www.maverickrep.com), "a private equity fund manager that acquires loans, mechanic's liens and judgments secured by real estate"

Thank you for reading this letter. You must employ every resource you can muster to assist our efforts to end judicial malfeasance and malpractice.

We look forward to hearing from you very soon. We will also follow up with you.

Sincerely,

Harlem Housing Advocacy Group, Inc. P.O. Box 2741, New York, NY 10027, Cell: 917.846.8163 Email: hello@hhaginc.org

Mr. Carlton Burroughs, 938 St. Nicholas Avenue, Apt. 24, New York, NY 10032

Mr. James Peebles, 1 West 126th Street, Apt. 4H, New York, NY 10027

Mr. Thomas Winston, 938 St. Nicholas Avenue, Apt. 31, New York, NY 10032

Ms. M.E. Greene-Cohen, 119 West 72nd Street, #172, New York, NY 10023

Housing Court Answers
Testimony before NY City Council Committees on Housing and the Justice System
The Pending Eviction Crisis amid the COVID19 Pandemic
Jenny Laurie, Executive Director
September 17, 2020

I'd like to thank Committee Chairs Robert Cornegy and Rory Lancman for holding this hearing on the looming eviction crisis. Housing Court Answers has been running a hotline - thanks in large part to initiative funding from the New York City Council - for tenants and small landlords with questions about the moratorium, eviction protections, food and income support, lease and tenancy rights, illegal lockouts and emergency conditions. We have been assisting tenants with filing illegal lockouts and emergency repair cases. Our call volume has gone from about 50 to 70 calls a day during April - when landlords were barred from filing - to between 200 and 300 calls now that landlords can file new cases and restore old cases.

There are over 14,000 cases with eviction warrants pending in Housing Court from pre-COVID filings and landlords have filed about 1,300 motions to restore those cases. We are getting calls from tenants who have received motions to restore these warrant cases and we are giving those names to the Office of Civil Justice - we're getting about 20 a day.

Housing Court Answers urges the City Council to pass Intro 2050 which would allow the city to implement the 2017 Right to Counsel law immediately rather than the gradual phase in allowed for in the original legislation. Intro 2050 will provide thousands of families - both those in pre-COVID and COVID related cases - access to justice when they have to go to court. Right now, all tenants facing eviction are offered representation, however we don't know what will happen when filings rise to the expected levels. We would also urge the city to advertise heavily in high eviction areas that counsel is available and that tenants should not default or move out in fear of the case.

In a normal year, landlords file about 200,000 eviction cases, mostly for nonpayment of rent. Over the past 6 months, landlords have filed about 8,000 nonpayment cases and 2,000 holdover cases, most in recent weeks since the court started permitting filing (although some were filed in the first week after the courts closed to non-emergency traffic). Between March

16 and September 14, just under 2,000 cases have been filed by tenants for emergency repairs, harassment and illegal lockout citywide.

Clearly the eviction filing deluge has not yet started. Once the state and federal moratoriums expire, we can expect a huge increase in eviction cases. While the Council can help with this crisis by expanding the Right to Counsel law, the state can help in many more ways. We are hoping the Council will urge city-based state legislators to support the passage of an extensive moratorium. On a smaller scale, the state should be urged to waive the court requirement for the FHEPS program so that landlords of low income tenants can get paid a reasonable shelter allowance.

Goddard Riverside

INVESTING IN PEOPLE, STRENGTHENING COMMUNITY

LAW PROJECT

51 West 109th Street
New York, NY, 10025
(212) 799-9638
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September 21, 2020

Written Testimony to the New York City Council

Submitted by Richard Velasquez Jr., on behalf of Goddard Riverside Law Project

Joint Public Hearing: Committee on Housing & Buildings and the Committee on Justice System regarding the Potential Eviction Crisis in the Midst of the COVID-19 Pandemic.

Hearing Date: September 17, 2020

Dear Councilmembers:

My name is Richard Velasquez Jr., and I am a law graduate with Goddard Riverside Law Project, a nonprofit legal services provider. The Goddard Riverside Law Project provides free legal services and tenant-organizing support to low-income residents on the west side of Manhattan in order to preserve affordable housing and improve living conditions. The program initially focused on single-room occupancy (SRO) tenants but has expanded to include tenants living in other types of housing. Goddard Riverside Law Project is submitting this written testimony to raise some concerns we hold regarding the imminent eviction crisis and housing court's reopening.

All eviction proceedings, in all venues, should be suspended indefinitely for at least one year after the state of emergency has been declared over by Governor Andrew Cuomo. The impact of an eviction is devastating, always, but especially during a pandemic. No New Yorker should have to face the stress of becoming homeless or arguing their case, in person or virtually, during a pandemic. Evictions and eviction cases have been proven to negatively affect the health of tenants and therefore will continue to disproportionately impact low income communities and communities of color throughout the state. SRO tenants in particular are already a historically marginalized and vulnerable community. This is only worsened by the fact that the covid-19 pandemic has also been proven to have disproportionately impacted these same communities. There is no public health reason to proceed with eviction cases. On the contrary, moving forward with eviction cases creates a public health crisis. We can't support any eviction cases moving forward at all in the midst of a global pandemic that has claimed the life of over 32,000 New Yorkers to date in part due to government inaction and failure.

On August 12, the Office of Court Administration (OCA) issued a new order that extends the universal eviction moratorium until at least October 1, 2020 for all New Yorkers. Unfortunately,

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the order also mandates that eviction cases filed on or before March 16 should move forward, either virtually or in person. We condemn OCA's decision to move these cases forward. Evictions are not just about the final result of a case but also about the stress and anxiety of fighting to save one's home. No one should have to fight to save their home during a pandemic. There is no good venue in which eviction cases can move forward. In person hearings require that tenants risk their health to save their homes and virtual proceedings require tenants to give up their due process rights to save their homes. All options are unacceptable. Worse still, NYC housing court issued an order saying that tenants who fail to attend, virtually or in person, can be held in contempt and even have an eviction order issued against them when they're not there.

Tenant initiated cases, for repairs, illegal lockouts, and harassment are ultimately about the public health and safety of New Yorkers. These cases make up a small percentage of all cases in housing court, less than 3%. These cases must be able to move forward because they are about public health! Tenants should have the option to move forward either in person, provided all public health precautions have been addressed or virtually, provided all due process claims have been met. No tenant should be forced to participate in person, given the very real public health challenges, or virtually, given the very real due process and technological concerns. At any stage in a case, if a tenant is not comfortable with proceeding in either venue, they should have the option of postponing their case. This should apply even when tenants are represented--attorneys are not a substitute for tenant engagement and participation in a case.

Legislators and the courts should also take into account the other ways in which tenants may be impacted by the pandemic, being brought to housing court, and potentially evicted. Many folks are still grieving, traumatized, and mentally drained by the impacts of covid-19; on top of the anxiety and stress already associated with defending oneself in court. There has been little to no discussion about the psychological impacts that the covid-19 pandemic has had on tenants, along with how an eviction may worsen this. Moreover, people have also been financially impacted by covid-19 in unforeseeable ways. There are financial harms other than loss of income which are not considered in the current relief available, such as additional health costs associated with covid-19, expenses associated with the death of a family member, other bills and utilities which were not postponed during quarantine, as well as the possibility of having to support loved ones financially in such a hard time. Thus, there are many ways that people could have been physically, mentally, and financially impacted by covid-19 which is not reflected in current administrative orders, legislation, or relief available.

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Accordingly, we would like to echo the demands of the Right to Counsel Coalition. Namely, we also call for a halt to all eviction proceedings and a better, more universal eviction moratorium. We would ask that the city continue to support the Right to Counsel program and its expansion to ensure accessibility to all New Yorkers. Additionally, we ask for a slowdown of court cases once they do resume. Furthermore, we ask that housing be recognized as a human right and accordingly should be protected more proactively by the city. Moreover, we urge that the health, safety and accessibility to courts be prioritized, and in a meaningful manner. We would also like to call for support for the proposed **Emergency Housing Stability and Displacement Prevention Act** (Sponsored by Zellnor Myrie/ Assemblymember Karines Reyes - S8667/A10827).

Recently, the Centers for Disease Control and Prevention (CDC) took emergency action to protect tenants and the public health, when our state politicians have not. It is a sad day for all New Yorkers when the federal administration in Washington outdoes Governor Cuomo and our State elected officials in taking emergency action to protect tenants during this pandemic. The federal order doesn't go nearly far enough, but it also makes clear the abject failure of leadership in Albany.

An eviction moratorium is critical right now to prevent mass displacement and homelessness. But the CDC's moratorium does little for New Yorkers except add another layer of confusion. Instead of acknowledging that all evictions are a public health crisis, the CDC offers limited protections for certain tenants. This moratorium does not protect tenants who are facing eviction for issues unrelated to rent payment; it doesn't include a prohibition on landlords suing tenants, which is a serious cause of anxiety and stress; it requires that tenants make declarations that many lawyers would never advise a tenant to make when they can still be sued and evicted eventually; and it requires tenants to swear they'll pay their landlord what little money they have, clearly prioritizing a landlord's profit over tenants' basic needs. Lastly, in New York, the courts are moving pre-covid cases forward first. This, plus the fact that eviction cases generally take more than 4 months to finalize in NYC, means that we won't see evictions from cases started during covid before 2021 anyway, making this moratorium largely meaningless because it's not long enough.

In addition to calling on the state to pass the Emergency Housing Stability and Displacement Prevention Act, [we've also been calling on the Department of Health](#) to: Conduct a full inspection of all courts where evictions happen across the state; Conduct a full investigation and interpret the data on the impact of evictions on public health; Demand that the Office of Court Administration close housing courts and maintain the indefinite and universal

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moratorium on evictions across the state while this investigation is being conducted. To date, the DOH has failed to act.

In conclusion, we understand that there is no one-size-fits-all solution to the imminent eviction crisis. However, what we do understand is that the current procedures in place are inadequate to handle this looming threat. The city, state, and the courts must provide a more reasonable response and rethink housing court reopening procedures. There must be an extended and more suitable eviction moratorium. When cases do resume, tenants due process considerations, physical and mental health, and unforeseen financial impacts must be considered. Lastly, all court visitor's health must be taken more seriously, and further inspections must take place and precautions be taken in all courthouses.

Thank you for this opportunity to testify.

Richard Velasquez Jr.
Law graduate
Goddard Riverside Law Project

**Testimony of the Osborne Association
to the New York City Council
Committee on Housing and Buildings
and
Committee on the Justice System**

September 17, 2020

**Subject: Oversight - The Potential Eviction Crisis
in the Midst of the Covid-19 Pandemic**

**Presented by:
Damon Rowe
Director of Special Projects**



Transforming Lives, Communities,
and the Criminal Justice System

Good morning. My name is Damon Rowe, and I am the Director of Special Projects at the Osborne Association. The Osborne Association is a nonprofit organization that provides programs for individuals affected by incarceration, including people in prisons and City jails, their children and their families. We offer a range of family, health, housing and reentry programs, and we appreciate the opportunity to participate in this important hearing.

The effect of COVID-19 on housing in New York will be widespread but the Council is right to focus on the disparate effect it will have on the ability of the most vulnerable of us to find safe and stable shelter, including formerly incarcerated people facing homelessness. People reentering the community post-incarceration face huge barriers to finding adequate housing, including PTSD from incarceration and an often lifetime exposure to violence, loss of family/social ties, mental health and substance use needs, poverty, limited employment and educational histories, and the stigma of a criminal record. These factors have led to what has been commonly called the “prison to shelter pipeline,” with more than half of the people discharged to New York City from State prisons going straight to shelters.

Using hotels to provide housing to people in homeless shelters and people returning from jail or prison has been a sensible step to prevent the spread of COVID-19. However, the passion driven reaction that we’ve seen to the hotels brings to light the fact that we don’t have a viable housing strategy for people leaving jail or prison. We were heartened to see that the diversity of recommendations in the Council’s *The Case for Change* report on the homelessness crisis released by Council Speaker Johnson at the beginning of the year included recommendations that would target this pressing need, including:

- a state funding program for transitional housing;
- Amending the NYC 15/15 supportive housing program so the people leaving incarceration are no longer excluded; and
- Revising the NYCHA rules that prevent justice involve people from being reunited with their families in public housing.

As Osborne, other social service providers and public interest organizations have advocated, the NYCHA exclusions for justice involved people are particularly harmful while

we are all dealing with the housing consequences of the COVID-19 pandemic. Eviction, particularly evictions by the public agency that is the largest provider of affordable housing in the City, should not be a consequence of providing shelter to a loved one during a crisis.

A thoughtful, comprehensive, and coordinated response that brings together all government actors - City and State - is required. We should build on the experience of the vested stakeholders that provide transitional and supportive housing and reentry services inside and outside of State prisons and City jails to improve discharge planning and address returning citizens' need for housing. To be meaningful, systemic solutions must be informed by the voices and experiences of those directly affected including formerly incarcerated people and their families. We must also recognize that blanket approaches do not adequately serve thousands of formerly incarcerated people, many of whom are not classified as chronically homeless until they spend months in a shelter or on the streets post-release.

In conclusion, in order to respond to the ways that COVID-19 has and will continue to exacerbate New York City's housing crisis, including the potential surge in evictions, we recommend that the Council pursue an integrated policy that allows for public agencies, private social service organizations and affordable housing developers to work together to build a full-spectrum continuum of housing options - including transitional reentry housing, supportive housing, cohabitative housing for those who can return to family or share housing, and properly subsidized affordable housing - that does not discriminate against people returning from prison or jail. Only a full-spectrum model will disrupt the cycle of poverty, homelessness, crime, and incarceration and create a system and will allow everyone to have a "home."

Respectfully submitted,
Damon Rowe, Director of Special Projects
The Osborne Association
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www.osborneny.org



Testimony to the New York City Council's Housing Committee

Presented on September 17, 2020

by Melissa Sklarz, Senior Government Relations Strategist

On behalf of SAGE and the lesbian, gay, bisexual, and transgender (LGBT) elders we serve, thank you for holding this hearing today and allowing me the opportunity to present testimony with respect to the eviction crisis brought on the COVID-19 pandemic. My name is Melissa Sklarz and I am SAGE's Senior Government Relations Strategist.

Founded in 1978 in New York City, SAGE is the country's first and largest organization dedicated to improving the lives of LGBT older people. Aging creates challenges for most people as we get older, including social isolation and diminished income. For LGBT elders, the barriers mount. Many LGBT older people have experienced stigma and discrimination throughout their lives as a direct result of their sexual orientation or their gender identity. This affects their financial security and overall well-being. Recent studies show that more than four in ten LGBT Americans over the age of 65 cite financial problems as a major concern, 47% report having less than \$10,000 in savings and assets, and that 30% are concerned about their housing stability. Nationally, 29 percent of adults above 55 have neither a pension nor retirement savings, according to the Government Accountability Office.

Further, LGBT elders, and especially LGBT elders of color, are living at the epicenter of the COVID-19 pandemic. This is not only because of their age, but also because of: (1) disproportionately high levels of underlying health conditions like HIV and diabetes; (2) higher levels of poverty and food and housing insecurity; (3) lower access to health care and supportive services; (4) social isolation and thin support networks; and (5) mistrust of government and other institutions based on historical and current discrimination and mistreatment. All of these challenges are even further exacerbated for transgender elders of color.

Further, even here in New York, LGBT elders are still subjected to discrimination and people living with HIV are still living with the stigma of being HIV+ and are reporting increased instances of targeted discrimination because of their status. As reported in the Washington Post on April 2, 2020, "for the city's roughly 800,000 LGBT residents — especially elders, who find themselves among the most at risk once again — the corona-virus pandemic's woes of

loneliness, panic, and fear of being vulnerable to infection are evocative of the HIV/AIDS crisis a generation ago.”¹

LGBT older people also face serious challenges in accessing welcoming housing. A 2014 ten-state investigation conducted by the Equal Rights Center found that 48% of same sex older couple testers seeking housing in senior independent living facilities across the country experiences discrimination.

In New York City, housing challenges are severe. Countless older LGBT people find themselves priced out of the neighborhoods where they have lived for years, due to rising rents and diminishing income. Further, the intersection of aging, poverty, COVID-19 reduces or eliminates the ability for older people to pay timely rent and, devastatingly resulting in losing decades-old homes, becoming displaced or, worse, into the city’s homeless shelter system at an older person, further increasing the risk of illness. New York’s patchwork of subsidies attempts to keep elders in place but the complexity and monetary limits result in a permanent sense of precarity among the city’s most vulnerable. Lack of savings, income, and at-risk health make create a dangerous environment for New York’s elder residents. All of this is exacerbated for older people who are LGBT or living with HIV, as their experienced stigma and discrimination. Unless effectively addressed, this crisis among LGBT older people will only worsen, as this population doubles as more out LGBT people age into their retirement years.

This is why, 42 years after our founding, SAGE is realizing a dream that has been years in the making. With support from the Council, New York City and New York State and in partnership with developers, SAGE is opening New York State’s very first LGBT-welcoming, fully affordable elder housing: Stonewall House in Fort Greene, Brooklyn, and Crotona Senior Residences in the Bronx. Both buildings are 100% affordable and both have units set aside to house formerly homeless elders. In addition to services to the elder residents in the buildings, the on-site SAGE Center provides stability and services for elders residing in the neighboring communities.

While history making and crucial to its current residents, the apartments offered by those two buildings are but a drop in the bucket. Service-enriched LGBT friendly housing, like that offered through Crotona and Stonewall House, is crucial for our LGBT elders. Data shows that care management and support services diminish health care costs, both Medicare and Medicaid, and a reduction of the need for ambulatory care.

As affordable housing becomes a serious urban priority across the nation, SAGE, in partnership with the New York City Council, can show other cities how to ensure that LGBT elders can age with dignity and safety. Safe, modern, affordable LGBT friendly housing, with supportive SAGE Centers, is a model to preserve the quality of life that all aging New Yorkers deserve.

¹ https://www.washingtonpost.com/national/coronavirus-hiv-aids-new-york/2020/04/02/9e7f8728-74f4-11ea-87da-77a8136c1a6d_story.html

With an unforeseen economic and housing catastrophe upon our city, SAGE supports efforts to put a moratorium on evictions, especially for older, vulnerable New Yorkers. That's why SAGE supported Senator Hoylman's Tenants Safe Harbor Act, signed by the Governor in March, and we are grateful to NYS Chief Administrative Judge Laurence Marks on extending the eviction moratorium until October 1.

Thank you for the opportunity to testify. SAGE deeply values our partnership with the City Council. We look forward to working together to ensure that our LGBT elder pioneers can become or remain stable housed so that they can age with dignity and respect.



TAKEROOT JUSTICE

TESTIMONY ON:
THE POTENTIAL EVICTION CRISIS IN THE MIDST OF THE COVID-19 PANDEMIC

PRESENTED BEFORE:
THE NEW YORK CITY COUNCIL
COMMITTEE ON HOUSING & BUILDINGS
COMMITTEE ON JUSTICE SYSTEM
SEPTEMBER 17th, 2020

PRESENTED BY:
Elizabeth Clay Roy
Executive Director, TakeRoot Justice

Thank you to the Council Chairs, Members and staff for your work to help the city through this crisis.

My name is Elizabeth Clay Roy, and I am the Executive Director of TakeRoot Justice, a legal services organization that serves over 2000 clients across New York City each year to advance racial and economic justice.

Our team works side-by-side with tenants as they fight against gentrification to demand better living conditions, affordable rents, and a voice in the policies that

shape their neighborhoods. This advocacy has resulted in millions of dollars worth of repairs in low-income housing and kept New Yorkers in their homes.

A safe place to live is personal protective equipment in 2020, crucial for families to prevent and recover from this virus. Our collective investment in housing stability should be a priority for everyone.

We support the extension of the moratorium, specifically the Emergency Housing Stability and Displacement Prevention Act in the NY State Senate. The moratorium has done more to prevent homelessness in the past 5 months than any other government action in recent history, which is an important lesson. Now, that protection is about to disappear and we anticipate an unprecedented flood of evictions.

We know that during the pandemic the number of households with rent arrears has skyrocketed. An estimated 46% of renter households in New York have had difficulty paying rent due to COVID-related income loss. There could be as many as 1 million new eviction filings in New York in the first four months after the moratorium expires.

This wave of evictions will crash into a safety net full of holes. Many tenants will be ineligible for one-time rental assistance from HRA because of permanent loss of income. Many more will be ineligible for the City's rental voucher programs because their rents are too high. Black and Latinx tenants, who have already been disproportionately devastated by the pandemic, are also facing the brunt of the eviction crisis.

While no single action will be enough by itself, there are two important bills before the Council right now that are crucial to preventing mass evictions and homelessness:

- **Intro 2050** will fully implement a right to counsel in Housing Court immediately for all zip codes, rather than continuing to phase it in over the

next 2 years. We are facing a crisis unprecedented in history, and we cannot wait any longer.

- **Intro 146** will raise City rental voucher payments to the HUD fair market rent, bringing vouchers within reach of thousands of households who have lost income during the pandemic.

Disturbingly, but not surprisingly, some landlords are ramping up harassment in this climate.

At TakeRoot Justice, we're currently litigating an emergency harassment case (referred to us by HRA under the AHTP contract) where the landlord repeatedly followed the tenant onto the street shouting homophobic slurs, and pounded on the tenant's apartment door so hard that an HPD inspector found that the door's hinges were broken.

Of course this is part of a larger crisis. Even before the pandemic, and the massive job loss and economic pain it entailed, New York tenants were in a housing crisis. In New York City, for example, pay has been stagnant for years: real wages have not increased above 2007 pre-recession levels.

The City's tenants and advocates are relying on the City Council to take action. Thank you for your time today, and your action in the weeks ahead.

**TESTIMONY OF THE QUEENS AND BRONX BUILDING ASSOCIATION AND THE BUILDING INDUSTRY
ASSOCIATION OF NEW YORK CITY.
SEPTEMBER 17, 2020**

Good morning. I am Robert Altman and I am the legislative consultant to the Queens & Bronx Building Association and the Building Industry Association of New York City. I am here today to speak about the oversight topic: The Potential Eviction Crisis in the Midst of the COVID-19 Pandemic.

I am sure today that you will hear from a number of housing advocates looking to prevent evictions upon the end of any moratorium on evictions. We all understand the crisis that will be faced by any number of households in New York City. Unemployed persons will face evictions and it will be mostly because they are unemployed due to the COVID-19 pandemic, a situation not of their own making.

But as the Council looks at “solutions” advocated by others, I want to add a word of caution: BUILDING OWNERS SHOULD NOT BEAR THE ENTIRE COST OF ANY SOLUTIONS. Overwhelming amounts of building owners are facing a crisis of their own. Every building has to pay for heat, taxes, water, electric, personnel, and other essential services. Almost all must make a mortgage payment every month. Some, without even evicting a single tenant, are facing financial problems due to tenants who have just moved out and moved on as New York City dwellers have permanently escaped to other places. The loss of revenue, even without any evictions, places financial burdens on a building owner, and such strains may already be at the breaking point. Loss of tenants leads to the loss of revenue needed to pay your New York City taxes, including water, sewer and real property taxes. (And taxes promise to increase even next year as the loss of revenue will not be reflected in assessments until July 1, 2022.) Loss of revenue makes it harder, and in some cases, impossible to pay the mortgage. Loss of revenue makes it harder to provide essential services such as electric, heat, maintenance and other items. These are costs that are not going down. Is the City lowering property taxes? Water rates? Sewer charges? A mortgage is not going down. And if any essential services are lessened by a building owner for lack of funds, we know that DOB and HPD will be out in force to levy more fines and violations to further compound the problem.

Legislation recently passed by the Council related to COVID makes us wary that the Council even understands our issues. There are many laws the Council can change, but it cannot change the laws of economics, and the Council cannot expect to have a loss of revenue to building owners and magically expect that a building can function. And again, this is BEFORE any evictions.

In the mortgage crisis of 2008-2011, we all heard about zombie homes. But rental multiple dwellings, while having their own difficulties, did not face the same set of factors resulting in some stability for them. But that is not true now. It is not just unemployment (on a scale rarely seen) and subsequent non-payment of rent that threatens these buildings, but sudden and rapid abandonment of the City at a pace never seen, not even during the much slower abandonment of the City in the 1960’s and 1970’s. At least then, the loss was gradual. In this instance, it has happened in a short, few month time-frame. So if buildings are left without sufficient revenue, what happens. Inevitably non-payment of mortgages, taxes, heat and electric. Also there will be deferred maintenance, heating violations and delays in

**TESTIMONY OF THE QUEENS AND BRONX BUILDING ASSOCIATION AND THE BUILDING INDUSTRY
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implementing all the wonderful energy savings requirements put on by the City when times were better (if they can be done at all as owners will need to focus on more essential items). After all, is a building going to get a loan for energy improvements if it can't even pay the mortgage?

And if a building owner cannot make payments and viably operate a building, just like you had zombie homes, you can have zombie multiple dwellings. Places where the mortgage is not met, that there are defaults on because even if the landlord lowers rents to add more revenue, it may only be enough to meet some of the costs and not all.

And if the buildings are foreclosed upon, banks, just like in the home mortgage crisis, will have large chunks of their portfolios in a weakened state, threatening the ability of the banks to function, making it more difficult for it to survive. Only this time, the problem will not be of the banks' own making, it will be because of a pandemic.

So it is easy for everyone to propose nice sounding solutions. But we have seen that those solutions usually focus only on the immediate user of housing and not those who might be negatively impacted by those solutions. Those advocates aren't here to protect the "big bad building owner." But unless everyone gets protected by a solution, then really no one is protected. So the questions our Association have are: does anyone have a real solution rather than a slogan? Does anyone have a real solution rather than a simplistic approach which helps one group, but harms the rest (because such solutions ultimately harm everyone)? Does the Council recognize the negative implications of its actions in the past and will it in future legislation equally protect everyone or will it just propose solutions aimed at one narrow group designed to obtain votes, but not to solve the true problem?

History indicates that we should not expect to be pleased with the answers to the above questions. But unless the Council finds solutions that works for everyone, it is pretty assured that it will not work for anyone.

And my comments here only focus on the residential side. I can write a similar scenario for commercial real estate as the permanent need for office space contracts via remote working.

The Council has a difficult time ahead of it. We are sure that simple solutions will only add to the crisis. So before the Council just passes simplistic legislation, we suggest it focus on all the economics. Unless it does, it will be doing a disservice to the people of New York City.

John K. Carroll
President

Richard J. Davis
Chairperson of the Board

Janet E. Sabel
*Attorney-in-Chief
Chief Executive Officer*

Testimony of
The Legal Aid Society
on
The Potential Eviction Crisis in the Midst of the COVID-19 Pandemic

and T2020-6626

Presented before

The New York City Council
Committee on Housing & Buildings
Committee on Justice System

Presented by
Nakeeb Siddique, Supervising Attorney, Brooklyn Neighborhood Office Civil
Practice

September 17, 2020

Introduction

New York City was the epicenter of the world's COVID-19 pandemic. Since March 2020, over 242,000 residents have tested positive for COVID-19. Nearly 23,743 New Yorkers have died—a death rate of more than 9.8% of confirmed cases. In March 2020, Governor Cuomo declared a State disaster emergency in order to halt the transmission of the virus, which included, among other things,

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closing courts and declaring a moratorium on evictions. Today, despite the City's progress, many restrictions remain on in-person gatherings and commerce pursuant to the State disaster emergency. These measures have been necessary because the scientific consensus is clear: social distancing is the only effective tool to minimize the transmission of the virus and, accordingly, save lives.

Nine of the top ten zip codes in New York City with the highest infection rates are in Queens and the Bronx.¹ More people have died in the Bronx, Queens and Kings counties than in all other states in the Union but two.² The Bronx is the City's poorest borough; it has the highest concentration of people of color; and it has experienced the highest tolls of infections, hospitalizations, and deaths.³ Data from the City's own health system shows deep disparities in who is affected by COVID-19, with mortality rates tied to race and income. Neighborhoods with the highest concentrations of Black and Latinx people, as well as low-income residents, have suffered the highest death rates.⁴ The CDC reports that regardless of age, Latinx and Black people are respectively 4-5 times more likely than white people to be hospitalized due to COVID-19.⁵ “[A]s more data becomes available, one thing is

¹ Michael Schwartz and Lindsey Rogers Cook, These N.Y.C. Neighborhoods Have the Highest Rates of Virus Deaths, N.Y. TIMES, May 18, 2020, <https://www.nytimes.com/2020/05/18/nyregion/coronavirus-deaths-nyc.html>.

² As of July, Queens (5875 deaths), Kings (5548 deaths), and Bronx (3858 deaths) surpass all but the States of New Jersey (15,525) and New York State as a whole (29,585). All three counties and New York County (2472 deaths) are within the deadliest top 7 counties of the country. Johns Hopkins University, Coronavirus Resource Center (Last Updated July 9, 2020) <https://coronavirus.jhu.edu/us-map>

³ Kimiko de Freytas-Tamura, Winnie Hu and Lindsey Rogers Cook, ‘It’s the Death Towers’: How the Bronx Became New York’s Virus Hot Spot, N.Y. TIMES, May 26, 2020, <https://www.nytimes.com/2020/05/26/nyregion/bronx-coronavirus-outbreak.html>.

⁴ Michael Schwartz and Lindsey Rogers Cook, These N.Y.C. Neighborhoods Have the Highest Rates of Virus Deaths, N.Y. TIMES, May 18, 2020, <https://www.nytimes.com/2020/05/18/nyregion/coronavirus-deaths-nyc.html>.

⁵ COVID-19 in Racial and Ethnic Minority Groups, Center for Disease Control and Prevention, Updated June 25, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/racial-ethnic-minorities.html>.

clear: COVID-19 has only magnified the systemic inequalities that persist in the United States. And nonwhite Americans, especially African Americans, have been hit hard on nearly every front.”⁶

The early months of the pandemic demonstrated that in-person court operations must be handled carefully. By the end of April 2020, three judges had died from COVID-19 and almost 170 court workers were infected.⁷ Policies to expand virtual filings and operations and limiting in-person proceedings are necessary to protect the health and safety of all persons involved in court proceedings. However, in creating such policies, the courts must reckon with substantial due process concerns, particularly for *pro se* litigants.

These fundamental issues are still being worked out by the courts. Chief Judge DiFiore has convened multiple working groups to recommend best practices for operations during the pandemic. In her most recent update, Chief Judge DiFiore acknowledges are the courts are still “pursuing a number of strategies to limit courthouse traffic in the future...[and] are working around the clock to expand access to our virtual courts”⁸

As of the date of this writing, few courts in New York State are functioning with any similarity to pre-pandemic operations. Until there is a vaccine for this disease, New York City Housing Courts cannot function as they did. The City’s Housing Courts were high volume courts where thousands of people a day appeared in small spaces with poor ventilation. And yet Housing Court, in all five

⁶ Kaur, Harmeet, The coronavirus pandemic is hitting black and brown Americans especially hard on all fronts CNN (May 8, 2020) <https://www.cnn.com/2020/05/08/us/coronavirus-pandemic-race-impact-trnd/index.html>.

⁷ Andrew Denney, *3 New York judges died from coronavirus, almost 170 court workers infected*, The New York Post, available at: <https://nypost.com/2020/04/28/coronavirus-in-ny-3-judges-die-almost-170-court-workers-infected/> [last accessed Aug. 24, 2020].

⁸ Transcript of Chief Judge DiFore Message, August 24, 2020, available at: <https://www.nycourts.gov/whatsnew/pdf/August24-CJ-Message.pdf> [last access Aug. 24, 2020].

boroughs, has begun to reopen to in-person proceedings, endangering everyone who is forced to appear in court.

We have appreciated our regular conversations with the Chief Administrative Judge, and the Administrative Judges of the New York City Civil Courts, as well as stakeholders from the Mayor's Office for Criminal Justice ("MOCJ") and elsewhere, but unfortunately our conversations have not always led to adequate resolution of these concerns.

Concerns About In-Person Court Operations

Currently, housing court is open to in-person court proceedings. Recognizing that a return to in-person court operations required the input of health and safety experts, in June, The Legal Aid Society hired CrowdRx, a team of emergency physicians and public safety experts who prescribe and deliver medical services to large gatherings in the United States, to provide expert opinion as to the safety of our courthouses and to provide advice and guidance to the defenders, legal services providers, our clients, the unrepresented litigants, and the Office of Court Administration ("OCA") concerning safety measures that should be implemented before resuming in-person court appearances. In late June and early July and August, CrowdRx participated in tours of 25 courthouses where we regularly practice throughout the City. Based on these tours of the state courts, and our ongoing conversations with OCA and DCAS officials, CrowdRx and the expert hired by the UAW Local 2325 raised significant concerns about the courts' reopening protocols that remain unaddressed. It was disappointing to learn that OCA's epidemiologist has toured no courts and has given advice based solely on floor plans. There remains no clear plan for ensuring people's safety from the transmission of COVID-19. Even as plans continue to roll out in the sporadic and reactionary manner we have

observed over the last weeks and months, OCA and New York City Department of Citywide Administrative Services (“DCAS”) have also failed to provide the public and attorneys representing clients housing courts with a clear and effective system for raising concerns about the implementation of and compliance with those policies. Despite these concerns, in-person appearances have resumed and continue to escalate, putting people in danger. There are, however, several concrete steps that can and must be taken to ensure that any return to court is safe for those who attend and surrounding communities. Legal Aid convened a series of working groups comprising a cross-section of our staff – including managers, staff attorneys, investigators and social workers among others – to develop recommendations for steps to take before resuming in-court appearances. They are as follows:

- **Personal Protective Equipment (PPE)**: For the safety of all people entering a courthouse, PPE must be available and used while inside any courthouse.
- OCA must establish and enforce a policy mandating that all Court personnel are required to wear PPE while in any courthouse.
- OCA must establish and enforce a policy requiring all members of the public to wear PPE while inside any courthouse.
- PPE must be made readily available to members of the public entering the courthouse but who do not have their own masks and PPE.

Cleaning Protocols: All stakeholders with the guidance of experts must establish and adopt stringent cleaning protocols to reduce the risk of infection:

- OCA and DCAS must develop cleaning protocols throughout the Court and Court based offices. These protocols must be consistent with the highest levels of public hygiene and safety.

Court Facilities: All courthouses and space therein must be assessed and altered to provide a protected environment as recommended by medical and OSHA experts, including:

- All courthouses must comply with the New York State Department of Health requirement that HVAC systems be MERV 13 or higher or be remediated by the addition of HEPA filtration and/or UV systems.
- Each court part needs to be reconfigured to allow for social distancing, including installation of barriers, Plexiglas or dividers, for all people appearing within the part, including, but not limited to, judiciary, reporter, counsel, court staff, officers and client.
- Public restrooms, restrooms set aside for any stakeholders or those in holding areas for people awaiting arraignments all must be reconfigured and retro-fitted to remediate the spread of COVID-19.
- Hand sanitizer, soaps and access to hot water are needed to reduce the risk of infection and spread of COVID-19.
- All stakeholders must reduce the number of staff in each court part (consistent with public safety) to accommodate social distancing.
- Counsel must have a large and well-ventilated space to interview clients and witnesses. (Congregating in the hallways is unacceptable for our clients, ourselves and members of the public.)

Health Screenings to Enter: Everyone entering a courthouse must pass a uniform health screening with set protocols for each potential circumstance arising from the screening:

- All staff from all stakeholders must pass a health screening to enter the courthouse. This must include court staff, and the judiciary.
- This screening must take place outside of the building to prevent an infected person from entering the building before a screening can take place.
- OCA must develop sound protocols to address different circumstances arising from the screening to ensure the individuals do not suffer adverse consequences if they are denied entry due to the screening including the creation of a containment room should a person need to wait for an emergency medical services.
- OCA must develop sound protocols to address circumstances arising when people within the courthouse display or communicate symptoms or illness address the health and safety of that person and of all people they have come in contact within the courthouse in compliance with health and safety as well as privacy rights.

Training and Enforcement: All stakeholder staff must be educated in the public health risks of COVID-19 and communicable diseases and proper procedures to reduce risks of infection. All appropriate hygiene practices must be followed and enforced for the safety of all.

- OCA must have a designated hygiene officer with executive authority to ensure that the established cleaning protocols and practices are enforced.
- Committees involving all of the stakeholders must be established in each county to assess these recommendations as they apply to the local court houses and monitor local compliance.

The City Council plays an oversight role with the New York City Department of Citywide Administrative Services. As all of the City's courts are either owned or leased by the City, it is DCAS which is responsible for the physical condition of these courts. DCAS is ultimately responsible for the HVAC systems and the cleaning protocols necessary to minimize the risk of Covid19 exposure during in person court proceedings. We urge DCAS to be forthcoming and transparent about the work that they are doing in the courts to ensure compliance with their protocols.

Concerns about Remote Operations

While more and more tenants are being provided with attorneys, most civil litigants do not have access to counsel. At this time, it is unsafe to return to court in person. Unfortunately, most of the systems set up for remote operations have failed to consider those litigants without attorneys. Pro se litigants lacking internet access are unable to effectively utilize the Electronic Document Delivery System ("EDDS") or participate in teleconferences and are therefore limited in their ability to defend themselves in court. As the shift to remote learning laid bare, an enormous "digital divide" exists across New York State, as thousands of residents lack requisite technology to participate in remote learning, including computers and wi-fi access. Those lacking a home or mobile broadband connection also face barriers to employment, banking, healthcare, social networks and government services.⁹ Unfortunately, as of March 2020, about 30 percent, or 2.2 million, of New York City residents lack

⁹ The New York City Internet Master Plan, New York City Mayor's Office of the Chief Technology Officer (January 2020) https://tech.cityofnewyork.us/wp-content/uploads/2020/01/NYC_IMP_1.7.20_FINAL-2.pdf.

broadband internet access, including 350,000 who only access internet through cell phones or tablets.¹⁰ The comprehensive connectivity provided when one has both home and mobile access is increasingly becoming crucial to gaining full access to the range of services private and government entities offer to the public.¹¹

The costs of home broadband access present a formidable barrier for low income families.¹² Low-income, immigrant-dense neighborhoods across the city most lack internet access: 50 percent in Chinatown and Lower East Side, 48 percent in Hunts Point, Longwood & Melrose, 46 percent in Borough Park, Kensington & Ocean Parkway, 44 percent in Morris Heights, Fordham South & Mount Hope, 43 percent in Belmont, Crotona Park East & East Tremont, and 43 percent in Jamaica, Hollis and St. Albans.¹³

Thirty-six percent of New Yorkers outside of the labor force lack a broadband internet connection, versus 20 percent of employed New Yorkers. Seniors are much more likely to be without a broadband internet connection compared to the general population.¹⁴ Forty-two percent of New Yorkers 65 years-old and above lacked broadband internet access, compared to 23 percent of 18 to 24 year-olds.¹⁵ Forty-four percent of New Yorkers in poverty lack broadband internet access, as opposed to 22 percent above the poverty line.¹⁶

¹⁰ Scott Stringer, *Census and the City: Overcoming NYC's Digital Divide in the 2020 Census*, Office of the New York City Comptroller (July 2019), at 5. https://comptroller.nyc.gov/wp-content/uploads/documents/Census_and_The_City_Overcoming_NYC_Digital_Divide_Census.pdf.

¹¹ NYC Internet Master Plan, *supra* note 13.

¹² *Id.* at 13.

¹³ *Overcoming NYC's Digital Divide*, *supra* note 14 at 5.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

Data widely demonstrates racial disparities in accessing broadband internet access. Approximately 30 percent of Latinx and Black New Yorkers lack broadband internet access, compared to 20 percent of White New Yorkers and 22 percent of Asian residents.¹⁷ Further, recent studies indicate that 67 percent of Black and Latinx New York City residents have Broadband internet access at their homes compared to 78 percent of White New York City residents and 15 percent of Black and Latinx New York City residents have no internet access compared to 11 percent of White New York City residents.¹⁸

In recognition that the digital divide and vulnerability to the COVID-19 crisis often overlap, courts should partner with other public agencies and community leaders to bridge the gap by, for example, creating community kiosks or providing hotspots and devices to any litigant who needs to appear virtually. Further, OCA should ensure language access and interpretation services for virtual appearances and should widely advise the public of the option to appear virtually. OCA should adopt uniform rules for virtual appearances so that all litigants have clear expectations on how a case will proceed.

The courts should enhance its technology, so it has one place on the web (and a phone system) where litigants can get access to their court appearances, ask how to adjourn matters, obtain numbers and get specific procedural assistance about their matters.

In addition, the courts must address how pro se litigants can navigate EDDS so that they can access the courts. The creation of was necessary to allow remote court proceedings to move forward.

¹⁷ *Id.*

¹⁸ American Community Survey, United States Census Bureau (2016), <https://www.census.gov/programs-surveys/acs/>.

Unfortunately, it was a system created for attorneys. The system is difficult to navigate for pro se litigants who lack familiarity with court terminology and technology, and limited guidance and support has been provided for them. EDDS only allows for the filing of specific types of documents, excluding basic pleadings such as answers. The actual filings of documents on EDDS has been marred by lengthy delays and inconsistent compliance by court staff.

Remote court appearances through Skype or Microsoft Teams, are daunting for those unrepresented litigants, who lack access to computers and reliable internet access. The digital divide is especially relevant in high volume courts, such as Civil Court and Small Claims Court, where many litigants have limited-English proficiency (LEP) or are disabled, and almost all are unrepresented. With the implementation of remote virtual appearances, including in Small Claims Court mediation and trials, it is critical that litigants are able to make an informed choice and have adequate tools and resources to effectively participate.

Housing Court

As of March 2020, 200,000 eviction cases were pending in the NYC Housing Courts, of which an estimated 165,000 involved tenants without counsel. In over 14,000 of these cases, warrants of evictions had already been issued by the court. The overcrowding in NYC Housing Court is legendary, with thousands of tenants packed into poorly ventilated courtrooms, hallways and elevators, typically spending hours in these conditions while waiting for their cases to be called and resolved. Tenants in eviction proceedings were drawn from the poorest districts of the City, populated by persons of color whose health was, even prior to the COVID-19 epidemic, far more precarious than that of residents in more affluent, whiter neighborhoods.

Justice in Every Borough.

Since the initial closure of the City's Housing Courts in March, judges have begun to process only two-attorney cases that were pending before the epidemic, with these cases handled remotely through videoconferences. Although approximately 7282 new eviction cases have been filed after June 22, none of these cases has been calendared. However, upon the expiration of the current eviction moratorium set by the courts,¹⁹ thousands of tenant households can be served with motions to execute on the eviction warrant, causing them to descend upon housing courts throughout New York seeking to respond to the motions.²⁰ In the month since the OCA procedure was announced, 1250 motion to execute on motions have been filed²¹. While landlords are supposed to be providing tenants with notices informing them not to appear in court, tenants who receive these papers do not always read the notice and are trying to appear in court to answer them. The notices are sometimes the last piece of paper of the documents received by the tenants. Tenants are rushing down to courts and then being turned away.

In the ordinary course of business, the hallways of New York City housing courts have been compared to a subway car at rush hour. In the busier boroughs, about 2,000 people go to court each day and stay in the building for hours. Housing courts are not prepared for an influx of litigants nor can they be while COVID-19 remains in the community and incurable.

¹⁹ <https://www.nycourts.gov/whatsnew/pdf/ao160a20.pdf>

²⁰ The Center for Disease Control's eviction moratorium may well not cover holdover situations. *See* <https://s3.amazonaws.com/public-inspection.federalregister.gov/2020-19654.pdf>

²¹ Emma Whitford, CDC Eviction Rule Likely to Have Limited Reach in NYC, Law360, September 14, 2020, <https://www.law360.com/newyork/articles/1309783/cdc-eviction-rule-likely-to-have-limited-reach-in-nyc>

Moreover, the theoretical availability of virtual procedures cannot reduce the flow of tenants into the Housing Courts unless they are assigned counsel with access to and expertise in the necessary technology.

Chief Judge DiFiore recently convened a partnership—the COVID-19 Recovery Task Force’s Housing Working Group—to recommend changes to Housing Court in light of the COVID-19 pandemic.²² The Report pointed out that “[w]ithout substantial changes to court procedure, the increased number of cases will dramatically increase the number of people that travel to and appear at the courthouse, exacerbating the ongoing health risks of COVID-19 infection.”²³ The Report recommends, *inter alia*, that housing courts provide all individuals subject to eviction proceedings who satisfy certain low-income eligibility thresholds with free legal counsel, advertise the right to counsel at several distinct steps in the legal proceeding and advocate for a systemic shift for tenants to seek counsel before a petition is filed, and allocate additional judicial resources to support the surge in housing court cases.

The just reopening and operation of New York City’s housing courts are crucial to our client community. The shortcomings of our housing courts have always disproportionately impacted low-income communities, people of color, and those with the least resources to weather forced displacement. By putting a pause on eviction cases, the pandemic has given us an opportunity to reflect

²² *Housing Working Group Report*, COVID-19 Recovery Task Force’s Housing Working Group, July 9, 2020 (“The COVID-19 Recovery Task Force, formed through a partnership of the New York State Court System and the New York State Bar Association at the request of Chief Judge Janet DiFiore, is led by former Chief Judge Jonathan Lippman, Of Counsel at Latham & Watkins LLP.”).

²³ *Id.* at 3.

on our priorities. As we look towards the reopening of our housing courts, it is crucial that we do so in a way that reflects what we have learned about access to justice.

First, we must extend the eviction moratorium.²⁴ While infection rates in New York City are down, epidemiologists warn that a resurgence is all but inevitable as we loosen the very restrictions, including the eviction moratorium, that have helped make New York safer. If we allow evictions to take place at the cusp of a second wave, we will be flooding homeless shelters, subways, and streets at the very moment that we need to maintain the status quo to prevent the death toll from climbing again. In addition, new filings will mean more people entering the courthouses across the City, violating norms for social distancing, isolation, and quarantines. These outcomes, and the prospect of the eviction of thousands of individuals and families, do not represent the ideals of a fair and just system. Unfortunately, the Centers for Disease Control and Prevention order²⁵ will not extend relief to tenants in unregulated apartments where the landlord can avoid the moratorium by bringing a case based on non-renewal of the tenant's lease. Conservatively, we believe that tens of thousands of New Yorkers will still face eviction because of this loophole. The Governor and the leaders of the Legislature need to immediately enact a full-fledged moratorium to cover all tenants statewide before it is too late.

²⁴ Unfortunately, the Center for Disease Control's moratorium is unlikely to change this situation because it likely does not cover holdover situations and because most tenants will need an attorney to navigate its requirements. <https://s3.amazonaws.com/public-inspection.federalregister.gov/2020-19654.pdf>

²⁵ Centers for Disease Control and Prevention, Department of Health and Human Services, Order Under Section 361 of the Public Health Service Act (42 U.S.C. 264) and 42 CFR 70.2, Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19.

The City Council has a role to play here too. The Council should pass a resolution calling on the legislature and the Governor to enact a moratorium that stays housing court cases and stops evictions until this health crisis is over.

Second, equity requires that no one be mandated to come to court in person at this time. It is well documented that the pandemic has disproportionately impacted low-income people of color. Re-opening the housing courts for eviction cases requires these same individuals to risk their health before the courts, and transportation to the courts, have been evaluated and made safe. It also increases the risks to advocates, to other litigants, and to court personnel. Housing courts should allow any litigant to appear virtually at any time, without the need to prove a medical exemption. At the very least, it is critical that high-risk individuals not be required to appear in court. Moreover, parties and their representatives should be given an opportunity to resolve pending matters outside of court, which may successfully divert many cases from the system.

We must provide fair, transparent, virtual access to the courts. Housing courts should immediately refer all respondents in eviction cases to legal service providers and should only calendar the number of eviction cases on any day that legal services organizations have the capacity to handle.

Third, where parties choose to appear in person, OCA must ensure the maximum degree of safety for such in-person appearances. Tenants who feel they cannot navigate virtual appearances should have the opportunity to appear in person, if they so choose, to defend their homes. Housing courts should work with epidemiologists to develop safe reopening plans and should subject such plans to a public notice and comment period. No eviction case should proceed until such notice and comment period is completed. Among other procedures, detailed above, housing courts should distribute PPE

to all litigants free of charge and should provide private spaces where litigants and their attorneys can confer at a distance.

Fourth, we must provide rent relief. The pandemic has wrought unprecedented levels of economic loss. Tenants are struggling to make rent payments and living in fear of displacement. At the same time, the loss of rental income threatens owners' abilities to maintain their homes, pay taxes, and meet their mortgage obligations. We need a subsidy program to support any tenant family who is rent burdened, access to rent arrears for both undocumented families, and rules barring landlords from bringing nonpayment cases for apartments with hazardous violations.

With these recommendations, we hope that the City can work to ensure that New York City's housing courts reflect the best of our city and our collective will to protect the most vulnerable New Yorkers.

Small Claims Courts

During this time of crisis, many New Yorkers who were living on the brink of poverty before the crisis, now face collection actions which exacerbates food, income, and housing insecurity. Economically-distressed consumers, including the newly unemployed, face catastrophic consequences when creditors obtain and enforce judgments that result in wage garnishment, levied bank accounts, and liens. A wave of collection suits is expected due to the economic distress caused by the pandemic, especially for low-income communities and communities of color. Numerous litigants have had to place their health and safety at risk by going into New York City Civil Courts (Civil Courts) which lack effective protective measures, in order to access court files, affidavits of service, and to file court documents. Over 95 percent of litigants are unrepresented in consumer debt lawsuits, including those

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for medical bills, credit card debt, auto loans, and student loans²⁶. These litigants have been unable to respond to complaints, motions, and other legal papers, because the Civil Courts' recent measures in response to the pandemic, at a minimum, have led to confusion and uncertainty. Court clerks often provide contradictory and incorrect information as some litigants are instructed by clerks to come in-person to the courthouse, while others are being turned away.

In an effort to address case docket backlogs due to the court's closure, the court has vigorously sought to encourage settlement scheduling remote mediation and court conferences. Though mediation is an efficient, less burdensome method to resolve many legal disputes in other forums, it is inappropriate and harmful in Civil Court, where there is serious imbalance of power between the parties. Plaintiffs are almost always business entities represented by counsel and almost all defendants are unrepresented. Many consumer defendants do not understand the legal documents they receive, or they only understand basic precepts of legal procedure. This problem is even more acute among LEP (limited English proficiency) defendants. Moreover, consumer debt litigation is characterized by profound information asymmetry and abuse: expert debt collection attorneys who are in court daily frequently file debt collection cases to either obtain a default judgment or intimidate the defendant into settling – not to actually litigate the claims. We do not believe that these mediation and settlement efforts are appropriate for Civil Courts, where one side is an attorney armed with legal knowledge and intimately familiar with the court process and the court staff, while the other side is an unrepresented, economically-distressed New Yorker who is unfamiliar with the law and court procedure.

²⁶ In 2018, over 100,000 consumer credit actions were filed against alleged debtors in New York City Civil Court. Of those alleged debtors, a mere 4 percent were represented by counsel.

We believe that the Civil Courts, and other high-volume courts, continue to remain unsafe for litigants, attorneys, and court personnel. There has been inadequate resources and guidance to assist pro se litigants, as they navigate e-filing and remote appearances. As the Civil Courts seek to reopen and as they develop solutions to the challenges that the COVID-19 virus presents, they must not risk exposing more people to the virus while also protecting the procedural and substantive rights of the unrepresented and other vulnerable groups.

Human Resources Administration

While this is a hearing considering the reopening of the housing courts, the operation of housing court is entangled with the question of whether tenants have access to rental assistance. New York City's Human Resource Administration (HRA) must address critical access problems so that tenants can access rental assistance. We call on the City Council to exercise its oversight jurisdiction over HRA. Currently, HRA is failing to provide fundamental access to its benefits including rental arrears grants because – among other things, it is failing to provide alternatives to its online system to apply for benefits and it lacks a functional telephone system.

Many in need of Cash Assistance, SNAP and rental arrears grants cannot apply at HRA locations in person because they are at risk of COVID due to underlying health issues. In addition, because of COVID, HRA has closed most of its Job Centers. There are only seven open Job Centers in the city: one each in Manhattan, Queens and Staten Island and two in Brooklyn and the Bronx. Instead, of going in-person to a Job Center, applicants are being told to use ACCESS HRA, which requires a computer or mobile phone and the ability to navigate this online system. However, many New Yorkers are unable to use ACCESS HRA because they lack computers or mobile phones or

because they do not know how. And there are not viable alternatives to ACCSS HRA. The only way to get help is by calling HRA's Infoline - which is overloaded and hangs up on callers because of system overload. Because of COVID, HRA has shifted the vast majority of its client-facing staff to remote work. Yet HRA has failed to provide these remote staffers with telephones that can be called back by applicants. This results in the applicant being denied for missing a phone interview – and could lead to eviction for those who are denied rent arrears grants. In addition, HRA is failing to provide other methods of applying for benefits such as telephone applications. Needy New Yorkers are having difficulty getting telephone appointments – either because they cannot get through to Infoline or when they do reach an agent they are told to go to Centers – despite COVID. We urge the City Council to require HRA to immediately address these critical access problems so that New Yorkers can access the subsistence level benefits they need to survive – including rental arrears grants.

We recommend that HRA create a “One-Stop” portal for tenants to file a single application for rental assistance and be able to track such an application. Such a “one-stop” portal where tenants can file a single application for rental assistance should contain pertinent information for the full range of available assistance instead of the current process which involves multiple applications and multiple points of contact. We recognize that such a portal may require the partnership of the State but ultimately it will be more efficient for the government agencies, contracted community partners and tenants, and such a system has fewer negative public health consequences. It could also have the added benefit of making it easier for landlords to directly upload documents needed to complete the process of obtaining assistance.

The Preconsidered Introduction – T2020-6626

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We strongly support the preconsidered Introduction, extending the expiration of the Rent Stabilization Law one year to April 1, 2022. For fifty years, the Rent Stabilization Law (RSL) has been extended after the Triannual Housing Vacancy Survey (HVS) which is completed by the United States Census Department. Every three years, the City receives the HVS which provide the Council with important information about the housing conditions in New York and the vacancy rate. However, every thirty years, the timing of the HVS falls in a decennial census year and the US Census cannot survey New York City. 2020 is such a year. There will be no HVS prepared for the Council to decide whether to declare a housing emergency and extend the RSL. The State enacted a law this past year allowing New York City to extend the RSL when the survey cannot be done because of the decennial census. We strongly support the Council taking this action so that the Council can properly consider essential data produced by the HVS when deciding whether to extend the RSL. Thank you Chair Cornegy for this important legislation.

The Legal Aid Society

Since 1876, The Legal Aid Society has provided direct legal services to low-income New Yorkers. Over the years, our organization has expanded to become the nation's largest and oldest legal services provider for low-income individuals and families. We specialize in three distinct practice areas: Criminal Defense, Civil Litigation, and Juvenile Rights, where we passionately advocate for our clients in their individual cases, for their communities in our policy work, and for institutional change in our law reform litigation. Each year our staff handles over 300,000 cases throughout New York City, the Society takes on more cases for more clients than any other legal services organization in the United States, and it brings a depth and breadth of perspective that is unmatched in the legal

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profession. The Society's law reform/social justice advocacy also benefits some two million low-income families and individuals in New York City, and the landmark rulings in many of these cases have a national impact. The Legal Aid Society provides comprehensive representation to many of the most marginalized communities in New York. We are a valuable piece of the New York City tapestry, and our work is deeply interwoven within the fabric of many low-income New Yorkers' lives.

The Society's Civil Practice provides comprehensive legal assistance in legal matters involving housing, foreclosure and homelessness; family law and domestic violence; income and economic security assistance (such as unemployment insurance benefits, federal disability benefits, food stamps, and public assistance); health law; immigration; HIV/AIDS and chronic diseases; elder law for senior citizens; low-wage worker problems; tax law; consumer law; education law; community development opportunities to help clients move out of poverty; prisoners' rights, and reentry and reintegration matters for clients returning to the community from correctional facilities.

To NYC Council:

Re: Personal liability for commercial leases

I have owned and operated Andrews Coffee Shop at 463 7th Ave since 1983. I have always paid my rent on the 1st of each month. Since March 16, 2020 we have been closed as a result of the restriction due to COVID19, but we plan on reopening on September 30 as per guidelines with 25% capacity. I have a good guy clause in my lease that requires me to personally guarantee all rents as long as I am in possession of the space. There is no way that when the guaranty was signed I or the landlord could have anticipated a shutdown such as we have had. Unless the personal liability protection is extended I and many others would face the choice of closing or face devastating personal liability. Without this protection we will have to keep our business closed and then reopen at 25% but be liable for 100% of our expenses. The injustice is clearly obvious. Please extend the protections.

Sincerely,

Monir Zamel
Andrews Coffee Shop
463 7th Ave
New York, NY 10018
917-843-3213



TESTIMONY OF LEGAL SERVICES NYC REGARDING THE POTENTIAL EVICTON CRISIS IN THE MIDST OF THE COVID-19 PANDEMIC

**New York City Council
Committee on Housing & Buildings
Committee on Justice System**

September 17, 2020

Legal Services NYC welcomes the opportunity to offer this testimony regarding OCA's operation of the Housing Courts during the COVID-19 pandemic to the above New York State Senate Standing Committees. We applaud the Committees' inquiry into this vital issue that has wide ranging implications for the health and economic well-being of the State and its residents.

Legal Services NYC is one of the largest law firms for low-income people in New York City. With 18 community-based offices and numerous outreach sites located throughout each of the city's five boroughs, Legal Services NYC's mission is to provide expert legal assistance that improves the lives and communities of low-income New Yorkers. Legal Services NYC annually provides legal assistance to thousands of low-income clients throughout New York City. Historically, Legal Services NYC's priority areas have included housing, government benefits and family law; in recent years, Legal Services NYC has vastly expanded services in areas of need critical to our client base, including consumer issues and foreclosure prevention, unemployment, language access, disability, education, immigration, and bankruptcy.

Although both deaths and new cases have abated substantially since the epidemic's peak, COVID-19 has killed over 19,000 New York City residents, and over 227,000 residents have been infected with the virus.¹ Black and Hispanic/Latinx communities have been disproportionately affected by the virus, which has triggered the shutdown of industries where workers of color are overrepresented

¹ New York City Department of Health, COVID-19: Data (August 19, 2020), available at: <https://www1.nyc.gov/site/doh/covid/covid-19-data.page>.

and has proven to be twice as deadly for Black and Hispanic/Latinx residents than for white residents.² Of the ten New York City zip codes with the highest death rates, eight have populations that are predominantly Black or Hispanic/Latinx. Nearly thirty-four percent of the people killed by COVID-19 in New York City were Hispanic/Latinx, and twenty eight percent of those killed were Black New Yorkers.³ These are the same communities whose members are most likely to be tenants who are sued in Housing Court proceedings.

The economic impact of COVID-19 rivals its catastrophic health impact. According to New York University's Furman Center, there are at least 250,000 NYC families whose income prior to the COVID-19 pandemic was under 80 percent of Area Median Income, who now are unable to continue rent payments either due to the cessation of federal CARES Act payments, or because they never qualified for such payments in the first place.⁴ If all these families are eventually sued in eviction proceedings, the total number of proceedings will exceed the 2019 total by more than 350 percent.

Moreover, many jobs are unlikely to return—especially low-paying service jobs of which the individual Plaintiffs disproportionately depend on to pay their rent. More and more white-collar employers have suggested all or some colleagues will be permitted to work at home *indefinitely*, potentially removing millions of commuters from New York City and eliminating most of the service jobs that depend on demand, in part, from those who worked in New York City bullied elsewhere.⁵

Over 200,000 eviction proceedings were pending in New York City's Housing Courts as of March 2020, of which over 14,000 had already resulted in the issuance of warrants of eviction that have not yet been executed. As of June 22, the Office of Court Administration has permitted landlords to commence new eviction proceedings, which are not expected to be calendared until 2021. OCA laudably has taken action to minimize the potential health impacts of reopening Housing Court. On August 12, OCA issued Administrative Order 160/20 and Directive DRP-213 which require landlords to file motions to seek leave of court before executing or requesting issuance of warrants of eviction. Courts are directed to refer unrepresented tenants to counsel, and to assess tenants' defenses under the CARES Act and Safe Harbor Act. Landlords must give their tenants notice that they should not physically appear in court in response to such motions, and to include contact information so that tenants may participate by phone until counsel is appointed. OCA has suspended all proceedings in eviction cases that were filed since March. These commonsense measures will protect the public health while slowing the pace at which eviction cases move forward. However, regardless of the pace at which the courts process eviction cases, the number of families unable to pay rent presents a looming catastrophe with which the City will ultimately need to contend.

² Jeffery C. Mays and Andy Newman, *Virus is Twice as Deadly for Black and Latino People Than Whites in N.Y.C.*, The New York Times, (Apr. 8, 2020), available at: <https://www.nytimes.com/2020/04/08/nyregion/coronavirus-race-deaths.html>.

³ *Id.*

⁴ NYU Furman Center, *Understanding the Potential Magnitude of Rent Shortfalls in New York Due to COVID*, June 4th 2020, available at <https://furmancenter.org/thestoop/entry/understanding-the-potential-magnitude-of-rent-shortfalls-in-new-york-state>.

⁵ *See Covid-19 Challenges New York's Future*, The Economist, June 11, 2020, available at <https://www.economist.com/briefing/2020/06/11/covid-19-challenges-new-yorks-future>.

The recent Order issued by the Center for Disease Control (CDC) will at best postpone eviction cases until after the New Year, when tenants will then be subject to eviction and judgments for all unpaid rent. The New York Safe Harbor Act (SHA) offers somewhat more protection because it prevents landlords from *ever* evicting covered tenants for arrears accruing during the COVID-19 emergency. However, even the SHA will leave tenants vulnerable to money judgments that can be used to attach bank accounts and garnish wages, and will provide no help to tenants who remain unemployed after the technical end of the health emergency. The City must therefore use the temporary respite provided by the CDC Order and reduced court volume to prepare for the eventual onslaught of evictions posed by the COVID-triggered national recession.

The Need for Counsel

Over the past several years, the City's Universal Access to Counsel program has increased the representation of tenants in eviction proceedings to nearly 30 percent, where formerly only one in a hundred could obtain counsel. The impact of COVID-19 makes continued expansion of right to counsel even more essential. Unrepresented tenants will be unable to avail themselves of the protections of the Safe Harbor Act and CDC Order, and similar measures that may be passed in the future. Unrepresented tenants, moreover, generally lack the technology and expertise to participate in the teleconferenced proceedings necessitated by COVID-19,⁶ and would be compelled to appear physically in court, endangering precisely those communities that are already most at risk.

The Need for Rental Assistance

Although the Safe Harbor Act will protect many affected families from eviction during the pendency of the Governor's Executive Orders, the economic effects of COVID-19 are likely to outlast the State's emergency health measures. Moreover, nearly 200,000 families currently face eviction proceedings commenced prior to March 2020 and are not protected from eviction by the SHA. The relegation of these families to the City's shelter system would constitute a humanitarian and public health emergency.

In order to prevent a disastrous outcome, it is essential that New York State and New York City make rental assistance available to all families who are threatened with homelessness because they cannot afford their rent in this time of mass unemployment. New York should not condition assistance upon a pre-existing court proceeding, so that landlords' incentive to clog the courts with eviction cases can be reduced. Further, the City can take action to prevent the filing of eviction cases by NYCHA and by other affordable housing providers.

The City should also consider action to relieve low and middle income New Yorkers of the potential burden of money judgments for rent arrears that are permitted under the SHA. Such judgments can lead to wage garnishments that will undermine the financial stability of these families for most of their lives, and will further exacerbate income and wealth inequality in New York's communities of color.

⁶ Overcoming NYC's Digital Divide in the 2020 Census, Office of the New York City Comptroller (July 23, 2019), available at: https://comptroller.nyc.gov/reports/census-and-the-city/?utm_source=Media-All&utm_campaign=67e1d64687-EMAIL_CAMPAIGN_2017_05_31_COPY_01&utm_medium=email&utm_term=0_7cd514b03e-67e1d64687-141571729

We thank the Committees for addressing these important issues and hope to work with you in the future to craft the most effective response to this unprecedented challenge.

Respectfully submitted,

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Legal Services NYC
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New York City Council
Committee on Housing and Buildings
Committee on Justice System

Public Hearing

Oversight: The Potential Eviction Crisis in the Midst of the COVID-19 Pandemic

Thursday, September 17, 2020

Testimony of Michael McKee, Treasurer

My name is Michael McKee. I am treasurer of the Tenants Political Action Committee. We work to elect pro-tenant candidates to office, and we advocate for stronger tenant protection laws and the preservation and creation of affordable housing.

I personally know dozens of tenants in New York City and elsewhere in the state who have lost income, or lost all their income, and have been unable to pay rent for a number of months. And from what we read and hear, we know that there are thousands more in the same boat.

We are facing a crisis like we have never seen before if the current moratorium on evictions is not continued beyond October 1. Since the spring, we have waited nervously on a month-to-month basis to learn if the governor and court system are going to extend the moratorium, up to now 30 days at a time (the last extension was a bit longer, five whole weeks). This has kept people anxious and uncertain of their safety.

The Office of Court Administration has announced that it will not extend the moratorium beyond October 1. Chief Administrative Judge Lawrence Marks and NYC Chief Civil Court Administrative Judge Anthony Cannataro have both stated that the question of whether evictions will be allowed or prevented after October 1 is one that is the proper purview of the legislative and executive branches.

This deadline is only a few days from now.

We have called on the legislative leaders in Albany to convene session immediately to pass S8667/A10827, the Emergency Housing Stability and Displacement Prevention Act that is sponsored by Senator Zellnor Myrie of Brooklyn and Assembly Member Karines Reyes of the Bronx. It is the critical piece of action that is needed now.

The bill does three things, statewide in application:

- ▶ It protects renters from eviction filings.
- ▶ It protects homeowners and landlords from foreclosure filings.
- ▶ It protects commercial tenants from eviction.

The bill continues the moratorium indefinitely, for the period of the health emergency, and for a period of time after the emergency is lifted. This is a better solution than the month-by-month stress of wondering whether there will be another short extension.

There are many things the state legislature and governor need to do in terms of housing and rent, but preventing a flood of evictions beginning in mid-October is the most urgent matter. If the moratorium is not extended, there will be a tsunami of evictions beginning later that month and continuing throughout the fall and winter.

There is some reason to believe that the governor will once again instruct the Office of Court Administration to extend the moratorium beyond October 1. But on Planet Albany, where the normal laws of physics do not apply and nothing can be taken for granted, we are not resting in our efforts to pressure the legislative and executive branches of state government until this is accomplished. Andrew Cuomo has in the past kept everyone on tenterhooks right up to the deadline, announcing another extension at the last minute.

There is a fundamental problem with the current moratorium. While it will be great for residential tenants if it is continued beyond October 1, it does not protect commercial tenants from eviction, as the Myrie-Reyes bill does.

Apart from the personal and economic impact of widespread evictions, there is an urgent health concern. Allowing evictions right before cold weather and the flu season will flood homeless shelters, subways and the streets at the very moment health concerns dictate that we keep people housed to avoid the spread of the coronavirus and preventable deaths.

Other states and cities have done better than New York. In New Jersey, all evictions are stayed until 60 days after the emergency is lifted. Seattle has banned evictions until December 31, or the end of the emergency. This is not unusual. New York State is often behind other states in modernizing landlord-tenant laws.

We urge the New York City Council to call on the governor and legislature to enact S8667/A10827 without delay.



TESTIMONY OF THE RENT STABILIZATION ASSOCIATION TO THE JOINT
OVERSIGHT HEARING OF THE COMMITTEE ON HOUSING AND BUILDINGS AND
THE COMMITTEE ON JUSTICE SYSTEM IN RELATION TO THE POTENTIAL
EVICTION CRISIS IN THE MIDST OF THE COVID-19 PANDEMIC

September 17, 2020

Thank you for this opportunity to testify on behalf of the 25,000 members of RSA who own or manage approximately one million apartments in the City of New York.

In this City Council oversight hearing in which the Council intends to address “the potential eviction crisis in the midst of the COVID-19 Pandemic,” it is essential that facts provide the basis of such an important discussion. Now more than ever, facts matter.

The first fact is that over the past several months, while the collection of residential and commercial rents has declined precipitously, our State and City legislators have, for all practical purposes, ignored the plight of property owners. The obligation to pay the City’s property taxes has remained unchanged. Mortgage payment obligations have remained unchanged. So, too, have been the obligation to pay for utilities, insurance, labor, repairs and improvements. Not a single one of those obligations has been altered or waived and the penalties for failing to comply remain as real today as they were before this awful pandemic struck this City months ago. Unlike the chorus of calls to cancel rent and to extend the eviction moratorium, not a single piece of legislation has been passed at the State or City level to address the simple economic reality that countless owners, both large and small, throughout the City are in financial jeopardy.

The second fact is that while the concerns of property owners have been ignored, we have seen unprecedented numbers of tenant protection measures adopted in the form of:

- Executive Orders issued by the Governor
- Administrative Orders issued by the Chief Administrative Judge of the State of New York, including the most recent Order prohibiting evictions until October 1
- Directives issued by the Administrative Judge of the Civil Court of the City of New York
- State legislation to enact the Tenant Safe Harbor Act
- State legislation to create a \$100 million COVID rent relief program administered by HCR
- City Council legislation to prohibit rent-related harassment of commercial and residential tenants and to eviscerate personal loan guarantees for various types of commercial leases
- Stimulus payments by the federal government of \$1200 for each adult with an income up to \$75,000 (or \$2400 for a two-earner household with an income up to \$150,000), plus \$500 per child,

- Unemployment compensation supplements (now expired) under the federal CARES Act of \$600 per week over and above State payments which, in New York, together total over \$1100 per week
- Eviction protections (now expired) under the federal CARES Act for tenants residing in federally-involved properties, including Section 8, low income housing tax credits and federally-insured mortgages
- A nationwide eviction moratorium ordered by the federal Centers for Disease Control effective through December 31 and applicable to all tenants with an income of \$99,000 (or \$198,000 for two-earner households) residing in any privately-owned housing.

The third fact is that in addition to all of the foregoing initiatives to assist and protect tenants, there is no shortage of tenant-assistance programs which pre-existed COVID-19. The City's \$150 million right to counsel program, overseen by HRA, is providing attorneys to thousands of otherwise unrepresented tenants in Housing Court. HRA's \$200 million one-shot deal program provides emergency rental assistance to thousands of tenants who cannot pay their rent, whether or not those tenants have been sued in Housing Court. The much-publicized effectiveness of these two programs- particularly the right to counsel- to significantly reduce the number of evictions before the pandemic are the same two programs that will help to ensure that there is no eviction crisis in the City going forward.

There are still yet other programs that are continuing to provide rental assistance during these difficult times. These include the 125,000 Section 8 voucher households in the City, in addition to the thousands of tenants in project-based Section 8 buildings. Further, thousands of tenants whose rents are already covered by HRA's various rental assistance programs continue to receive those benefits. Lastly, 75,000 SCRIE and DRIE tenants continue to receive their rent increase exemptions.

The fourth fact is that with regard to evictions themselves, the only way evictions can occur lawfully in this City is to obtain a judgment of possession and a warrant of eviction from the Housing Court. While the Housing Court is, nominally, open for business, the reality is that the re-opening process can best be described as glacial in nature. The following is our understanding of the status of cases in Housing Court, as follows:

- the Housing Court has not taken ANY action on ANY of the 165,000 *pro se* cases that were pending when the courts closed on March 17th and has not announced any plan to do so
- despite the near-hysteria that accompanied the re-opening of the Housing Court on June 22nd, only a relatively small number of cases- approximately 9,000- have been commenced since that time. Furthermore, the Housing Court has not taken ANY action on ANY of those cases and has not announced any plan to do so
- the Housing Court has, since late June, been holding virtual settlement conferences for the 35,000 pre-March 17th cases where both the owner and the tenant were represented by counsel; those conferences are being held at a frustratingly slow pace of approximately ten cases per judge per day
- the Housing Court has begun to hear trials in the past few weeks and the number of those cases are a relative handful

- while Housing Court will be authorized, in accordance with Chief Judge Lawrence Marks' recent Administrative Order, to begin to issue warrants as soon as October 1, the court's procedures have been modified to add a new requirement that an owner must first make an application to the court so that the court has the opportunity to ensure that an attorney is provided if the tenant is unrepresented. This will help to ensure that all possible alternatives, including the use of one-shot deals, have been considered prior to the issuance of a warrant. And while OCA's most recent Administrative Order does allow for the execution of warrants after October 1, the CDC's eviction moratorium will, inevitably, be raised by tenants in an effort to stay enforcement until after the expiration of the CDC order.

Given all of the measures taken at every level of government to assist and protect tenants, it is difficult to adequately convey the frustrations of property owners whose concerns are being consistently ignored by elected officials at every level of government. But make no mistake—unless our policy makers do more than just encourage and enable those calling, for example, for the cancelation of rent and closing of the housing court, foreclosures and abandonment will become a fact of life for property owners in the City. It is simple economics and it is inevitable unless legislators begin to address the multi-faceted complexities of this problem. And when owners lose their properties to the City or to their banks, both the City and tenants will suffer, as they suffered when foreclosures and abandonment were rampant in the 1960's, '70's and '80's. That is a fact. But it does not have to be this way.

We encourage the City and State to use this time to build upon and expand the mutually beneficial rental assistance programs which already exist, such as the State's new COVID rental assistance program, as well as one-shots, FHEPS, Section 8, and other such programs that recognize the value both in ensuring that renters remain in their homes and that property owners receive the rental income they need to maintain and operate their buildings. Furthermore, the City also needs to examine all of the innumerable financial and regulatory mandates it imposes on property owners and to allow for across-the-board extensions so that owners have the genuine ability to achieve compliance during these unprecedented and difficult times.

By broadening the discussion to include, rather than exclude property owners, the City, as well as the State, can create a unified and coordinated housing response to the pandemic and avoid the housing crisis that is otherwise destined to come.

Thank you.