



Testimony of Lisa Fitzpatrick, Administrator, NYC Human Resources Administration

Before the New York City Council, Committee on General Welfare, Oversight Hearing on the Impact of the Expiration of the Eviction Moratoriums

February 28, 2022

Good morning, I want to thank the General Welfare Committee and Chair Ayala for holding today's hearing and for the opportunity to testify, and offer my congratulations to the Chair on her appointments.

My name is Lisa Fitzpatrick and I am the Administrator of the New York City Human Resources Administration (HRA). Let me take a moment to say I look forward working with you in my new capacity as Administrator. I've spent the last 30 years working for HRA and am honored to now serve as Administrator. I am joined today by Raniece Medley, the Civil Justice Coordinator at the New York City Department of Social Services' (DSS) Office of Civil Justice (OCJ), as well as Erin Drinkwater, Deputy Commissioner of Intergovernmental and Legislative Affairs at DSS.

The New York City Department of Social Services/Human Resources Administration is the nation's largest social services agency. Each year we assist more than three million New Yorkers through the administration of fourteen public assistance programs. Every day, in all five boroughs, HRA provides essential programs and supports to low-income New Yorkers. In administering these programs, HRA is at the forefront of this Administration's efforts to combat poverty and address homelessness.

As part of DSS, the Office of Civil Justice launches, manages, and monitors the City's civil legal services programs for low-income and other vulnerable New Yorkers in need. OCJ is currently working with nearly seventy (70) nonprofit legal service organizations to ensure thousands of New Yorkers in need across the five boroughs have access to legal services, in legal matters involving housing, immigration, and the workplace.

We appreciate the opportunity to speak today on the work that DSS/HRA and our partners in and out of government are doing to help vulnerable New Yorkers stay in their homes. The COVID-19 pandemic has brought on an unprecedented environment for many New Yorkers, and this climate further increased housing instability for many of our clients and tenants across the five boroughs. Today, we will be updating the committee on the work that DSS/HRA, along with our legal service and nonprofit partners, have done to prevent evictions throughout this pandemic.

DSS/HRA's eviction prevention work

The pandemic brought on many challenges for New Yorkers and government alike, and we were fortunate to have built a strong foundation, via housing-focused services and supports, over the years to help tenants

during this time of crisis. DSS/HRA has developed a multi-pronged approach to support at-risk tenants via programs providing legal services, rental support, homeless prevention assistance and other supports. These existing programs placed us in good stead as the pandemic hit, and we encourage you to help us connect New Yorkers in need to these critical programs as we all work to prevent evictions and keep individuals and families in their homes.

Legal Services and Right to Counsel

DSS's Office of Civil Justice has launched and operated a wide range of civil legal services for New Yorkers in need, since the office's inception in 2015. At the center of this work is the implementation of New York City's groundbreaking Right to Counsel Law. In partnership with the Council, New York City made history by becoming the first city in the nation to enact a law ensuring that all tenants facing eviction in housing court or in administrative termination of tenancy proceedings in public housing have access to free legal services. Since the Right to Counsel Law was enacted in 2017, the landscape for access to housing justice for tenants in New York City has been transformed.

We are proud to report that we are making real and substantial progress in increasing access to justice, which is leading more and more to fair and just outcomes for tenants in need. Moreover, New York City's Right to Counsel law is now implemented citywide, with tenants, regardless of their zip code or immigration status, having access to legal services which are provided by our OCJ-contracted legal services providers.

These efforts have had dramatic and positive results for at-risk tenants. Residential evictions by city marshals fell by over 40% between 2013 and 2019, while nationwide evictions climbed, and the percentage of tenants facing eviction in court with the help and protection of legal representation stood at 38% at the end of 2019, up from a mere 1% in 2013. Moreover, in the overwhelming majority of cases, when tenants have lawyers in eviction proceedings, they get positive results: for resolved cases in CY2020, 86% of households represented in Housing Court and public housing proceedings by OCJ-funded tenant lawyers were able to remain in their homes.

At the end of 2021, over 574,000 New Yorkers had received free legal representation or assistance in eviction and other housing-related matters since 2014 through legal services programs administered by DSS/HRA. These efforts have leveled the playing field for tenants, and we look forward to partnering with our non-profit legal services providers, advocates, partners in government and the City Council to further build on this progress.

Rental Assistance Programs

Our legal assistance work is part of a broader array of eviction prevention tools at DSS/HRA. Among these programs and tools are our rental assistance and arrears programs, which help stabilize the housing conditions of tenants at risk of eviction. We have increased access to rental assistance by taking various steps, such as, and most critically, reestablishing rental programs and then streamlining them into one program, City FHEPS. City FHEPS had replaced previous rental assistance programs, making it easier for tenants to get the support they need and streamlining landlord payments and case administration. Moreover, in October we raised the value of the City FHEPS rental assistance program to federal Section 8 Fair Market Rent (FMR) levels and changed renewal eligibility from 250% of the federal poverty level

to 80% of the Area Median Income (AMI). Raising the value of City FHEPS rental assistance will increase housing options available as clients transition to permanent housing from shelter, as well as going further in helping New Yorkers who may be experiencing homelessness or facing eviction remain in their homes.

Homebase

Shifting to homeless prevention services, HRA oversees 26 Homebase centers across the five boroughs. The Homebase program provides various homeless prevention services and aftercare services to families and individuals exiting shelter and transferring to permanent housing. New Yorkers may be eligible for Homebase if they are at imminent risk of entering the New York City shelter system, are low-income, and want to remain stably housed in their community.

Once in the program, dedicated Homebase staff are available in each borough to evaluate a household's specific needs and offer supports, such as: services to prevent eviction; assistance obtaining public benefits; emergency rental assistance; utilities and mortgage payment support to address arrears; short-term financial assistance; educational and job placement assistance; and help relocating.

These programs, and most importantly, the outcomes, show the importance of investing in a prevention-first approach to address housing instability. The agency has connected more than 155,000 New Yorkers to rental assistance and rehousing programs and supported nearly 60,000 rent-burdened households annually pay back rent or utilities during the prior Administration, and we expect to continue on this trend under Mayor Adams' leadership.

DSS/HRA's eviction prevention work during the COVID-19 pandemic

Now, we would like to shift to updating the committee on our work in response to the COVID-19 pandemic. While we continue to build on the progress of the housing support programs mentioned today, we understand that the pandemic has brought on a new and challenging environment, particularly as it impacts vulnerable tenants.

Given the public health emergency and the importance of stable housing, the City strongly advocated for eviction moratoriums in both the legislature and the courts. Several housing eviction moratoriums, and extensions, were implemented at the federal and state level, with the goal of giving tenants the reprieve they needed to remain in their homes and recover from the financial downturn. As you know, the New York State eviction moratorium came to a close on January 15 of this year. In response, the City launched a campaign to inform tenants about their rights and connect them to critical resources. Our campaign focuses on three key messages:

1. **Illegal lockouts:** it is illegal for someone to pressure or force a tenant to leave their home. Tenants have the right to stay in their home, unless they have received an eviction order signed by a judge and delivered by a marshal or sheriff. Moreover, a landlord cannot evict tenants verbally or through letters or notices, and tenants have the right to heat, hot water and electricity and it is illegal for someone to shut off utilities to try to remove tenants from their homes.
2. **Right to counsel:** Under New York City's Right to Counsel law, DSS's Office of Civil Justice provides tenants facing eviction in Housing Court or NYCHA administrative proceedings access to free legal representation and legal advice. Right to Counsel legal services are free, available in

every zip code, and available regardless of immigration status. Tenants can call 311 and ask for the “Right to Counsel” to speak to a housing specialist who can connect them to free legal services.

3. ERAP: we are urging all New Yorkers in need of rent relief to apply for the Emergency Rental Assistance Program (ERAP) through the New York State Office of Temporary and Disability Assistance (OTDA), as a pending application will provide temporary protection from eviction.

Focusing on legal assistance, we transformed the way this critical support was provided to tenants to meet the new pandemic environment. We worked with our legal service partners, Housing Court Answers, the Mayor’s Public Engagement Unit (PEU) and Mayor’s Office to Protect Tenants (MOPT) to quickly stand up a housing legal hotline to provide access to live legal advice by telephone provided by our tenant legal service partners. Legal advice services are free and are available to all NYC residential renters with housing questions or issues, regardless of income, zip code, or immigration status. Tenants can access these services by calling 311 and asking for the City’s Tenant Helpline, hosted by PEU, or through the Housing Court Answers’ hotline.

Legal service providers continue to be available to connect with tenants at initial appearances across all boroughs. OCJ continues to work with the Housing Court supporting a case referral protocol ensuring that unrepresented tenants are connected with legal counsel. While Housing Court has fully reopened for all eviction proceedings, stays for pending ERAP applications and other procedural safeguards remain for certain eviction matters.

At just one month past the end of the moratorium, it is still too soon to say how the housing legal system, case scheduling and court operations, will be impacted. In the wake of the moratorium and the upheaval of the pandemic, as across all sectors, recruitment and hiring continue to present challenges for legal service providers. While at this time new eviction filings have not returned to pre-pandemic numbers, it is unlikely that OCJ providers can continue to provide full representation to tenants above 200% of the federal poverty level (FPL). Even if full representation is discontinued for over-income tenants, they will continue to receive free legal advice and brief counsel to understand the legal process and be equipped to defend their cases.

Working together, PEU, MOPT and OCJ conducted proactive outreach to tenants at risk of eviction throughout the pandemic. This outreach included a mail campaign promoting the launch of the Tenant Helpline, as well as a targeted outreach mail and phone outreach directed at New York City tenants who faced pre-pandemic eviction warrants, or who were at risk of eviction for failing to appear in court proceedings.

Since its inception in April 2020, the City’s Tenant Helpline, run by PEU, has received almost 90,000 calls from New Yorkers with housing-related issues. The Helpline was designed to serve as a one-stop-shop to inform New York City tenants about their rights and connect them to housing-related resources, including free legal services. Because tenants who call the helpline are frequently experiencing a range of connected hardships, the Helpline expanded to serve callers more holistically by connecting them with additional City programs like SNAP, Cash Assistance, Homebase, One-Shot Deals, and helping them apply for State programs like rent relief and unemployment insurance.

Unlike 311, the Helpline is staffed by housing experts who can triage a wide variety of calls and immediately determine whether a client will need comprehensive case management or a simple referral

(to another agency or community-based organization). To accurately identify a client's needs, and provide them with the personalized care necessary to address sensitive cases, requires extensive training, and PEU staff are uniquely equipped with the skills required for these conversations. When case management is needed, Helpline staff refer the tenant to in-house Tenant Support Unit Specialists who seamlessly open a case for the caller and assist them at each stage of the process, whether fighting an eviction or landlord harassment. When making a referral, PEU Specialists consistently follow-up with all parties to ensure the referral has been successful and support the caller if they encounter a roadblock in the process. This type of hands-on support is particularly critical when dealing with cases related to possible vacate orders, illegal lockouts, undocumented callers, and others with sensitive or otherwise urgent situations.

In addition to receiving incoming calls, PEU is conducting aggressive proactive outreach to tenants in housing court. PEU's campaign includes peer-to-peer texting, individualized phone calls and a citywide media campaign. The team has already conducted outreach to over 40,000 tenants with cases currently in housing court to connect them to resources and legal support. They are also reaching out to tenants who have not appeared for their court date, based on weekly data from OCJ, and emphasizing the importance of appearance and offering referrals to legal service providers.

Since the beginning of the pandemic, MOPT has worked to make sure City agency efforts are coordinated, streamlining and enhancing our enforcement and strategic initiatives, while conducting outreach to support tenants.

We have created and helped create an ecosystem of resources for tenants to access information about their rights and communicate with the City:

- As mentioned before, in 2020 and in close partnership with PEU and OCJ, we established the City's Tenant Helpline to make sure all New York City residential tenants, regardless of their income, immigration status or where they live in the City, could connect with a PEU Specialist, and, if needed, a nonprofit legal services provider, to get the help they need.
- Also in 2020, we launched the [City's Tenant Resource Portal](#), another one-stop shop for tenants to learn about eviction proceedings and what to do when facing an eviction, and if needed, connect with a PEU Specialist from the Tenant Helpline.
- In late 2021, we launched a pilot version of Tenant Text in partnership with JustFix. Tenant Text, an SMS text-messaging tool, connects renters in Inwood and Washington Heights with up-to-date information and organizational resources to address their housing questions. It is our intention to expand this resource city-wide in late 2022.
- We continually update our [MOPT COVID-19 fact-sheet](#) that includes Federal, State, and local guidance regarding COVID-19 that covers many aspects of renting in New York City, including how to access rental assistance programs and how to get help when facing harassment and eviction.

We have conducted and continue to conduct city-wide and targeted outreach to tenants:

- This includes several mailing campaigns to tenants with active eviction cases in Housing Court since early 2020. These campaigns have included: 1) information about tenant rights and how to submit a Hardship Declaration to trigger eviction protections; 2) information about ERAP and eviction protections; and 3) information about illegal lockouts and additional eviction protections

after the expiration of the eviction moratorium. MOPT continues to send these mailers on a weekly basis to any tenant who has a new eviction case against them in Housing Court.

- In partnership with OCJ, DSS, and PEU, we launched the Right to Counsel Public Education Campaign in late 2021. In early 2022, with the additional support of the Department of Housing Preservation and Development (HPD), we launched the Illegal Evictions and Evictions Moratorium campaign, which is still running and aims to inform tenants about their rights when facing an illegal eviction and how to access additional eviction protections.

State and federal landscape on housing support

As mentioned earlier, and in accordance with State law, the New York State OTDA is administering ERAP. Through this program, federal funding is available for city households who are behind on their rent. Moreover, ERAP provides certain eviction protections to tenants who file for participation in the program. In New York City, DSS/HRA launched an outreach and education program where the City contracted with local community-based organizations to provide New Yorkers assistance with completing ERAP applications. We partnered with organizations in each of the five boroughs to provide ERAP support. Their outreach included application assistance, conducting trainings and presentations to community groups, tabling and canvassing, and other forms of direct contact with tenants in need.

ERAP, and other programs such as the federal Emergency Housing Vouchers, have provided critical support during these unprecedented times. These programs, along with the services provided each day by our providers and staff, are more tools in the toolbox that we can deploy to help tenants in need and stabilize their housing conditions.

Closing

We appreciate the opportunity to testify today and update you on the work that DSS/HRA and our partners have done, and continue to do, to support tenants in need. We stand ready to help vulnerable tenants through their housing uncertainty, and we look forward to partnering with the Council on these efforts. Thank you and we welcome any questions you may have.



**Testimony of Rebecca Charles
Policy & Advocacy Associate
Citizens' Committee for Children of New York**

**Provided to the New York City Council Committee on General Welfare's Oversight Hearing on
the Impact of the Expiration of the Eviction Moratorium
February 28, 2022**

Thank you, Chair Ayala and members of the City Council Committee on General Welfare, for holding today's oversight hearing on the impact of the expiration of the eviction moratorium. Since 1945, Citizens' Committee for Children of New York has served as an independent, multi-issue child advocacy organization dedicated to ensuring that every New York child is healthy, housed, educated, and safe. CCC does not accept or receive public resources, provide direct services, or represent a sector or workforce. We document the facts, engage and mobilize New Yorkers, and advocate for policy, budget, and legislative solutions that improve child and family well-being.

The impacts of COVID-19 on the well-being of New Yorkers have been profound. Over the past two years, families across the city have dealt with the compounding effects of illness and loss of life, job loss and reduced income, heightened housing instability and food insecurity, social isolation and school disruption, and skyrocketing behavioral health needs. While COVID-19 has impacted all New Yorkers, it has particularly heightened challenges faced by those at risk of or experiencing homelessness. The lack of adequate housing supports causes deep and long-lasting harm to children and families, who make up the largest share of the city's homeless shelter population. Despite campaign promises to prioritize the city's housing and homelessness crisis and to invest \$4 billion in affordable housing infrastructure, Mayor Adams's Preliminary Budget did not include any significant investments to address the homelessness or enhance affordable housing. **CCC, in partnership with the Family Homelessness Coalition, calls on the City Council and Mayor Adams to develop a plan to address family homelessness and housing insecurity in New York City by improving existing prevention programs and expanding access to affordable housing.**

New York City's Eviction Crisis

As you all are aware, January 15th marked the expiration of the eviction moratorium in New York State, putting hundreds of thousands of New Yorkers at risk of losing their homes. The COVID-19 pandemic escalated housing insecurities across the city, especially for families of color.

Over the last 21 months, CCC has monitored data from the U.S. Census Bureau's Household Pulse Survey to identify ongoing and emerging trends in well-being for New York's families and children. During the first year of the pandemic, households with children were more likely to struggle to make ends meet, with 58% in the New York metro area having experienced a loss of employment income. From April to October 2020, more than 40% of renter households with children in the New York metro

area reported ‘slight’ or ‘no’ confidence meeting their monthly rental payments.¹ Moreover, Black non-Hispanic and Hispanic/Latino households with children reported roughly two times the rate of rental insecurity compared to White non-Hispanic households with children over that time.² Furthermore, 40% of households with children making less than \$25,000 a year reported income loss from April to July of 2021, pointing to the challenges that low-income families faced with economic recovery.³ Even still, New York City’s unemployment rate is more than double that of the U.S. at 9.4 percent.⁴

These data all come from months when the eviction moratorium was in place. Now, all these households are at serious risk of losing their homes. Since March 15, 2020, over 90,000 eviction filings have been submitted in New York City.⁵ We are on the brink of a grave eviction and homelessness crisis and we must act now.

Improve Upon City Prevention Programs

As of September of last year, CityFHEPS officially became linked to the city’s Fair Market Rent, which is set to the 40th percentile of gross rents in the housing market and used to determine Section 8 subsidy levels. Because the amendment allows for more income levels to be eligible for CityFHEPS, it will help increase access to adequate affordable housing in New York City and will dramatically improve outcomes for families at risk of homelessness. **However, CityFHEPS must still expand its availability to ensure that it serves as a legitimate prevention tool rather than a crisis intervention.**

Currently, the CityFHEPS program cannot adequately address the city’s eviction crisis because households are required to have an eviction filing or a homeless shelter history before they are eligible. In other words, simply being behind on rent and being at risk for eviction is not necessarily sufficient reasoning for receiving approval. These stringent requirements hinder the ability of CityFHEPS to serve as a true prevention tool, since crises are already ongoing by the time rental assistance is approved. **The city must remove the eviction and homelessness eligibility requirements and reduce supplement processing times for CityFHEPS to create a true eviction and homelessness prevention program.**

There are other critical steps the city must take to support prevention programs, including: increasing staffing at community-based organizations that provide prevention services to families at risk of housing instability; improving benefit-managing technologies to ensure a simpler user experience for clients; and sufficiently investing in aftercare programs that help ensure families do not return to shelters due to administrative issues or a lack financial, health, and educational supports. Additionally, ensuring that contracted related to prevention and after care are fully funded, paid on time, and support living wages will help increase prevention and decrease evictions and recidivism into shelters. **We urge the city to examine current homelessness prevention tools and ensure that they are made available far upstream of eviction or shelter entry.**

¹ CCC analysis of U.S. Census Bureau Household Pulse Survey. Retrieved from: <https://www.census.gov/data/experimental-data-products/household-pulse-survey.html>

² May 2021, Child and Family Well-Being in New York City, Citizens’ Committee for Children. Retrieved from https://s3.amazonaws.com/media.ccnnewyork.org/2021/05/CCC-2021-Child-and-Family-Well-Being_LOW-RES_FINAL.pdf

³ CCC analysis of U.S. Census Bureau Household Pulse Survey. Retrieved from: <https://www.census.gov/data/experimental-data-products/household-pulse-survey.html>

⁴ Haag, M., McGeehan, P. (2021, December 14). “The ‘Double Whammy’ That Is Slowing New York City’s Job Growth.” The New York Times.

⁵ *Eviction Lab’s* Eviction Tracking tool. Retrieved from: <https://evictionlab.org/eviction-tracking/new-york-ny/>

In addition to addressing the faults within city prevention programs, we also call on city leaders to advocate for eviction protections at the state level by urging state leaders to replenish funding for the Emergency Rental Assistance Program (ERAP) and enact and fund the Housing Access Voucher Program (HAVP) in this year's state budget.

Increase Access to Affordable and Stable Housing

The FY'23 Preliminary Budget released by Mayor Adams offered no solutions to New York City's affordable housing crisis. **With an eviction crisis on the horizon, affordable housing must be prioritized by city leaders.** To improve access to affordable housing, staff capacity of city housing agencies must be optimized to ensure proper administering of federal housing resources, such as the Emergency Housing Vouchers (EHV). City leaders must also prioritize undocumented and mixed-status families, who face significant barriers in accessing federal supports, and ensure that they are receiving housing resources at the city level.

The city must also expand its affordable housing supply to further avert evictions. We urge city leaders to take the following actions to enhance affordable housing access:

- Enforce the mandate to set aside at least 15% of HPD-funded housing projects for people experiencing homelessness;
- expand access to supportive housing for families with children who have been or will be evicted;
- ensure that city-subsidized units present income requirements that accurately reflect the needs of the city's population;
- and urge City Council members to refrain from exercising veto powers and blocking affordable housing development.

Conclusion

The COVID-19 crisis has drawn attention to vast social-economic inequalities and disparities that have been exacerbated among families facing housing insecurity. Families at risk of eviction face countless daily barriers that inhibit access to rental subsidies and permanent affordable housing. As we emerge from the pandemic, the city must not return to the status quo. City leaders must prioritize the eviction crisis by addressing the need for improved prevention programs and increased affordable housing. Please find the Family Homelessness Coalition's full transition plan and recommendations [here](#).⁶

Thank you for this opportunity to submit testimony.

⁶ Family Homelessness Coalition's Call to Action. Retrieved from: <https://fhcnyc.org/call-to-action/>



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Homeless Services United's Testimony before the NYC Council General Welfare Committee

February 28, 2022

My name is Eric Lee and I'm the director of policy and planning at Homeless Services United. Homeless Services United (HSU) is a coalition representing mission-driven, homeless service providers in New York City. HSU advocates for expansion of affordable housing and prevention services and for immediate access to safe, decent, emergency and transitional housing, outreach and drop-in services for homeless New Yorkers. Thank you, Chair Ayala and members of the General Welfare Committee, for allowing me to testify today. We look forward to working with Chair Ayala and members of the Committee to strengthen the homeless services and eviction prevention safety nets in New York City.

Homeless Services United is grateful to the Committee for calling this hearing today to explore the impact of the end of the eviction moratorium. This pandemic starkly demonstrated the adage of homeless and housing advocates, that housing is healthcare. While New York City is taking steps forward to recover from the pandemic, several housing measures and resources must be put in place by the City and State to ensure that precariously housed New Yorkers can firmly regain their footing.

The Need for Rental Arrears Assistance:

With the end of the eviction moratoriums, there's likely over a hundred thousand households in New York City with unpaid arrears.¹ HSU is thankful for the State reopening the ERAP portal in January, which affords eviction protections to tenants while their application is under review. While this will help temporarily keep people in their homes, the City and State must act quickly to help households eliminate their arrears and ensure they can pay their rent moving forward and avoid displacement.

HSU urges the Council to call upon Governor Hochul to commit the \$2 billion in unallocated Federal pandemic relief funds to replenish ERAP. These funds which are earmarked for pandemic relief could halt the State's eviction crisis and avert a surge in homelessness and swelling of the shelter system. In addition to preventing the immediate crisis, allocating the remaining Federal relief funds in this way would strengthen the State's case for future requests for aid from the Federal government.

While we want to see ERAP funding replenished in this very moment, renters cannot wait. **The City can and should take action to help renters in arrears, including expanding access to One Shot Deals.** One way the Council could accomplish this is to **reintroduce Int. 2172 to remove future ability to pay rent as an eligibility requirement for One Shots.** The New York City economy is still recovering from the pandemic and jobs are slowly returning in hard hit sectors like hospitality and service work. Households still struggling to make ends meet but are getting back to work and regaining their footing. While rental assistance vouchers can often be used as a bridge to help meet the future ability requirement for such households, many in arrears do not qualify for a rental assistance voucher because their earned income disqualifies them from ongoing aid, and as a result would be found ineligible for a One Shot.

¹ Estimate based off extrapolations of the number of statewide applications received and number paid to the NYC jurisdiction from OTDA's ERAP program reports- <https://otda.ny.gov/programs/emergency-rental-assistance/program-reports.asp>

The Council should also **urge the Governor and OTDA to remove the recoupment clause for One Shot Deals from NYS Statute**. Because of this clause, households in receipt of a One-Shot could be expected to pay it back within a year, a completely unrealistic expectation given the slow pace of recovery and the fact that arrears amounts during the pandemic could easily exceed ten thousand dollars. In effect, this clause only add further stress to a household's finances and delay our economic recovery while likely resulting in an insignificant cost-savings for the State.

Fill vacancies at City agencies and providers to meet increased demand for services:

In order to ensure that New York City is well-prepared to help the tens and possibly hundreds of thousands of New Yorkers still with unpaid arrears, **the Council and the Mayor must make sure that both government agencies and City-contracted human services non-profit providers are well resourced to have enough hands to do the work**. Housing resources like One-Shot Deals and rental vouchers like CityFHEPS, FHEPS, and Emergency Housing Vouchers (EHV) are critical tools to keep people stably housed, but they are only effective if there are enough staff to help people quickly access them.

To ensure a strong recovery for the City, **the Council should exempt staff at HPD, NYCHA, DHS, HRA, and DYCD Runaway and Homeless Youth responsible for addressing the crisis of homelessness from the 3% across-the-board budget cuts proposed by the Mayor's Preliminary Budget**. These cost savings were largely achieved by **eliminating vacant positions**, but in doing so it doesn't mean those positions weren't necessary. It just **means there will be less people to do the work**. Households are already reporting significant lags in the processing of EHV and CityFHEPS rental assistance paperwork and lease signings. Locking in low headcounts will lock in these delays which will only get worse as demand continues to rise.

Under the currently proposed agency PEGs, the Department of Social Services would see 62 vacancies eliminated, and DHS 131 vacancies of their 2,095 total headcount², a reduction of over 6% of their personnel. As the Council prepares its response to the preliminary budget, it would be helpful to understand which units within DSS and DHS will be affected by these reductions. We would also like to draw the Committee's attention to the 25 staff vacancies proposed to be eliminated from the Mayor's Office of Contract Services (MOCS), given DHS-contracted homeless services providers continue to face significant challenges with timely contract registrations which impacts providers' ability to hire and deploy staff to assist New Yorkers in need.

Robust staffing is necessary not only to help the growing numbers of tenants unable to pay their rent, but also to ensure the City can maximize the success of available housing resources, including CityFHEPS, State FHEPS, and Emergency Housing Vouchers (EHV) to significantly reduce the number of families and individuals experiencing homelessness in New York City.

² NYC February 2022 Financial Plan Detail Financial Years 2022-2026, pgs. E-15, E-19.
<https://www1.nyc.gov/assets/omb/downloads/pdf/tech2-22.pdf>



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HSU is extremely grateful to Chair Ayala and Members of the Council for passing Intro 146 last session to raise CityFHEPS rent levels to Fair Market Rent (FMR), and the **Council must hold DHS and HRA budgets harmless to ensure both agencies are not short-handed and able to process the additional applications**. If DHS does not have sufficient staff, delays processing CityFHEPS applications could result in families and individuals losing viable units and languishing in shelter longer, and landlords losing money and interest in the program if an application takes longer than 30-days to process. (HRA removed signing bonuses for CityFHEPS “move” cases when implementing the higher rent amounts, so the only remaining financial incentives is a 30-day unit hold fee to compensate the landlord one month’s rent while the application is in process, and a 15% broker’s fee.) HRA budget cuts could also impact application processing times for State FHEPS, payment processing times for CityFHEPS and State FHEPS, and applications for Public Assistance, Cash Assistance, One-Shot Deals, SNAP, and food stamps.

The Council should also direct additional funding to NYCHA and HPD departments responsible for processing Emergency Housing Vouchers (EHV), as low staffing levels at both agencies resulted in a slow rollout of these critical Section 8 vouchers. This once-in-a-lifetime infusion of Section 8 rental assistance is a game changer for reducing the number of people experiencing homelessness on the street and in shelter, but vouchers must be leased by 2023. To assist with helping as many tenants in the community apply for EHV vouchers, the City should adopt a no wrong door approach and grant legal services providers the ability to help tenants submit applications.

Providers are making every effort to enroll clients, but to date, only a fraction of households who submitted applications have resulted in attaining permanent housing. HSU will continue to work with providers and government partners to workshop and improve the process, but sufficient personnel on both the agency and provider side are necessary to capitalize on this resource.

City-contracted human services organizations are currently struggling to hire and retain qualified staff because of extremely low wages set by their City contracts. Street outreach, shelter providers and Homebase programs are all affected, with at some programs exceeding 20- 25% vacancies for critical roles like housing specialists. To address wage inadequacies, we urge the City to fund the requests of the Human Services Council’s #JustPay Campaign³, including:

- Establish, fund, and enforce an automatic annual cost-of-living adjustment (COLA) on all human services contracts.
- Set a living wage floor of no less than \$21 an hour for all City and State funded human services workers.
- Create, fund, and incorporate a comprehensive wage and benefit schedule for government contracted human services workers comparable to the salaries made by City and State employees in the same field.

Improving Rental Assistance Resources:

³ <https://www.justpayny.org/>



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With the Council's passage of Int. 146 to significantly increase in rent levels paid by the CityFHEPS program, New Yorkers at risk of eviction or experiencing homelessness finally have a realistic chance of securing and maintaining permanent housing. To build upon this landmark legislation, HSU has a number of recommendations to further strengthen this rental assistance program to help New Yorkers.

In alignment with Mayor Adam's focus on increasing efficiencies within City agencies, HSU recommends that DHS and HRA reduce and remove bureaucratic processes from the rental assistance and public benefits application process wherever possible. To address some of these inefficiencies, The Homes Can't Wait Campaign submitted a sign-on letter which HSU is a co-signor to DSS Commissioner Jenkins with policy and process recommendations generated by direct service providers and advocates. Families and individuals are experiencing the trauma of homelessness for weeks or months longer than necessary because of overly complicated and opaque rules and processes with multiple opportunities for applications to get stuck, be denied, and need to be resubmitted over and over again.

With the implementation of higher CityFHEPS rent amounts, HRA implemented a rent reasonableness test and deductions for utility costs. While intended to mirror procedures required by HUD for the Section 8 program, these policies are being applied differently at HRA than NYCHA causing tenants to lose access to apartments eroding the Council's efforts to substantially increase rent levels for these vouchers. **HSU and other advocates are urging the City to strike rent reasonableness and utility deductions requirements from the CityFHEPS rule.**

Providers have already seen households lose permanent housing opportunities due to rent reasonableness, even when the unit is below Fair Market Rent (FMR). Voucher holders are left stumbling in the dark searching because there is no easily accessible way to check whether an apartment listing would meet rent reasonable guidelines. While we understand that HRA is working to address errors in their methodology to reduce the rate of rejection, if the plan is to modify the policy such that very few apartments should fail the reasonableness test, then it is not clear there is much value in retaining it at all as it simply adds another step to an already long and complex rental process.

HRA also implemented utility deductions, with the rationale to be consistent with Section 8, but its interpretation is flawed failing to pass on the allowance to tenants to reduce their cost burden which is how the federal policy is designed. Instead, HRA simply reduces the amount paid to the owner without providing any utility assistance to tenants which both weakens the purchasing power of the voucher and leaves tenants with higher than recommended cost burdens. The City should either strike this policy altogether or, modify their implementation to pass the allowance on to tenants in the way the federal program intended.

In addition to addressing challenges with the way the City processes CityFHEPS vouchers, **HSU recommends the Council remove barriers to eligibility to streamline access for all households experiencing or at risk of homelessness.** This includes ending including burdensome work requirements for households in shelter as well as the income cliff for applicants, which can abruptly make voucher recipients ineligible just as they reenter the workforce.

Recommended Changes to Improve Access to CityFHEPS:

- Lift the maximum initial income eligibility requirement from 200% Federal Poverty Limit (FPL) to 50% Area Median Income (AMI) to allow the “working poor” to be able to afford rent
- Remove the work requirement to qualify for CityFHEPS in shelter. NYC’s unemployment rate is double the national average, and women with children (the majority of people in NYC’s shelters) are nearly twice as likely to be unemployed as their male counterparts.⁴ A work first approach ensures that households remain in shelter longer compounding the trauma of homelessness and the cost of shelter. It also requires households to navigate an impossible balancing act as they try to reenter the workforce while maintaining eligibility for housing. Currently shelter residents must work a minimum of 30 hours a week to qualify for CityFHEPS, but if a single adult works as little as 4 additional hours at minimum wage, their income exceeds the 200% FPL income limit making them ineligible.
- Allow people in shelter to immediately apply for CityFHEPS by removing the 90-day minimum length of stay requirement. Perpetuation of the fallacy that access to housing is a draw to shelter must stop, and making people wait in shelter 90 days to demonstrate they actually need housing does little more than increase length of stay and cost of shelter. Housing first is a national best practice and should be adopted in New York City.
- Remove the shelter history requirement for households trying to access CityFHEPS in the community. Housing vouchers should be provided to everyone at the risk of homelessness, not just those that already experienced the trauma of homelessness at least once before.
- Make permanent the temporary waiver in the CityFHEPS rule which accepts a verified rent demand letter instead requiring a housing court proceeding. As the eviction moratorium demonstrated, verified rent demands are sufficient proof of housing instability, and this change allows the household to access CityFHEPS earlier, allowing prevention providers to stabilize their housing further upstream.
- HRA should reduce the frequency with which they demand income verification documents from tenants and rely more on documentation HRA already has in its welfare management system. Rebudgets, particularly for shelter residents can hold up a households CityFHEPS application, because it is not always clearly communicated to shelter staff if HRA is waiting for additional documentation.

HSU also recommends that **the Council should support Senator Kavanagh’s and the State Legislature’s efforts to pass and fund the Housing Access Voucher Program in the FY22-23 State Budget.** The new Statewide rental assistance voucher would be another tool in New York’s toolbox to address homelessness and housing instability, as it prioritizes half its vouchers for people experiencing housing instability in the community, as well as serving populations which don’t qualify for other existing vouchers, such as working households are over income for other vouchers but don’t earn enough to cover the rent, people who are disable or cannot work, and people who lack legal status and thus are ineligible for Public Assistance which is necessary for Section 8 and TANF funded vouchers.

⁴ Haag, M., McGeehan, P. (2021, December 14). “The ‘Double Whammy’ That Is Slowing New York City’s Job Growth.” *The New York Times*. Retrieved from: <https://www.nytimes.com/2021/12/14/nyregion/nyc-economy-jobless.html> ; (2021, November 09). CCC Analysis: Findings from the U.S. Census Bureau’s Household Pulse Survey 2021. *Citizens’ Committee for Children*. Retrieved from: <https://cccnewyork.org/data-publications/keeping-track-of-child-and-family-well-being-amid-the-pandemic/>



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Additional Housing Investments:

Homeless Services United, as a member of the United For Housing (UFH) Coalition, was dismayed that the Mayor's Preliminary Budget did not include any additional investments for affordable housing or rental assistance. United For Housing estimates that a \$4 billion annual investment is necessary to preserve and create new affordable housing in the City, and we hope Chair Ayala and members of the Committee will include these recommendations in the Council's Budget response:

- **\$1.5 billion annual investment for NYCHA, matched by State funding, to fully restore NYC's public housing stock**
- **\$2.5 billion annual investment in affordable housing rental and home ownership investments**
- **\$200 million annual investment to cover enhanced rental assistance rents, matched by State funding**

Thank you Chair Ayala and members of the General Welfare Committee for holding this hearing today. While the pandemic has hit our City especially hard, there is light at the end of the tunnel through the numerous investments in housing resources and a strong homeless services safety net. It is through continued timely access to these critical resources that New Yorkers will regain and remain stably housed, and HSU looks forward to assisting the Council in those efforts.

Thank you for the opportunity to submit testimony. If you have any questions, please feel free to email me at elee@hsunited.org or call me at (646) 515-8053.



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Courtney Bryan, Director

**Center for Court Innovation
New York City Council
Committee on General Welfare
Oversight – End of the Eviction Moratorium
February 28, 2022**

Good morning Chair Ayala and esteemed councilmembers of the General Welfare Committee. Since its inception, the Center for Court Innovation (the Center) has supported the vision embraced by Council of a fair, effective, and humane justice system and to build public safety through sustainable community-driven solutions. The Center’s longstanding partnership with the Council has helped bring this vision to life through evidence-based, equitable programming that spans the entire justice continuum.

Access to quality, sustainable, and safe housing is a crucial element to the conversation around social justice and equity. By proactively addressing factors related to housing access and housing resources, we hope to connect tenants with effective solutions, without unnecessary delay. Our firsthand experience and research uniquely positions us to offer insights that the Council can look to as it considers policies and the development of initiatives that responsibly respond to the housing needs of all New Yorkers.

Our Housing Equity Work

The Center for Court Innovation has worked for 25 years to create a fair, effective, and humane justice system by launching operating programs to test new ideas and solve problems, performing original research, and providing expert assistance to justice reformers around the world. We operate programs in all five boroughs, ranging from civil access to justice programs, community-based violence prevention programs, reentry initiatives, and court-based programs that span family court to alternatives to incarceration - just to name a few. As practitioners, we work alongside City agencies and residents within neighborhoods across the City to promote safety, justice, and community voice in public institutions.

The Center’s Harlem Community Justice Center and Red Hook Community Justice Center have operated for nearly 20 years, hearing landlord and tenant matters between NYCHA and tenant families. Through our onsite **Housing Resource Centers**, we support problem solving on rent and repair complaints, lease renewals, and other housing issues, while working in close partnership with NYCHA’s property management, borough office, and law department. Our mission in these community courts has been to improve access to justice, respond to the needs of litigants, and prevent eviction. We also operate a Housing Resource Center in Brownsville, Brooklyn. Over the past 3 years, we have worked with over 6,000 clients in

Harlem, Red Hook, and Brownsville who are facing eviction or experiencing severe housing repair needs to navigate the court process, access assistance with arrears, obtain legal counsel, and receive social services.

We also oversee neighborhood storefront legal information centers, known as **Legal Hand**, in Jamaica, Queens, Crown Heights, and the South Bronx. Legal Hand trains volunteers to provide free legal information, assistance, and referrals to help our community members resolve civil legal issues that affect their lives. Our volunteers are neighbors helping neighbors. Many of our volunteers know someone who has been through similar situations as our visitors or have been affected by housing issues themselves. While we offer support in areas like family, immigration, domestic violence, and benefits, by far, the greatest area of support given is on housing. Since opening in 2015, Legal Hand has seen over 36,000 visitors with civil legal issues including 14,000 of those dealing with housing issues. Since the pandemic lockdown in March 2020, Legal Hand has assisted 7,985 community members. Legal Hand is also engaged in community outreach and conducts Know-Your-Right workshop sessions and workshops, including 25 this past year.

Finally, our **Neighborhood Safety Initiatives (NSI)** project seeks to improve public safety in New York City public housing communities by cultivating and investing in resident leadership networks, social programming, and shaping public policy solutions. Since 2017, NSI has partnered with the Mayor's Action Plan for Neighborhood Safety (MAP) to engage government, CBOs, and resident partners in Neighborhood Stat, a process that helps government and residents re-imagine public safety. Neighborhood Stat convenes community residents, city agencies, and local organizations on a routine basis to identify site-specific and citywide systems solutions to neighborhood public safety. NSI holds regular trainings and project management efforts to shape government responses and underpin a strong network of NYCHA residents who actively organize for safety, wellness, economic empowerment, improved quality of life, and equitable public space.

Through this work, we have developed an understanding of the intimate connection between housing stability, physical and mental health, public safety, and long-term community outcomes. We submit this testimony today with the goals of: (1) illustrating what we have seen in our communities during and after the end of the eviction moratorium, and (2) urging the Council to make greater investments in eviction prevention resources for vulnerable New York City tenants. Here is what we have seen and how we are calling this Council to action.

With the end of New York State's eviction moratorium, we expect that eviction filings will likely increase and that filings will have a disproportionate impact on Black and Latinx communities. Post-moratorium filing data from the Eviction Lab shows that the highest rates filings in New York City are occurring in the following zip codes: 11226 (Flatbush, Brooklyn), 10456 (The Bronx), 10453 (The Bronx) and 10452 (The Bronx). Throughout the state, there are approximately 230,000 eviction cases that can begin to proceed. And there are renters who now owe approximately five-figures in rental arrears. There are approximately 100,000 rental assistance applicants that have not received assistance.

Inadequate Relief for Rental Arrears and Exclusion of NYCHA Households

New York State's Emergency Rental Assistance Program (ERAP) represented hope for many residents who fell behind on rent during the pandemic. Over the past several months, we have helped clients complete applications for rental assistance through ERAP. Three weeks ago, public housing residents began receiving letters from ERAP that their applications were placed on hold due to the legal requirement that subsidized housing residents be served last. The same week, residents received notices from NYCHA that the eviction moratorium was ending and they should pay all rent owed.

The One-Shot Deal Program (OSD) represented the second most viable opportunity for NYCHA tenants looking to obtain rental assistance. NYCHA directed residents to file OSDs through the NYC Human Resources Administration (HRA), but HRA would not allow anyone to file an OSD application until their ERAP application had been denied. Furthermore, OSDs are not an ideal backup plan for the majority of our clients because those payments often need to be paid back, can damage our clients' financial status even further, and are not guaranteed. The ERAP gave our clients a sense of relief at a time that was overwhelmingly hopeless. Now, our clients are in limbo and their relief has been turned into fear. Right now, it is exceedingly difficult for our NYCHA clients to access rental arrears relief that is adequate and that is delivered to clients before an eviction is filed. We are calling on the City Council to fill the gap in funding for NYCHA residents who have applied for ERAP.

Furthermore, even for tenants who do receive relief through ERAP, that assistance is not adequate. One client in Brownsville is an example:

“One client lost his job during the pandemic. He had three children, two were living with Leukemia. Unfortunately, one child passed away on December 21, 2021. Due to job loss and his children's diagnoses, he became behind on the rent in excess of \$6,000. Luckily, he was able to successfully apply for and receive assistance through ERAP. However, his landlord increased his rent by \$400 immediately after the ERAP monies were paid.” - Yvette Rouget, Program Manager, Brownsville Community Justice Center Housing Resource Center

We also call on City Council to bolster systems and ensure residents' immediate economic needs are addressed through providing greater access to the HRA benefit portals and focusing on residents with technology, mobility, accessibility or language needs.

Rent Overcharging in NYCHA

A key component of eviction prevention is ensuring affordability, especially for residents on fixed incomes and public housing residents who have experienced loss of income during the pandemic. Our Housing Resource Centers help thousands of tenants each year with the annual and interim recertification process, which ensure that rent is fairly calculated based on federal HUD guidelines and is required to maintain tenancy in NYCHA housing.

In response to the COVID-19 pandemic's devastating economic impact, the Red Hook and Harlem Community Justice Centers' Housing Resource Centers have supported more than

2,000 tenants filing for rental adjustments that factor in the household's loss of income pursuant to NYCHA's Rent Hardship Policy, including educating tenants on the deductions for which they are eligible under HUD regulations, such as the Earned Income Disallowance and deductions for dependents, childcare expenses, medical/disability expenses, and full-time student income. Staff also facilitate the rent recertification process for tenants, helping to ensure the accurate calculation of rent, maintaining affordability, and preventing the threat of eviction through holdover and non-payment cases. This has been a critical service provided because NYCHA's recertification process for tenants is notoriously difficult to navigate and frequently results in errors, causing tenants to be charged more than they should for rent. For many tenants, this results in them having to choose between being overcharged and paying more than they reasonably can afford or facing claims of unpaid rent, accruing debt, and potentially eviction.

"In Red Hook, an older gentleman and longtime resident of the NYCHA lost his wife in March 2020. He provided the NYCHA Management Office with her death certificate and completed an interim lease adjustment in the tenant self-service portal to remove her from his lease which would also remove her Social Security income from his rent calculation. Nearly two years later, NYCHA has still not taken action to remove his wife from the family composition and he continues to be overcharged. He has accrued thousands of dollars of arrears and, amidst his grieving, continues to experience emotional distress having to continuously advocate for his wife to be removed with no response." - Viviana Gordon, Acting Director, Red Hook Community Justice Center Housing Resource Center

Despite the daunting challenges, threats of mass evictions, and housing instability for the most vulnerable tenants, New York City has unprecedented tenant protections and resources. For public housing tenants, the *Fields v. Russ* settlement which took effect in January 2022, grants more protection to public housing residents from eviction, and affordability rules based in HUD guidelines give households the opportunity to reduce their rent burden when they lose income. This moment presents an opportunity to increase community access points to counsel, self-advocacy technology, language access, pre-legal preparation for tenants and rights-based self-advocacy especially for the most vulnerable renters and tenants who are elderly, homebound, or are non-English speakers. Any successful anti-eviction strategy needs to be nimble, rooted in community, accessible, credible, multi-lingual and bolstered by legal support, city agencies and resources.

Lack of Safe Affordable Housing

Keeping people housed is still only part of the issue if that housing is inadequate and unsafe. The pandemic has also exacerbated the repairs crisis that already existed in NYCHA housing, compounding the number of critical and hazardous repairs. Every day in our Housing Resource Centers, we work with tenants experiencing egregious home repair conditions including active leaks, electrical fires, gas outages, black mold and crumbling walls that expose lead paint. The federal government has not allocated sufficient funding for maintenance and repairs in NYCHA, creating a backlog of approximately \$40 billion worth of repairs. The backlog of repairs meant that our clients were forced to withhold a portion of the rent, live in unsafe and unhealthy conditions, live in months-long utility outages, and use their own money to

finance repairs. Aging infrastructure, dysfunction, scandals, and systemic underfunding have made NYCHA chronically delinquent in responding to resident requests for repairs.

While tenants of private residential developments may call the City's 311 system for a City inspection to register Housing Code violations and repairs needed, NYCHA tenants cannot. The only option public housing residents have to obtain repairs or remedy hazards such as lead paint, mold growth, and pest infestation, is to go to Housing Court and file a Housing Part ("HP") Action. That is just the beginning of the disparate treatment, legal and tenant protections public housing residents experience in New York City. We call on City Council to bring New York City's largest landlord under oversight, as appropriate under the current authority regime, of the Department of Housing Preservation and Development (HPD) and give public housing residents access to City inspections through 311 and code violation enforcement to ensure safe, habitable housing.

Conclusion

After years of tackling our clients' housing concerns at every level, the Center stands ready to enhance its partnership with this Council and to better address the dire circumstances that we are witnessing in our communities after the expiration of the eviction moratorium. Somewhere between the resources provided by the government and the processes overseen by the courts, our city's most vulnerable residents are falling through the gaps. Residents are unable to obtain emergency rental assistance in a timely manner. Residents are unaware of their rights and do not know what to do to prevent an eviction. NYCHA residents are not receiving equal treatment under the City's own Housing Maintenance code to obtain repairs that would make their homes habitable.

The Center's unique positioning—a community-based organization with programs across all five boroughs and individuals already engaging in this work—means that we can bridge those gaps to ensure that our most vulnerable residents do not fall through. We call on the City Council to make four major eviction prevention investments at this time: (1) fill the gap in funding for NYCHA tenants that have applied for ERAP; (2) ensure its HRA benefit systems are accessible to our most vulnerable residents; (3) implement HPD oversight over NYCHA and give NYCHA residents access to City inspections through 311; and (4) make unprecedented investments in community-based organizations like the Center for Court Innovation that are on the ground, working to keep people housed.

We thank the General Welfare Committee for the opportunity to submit testimony on this important issue. We are happy to answer any questions you may have.



New York City General Welfare Committee Oversight Hearing
Impact of the Expiration of the Eviction Moratoriums
February 28, 2022

The Rent Stabilization Association of New York City represents 25,000 diverse owners and managers who collectively manage more than one million apartments in every neighborhood and community throughout the city. I want to thank the Chair Ayala and the other members of the General Welfare Committee for convening this hearing today and the Committee for giving RSA the opportunity to appear before you to speak about the Expiration of the Eviction Moratoriums.

Since the start of the pandemic, government has required landlords to bear the burden of the Covid housing crisis. Government allowed renters to defer rent payments by merely declaring hardship without proof of hardship, by enacting eviction moratoriums without recourse when abused, and forcing landlords to house tenants, even objectionable ones, without compensation or any recourse. The New York State Eviction Moratorium lasted 22-months and expired in January, but that was not the end, because other eviction moratoriums continue today.

Even with no formal Eviction Moratorium in place this crisis continues for landlords, as avenues to collect rent are sorely limited. While the courts technically have reopened, a quasi-moratorium still exists. Hardship declarations filed nearly two years ago still control because now they serve as a basis under the Tenant Safe Harbor Act to potentially foreclose landlord's ability to evict for any covid arrears, applications for rental assistance – even without funding or the prospect of funding- indefinitely discontinue all collection efforts, court operations remain limited and new court directives such as additional motions practice and other dilatory measures memorialize portions of the eviction moratorium into the administrative procedures of the housing court.

Nearly two years later, many owners still are not receiving rental payments. No one has provided owners any deferral or relief from the payment of property taxes or water bills. Insurance and mortgage payments still are due. And as costs for increased cleaning, maintenance, repairs and meeting unfunded legislative mandates continue to accrue.

Some much-needed rental assistance has been provided through Emergency Rental Assistance Program (ERAP), which assists tenants with rent payments while providing owners with much needed-income to address ongoing expenses. However, ERAP's limitations are well known.

First, it cannot fund all the applications currently pending before the program. There are over 307,000 ERAP applications pending in New York State, yet fewer than half have been paid. The state has obligated its full allotment of \$2.4 billion and has requested \$1.6 billion more from the federal government to fulfill current applications. Next, it only provides 12 months of rental assistance in most cases. For many renters only half their rental obligation has been satisfied, leaving up to 10 months of unpaid rent. Finally, it requires a tenant to initiate an application. If a tenant elects not to do so, a landlord has no recourse, beyond the already-depleted, meagerly-funded Landlord Rental Assistance Program (LRAP).

At this point additional actions are needed to begin to address the wake of the Eviction Moratoriums. There needs to be greater access to courts. It is through the court system that evictions are avoided. In the courts, with right to counsel and access to other funding sources such as One-Shots, CityFHEPS and state FHEPS, tenants are able to avail themselves of all the resources the city and state have to offer to address critical housing and related needs.

Courts need to be able to directly communicate with the OTDA application system so it can determine who has applied and the status of applications when a court case is commenced and OTDA should immediately deny applications when they applicant does not qualify for ERAP so the courts could direct them to other resources.

State leaders must invest the \$2 billion set aside for pandemic relief to fund the various rent assistance programs to ensure that the thousands of households who cannot make rent can do so and landlords timely can receive the critical funding needed to operate their buildings.

The city and state must continue to advocate for additional ERAP funds as the federal government reallocates both tranches of emergency rental assistance funding.

There should be a targeted tax credit of limited duration to provide owners - particularly small owners - with an offset for the losses in rental income caused by the eviction moratorium and the continuing delays in ERAP payments.

As we can now see, the expiration of the federal and State Eviction Moratoriums did not yield the predicted eviction tsunami nationwide or in New York State. New York City has seen fewer than 150 residential evictions since its lapse. But the impact of the moratoriums on property owners and their ability to operate and maintain the city's rental housing stock has been dire. Increased funding and greater access to assistance programs will better position New York as it emerges from its Covid housing crisis. RSA urges the Council and the city to continue its efforts to remedy the impacts of the Eviction Moratoriums.



TESTIMONY REGARDING

The Impact of The Expiration of The Eviction Moratoriums

PRESENTED BEFORE:
THE NEW YORK CITY COUNCIL'S
COMMITTEE ON GENERAL WELFARE

PRESENTED BY:

MATTHEW LONGOBARDI, ESQ.
SENIOR STAFF ATTORNEY
MOBILIZATION FOR JUSTICE

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FEBRUARY 28, 2022

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I. Introduction

Mobilization for Justice, Inc. (“MFJ”) envisions a society in which there is equal justice for all. Our mission is to achieve social justice, prioritizing the needs of people who are low-income, disenfranchised, or have disabilities. We do this through providing the highest quality direct civil legal assistance, providing community education, entering into partnerships, engaging in policy advocacy, and bringing impact litigation. MFJ assists more than 25,000 New Yorkers each year. MFJ’s Housing Project works to prevent homelessness by defending tenants in eviction proceedings and improve living conditions for tenants, while also fighting harassment and discrimination to keep people in their homes and their communities intact. For more than five decades, MFJ has provided robust representation to tenants in the Bronx, Brooklyn, and Manhattan.

MFJ is a proud member of the Leap Coalition, comprised of community-based, civil legal services organizations working collaboratively to serve low and moderate-income New Yorkers. Leap and its members play instrumental roles in the Right to Counsel and Anti-Harassment Tenant (“AHTP”) programs. MFJ is also a member and a supporter of the Right to Counsel NYC Coalition, which led and won the campaign to establish a Right to Counsel for tenants facing eviction.

We are proud of NYC’s groundbreaking Right to Counsel legislation and applaud the City Council, the Mayor, and the Office of Civil Justice for its dedication to making the Right to Counsel available to all New Yorkers during this pandemic. We know firsthand the importance of having legal representation in housing court, and we are also acutely aware of the challenges facing legal services providers and tenants as eviction cases now move through the court system in the aftermath of the COVID-19 eviction moratorium.

II. Issues Arising from the Expiration of the Eviction Moratorium

A. The Flow of Eviction Cases Through Housing Court Is Threatening Our Ability to Provide High Quality Representation

The expiration of the eviction moratorium has seriously stressed the capacity of legal services providers like MFJ. If these pressures continue unabated, they risk undermining the Right to Counsel law, which guarantees high quality legal assistance to all eligible New York City tenants who are facing eviction. Since the eviction moratorium was lifted six weeks ago, cases have been moving through housing court at unmanageable speeds. In the Bronx, for example, judges had been hearing one case every 30 minutes in the intake parts prior to the expiration of the moratorium; now they have doubled that capacity and are hearing twice as many newly filed cases. This increase means that cases are now being scheduled in the intake parts at a volume that far exceed our capacity as a legal service organization to offer legal representation to every tenant with whom we connect.

When MFJ is the legal services provider on duty in an intake part, we are responsible for contacting each tenant whose case is on the calendar. The goal is to inform the tenant of their Right to Counsel

and the opportunity for free legal representation. If the tenant wishes to have representation, we conduct a detailed intake with the client and must offer representation to eligible clients. Unfortunately, there is still a significant amount of confusion for tenants about how they are required to appear in the intake parts.

Historically, housing court respondents may not even get notice of their court dates if service of the court papers is not proper. If a tenant does not appear for their initial court date in person or virtually, the provider assigned to the intake part is frequently left with nothing more than the tenant's address after an intake appearance. This makes the likelihood of connecting with a tenant very low, even though we send letters to every such tenant requesting that they reach out to us for an intake interview. Given the high number of cases that are being scheduled in Court, many of MFJ's resources are tied up in contacting tenants and conducting intake. Moreover, the court has been scheduling shorter and shorter adjournments, which often means the tenant's next court date will have passed before we even can make contact with our potential clients. Tenants are entitled to information about their Right to Counsel and should have the opportunity to connect with an attorney. However, legal service providers are being charged with a nearly impossible and time-consuming task of performing outreach to many tenants that often yields few results because so many cases are being calendared quickly.

Even when our office is able to make contact with a tenant, at times, due to capacity of the case handling staff, the cases cannot be assigned to an attorney until just before the next court appearance. This means that clients are afforded less time with attorneys before their case is back in court. Besides just intaking new matters, attorneys in our offices have full caseloads and have to devote considerable time working on resolutions for the tenants who have already retained MFJ. Additionally, as caseloads increase, attorneys will be forced to make difficult choices about what motions to file or actions to take on their client's behalf. Such choices should hinge solely on the merits of the legal argument and the potential positive outcomes for our clients. However, as caseloads continue to swell, attorneys will be forced to triage cases and weigh which actions they realistically have the capacity to undertake. This threatens to undermine the indelible Right to Counsel that tenants in New York City fought for and which was enacted into law by this Council.

B. High Caseloads Are Causing Burnout Among Advocates Which Will Further Undermine the Implementation of Right to Counsel

High caseloads do not just impact tenants but negatively affect housing advocates' quality of life and our work-life balance, and they may also run afoul of unionized employees' rights in our collective bargaining agreement. High caseloads and a constant pressure to take on new cases in the aftermath of the eviction moratorium are contributing to burnout among staff at legal services providers. If legal services providers cannot recruit, train, and retain qualified attorneys and advocates, the quality of representation under the Right to Counsel program will suffer.

Legal services providers are not immune from the unprecedented labor shortages affecting other industries, and we have undergone repeated rounds of hiring to meet the increased demand as the Right to Counsel has been rolled out to all tenants across the city. Many of our colleagues have only started within the last six months. Newly hired attorneys, law graduates, and housing

advocates cannot take on unreasonable caseloads because those that are new to housing practice need time to learn the complexities of New York City housing law and to develop the skills to provide competent representation. Longer tenured advocates can typically handle higher caseloads than their newly hired colleagues; however, these advocates already had full caseloads in March 2020 that were often at a standstill during the moratorium and cannot dedicate significant amounts of time to new matters until previously pending matters are resolved, through settlement, motion practice, and, when necessary, trial.

Caseloads must be managed within bounds so that attorneys can provide competent and zealous representation as required by the Rules of Professional Conduct. Significantly, non-management staff at MFJ are members of the Legal Services Staff Association (“LSSA”), and the collective bargaining agreement between MFJ and LSSA limits caseloads in a manner to ensure competent representation and while also taking in account the complexity of various types of cases, the amount of time that is reasonably necessary to work on each active case, and other responsibilities assigned to the case handling staff. Tenants are entitled to zealous representation under the RTC law and legal services staff are entitled to working conditions that ensure clients are well served, and burnout and attrition are minimized.

C. Limited Capacity for Legal Assistance for Tenants Beyond Eviction Defense

As caseloads rise, legal services providers also have less capacity to assist with tenant advocacy beyond defending summary eviction proceedings. Prior to and during the pandemic, Leap coalition members like MFJ who provide services on the AHTP program, have dedicated significant amounts of resources to assisting tenants and tenants’ associations with advice and with litigation beyond eviction defense. That representation includes filing HP proceedings to obtain repairs and combat harassment, representing tenants in administrative proceedings at the Division of Housing & Community Renewal to challenge rent overcharges and to defend against Major Capital Improvements and other challenges to tenants’ legal rights. Our office has also been able to take on cases in in Supreme Court both to vindicate tenants’ rights or defend against landlords who seek to avoid housing court. We also regularly provide basic advice to tenants at clinics and through our hotlines, and have historically been able to offer other services, such as other pre-litigation advocacy, and assistance with housing related government benefits for clients who are not imminently facing eviction.

We have been able to offer holistic client services to fight against tenant harassment and displacement beyond what can be obtained in individual eviction cases. All these types of services are essential to protecting our clients’ communities and ensuring tenants live with dignity in their homes. This assistance is also essential to effective implementation and enforcement of New Yorkers’ rights bestowed by this Council, such as the rights to have habitable housing free from landlord harassment, that have been enacted as part of the Housing Maintenance Code, and the rights to be free from housing discrimination, that are contained in the New York City Human Rights Law. These rights are not self-enforcing, and tenants frequently will need to enforce these rights in the court, such as by filing HP proceedings or administrative complaints. Unfortunately, as more of MFJ’s resources are pulled into keeping up with the current torrent of eviction cases, we have less ability to represent tenants whose tenancy rights have been violated, and less capacity

to assist tenants who have real housing issues that have not yet resulted in the filing of an eviction case.

III. Solutions

The only practical and immediate solution to stop the negative impacts of the expiration of the moratorium is to slow down the housing court process and insist no case move through housing court without an attorney. We urge this committee to work with all necessary bodies, specifically HRA's Office of Civil Justice, to work with the courts to ensure that no qualifying eviction case moves forward without an RTC attorney.

As elected officials and the courts have done over the past two years, slowing down the court system is the only moral response. **The courts can do this by moving only the cases where tenants are represented forward and adjourn all the rest until the legal services organizations have capacity to take more cases.** Housing Court judges have the discretion to adjourn cases at any time, for any length of time, and for nearly any reason. These adjournments happen in other courts, like family court, where there is a Right to Counsel. There is a legal basis for judges to grant repeat adjournments for the assignment of counsel and due process requires it, plus judges have a broad discretion to adjourn cases as they see fit. Additionally, OCJ can work with the courts to maintain a court calendar that adequately reflects legal service provider capacity so that all representation and access to counsel may be meaningful.

Where a case is permitted to move forward without meaningful access to counsel for the tenant, the case often results in a judgment or stipulation prior to a hearing on the merits and without the tenant asserting meritorious defenses. Without counsel, such an outcome can unnecessarily result in an eviction. If a tenant subsequently retains an attorney, the attorney will then need to seek to have the judgment vacated which returns the proceeding to its starting place; however, this often entails much more work by legal services provider, and with more stress and potential harm and higher risk of eviction for the tenant. Additionally, where caseloads are unnecessarily high, appointed counsel becomes the equivalent to having no counsel at all. Attorneys and their clients cannot spend the time necessary to fully investigate and prepare a defense to an eviction proceeding. This result need not happen, if the attorney caseloads are adequately managed, and cases where tenants are currently unrepresented are adjourned until other legal services providers have more capacity.

We are calling on this committee to work with the courts and OCJ to make this a reality. We look forward to working with you on this. Thank you for the opportunity to testify.



**New York City Council Committee on General Welfare:
Oversight - Impact of the Expiration of the Eviction Moratoriums
February 28, 2022**

Thank you Chair Ayala for the opportunity to submit testimony for the *Oversight Hearing: Impact of the Expiration of the Eviction Moratoriums*. JASA welcomes today's hearing as an opportunity to share our experiences serving older adults and vulnerable adults 18+ facing eviction across New York City.

JASA is the go-to agency serving older adults in New York City, providing critical services to over 40,000 people annually. Founded 50+ years ago, JASA is a leading expert and innovator in aging services that recognizes the diversity among the aging population and honors older adults as vital members of society. JASA's life-changing support services, interventions and partnerships promote aging with a purpose and provide autonomy for older adults to remain in their homes and communities. JASA operates ten affordable housing properties, is a licensed home care agency and offers a breadth of integrative services citywide spanning free legal services, health and mental health services, home-delivered meals, social programming at senior centers and community trainings on elder abuse, peer health support, caregiver assistance and more.

The Covid-19 Pandemic brought many challenges for everyone and particularly for older New Yorkers. Each decade of life from the age of 60, brings increasing vulnerability to COVID-19 related disease and death. This vulnerability is exacerbated in communities of color and among immigrant older adults who may have chronic health risks due to years of poor health care. This time has also highlighted the terrible toll of social isolation and loneliness and the technological divide experienced by older persons. It is clear that technology plays an essential role in every aspect of our lives, and the consequences are severe when one does not have access. Older persons who, prior to the pandemic, were independent, found themselves in a more uncertain position, similarly, those who faced challenges and instability prior to the pandemic, saw their lives sent into further turmoil. One area of comfort was the state imposed eviction moratorium. The halt in evictions allowed staff time to address pressing concerns and stabilize clients.

Two JASA program areas that regularly assist clients facing eviction are JASA's Adult Protective Services (APS), and Legal Services for Elder Justice (LSEJ). JASA Adult Protective Services (APS) provides assistance to vulnerable individuals aged 18+, who are at risk in the community and determined to be eligible for APS services. Services include: assessment, supportive counseling, case management, crisis intervention, heavy duty cleaning, and financial management. JASA Legal Services for Elder Justice (LSEJ) provides free legal services for individuals (age 60+) who

live in the borough of Queens and who are in social and/or economic need. Services include assistance with: eviction prevention, housing rights, foreclosure prevention, and real property fraud, and benefits and entitlements. Along with JASA Social Services, LSEJ provides extensive elder abuse and fraud prevention counseling. LSEJ is also a member of the Leap coalition (<https://leap-ny.org/>), comprised of community-based, civil legal services providers working collaboratively to serve no-income, low and moderate-income New Yorkers. Leap and its members play instrumental roles in both the Right to Counsel and Anti-Harassment Tenant Protection programs. The coalition members approach this work as community lawyers, emphasizing the importance of sustainable caseloads, sufficient resources to support holistic client services, and funding to fight against tenant harassment and displacement beyond individual eviction cases; these are essential to protecting New York's most vulnerable communities and ensuring tenants live with dignity in their homes.

With the eviction moratorium lifted, JASA is extremely concerned about the continued safety of tenants facing eviction and homelessness, particularly those tenants in need of reasonable accommodations who are also unable to afford market based rental costs. JASA's APS clients are of particular concern. APS clients are often at increased risk due to mental and/or physical impairments and cannot manage their activities of daily living, including but not limited to managing their finances, and have no one willing and able to assist them with responsibility in the community. These clients require intensive support in resolving evictions and in the identification of alternate, safe housing options. Failure to provide service providers with the time necessary to address these issues will place NYC's most vulnerable population at extreme risk for devastating consequences.

The moratorium has effectively: prevented homelessness; preserved the family unit; allowed APS staff adequate time to work in collaboration with clients and other involved entities to explore other options to preserve client's tenancy, including but not limited to applying for CityFHEPS, rental assistance supplement to help individuals and families find and keep housing; administered by the Department of Social Services (DSS), and other available subsidies; and reduced city and state spending on grants as clients were assisted with rental arrears through the Emergency Rental Assistance Program (ERAP), which was federally funded.

LSEJ will continue its representation of older adults as eviction proceedings return to courts, but without adequate rental relief programs, such as ERAP and CityFHEPS, LSEJ will not have the necessary tools to resolve matters and older tenants will lose their homes. Further, if eviction proceedings continue to rise, LSEJ may find it necessary to triage and only provide limited assistance to those older tenants needing to bring harassment and repair cases against their landlords.

LSEJ joins other providers of legal services in concerns with the reopening of New York City Housing Court for in-person procedures. The Americans with Disabilities Act (ADA) requires courts to provide reasonable accommodations to any court user, including attorneys, whose disability limits their capacity to attend court proceedings in person. Disability is a broad term and may include underlying health conditions that put them at particular risk if they were to contract Covid-19. There are many clients who are not able to return to in-person court appearances, and require reasonable accommodations.

With the eviction moratorium lifted, there will be a wave of eviction proceedings. Those at greatest risk are individuals who were already facing eviction prior to the pandemic. There are over 20,000 cases that were already in progress prior to March 2020, and where the court already granted a judgment for eviction, with the warrant yet to be carried out. Those tenants face imminent risk of eviction. While there are some protections in place for tenants facing eviction who live in regulated apartments, there are 4 million New Yorkers who live in unregulated apartment buildings, leaving them particularly vulnerable.

We urge the City to put measures in place to protect vulnerable individuals, older adults and those in need of reasonable accommodation. Without an adequate safety net, there will be lasting, and potentially devastating impacts felt across the City.

Thank you for the opportunity to offer this testimony.

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CATHOLIC COMMUNITY RELATIONS COUNCIL

191 Joralemon Street, 2nd Floor, Brooklyn, New York 11201

**Testimony of Joseph Rosenberg, Executive Director
of the Catholic Community Relations Council
Impact of the Expiration of the Eviction Moratoriums
City Council Committee on General Welfare
February 28, 2022**

Good morning Chair Ayala and members of the New York City Council Committee on General Welfare. I am Joseph Rosenberg, Executive Director of the Catholic Community Relations Council, representing the Archdiocese of New York and the Diocese of Brooklyn on local legislative and policy issues.

New York City has faced an affordable housing crisis for decades. This has been exacerbated by the COVID 19 pandemic with its staggering loss of life and accompanying loss of jobs and income by many families and individuals in our City. Although an eviction moratorium was declared through former Governor Cuomo's Executive Order in March 20, 2020 and extended several times, it expired on January 15th, 2022 and has not been extended. The moratorium provided a means of protection for many New Yorkers who lost the financial ability to pay their monthly rent, but it also deprived many owners of residential buildings the ability to cover their operating costs and upgrade their buildings.

Fortunately, rental assistance programs, such as the Emergency Rental Assistance Program ("ERAP"), were created to assist tenants with their rent payments while providing owners with income to meet their expenses. This federally funded \$2.4 billion Statewide program provides funding to low-income families and individuals who are in rental arrears and suffered financial loss attributed to the COVID 19 pandemic. When families are found eligible for the program, monies are distributed to the property owners to cover the tenants' rent arrears. Catholic Charities Community Service of the Archdiocese of New York and Catholic Charities of the Diocese of Brooklyn and Queens are two of the nonprofit human service providers in New York City who were awarded contracts to process and distribute ERAP monies for qualified renters. Between them they have provided rental relief for over 4,000 families throughout New York City.

The Emergency Rental Assistance Program, however, desperately needs an infusion of funds to assist those who face the loss of their apartments. Although families continue to apply for the program, funding has dried up. With the expiration of the eviction moratorium, even more New Yorkers are expected to seek ERAP assistance in the coming months. Fortunately, despite the lack of funding, renters applying to the program cannot be evicted while their application is pending. The main focus at this point must be to financially replenish the program as soon as possible to assist low income New Yorkers who have suffered as a result of the pandemic. We strongly support the Governor's overtures to the Federal Government to restore funding to ERAP, as well as the effort of the Real Estate Board of NY, the Rent Stabilization Association and others urging the Governor to provide \$2 billion for ERAP in the New York State FY'23 Budget.

Another crucial initiative providing a lifeline to tenants in New York City is the Right to Counsel (“RTC”) program. RTC provides free legal representation to assist low-income tenants facing eviction in Housing Court. It was passed in 2016 by the City Council and targeted to initially be a pilot program in several communities facing high rates of eviction proceedings before taking effect citywide in 2022. In response to the health, economic and housing crisis spurred by the pandemic, it was extended citywide in 2020, two years earlier than previously planned. The RTC program was also modified to include not just legal representation for low-income New Yorkers facing eviction proceedings in Housing Court but also those with pending Administrative actions in the New York City Housing Authority where public housing tenants were faced with the loss of their apartments. This program has been a resounding success. In 2013, only 1% of NYC Housing Court tenants had attorneys; now the number is 71%. Due to the continuing economic effects of the pandemic and the ongoing challenges facing all low-income renters in New York City, we urge that the program be expanded and provided with sufficient revenue to ensure that all low-income tenants facing eviction proceedings can have the right to counsel.

These are two of the most significant programs in New York City that can help to lessen the effect of the eviction moratorium expiration. We, therefore, strongly support the efforts to provide additional funding for the Emergency Rental Assistance Program, and the expansion of the Right to Counsel program to all low-income tenants facing possible eviction through housing court actions and agency administrative proceedings.

Thank you



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**TESTIMONY OF:
Tamara Holliday, Senior Staff Attorney, Civil Justice Practice**

BROOKLYN DEFENDER SERVICES

Presented before

**The New York City Council
Committee on General Welfare**

Oversight Hearing on the Impact of the Expiration of the Eviction Moratoriums

February 28, 2022

Introduction

My name is Tamara Holliday, and I am a Senior Staff Attorney of the Civil Justice Practice at Brooklyn Defender Services. I want to thank the New York City Council for an opportunity to be heard concerning this new post-eviction moratorium era and how the end of the moratorium will continue to have devastating effects on New York City.

Brooklyn Defender Services (BDS) is a public defense office whose mission is to provide outstanding representation and advocacy free of cost to people facing loss of freedom, family separation and other serious legal harms by the government. We represent approximately 25,000 people each year who are accused of a crime, facing loss of liberty, their home, their children, or deportation. BDS' Civil Justice Practice (CJP) aims to reduce the civil collateral consequences for our clients who have interacted with the criminal, family or immigration justice systems. We also serve our clients with additional civil legal needs; we know that even a minor housing or benefits issue, if unaddressed, can have insurmountable repercussions, especially for our clients who are already dealing with serious problems in other forums.

New York City's Post-Eviction Moratorium Crisis

New York City has been at the epicenter of the COVID-19 crisis for nearly two years. The statewide eviction moratorium protected hundreds of thousands of vulnerable tenants and their families safe from eviction and homelessness during an unprecedented health crisis. Many families who were facing housing insecurity and permanent displacement before the pandemic had temporary relief with the eviction moratorium. Those who lost their jobs or had a reduction in income had some peace of mind knowing that they could not be evicted for rent owed during that time. New Yorkers with health risks were able to remain in their homes without fear of being evicted and further risking exposure to COVID-19.



With the end of the eviction moratorium in January, hundreds of thousands of New Yorkers are suddenly facing the threat of eviction. This fallout lands disproportionately on the city's most vulnerable communities. While many industries in the city have recovered since the height of the pandemic, that recovery has been uneven. Many of the people we serve worked in industries that were completely shuttered during the pandemic, such as the hospitality and food services industries, and have faced employment insecurity for nearly two years. While the moratorium has enabled tenants who lost their jobs or income to stay in their apartments long after they otherwise would have, many continue to struggle to pay rent and other expenses now that the moratorium has expired. Not only are tenants now at imminent risk of eviction, they may also face massive nonpossessory money judgments for the rent owed during the moratorium period.

One BDS client, Ms. D., lost her job during the pandemic. Her roommates moved out of her three-bedroom apartment, leaving her responsible for all of the rent in an apartment where she already struggled to afford her portion. While the moratorium protected her from eviction throughout the pandemic, she had no income and is now facing a money judgment of close to \$60,000 for the two years that she was unable to pay her rent. She was also unable to move out earlier in 2021 because she tested positive for COVID-19 and stayed longer than she anticipated to recover. Now Ms. D is faced with an exhausting apartment search and will likely have to face that daunting task with a money judgment of nearly \$60,000. This will negatively impact her credit, making it much more difficult to be approved for a new apartment. As she continues to struggle to support herself with the little income that she has, she will likely carry this debt for most of her adult life.

It is important to note that while the city, state and even federal government have all proclaimed a massive uptick in economic recovery, this does not apply equally to the people we serve. Many of our clients are unable to go back to the jobs they previously had, either because that job no longer exists or because many of them still suffer from the lingering effects of the coronavirus. Many of our clients have also suffered family losses, where that family member was the main provider, with our clients often having to readjust and find alternative means of income without having the time to grieve.

With the economic recovery, we have witnessed a citywide increase in rent. Rents are rising throughout the city, in some neighborhoods even beyond what they were pre-COVID. If our clients were barely able to afford market rate rents pre-COVID, they are unlikely to afford them in this post-moratorium competitive market.

Brooklyn Defender Services employs an affordable housing specialist to assist clients with the challenges of relocation, including seeking apartments that will accept the State FHEPS and CityFHEPS vouchers, advocating with DSS and HomeBase to expedite applications, and speaking with landlords to urge them to accept tenants with these vouchers. Our housing specialist has observed that HomeBase offices have a case backlog of several months, which began during the eviction moratorium and continues now. Often, our clients must wait months just for an initial call to be screened for eligibility and assigned to a case worker. This wait time does not include the lengthy process of HomeBase collecting documents for the application, submitting the application, and issuing a shopping letter. HomeBase must complete those steps before our clients can even begin to search for an apartment where the landlord will accept the voucher. Altogether, the process could take the better part of a year. This incredibly onerous task

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of finding an apartment with a voucher was already daunting pre-COVID. Now with landlords raising rents to attempt to recoup the financial losses they suffered during COVID, many of them are more unwilling than ever to accept vouchers that require a weeks or months-long approval process.

Recommendations

The city must prioritize creating more affordable housing. We understand that this has been asked more times than we can all count, and we are all aware that former Mayor Bill de Blasio set out to create over 300,000 affordable units, however, until we see a trend towards more affordable units for those who are homeless, in shelter, or at risk of eviction, this must remain the priority. The affordable housing lottery, as of 2018, had a 1 in 593 chance of success for each person applying for an affordable unit. Even if someone succeeded in obtaining affordable housing from the lottery, the ability to afford those units has been and continues to be uncertain. For instance, the average income for a one-person household in New York City was just over \$32,000, yet the expectation in many of these affordable housing units is for a one-person household to be making well over \$60,000, and even then, that person is still expected to be incredibly rent burdened, often paying 40% or more of their monthly income to rent.

We also urge the city to expand and reform its rental assistance voucher program. The CityFHEPS voucher was created in acknowledgement of the unique and extenuating circumstances and needs of New York City tenants. DSS should remove barriers that are preventing tenants from accessing the vouchers that would directly prevent evictions and secure stable, permanent housing. For example, HRA and the city government should waive the shelter requirement for CityFHEPS eligibility. Families who are eligible for public assistance or whose income falls within the federal poverty guidelines should be able to get assessed and approved for CityFHEPS even if they have never lived in the shelter. This requirement unnecessarily imposes the trauma of a shelter stay on families, while burdening the city with cost of providing that shelter. DSS should also immediately expand the number of providers who are authorized to screen tenants for voucher eligibility and complete applications. Reforming the onerous CityFHEPS eligibility and application process would promote stability and reduce the devastating shuffle between our limited affordable housing stock and the shelter system.

We also urge the city to consider paying a portion of a tenant's arrears, even when that tenant ultimately cannot remain in the apartment, in consideration for the landlord not pursuing a money judgment against the tenant. Historically, DSS has not been willing to make payments on that type of case because the money is not tied to eviction prevention. However, many of our clients, like Ms. D, will have the extra burden of trying to find a new apartment with a money judgment over their heads. After nearly two years of not collecting rent, many landlords are now attempting to recoup something by pursuing massive money judgments where they know the tenant is unable to pay. There have been no exceptions made for tenants who were affected by COVID, and while there are legal protections in place for those who are insolvent, we are all aware that money judgments linger, and can put people at risk of future wage and tax garnishments, frozen bank accounts, and potential bankruptcy. Given how these money judgments become yet another barrier to securing stable housing, they will inevitably force



families into the shelter system. In those cases, the city would spend less paying the arrears upfront than on the \$3,000 monthly cost of housing a family in shelter.

No eviction proceeding in Housing Court should move forward until the tenant has an opportunity to obtain representation. The pandemic has complicated the implementation of Right to Counsel in Housing Court, and with the end of the moratorium has come a massive influx of eviction cases and demand for legal assistance. Given our model of representation at BDS, we are often able to get involved before the Housing Court case begins by addressing underlying benefits issues and giving clients preventative advice. We particularly know how this early involvement and advocacy is critical to avoid months of stressful litigation and the threat of imminent eviction. Returning to the fast pace and high volume that characterized pre-pandemic Housing Court would be particularly devastating for our clients, who are often navigating issues in multiple legal systems.

Finally, eviction prevention is not the only court-based remedy needed to fight against tenant harassment and displacement. Throughout the pandemic we noticed an uptick of illegal evictions, tenant harassment, and failure to make repairs. We expect these problems to persist, especially for the people we serve who are still struggling to pay rent and navigate the bureaucratic hurdles to obtain vouchers. BDS is a proud member of the Leap coalition, which plays an instrumental role in both the Right to Counsel and Anti-Harassment Tenant Protection programs. Through this work we emphasize the importance of sufficient resources to support holistic client services and funding to fight against tenant harassment and displacement beyond individual eviction cases. Our wholistic approach is essential to protecting our communities and ensuring tenants remain in their homes with dignity.

Conclusion

We thank the New York City Council for the opportunity to appear today and discuss these important and timely issues. We urge the city to prioritize investing in safe and stable housing now, and to implement rent relief measures that will keep all families housed and out of the shelter system. Thank you for your time and consideration of our comments. We look forward to further discussing these and other issues that impact the people and communities we serve. If you have any additional questions, please contact Alexandra Dougherty, Senior Attorney and Policy Counsel, at adougherty@bds.org.



2/28/22

Via: Online Testimony Submission Portal

Committee on General Welfare
New York City Council
250 Broadway
New York, NY 10007

Chairperson Ayala and Members of the Committee on General Welfare:

My name is Imran Hossain and I am a Staff Attorney in the Microenterprise Project at Volunteers of Legal Service (VOLS), a civil legal services organization serving all 5 boroughs, where I work with marginalized small businesses. In my role at VOLS, I provide counsel to scores of marginalized commercial tenants in our city facing innumerable systemic obstacles to small business ownership. As the Council considers solutions for residential tenants, we must also ensure we provide relief for struggling small business owners.

Even prior to the pandemic, NYC small business owners were facing the pressure of rising commercial rents. One study has shown that in the ten years between 2007 to 2017, retail rents increased by an average of 22%, with some neighborhoods seeing more than 50% increases in commercial rent.¹ As a result, many neighborhoods faced 20% vacancy rates for commercial spaces.² Often, our city's most vulnerable population bear the brunt of this system. About three quarters of immigrant small business owners feel overburdened by commercial rent.³ Consequently, about one third of these business owners were forced to lay off workers in response to the increases in commercial rent.⁴ The downstream effects of unregulated commercial rent all came to fruition in the wake of the pandemic.

The COVID-19 pandemic has highlighted and accentuated many systemic injustices within NYC. However, unlike the disease itself, where we have developed an effective medicinal solution, we have not found a fix for the havoc that the pandemic has brought upon our marginalized small business owners – who are the overlooked backbone of this incredible city.

A substantial portion of small businesses in New York City were forced to shut down between March 2020 and July 2020. Many businesses have only recently reopened their doors. Even with these businesses now fully able to operate, it is no secret that economic recovery has been

¹ <https://www1.nyc.gov/assets/planning/download/pdf/planning-level/housing-economy/assessing-storefront-vacancy-nyc.pdf>

² [Id.](#)

³ <https://anhd.org/report/forgotten-tenants-new-york-citys-immigrant-small-business-owners>

⁴ [Id.](#)



painstakingly slow. During the pandemic, with little to no business, these small businesses were not able to pay their rent. The only bargaining chip commercial tenants had to maintain their livelihoods was the eviction moratorium in which small business owners could claim financial hardship and have any eviction proceeding stayed until the expiration of the moratorium.

The moratorium proved to be a beneficial tool for landlords and commercial tenants alike. Because of the moratorium, landlords and tenants negotiated solutions to their disputes. As the eviction moratorium has ended, landlords no longer have the same incentive to negotiate with commercial tenants. And unlike residential tenants, commercial tenants do not have a right to counsel in eviction proceedings. Moving forward, our city needs to focus on policies and programs that incentivize collaboration between landlords and commercial tenants and level the playing field for commercial tenants who are facing potential eviction.

Recently, I was working with an immigrant, woman small business owner, who has operated a barbershop for over 20 years. Given the past 2 years, in which she had to totally cease operations for a substantial period, she was unable to pay rent and faced the prospect of losing her business to eviction. In the absence of the moratorium, the landlord would have likely pursued an expensive, time-consuming legal proceeding, only to receive an empty storefront, while the tenant would have lost her business – a local pillar of the community. Instead, the landlord and tenant worked together and found a mutually beneficial solution. I am happy to report that the landlord is receiving regular rent payments, while the small business owner can maintain her livelihood. In our experience, this was not an anomaly. VOLS has worked with dozens of similar clients on contracts such as payment plans, amicable termination agreements, and, lease amendments, whereby landlords often optimized their compensation in exchange for giving commercial tenants an opportunity to maintain their livelihoods.

In addition to legislation or potential funding to provide much needed relief to commercial tenants, we must ensure our small business owners are able to advantage of any newly created opportunities. About half of NYC small business owners are immigrants⁵ and many do not speak English as their first language or know their rights under the law. This all underscores the importance of ensuring that all potentially beneficial legislation, grants, and policies are disseminated in the most commonly spoken languages in New York City. A potential solution may involve equipping local community-based organizations with the resources and tools necessary to educate small businesses and assist them with accessing government programs.

As the city considers programs, funding, and policies to assist residential tenants who face eviction, we must not forget commercial tenants who are also struggling to make rent. For each small

⁵ [https://anhd.org/report/forgotten-tenants-new-york-citys-immigrant-small-business-owners#:~:text=Introduction-,Introduction,product%20\(GDP\)%20annually3](https://anhd.org/report/forgotten-tenants-new-york-citys-immigrant-small-business-owners#:~:text=Introduction-,Introduction,product%20(GDP)%20annually3).



business that fails, not only does a family lose its livelihood, but workers lose jobs, and communities lose important services.

Thank you for the opportunity to submit this testimony for the Committee's consideration. If you have any questions or would like to discuss further, please contact me at ihossain@volsprobono.org.



**Testimony from The Partnership for the Homeless
to the New York City Council Committee on General Welfare Hearing
Monday, February 28, 2022**

My name is Beatrice Simpkins, and I am the Chief Program Officer for The Partnership for the Homeless, on whose behalf I am speaking here today. The Partnership for the Homeless focuses on preventing homelessness via housing, health, education and changing the public narrative.

I want to first thank Chair Diana Ayala and the members of the Committee on General Welfare for the opportunity to speak today and provide our testimony on the impact of the expiration of the State and Federal eviction moratoria.

Currently, the crisis facing the City and State is that both the Federal and, more recently, the State eviction moratoria ended, and as you likely know, Emergency Rental Assistance Program (ERAP) funds were exhausted and unable to meet the demand of hundreds of thousands of New Yorkers who experienced rent arrears during the pandemic.

Our worry remains to this day – that with the moratoria over, and without sufficient funds for rental assistance available, our City and State will experience a tsunami of homelessness, and the level of homelessness created by this tsunami will be with us for decades.

At The Partnership, we understand the importance of rent being paid for the property owners – this is not a story of the property owners versus renters – we understand the ecosystem. Rent being paid means property owners can pay their bills. Mass eviction is not going to be any relief to property owners.

But this is the moment where we must focus on prevention and action. We need a different solution – and rental assistance is the solution. We know that this works. As a result of the State’s moratorium, family homelessness in the City shelter system dropped by 10,000 and we are heartened that over the last month those numbers have remained relatively stagnant. That has been an encouraging sign, but we fear that in the period ahead we may see a reversal of fortunes – as more people are evicted and forced to seek housing in our City’s shelter system.

For the past 40 years, The Partnership for the Homeless has been on the front lines addressing the needs of New Yorkers experiencing homelessness. And what we’ve learned is that prevention is the way to end homelessness. It works, it’s the most cost-effective and it’s the most humanitarian solution.

What is prevention? It means safeguarding people in their existing homes via rental assistance and other similar measures and it means safeguarding the state’s stock of affordable homes via investments in affordable housing.

Family homelessness represents the majority of homelessness because domestic violence, overcrowding and evictions are the three main feeders of homelessness in New York City. This is why ensuring that there is adequate affordable housing and financial supports for women and children is the answer to ending homelessness.

So, what now – we are only weeks past the expiration of the State’s moratoria. The overall impact is that hundreds of thousands of New Yorkers are in danger of eviction and experiencing homelessness, which even at a basic economic level, is a much higher expense for the families, the property owners and the City and the State.

Consider that 400,000 households in the City are estimated to still need rental assistance; and that two in three City households that applied for ERAP have not received assistance. While many families who lost income during COVID have regained work and income, those who are earning minimum wage or have low incomes have no means to cover the rent gap without assistance.

Lifting the moratorium without adequate rental assistance hurts tenants and property owners alike, particularly the smaller property owners. For small property owners, the moratorium's end in the context of insufficient rental assistance is exacerbating their existing financial hardship. On top of unpaid rent bills, they are forced to take on the legal cost and process of housing court and eviction proceedings as well as apartment turnover cost.

Not providing funding for rental assistance equates with allowing thousands to lose their homes and end up in shelter – and that annual cost of about \$68,000 per family is vastly more expensive than the average amount of \$4,000 that a household needs to address its rent arrears – \$68,000 instead of \$4,000 for each household, costs assumed by the City and State.

Additionally, you have to consider the disproportionate impact of homelessness on our city’s communities. The impact of lifting the moratorium is a racial *injustice* story New York homelessness is primarily a story about women and children of color bearing the devastating impact of domestic violence, evictions and overcrowding in a state with a dearth of affordable housing and financial assistance options. Entering the shelter system disrupts their lives, and their children’s lives, for generations.

- More than 90% of people experiencing homelessness in New York City are in the shelter system.
- Of the approximately 50,000 people in shelter, two-thirds are in family shelters, and 15,000 are children.
- More than 95% of people in shelters are people of color; and more than 90% of families in shelters are female-headed.
- Less than 50% of children who go in the shelter system will graduate high school (putting them on the fast track to experiencing homelessness as adults with their own children).

BEATRICE – IF WE HAVE ANY GOOD DATA THAT SHOW THE MAJORITY OF PEOPLE WE HELP ARE WOMEN WITH CHILDREN, WOMEN OF COLOR, WE CAN ADD A LINE OR TWO HERE. PLUS IF YOU IN THE LAST MONTH HAVE BEEN HIT WITH MORE REQUESTS FOR SUPPORT BECAUSE ERAP FUNDS EXPIRED LET ME KNOW AND WE CAN ADD THAT IN.

Finally, the current rental assistance crisis does not have to become the City's new homelessness crisis - it is completely preventable, and this prevention is the foundational layer of the mental health, community safety and economic recovery goals that local government is currently pursuing.

So, what will happen next?

This crisis won't happen overnight. The eviction and homelessness tsunami from which we are now in danger will be slow-moving and building over many months and likely years. Housing court cannot accommodate all of the rental arrears cases in the city, so we can expect the number of families turning up at the front door of the shelter system to increase with each coming month.

The resultant stress on individual people and families will create a related mental health crisis and make it impossible for families to stay in or get back to work and cast more and more children of color further behind in education access and attainment.

The numbers of people behind in their rent is far greater than the shelter system's capacity, so we expect an increase in street homelessness, which puts in danger the lives of people who will end up living on the streets. One recent news account noted that an examination of 20 US urban areas found the number of deaths among people living without housing shot up by 77% in the five years ending in 2020 (including 5,000 in 2020 alone).

In conclusion, the current rental arrears crisis should be seen as not only a wake-up call, but a first step in what can be and should be a greater and more robust homelessness prevention approach in New York City. We need to move beyond reactionary policies and strategies of shelter provision alone. We need to twin shelter provision with a guarantee of safe, affordable housing by ensuring ongoing investments in rental and financial assistance, legal assistance, mediation as well as affordable and supportive housing.

When government is willing to pay more to allow families to lose their homes and experience homelessness than to invest in measures that prevent homelessness, we must ask why? Instead, we should work together to end homelessness – and let the very first step we take together be to focus on prevention. The Partnership is ready to be your partner in this.



Testimony of

The Legal Aid Society

and

Coalition for the Homeless

on

Oversight: Impact of the Expiration of the Eviction Moratoriums

submitted to

The New York City Council Committee on General Welfare

February 28, 2022

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Thank you, Chair Ayala and members of the New York City General Welfare Committee, for holding this very important hearing

Introduction: Dual Health and Economic Crises in New York

As you know, New York City was the epicenter of the country's COVID-19 pandemic. As of February 21, 2022, there have been at least 2,272,601 cases in New York City since the beginning of the pandemic.¹ Brooklyn, Queens, and the Bronx are the fourth, fifth, and eighth counties with the highest death rate in the United States.² New York City lost 39,517 people to COVID-19, as of February 21, 2022, with many more deaths likely uncounted.³

The disproportionate impact of COVID-19 on our client communities is well-documented. The pandemic has exposed the long-standing racial and social inequities that have led to vulnerable populations bearing the brunt of this crisis. Throughout the crisis, Black and Latinx New Yorkers have died of COVID-19 at twice the rate of White people and have a hospitalization rate that is almost three times that of White people.⁴ The Centers for Disease Control and Prevention and others have partly attributed those rates to lack of access to health care and exposure to the virus related to occupation, including frontline, essential, and critical infrastructure workers. “[A]s more data becomes available, one thing is 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.”⁵ Low-income workers have also faced higher job losses during the

¹ <https://www.nytimes.com/interactive/2021/us/covid-cases-deaths-tracker.html>

² See [Johns Hopkins University, Coronavirus Resource Center](https://www.jhu.edu/2020/05/08/us/coronavirus-pandemic-race-impact-trnd/index.html) (last updated January 3, 2022). This website notes that New York City's data does not include probable COVID-19 deaths, as this data is not reported.

³ <https://www.nytimes.com/interactive/2021/us/covid-cases-deaths-tracker.html>

⁴ Centers for Disease Control and Prevention, COVID-19 Hospitalization and Death by Race/Ethnicity, *available at* <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-race-ethnicity.html> (Updated September 9, 2021).

⁵ Harmeet Kaur, *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>.

pandemic. In the first month of the pandemic, employment for workers in the bottom quintile dropped 35 percent as compared to a 9 percent drop in employment for the highest quintile of earners.⁶

Although the economy is starting to rebound, the pandemic has had a devastating financial impact on millions of New Yorkers, due to death, disability, loss of work, and a range of increased expenses. Many New Yorkers struggled to pay their rent prior to the pandemic, and the pandemic-caused financial crisis exacerbated the instability. Prior to the pandemic, New York City's unemployment rate was 3.8 percent; after the onset of COVID, it shot up to 20 percent and has slowly decreased, but as of December 2021, it was still an alarming 7.9 percent. To put this in perspective, the New York State Department of Labor has a monthly record of the unemployment rate starting January 1, 1976. For decades, the highest unemployment rate recorded in New York City was 11.5 percent, which was the rate from August through November 1992. However, since March 2020, New York City has seen 11 months with rates higher than the highest rate previously recorded.⁷

Moreover, these percentages actually undercount unemployment since in part they rely on unemployment insurance claim numbers, which do not capture the full extent of the financial hardship caused by the pandemic because they exclude workers who have lost work but do not qualify for unemployment (including people without sufficient prior earnings or work history, undocumented immigrants, and those whose hours have been cut but who still work part-time).

⁶ Tamaz Cajner, *et al.*, *The U.S. Labor Market During the Beginning of the Pandemic Recession*, Nat'l Bureau of Econ. Research, <https://www.nber.org/papers/w27159.pdf>.

⁷ <https://statistics.labor.ny.gov/lslaus.shtm>.

In short, New York City is in the midst of a financial crisis that was caused by the health crisis. The only way to combat these dual crises is to keep people in their homes where they can avoid COVID-19, remain employed or be better able to seek employment opportunities.

I. New York City's Affordability Crisis, COVID Response, and Long-Term Solutions

New York City has an enduring affordability crisis. Over 50 percent of New York City low-income renters are **rent burdened**, paying more than 30 percent of their income toward their rent, and 30 percent are **severely rent burdened**, paying more than 50 percent of their income toward their rent. A 2018 report found that communities where people spend more than 32 percent of their income on rent can expect a more rapid increase in homelessness.⁸ The pandemic has exacerbated this crisis. As COVID struck in March and April 2020, hundreds of thousands of families across New York City lost their main source of income. Across the city, one in four renters have missed at least one rent payment since March 2020, according to new data from Robin Hood and Columbia University.⁹ Among New Yorkers who lost work or income during the pandemic, more than 40 percent have fallen behind on rent.¹⁰ Given the scale of the affordability crisis, there is an urgent need for rental assistance to help keep people in their homes.

The State Emergency Rental Assistance Program (ERAP)

New York State received \$2.6 billion in Emergency Rental Assistance (ERA) funding from the United States Treasury. Of that, \$2.4 billion went into the Emergency Rental Assistance Program

⁸ <https://www.zillow.com/research/homelessness-rent-affordability-22247/>.

⁹ Sophie Collyera et al., *The looming eviction crisis is likely to exacerbate racial and economic inequity in New York City and requires bold policy action*, Policy Spotlight on Housing, (Jan. 23, 2022), available at https://static1.squarespace.com/static/610831a16c95260dbd68934a/t/61eae13b04fade3f63c01648/1642783035902/POVERTY_TRACKER_REPORT30.pdf.

¹⁰ *Id.*

(ERAP).¹¹ As of February 8, 2022, \$1.5 billion has been disbursed to landlords.¹² Another \$531 million is in a separate bank account being held for landlords who have thus far failed to cooperate with the ERAP application process despite their tenants having been provisionally approved for assistance. Due to high demand, ERAP has run out of money, and no application submitted after September 21, 2021, can be paid out. However, tenants can still apply for ERAP and receive temporary eviction protections while their applications are pending. The State closed the application in November but later reopened the portal after a court order in litigation brought by The Legal Aid Society.¹³

New York State has applied for an additional \$1.6 billion from the United States Treasury Department, which has the authority to reallocate money from jurisdictions that have not spent their allocations to jurisdictions that have run out of money. As of December 31, 2021, there is more than \$25 billion in unspent ERA funds that could potentially be reallocated. Additionally, Governor Hochul is considering using other Federal COVID relief funds to replenish ERAP.

To be eligible for ERAP, tenants must be under 80 percent of Area Median Income (AMI), have a rental obligation in their current apartment, and have either lost income during the pandemic or have significant increased costs. Tenants can apply for up to 12 months of back rent, three months of prospective rent, and utility arrears.¹⁴ Additionally, in September, the State provided \$125 million for households with incomes between 80 percent of AMI and 120 percent of AMI, and \$125 million for landlords whose tenants moved out or did not apply for ERAP.

¹¹ The remaining money was kept by localities who decided not to opt into the State program. New York City did opt in and provided its direct allocation to the State. New York City's direct allocation was about \$645 million.

¹² Data from ERAP is published on the Office of Temporary and Disability Assistance website and can be found here: <https://otda.ny.gov/programs/emergency-rental-assistance/program-reports.asp>

¹³ *Hidalgo v. New York State Office of Temporary and Disability Assistance*, 453931, Sup. Ct, NY County, Jan. 6, 2022, available at https://assets.law360news.com/1453000/1453202/453931_2021_maria_hidalgo_et_al_v_maria_hidalgo_et_al_order_interim_mo_33.pdf.

¹⁴ Tenants are eligible for prospective rent if they are rent burdened. Additionally, tenants must have rent arrears to be eligible for prospective rent or utility arrears.

ERAP in New York City

To date, ERAP has disbursed \$1.2 billion for New York City residents. The State does not provide data about tenants with provisionally approved applications, but they do provide data about tenants whose landlords have received payments. We do not have data on the State program for tenants over 80 percent of AMI, though we know that the State could not spend the full \$125 million allocated for that population. The money left over was added to the fund for landlords. In New York City, 71 percent of applicants were extremely low income, and another 19 percent were very low income. Of the ERAP funds disbursed to New York City:

- The Bronx received \$347,979,038.76 on behalf of 30,356 tenants;
- Brooklyn received \$374,328,715.57 on behalf of 26,875 tenants;
- Manhattan received \$197,632,196.36 on behalf of 13,923 tenants;
- Queen received \$273,372,761.16 on behalf of 17,761 tenants; and
- Staten Island received \$28,032,133.78 on behalf of 1,942 tenants.

The Housing Affordability Crisis Remains Unaddressed: CityFHEPS Should Be Expanded

ERAP payments have assisted thousands of New York City tenants to pay arrears during the current crisis. However, ERAP is a crisis program: It does not provide long-term rental assistance, which is the key to solving our housing affordability crisis. The country's largest mechanism for providing long-term rental assistance, Section 8 Housing Choice Vouchers, has proven this – reducing the poverty rate for those housed through the program by 43 percent¹⁵ and providing long-term

¹⁵ Sophie Collyera, Christopher Wimera et al., *Housing Vouchers and Tax Credits: Pairing the Proposal to Transform Section 8 with Expansions to the EITC and the Child Tax Credit Could Cut the National Poverty Rate by Half*, 4 Poverty & Social Policy Brief, (Oct. 7, 2020), available at <https://static1.squarespace.com/static/5743308460b5e922a25a6dc7/t/5f7dd00e12dfe51e169a7e83/1602080783936/Housing-Vouchers-Proposal-Poverty-Impacts-CPSP-2020.pdf>.

benefits¹⁶ to households that were previously homeless. Unfortunately, these vouchers are not available to all those who need them – the Federal government has failed to respond to the massive affordability crisis. We cannot wait for the Federal government to fulfill its promise to provide vouchers to all who need them.

New York City must expand CityFHEPS to address both needs related to pandemic arrears and longer-term issues of housing affordability. The Council should act to increase the number of CityFHEPS vouchers to forestall evictions and expand eligibility for CityFHEPS to all rent-burdened New Yorkers with incomes below 200 percent of the federal poverty line. Under current rules, CityFHEPS is mainly designed to move people out of homelessness, but it should be expanded to keep more people housed, especially seniors and people with disabilities. The Council should reform CityFHEPS to:

- Eliminate the requirement that individuals and families must have lived in the shelter system for at least three months or have received an eviction notice and previously been living in a shelter in order to qualify for a CityFHEPS voucher;
- Enable all rent-burdened New Yorkers with incomes below 200 percent of the poverty line to be eligible for CityFHEPS; and
- Eliminate unnecessary documentation requirements and streamline program administration so that payment can be issued within four weeks. Current delays cause landlords to give up, and affordable apartments are lost.

¹⁶ https://www.huduser.gov/portal/family_options_study.html.

Make Administrative Fixes to CityFHEPS and State FHEPS

We are greatly appreciative to the Council and the State Legislature for lifting the payment standards of both the CityFHEPS voucher and the State FHEPS subsidy to the HUD Fair Market Rents. However, tenants and homeless individuals and families are struggling to use the voucher and the subsidy because of two policies that the Human Resources Administration (HRA) has put into place: rent reasonableness and the utility allowance. The new rent reasonableness policy is causing some housing packets to get rejected, including those with signed leases. This is a waste of time for all parties involved to go through the tedious process of gathering the requirements for and completing the packets, and getting all the way to lease-signing, only to be told the rent is deemed too high based on a rent reasonableness assessment. We urge HRA to eliminate the rent reasonableness policy, which harms voucher holders by causing them to lose apartments and damages relationships with landlords who work with CityFHEPS recipients. Even if relatively few apartments are rejected, the reasonableness standard creates uncertainty over what HRA will pay, making it difficult to settle eviction cases and placing tenants at risk of homelessness.

The City adopted its utility allowance from the Federal Section 8 program. The Section 8 program recognizes that utility payments are tied to a tenant's ability to pay rent. Section 8 uses utility allowances to ensure that where a tenant pays for utilities, their rent is set so that utilities plus the tenant share of the rent equals 30 percent of the tenant's income. This effectively means that the tenant pays less than 30 percent of their income for rent alone, and the agency makes up the difference. However, the City uses the utility allowance to lower the value of CityFHEPS vouchers and State FHEPS subsidies, causing applicants to just narrowly miss opportunities to secure apartments. Many voucher holders have secured apartments at the CityFHEPS rent levels only to

find out that the rent is \$30 or \$50 too high after the utility allowance is deducted. This deduction, which makes a significant difference in the apartment search process, keeps voucher holders in shelters, or causes recipients to be unable to use the subsidy in their current apartments.

The City should subsidize rents up to the full Section 8 payment standard authorized by law, rather than reducing the subsidy by the amount of a “utility allowance” that does not benefit the tenant. Funding the whole value will maximize the number of rental units accessible to voucher holders and subsidy recipients and eliminate the current confusion.

Suspend Repayment Requirement for One Shot Deals

Even if the Federal government delivers an infusion of additional Emergency Rental Assistance funds for New York, ERAP may not be able to cover all households in need. In the meantime, eligible households should be able to obtain rent arrears grants from their local departments of social services. But unlike ERAP, rental arrears payments (known as “One Shot Deals”) and utility arrears payments are subject to certain repayment obligations (See NY Soc. Serv. L. § 131-w and § 131-s). This repayment requirement makes no sense during the pendency of the public health and economic crises, as families struggle to put food on the table and are not assured stable employment even when the crises end. The Council should urge the State Legislature to pass legislation to place such households on the same stable financial footing as ERAP grantees by requiring OTDA to direct local districts to issue rent arrears grants and utility arrears grants without requiring repayment during the public health emergency. If the State Legislature fails to act, the City should on its own issue rent arrears and utility grants that do not require repayment during the public health emergency.

II. Address Barriers at HRA That Prevent Many New Yorkers from Accessing Rental Arrears Assistance

HRA is the City agency tasked with administering the various programs that pay rental arrears for those at risk of eviction – including One Shot Deals. Unfortunately, applying for rental arrears assistance at HRA is a complicated process that is not accessible to many New Yorkers because, among other things, HRA is failing to provide full service to clients who apply in person, does not provide accessible alternatives to its online system to apply for benefits, and lacks a functional telephone system to serve its constituents. We urge the Council to exercise its oversight authority to ensure that HRA takes the steps needed to address these barriers to ensure that all eligible New Yorkers can access these vital benefits.

In 2020 when COVID-19 struck the city, HRA acted to help stop the spread of the virus and closed most of its SNAP and Job Centers – leaving only seven Job Centers open in the city. The agency then shifted to a model in which staffers worked from home and advised clients to use the agency's computerized system known as ACCESS HRA to apply for benefits and to report changes in their circumstances. In order to use ACCESS HRA, clients must have a computer or smartphone with available data, as well as the ability to navigate this online system. Although there are certainly many clients who are able to use ACCESS HRA to apply online, there are also literally thousands of clients who cannot use ACCESS HRA or the mobile phone applications needed to upload documents. For these New Yorkers, there is no reliable alternative method to get help and successfully apply for ongoing benefits or a One Shot Deal. Even clients who attempt to apply in person are often unable to get help to successfully apply.

HRA Job Centers Have Become Understaffed Self-Service Sites, Leaving Many Clients Without Help

Although HRA has now reopened nearly all of its Job Centers, the agency has not returned to providing full in-person service. HRA Job Centers are understaffed, in some cases because some staffers have required Reasonable Accommodations due to COVID-19 and are continuing to work from home, and in other cases because the agency is actually down in staff numbers. Although we understand that HRA needs to implement protocols in their physical workspaces to respond to the pandemic and ensure the safety of HRA staff and clients, the reality is that under the current operational model, clients who need in-person help to apply for benefits are largely unable to get it at Job Centers. HRA Job Centers now operate almost entirely on a self-service model.

The clients who go in person to HRA Job Centers are generally those who are unable to successfully apply any other way. Often these clients are elderly or have disabilities. They cannot apply online, have been unable to apply by phone or mail, and have no friend or family member who can assist them. Therefore, they travel in person to a Job Center assuming that they will get the help they need. Unfortunately, that is often not the case. Instead of getting help applying, these clients are sent to “PC Banks” and told to sit down at agency computers to apply on their own with little assistance. Clients are not assigned to any particular worker or staff member who knows anything about their case. After they complete the computer application at a Job Center, they are told to go home to wait for a phone call from HRA to undergo a mandatory telephone eligibility interview – which, for reasons described below, they may never successfully receive. Moreover, because clients are not assigned to a worker with a particular telephone number they can call back, applicants have no reliable way of following up with HRA to make sure their applications are complete. Instead, every single time they have a question about their application, these clients are forced to call the

agency's antiquated phone line known as Infoline, which is incredibly difficult to reach and complex to navigate. When a client does manage to get through on Infoline, the system does not provide specific information about cases and instead promises the client they will receive a call back. As a result of these difficulties at HRA Job Centers, it often takes multiple attempts for a client to successfully complete an application and get a case opened or a One Shot Deal approved.

HRA's Online Application System "ACCESS HRA" is Not Accessible to Thousands of New Yorkers: HRA Should Be Required to Provide Real-time Support by Phone, Text, and Online to Assist Clients

The reality is that many New Yorkers cannot access online services because they lack internet access or digital skills, or they encounter other barriers related to disabilities or language access. HRA has and will continue to miss thousands of eligible individuals if they make access to benefits reliant on access to online platforms. As of March 2020, about 30 percent of New York City residents, or 2.2 million individuals, lacked broadband internet access, including 350,000 who only access internet through cell phones or tablets.¹⁷ Seniors are much more likely to be without a broadband internet connection compared to the general population: 42 percent of New Yorkers ages 65 and above lacked broadband internet access, compared to 23 percent of 18- to 24-year-olds. Further, recent studies indicate that 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

Getting connected to ACCESS HRA is only part of the barrier. Once connected to ACCESS HRA, many applicants lack the technical skills to complete an online application on their own. Ultimately, barriers that they may face elsewhere, such as those related to language accessibility and

¹⁷ Scott Stringer, *Census and the City: Overcoming New York City'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 New York City Digital Divide Census.pdf](https://comptroller.nyc.gov/wp-content/uploads/documents/Census%20and%20The%20City%20Overcoming%20New%20York%20City%20Digital%20Divide%20Census.pdf).

¹⁸ Id.

disabilities, are compounded, and they cannot turn to anyone for real-time help. HRA does not provide any real-time support for ACCESS HRA – by phone, text, or online chat. Instead, clients who are having problems with the online system need to be tech-savvy enough to be able to locate help *online*. There is no phone number given to call for help with the online ACCESS HRA application, only a greyed-out footer at the bottom of the screen that reads “Contact Us.” If a client locates this button, they still do not receive real-time help. At best, they will receive an email from HRA 24 hours later, which is not soon enough for clients who have urgent needs. Some clients try to contact HRA for technical help by posting questions or complaints via the Apple App Store. Those clients who try this method appear to receive automated responses to “please email us at accesshrasuppapp@hra.nyc.gov for assistance.” For example, one ACCESS HRA user wrote on September 1, 2021:

“It’s very confusing especially if you don’t know where to go.”¹⁹

Thirteen days later, the HRA response on the Apple App Store reads:

“Thank you for your review! Please email us at accesshrasuppapp@hra.nyc.gov.”²⁰

The Council should act to require HRA to provide “live” help available by online chat, texting, and telephone. Many more individuals could successfully navigate through the ACCESS HRA system if they could get help. This is no small matter during the pandemic, since the alternative of applying in person at a Job Center can present a significant health risk.

¹⁹ Apple App Store review dated Sept. 1, 2021, entitled “Confusing.”

²⁰ Id.

Infoline is Inadequate, With Long Hold Times and Inadequate Help Even When a Call is Connected

HRA has not provided adequate alternatives to ACCESS HRA. For clients who need to avoid the risk of visiting a crowded Job Center during the pandemic, the only way to get help from HRA is by calling HRA's central phone line known as Infoline (718-557-1399), which is often busy and disconnects callers because of system overload. Clients have difficulty connecting to the line, face extremely long wait times once connected, and then must listen to a complex menu to figure out how to get help. Infoline also automatically hangs up on clients when wait times become greater than the phone system's capacity. Unlike other customer support lines, there is no feature by which a client who is on hold for a long time can request a callback. It is not easy to reach an agent, and it is difficult to get services in languages other than English. Moreover, when a caller does manage to get through, the agent is not an HRA worker who can fix the client's individual case. At best, the phone agent gives limited information and takes a message, providing the caller with a confirmation number and promising that an HRA staffer will call back or attend to the client's problem. However, in reality, many callers do not receive confirmation numbers, and those who do often do not hear back from HRA – or do not hear back in a timely way.

Phone Applications Are Difficult to Secure

HRA has received a waiver from New York State OTDA to enable the agency to take applications over the phone to serve clients who are unable to apply online. But many Infoline agents do not accurately advise clients of this option. In some cases, clients are told they can be mailed a paper application and complete it on their own without help, or they are told to come in person to a Job Center. In other cases, clients who are not given the phone application option are instead mailed a

lengthy and complex paper application – without instructions on how to complete it, how to submit supporting documents, or where to mail it back.²¹

Telephone Interviews Are Designed to Fail: Clients Who Miss a Call Cannot Call Back, Resulting in Cases Rejected and Denied

Another significant barrier faced by HRA clients during the pandemic is that many have their applications denied because they cannot connect with HRA by telephone to have a mandatory eligibility interview. One of the main reasons these telephone eligibility interviews fail to happen is simple: HRA has set up a system by which workers call clients from telephone numbers that cannot be called back. When an HRA client misses a call from an HRA staffer, they cannot simply pick up the phone and immediately dial the HRA staffer back to have their mandatory interview because there is no phone number to dial back. Instead, they must call Infoline or another centralized number given by HRA and leave a message with a telephone agent, which will be relayed to the staffer and then after a delay, hope that they will be get another call back. After two attempts to reach a client by telephone, HRA denies the application.

These missed calls have devastating consequences, and the problem is widespread. HRA data reveal that a dramatic number of applicants fail to connect to HRA for their phone interview and thus do not manage to get benefits. During the most recent period reported by HRA, July through September 2021, a total of 9,125 Cash Assistance applications were rejected for “Failure to Keep/Complete Interview.”²² This number is enormous – especially since there were only 1,397 such rejections during the quarter from January to March 2020.

²¹ For a more detailed description of these problems with Infoline, see Kiana Davis and Sameer Jain, *Failing Phones: City Infoline Leaves New Yorkers in Need Without Help*, Urban Justice Center Safety Net Project, Aug. 2020, <https://snp.urbanjustice.org/wp-content/uploads/sites/12/2020/08/HRA-Infoline-Report.pdf>.

²² See <https://www1.nyc.gov/assets/hra/downloads/pdf/news/11168-170/fy22q1/2021-Jul-Sep-CA-4-Case-Rejections-by-Age.pdf>

We respectfully submit the following recommendations that would help the City address the needs of New Yorkers:

- **Require HRA to Adequately Staff Job Centers to Serve HRA Clients and Reform the Self-Service Model**

HRA should be required to report on the number of staff needed at each Job Center to provide in-person assistance to HRA clients, and HRA should be required to reform its current self-service model so that clients who appear in person are able to receive help from the agency during their visit.

- **Replace Infoline Without Delay and Staff it Adequately**

HRA's central phone line system is unwieldy and lacks adequate capacity to meet client needs. Although HRA has announced that it is replacing the Infoline system, it has not yet done so. New Yorkers must be able to contact HRA by phone now – to access benefits, avoid in-person visits to crowded HRA centers, and reduce the spread of the virus.

- **Require HRA Phones to Accept Incoming Calls so Interviews Can Be Successfully Completed, and Do Not Permit HRA to Reject Applications or Close Cases for Failing to Recertify Until This Option is in Place**

HRA must give clients a fair chance to get applications approved and to recertify in order to keep their benefits by enabling them to call back HRA staffers directly.

- **Provide Real-Time Technical Help to Users of ACCESS HRA**

HRA should provide “live” help by online chat, text, and telephone.

- **Provide Realistic Alternatives to Applying Online**

HRA should be required to: a) provide widespread information about the availability of phone applications; b) train HRA staff on this option and ensure adequate staffing to take phone applications; c) create community partnerships with nonprofit organizations to help New Yorkers

apply for Cash Assistance benefits in addition to SNAP; and d) improve procedures related to paper applications, such as by providing clear, accurate information on the complexity of these forms and how to complete and return them, as well as return postage and drop boxes to submit them.

- **Require HRA to Provide Complete Data**

HRA has posted data to its website to comply with Local Laws 168 and 170 of 2019 passed by the Council, including data on application outcomes and recertification denials.²³ HRA should also be required to provide a denominator for the data so the Council can determine the percentage of applications rejected and percentage of cases subject to recertification that were closed during each period. In addition, HRA should also provide data on the method of application submission, disaggregated by online, in person at Job Centers, on paper, and by telephone.

III. Make Needed Reforms Related to Shelters: Support Families Impacted by the Expiration of the Eviction Moratorium Who Seek Shelter Placements

Of the various policy and programmatic changes the Department of Homeless Services (DHS) made during the pandemic, some of the most impactful were improvements in the shelter application process for families. However, further reforms are needed to reduce the churn and trauma associated with the shelter eligibility process for families. Legal Aid and the Coalition for the Homeless have joined other advocates to call for the Adams administration to make these reforms permanent and enact other common-sense reforms. We believe the City Council can also ensure that all New Yorkers applying for family shelters are better supported, by advocating for and legislating

²³ See “Reports” available at <https://www1.nyc.gov/site/hra/news/legal-notices-rules.page>.

reforms. These reforms are especially important as DHS prepares to support New Yorkers impacted by the expiration of the eviction moratorium who may need to seek shelter. Our recommendations are as follows:

- **Allow Families to Remain in Conditional Placements Pending a Reapplication For Shelter**

DHS maintains a burdensome application process for families who seek shelter at its Prevention Assistance and Temporary Housing (PATH) office for families with children and/or a pregnant person and the Adult Family Intake Center (AFIC) office for families with no minor children or pregnant person. After spending many hours going through intake, DHS will conditionally place a family for at least 10 days pending the agency's review of their housing history and full application. Prior to the pandemic, if DHS found a family ineligible, they would have to leave their conditional placement and go back to the intake office to reapply and start the process over again. DHS could find a family ineligible for missing paperwork or if agency staff were unable to reach a contact to verify their housing history. These missing pieces could require a family to pack up their belongings and relocate multiple times, including potentially spending time unhoused on the street or in the subway, until DHS found them eligible for shelter.

During the pandemic, DHS has permitted families found ineligible for shelter to reapply via telephone from their placement, without returning to the intake office. This has ensured that families can remain sheltered while they gather whatever additional information DHS seeks to establish their eligibility. This improvement to the application process promotes stability and humanely supports these vulnerable New Yorkers.

- **Reduce the Required Period of Time to Document Housing History to Six Months**

Although clients and the City would be better served if DHS eliminated the need for applicants to provide any housing history as a condition of applying for shelter, the agency could improve the family shelter application process by reducing the period of time for which families must provide documentation of their housing history prior to seeking shelter. DHS requires applicants at PATH to provide a two-year housing history and applicants at AFIC to provide a one-year housing history, which can be challenging for applicants who did not have a formal lease prior to entering shelter.

DHS investigates an applicant's housing history because it is agency policy to attempt to identify any existing potential housing options available to the family other than shelters. However, many applicants were previously living in precarious circumstances, making it difficult to provide the extensive evidence DHS requires of where they were sleeping, such as corroboration of information they have already provided about a period years earlier from a second individual outside of the applicant family. Moreover, it is unlikely that housing options that may have existed as much as two years earlier would still continue to be available. If the agency continues to insist on using City resources to carry out these redundant investigations of information the family has already provided, it should limit the period in question to no more than the most recent six months. By reducing the required housing history to six months, the agency can ensure that they are fulfilling their obligations efficiently while also addressing an unnecessary, and resource-intensive, barrier of entry for families.

- **Allow for Greater Flexibility from Families to Document Their Housing History, Including Self-Attestations from Applicants**

Many homeless New Yorkers come to DHS without being able to provide extensive written evidence of their housing history through documents such as formal leases, rent receipts, mail, or other traditional means to prove where they have lived. It is especially difficult for shelter applicants to provide proof from the beginning and end of their stays, as required by DHS. Accepting a client's self-attestation to supplement other forms of proof during this process, particularly when the client reports a difficult or dangerous relationship dynamic, would meet the State's requirement that an applicant show a "reasonable justification" for their inability to return to a prior address, as defined in 16-ADM-11. While DHS currently accepts self-attestations from others, such as family and community members, some clients may not have access to another individual who can provide proof of their housing history or eliminate housing options that are not safe or actually available to the applicants. As such, the agency should accept an applicant's self-attestation as a means to provide proof when other forms of documentation are not available.

- **Require DHS to Review All Documents Prior to Issuing an Eligibility Determination**

Currently, when an applicant rebuts the reason DHS has provided as to why they are ineligible for shelter, DHS will often issue a subsequent notice that provides a new reason why the family is deemed ineligible based on other information that had previously been submitted but not reviewed by DHS. This traps the family in an extended limbo, in which they are not eligible but required to respond to a series of determinations regarding different issues. This process creates unnecessary churning and stress for applicants, undermining their desire for stability and access to necessary services, including housing vouchers. By not completing a complete review during the

initial eligibility investigation, the application process becomes unnecessarily lengthy, requiring additional agency resources that could be better utilized to support the families' transition into permanent housing. DHS should instead review all of the information the applicant submitted prior to making a determination. DHS should also not be able to amend the eligibility determinations with new reasons for a denial when the basis for that denial was information submitted in the original application.

- **Permanently Eliminate the Requirement That Minor Children Appear In-Person at PATH**

Applicants report that it can take up to 16 hours to apply for shelter at PATH. Prior to the pandemic, DHS required families to bring their children with them as they navigated this grueling process for the first time. During the pandemic, in an effort to reduce the number of people at PATH, DHS eliminated the requirement that minor children appear in person at PATH. Advocates have long called for this reform, since parents are best suited to decide the optimal place for children to be while they apply for shelter, whether that is school, childcare, or with family or other trusted people. The fact that DHS has been able to implement this reform during the pandemic shows that it is possible and beneficial. The Council should legislate this change to make it permanent, in order to support families and allow parents and guardians to decide the best places for their children to be as they apply for shelter.

- **Require All PATH and AFIC Staff to Be Regularly Trained in Trauma-Informed Care**

Families seeking shelter are in the midst of a deeply stressful time, and they often encounter unsupportive and hostile staff at PATH and AFIC. From the moment families arrive at a DHS intake office, they should be welcomed with empathy and kindness at each step of the process to ensure

that they feel comfortable sharing all of the necessary information to get them appropriately and safely sheltered. Moreover, families should be given a roadmap of the process, so they know their rights and what to expect at each step along the way. Staff at each intake center should be specifically trained in trauma-informed care to better support the clients in this process.

Conclusion

Thank you for the opportunity to submit this testimony today and for your leadership in helping New Yorkers get through the current crisis. We look forward to working with the Council to help homeless and at-risk New Yorkers.

About The Legal Aid Society and Coalition for the Homeless

The Legal Aid Society: The Legal Aid Society (LAS), the nation's oldest and largest not-for-profit legal services organization, is more than a law firm for clients who cannot afford to pay for counsel. It is an indispensable component of the legal, social, and economic fabric of New York City – passionately advocating for low-income individuals and families across a variety of civil, criminal, and juvenile rights matters, while also fighting for legal reform. This dedication to justice for all New Yorkers continues during the COVID-19 pandemic.

The Legal Aid Society has performed this role in City, State, and federal courts since 1876. It does so by capitalizing on the diverse expertise, experience, and capabilities of more than 2,000 attorneys, social workers, paralegals, and support and administrative staff. Through a network of borough, neighborhood, and courthouse offices in 26 locations in New York City, LAS provides comprehensive legal services in all five boroughs of New York City for clients who cannot afford to pay for private counsel.

LAS's legal program operates three major practices — Civil, Criminal, and Juvenile Rights — and receives volunteer help from law firms, corporate law departments and expert consultants that is coordinated by LAS's Pro Bono program. With its annual caseload of more than 300,000 legal matters, The Legal Aid 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 profession.

The Legal Aid Society's unique value is an ability to go beyond any one case to create more equitable outcomes for individuals and broader, more powerful systemic change for society as a whole. In addition to the annual caseload of 300,000 individual cases and legal matters, LAS's law reform representation for clients benefits more than 1.7 million low-income families and individuals in New York City and the landmark rulings in many of these cases have a State-wide and national impact.

Coalition for the Homeless: Coalition for the Homeless, founded in 1981, is a not-for-profit advocacy and direct services organization that assists more than 3,500 homeless and at-risk New Yorkers each day. The Coalition advocates for proven, cost-effective solutions to address the crisis of modern homelessness, which is now in its fifth decade. The Coalition also protects the rights of homeless people through litigation involving the right to emergency shelter, the right to vote, the right to reasonable accommodations for those with disabilities, and life-saving housing and services for homeless people living with mental illnesses and HIV/AIDS.

The Coalition operates 11 direct-services programs that offer vital services to homeless, at-risk, and low-income New Yorkers. These programs also demonstrate effective, long-term, scalable solutions and include: Permanent housing for formerly homeless families and individuals living with HIV/AIDS; job-training for homeless and low-income women; and permanent housing for formerly homeless families and individuals. Our summer sleep-away camp and after-school program help hundreds of homeless children each year. The Coalition's mobile soup kitchen, which usually distributes 800 to 1,000 nutritious hot meals each night to homeless and hungry New Yorkers on the streets of Manhattan and the Bronx, had to increase our meal production and distribution by as much as 40 percent and has distributed PPE and emergency supplies during the COVID-19 pandemic. Finally, our Crisis Services Department assists more than 1,000 homeless and at-risk households each month with eviction prevention, individual advocacy, referrals for shelter and emergency food programs, and assistance with public benefits as well as basic necessities such as diapers, formula, work uniforms, and money for medications and groceries. In response to the pandemic, we are operating a special Crisis Hotline (1-888-358-2384) for homeless individuals who need immediate help finding shelter or meeting other critical needs.

The Coalition was founded in concert with landmark right-to-shelter litigation filed on behalf of homeless men and women (*Callahan v. Carey* and *Eldredge v. Koch*) and remains a plaintiff in these now consolidated cases. In 1981, the City and State entered into a consent decree in *Callahan* through which they agreed: "The City defendants shall provide shelter and board to each homeless man who applies for it provided that (a) the man meets the need standard to qualify for the home relief program established in New York State; or (b) the man by reason of physical, mental or social dysfunction is in need of temporary shelter." The *Eldredge* case extended this legal requirement to homeless single women. The *Callahan* consent decree and the *Eldredge* case also guarantee basic standards for shelters for homeless men and women. Pursuant to the decree, the Coalition serves as court-appointed monitor of municipal shelters for homeless single adults, and the City has also authorized the Coalition to monitor other facilities serving homeless families. In 2017, the Coalition, fellow institutional plaintiff Center for Independence of the Disabled – New York, and homeless New Yorkers with disabilities were represented by The Legal Aid Society and pro-bono counsel

White & Case in the settlement of *Butler v. City of New York*, which is designed to ensure that the right to shelter includes accessible accommodations for those with disabilities, consistent with Federal, State, and local laws. During the pandemic, the Coalition has worked with The Legal Aid Society to support homeless New Yorkers, including through the *E.G. v. City of New York* Federal class action litigation initiated to ensure WiFi access for students in DHS and HRA shelters, as well as *Fisher v. City of New York*, a lawsuit filed in New York State Supreme Court to ensure homeless single adults gain access to private hotel rooms instead of congregate shelters during the pandemic.



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February 28, 2022

New York City Council
Committee on General Welfare
City Hall Park
New York, NY 10007

**Testimony: Impact of the Expiration of the Eviction Moratorium
From the Legal Services Context**

Dear Committee Members,

My name is Andy Aujla, and I am the Director of Advocacy with Communities Resist (CoRe), a community-based legal services and organizing nonprofit serving tenants throughout Brooklyn and Queens. Thank you for the opportunity to testify and your leadership in protecting the City's tenants.

Communities Resist's work and model of legal advocacy is centered on representing tenant associations in affirmative cases for improved living conditions and to combat tenant harassment and discrimination. We were founded on the understanding that housing justice is racial justice, and that tenant legal services must be in support of community-based tenant organizing. CoRe provides holistic legal representation, where we keep case files open until all of a tenant's issues are resolved. We also take pride in providing culturally and linguistically accessible services, and being available to meet tenants where they are, and at times most convenient for them. Our mission is to protect the City's most vulnerable communities from displacement, and to build collective power so that the long-term residents can define the future of their neighborhoods. Although Communities Resist is not directly providing representation through the Right to Counsel program, we continue to provide services to tenants through the City's Anti-Harassment Tenant Protection (AHTP) program, which supports building-wide legal actions by tenants against their landlords for repairs, and to fight back against harassment and discrimination.

The COVID-19 pandemic has exacerbated an already existing housing crisis by compounding the scarcity of affordable housing in our most diverse neighborhoods with an economic and healthcare crisis. CoRe has been assisting tenants throughout the pandemic by filing legal action against landlords using illegal means to displace tenants, providing brief advice, hosting dozens of know-your-rights workshops, and connecting tenants with essential services to help meet basic needs. CoRe is also a member of a coalition of organizations that has helped hundreds of tenants apply for and receive state Emergency Rental Assistance Program (ERAP) funding.



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Over the last two years we have seen a stark rise in illegal lock-out cases, and instances of landlords shutting off essential services like heat and hot water to illegally remove tenants from their homes. There has also been a steady rise in cases of harassment and discrimination. We know that evictions and displacement have a disproportionate impact on people of color, especially women and children, and that housing instability has a significant adverse impact on an individual's education, employment, family relationships, and physical and mental health. We also have witnessed the devastating consequences of a lack of resources for tenants in basement units in Brooklyn and Queens.

It is clear now, more than ever, that legal representation is essential to level the playing field between landlords with means, and our low-income neighbors. Hundreds of thousands of New Yorkers have been unable to pay rent, and emergency federal and state protections running out has made representation critical to protect our communities. As Covid-19 continues to devastate communities across the city and state, further exacerbating racial and economic disparities, the need for immediate assistance from the City has become even more urgent.

Since the end of the eviction moratorium 6 weeks ago, we have seen a huge influx of tenants seeking advice and representation. Through our regular workshops and clinics, we have been receiving inquiries from anxious tenants afraid that they will be displaced due to the exhaustion of ERAP funds to help cover past due rent. Tenants are extremely fearful about the flurry of nonpayment and holdover notices they are now receiving, all while the prospect of additional resources remains unsettled. Moreover, the Courts have been unsuccessful at handling the flood of new cases in a jumbled schedule of virtual and in person hearings. As a result, tenants are understandably confused and scrambling to find resources to protect themselves and their families.

Housing justice must advance racial, gender, and economic justice, which is why tenants need and deserve holistic services that can address all issues they are facing in their homes, which often means representation beyond one-off eviction defense. We are now at the precipice of a housing crisis, and it is up to the City to fill the gap left by the State's funding and policy shortfalls. Covid remains a significant health concern, with many tenants still unable to find consistent work while they are faced with the prospect of risking their family's health to fight back against displacement.

The City must act swiftly to protect families, beginning with expanding HRA programs like one-shot deals to fill the gap left by ERAP, in addition to implementation of Local Law 53. The City also needs to expand funding for holistic legal services that can help tenants before they find themselves faced with an eviction in housing court. As we know, tenants are often displaced far before a case is filed in court, often by illegal harassment, lockout or discrimination. As community lawyers, we emphasize the importance of sufficient resources to support client services, and funding to fight against



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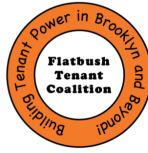
tenant harassment and displacement in addition to individual eviction cases. These services are essential to protecting our communities and ensuring tenants can remain in their homes without the fear of being unjustly displaced. Thus, implore the City to expand the access and funding for essential legal services.

Thank you again for your time, and your leadership in helping our City's tenants.

Respectfully,

Andy Aujla

Director of Advocacy
Communities Resist



Flatbush Tenant Coalition
Building Tenant Power in Brooklyn and Beyond!

**Flatbush Tenant Coalition Testimony, Hearing of the Committee of General Welfare
February 28, 2022
N’Jelle Murphy**

Good morning and thank you for the opportunity to testify today. My name is N’Jelle Murphy, I am a tenant leader with Flatbush Tenant Coalition, a group of tenant leaders and tenant associations in central Brooklyn with a mission to build tenant power. We are a proud member of the Right to Counsel Coalition, Housing Justice for All, and StabilizingNYC. Thank you for accepting my testimony today on behalf of the Flatbush Tenant Coalition.

Right to Counsel has shifted the power dynamic of housing court, a place that was created for tenants to get justice for repairs. Since its creation, NYC housing court has been weaponized by landlords and turned into an eviction mill. Right to Counsel is changing that. We know that 84% percent of tenants who had an RTC lawyer in housing court won their case and stayed in their homes. And with RTC, tenants have a strong foundation when we organize to protect our rights and fight for safe and decent living conditions.

I testify today on behalf of Flatbush Tenant Coalition for two reasons. First, to urge this committee to immediately and fully implement Local Law 53. Second, to work with the courts to ensure that no case moves forward without an RTC attorney.

1. Immediately and Fully Implement Local Law 53:

Last May, tenants won a major victory when this City Council passed Local Law 53. The law requires the city to work with community-based tenant organizing groups to spread the word and educate tenants about their Right to Counsel. Many tenants in our city don’t know they have this right to free legal representation in eviction cases.

Most tenants that Flatbush Tenant Coalition speaks with, tenants who are not already one of our members, they don’t know anything about Right to Counsel – most have never heard of it before. In NYC, more than half of all tenants and families who are forced out of their homes are forced out informally, before a judge ever orders an eviction in court. Tenants who don’t know about their rights often believe they will be on their own in housing court; that there is no point in fighting; and that they will be evicted anyway. We know that’s not true. We know that Right to Counsel makes a big difference and allows people to stay in their homes, even fight for repairs.

Local Law 53 would provide much-needed education and outreach to tenants in our community. It was supposed to be implemented this past November 2021. It is now the end of February 2022 and this law has not been implemented. Most eviction protections ended mid-January and more than 250,000 eviction cases are now moving forward in housing courts. Some cases are individual tenants. And most are families. That means more than half a million New Yorkers are on the brink of eviction. We ask that the city implement Local Law 53 immediately, like the law requires. We need you to start funding community

organizing groups so tenants across our city can know about and use the Right to Counsel – it is more important now than ever

2. Ensure that no case move forward without an RTC attorney:

New York City tenants have a Right to Counsel in eviction cases. We are deeply concerned by reports that the courts themselves are ignoring this law and trying to speed up cases through housing court even when a tenant has not been connected to a lawyer. We want to be clear that we expect the courts to adjourn each case until a tenant has been connected to a lawyer. We also expect that the courts and the Office of Civil Justice will ensure that lawyers don't just end up with more cases than they can handle – tenants deserve and demand quality representation with Right to Counsel. We deserve lawyers who have enough time to represent us well, lawyers we can work with to stay in our homes. We need you, our city council, to work with the courts and the Office of Civil Justice to ensure that no tenant faces eviction without legal representation. AND to ensure that no tenant struggles with inadequate representation because the courts are rushing to do landlords' bidding. We deserve and demand that the courts respect our Right to Counsel.

Thank you for the opportunity to testify today.



Flatbush Tenant Coalition
Building Tenant Power in Brooklyn and Beyond!

**Jennifer Lee (Flatbush Tenant Coalition), Hearing of the Committee of General Welfare
February 28, 2022**

Good morning and thank you for the opportunity to testify today. My name is Jennifer Lee. I am a tenant leader & Steering Committee member with the Flatbush Tenant Coalition. We are a group of tenant leaders and tenant associations in central Brooklyn with a mission to build tenant power. We are a proud member of the Right to Counsel Coalition, Housing Justice for All, and StabilizingNYC.

I ask this committee to immediately and fully implement Local Law 53, and to work with the courts to ensure that no eviction case moves forward in housing court without an RTC attorney.

Tenants won Local Law 53 this past May, but it still hasn't been implemented. The law gives money to community groups to spread the word about Right to Counsel in our communities, so people in dire straits know they have a right to a free lawyer to represent them in housing court. Lots of people facing eviction don't know they have someone to turn to. They are harassed by their landlord and pushed out of their apartments, thinking they are on their own. We need you to make sure Local Law 53 is implemented so our neighbors know legal help is available if they are facing eviction, and where they can get it.

We also need you to ensure that no tenant with a Right to Counsel faces housing court on their own. There are too many tenants in housing court right now, and not enough lawyers to represent them all immediately.

- We have heard that the court's plan to deal with this situation is to just force some tenants who have a Right to Counsel to go through the housing court process on their own, NOT represented by an RTC attorney.
- We have also heard that the court is bullying legal organizations into taking more cases than they can reasonably handle.

We remind you: New York City tenants have a right to counsel. This means we have a right to quality legal representation. When a tenant is in court and there isn't an attorney immediately available, we demand that these cases be adjourned until tenants can get proper legal representation.

Almost every landlord has a lawyer in housing court. But everyday tenants are not lawyers and most of us cannot afford to hire our own lawyers. How will everyday people defend themselves against a landlord's lawyer in housing court? We are regular people trying to stay in our homes. We have a right to a free RTC attorney. That right must be respected. We ask you, our city councilors, to work with the courts and with the Office of Civil Justice to make sure that no tenant faces the housing court process without quality legal representation.

Thank you for this opportunity to testify.



Flatbush Tenant Coalition
Building Tenant Power in Brooklyn and Beyond!

**Flatbush Tenant Coalition Testimony, Hearing of the Committee of General Welfare
February 28, 2022
Lorraine Dellamore**

Good morning and thank you for the opportunity to testify today. My name is Lorraine Dellamore. I am a tenant leader & Steering Committee member with the Flatbush Tenant Coalition. We are a group of tenant leaders and tenant associations in central Brooklyn with a mission to build tenant power. We are a proud member of the Right to Counsel Coalition, Housing Justice for All, and StabilizingNYC. Thank you for accepting my testimony today.

I testify today to urge this committee to immediately and fully implement Local Law 53, and to work with the courts to ensure that no eviction case moves forward in housing court without an RTC attorney.

As you might know, New York City's housing court was designed for tenants, for tenants to be able to take their landlords to housing court for repairs because we have a right to safe and decent housing. As time went by, this was taken away from us by rich landlords. They now use the court as a way to evict tenants. And since housing court has been taken away from tenants and is now ruled by landlords, NYC faces record numbers of evictions and homelessness.

There are two things you need to know... maybe you already know.

First, most tenants in New York City do NOT know they have a Right to Counsel in housing court. That's what Local Law 53 is supposed to change – to give COMMUNITY TENANT GROUPS the resources they need to spread the word about RTC in our neighborhoods.

- Knowing ahead of time that you have a right to counsel gives tenants some relief, knowing that housing court isn't the end, that we can save ourselves from becoming homeless.
- And "each one... teach one" – once we know we have this right, we can tell our neighbors not to fear, that there's hope, that they can also get right to counsel when they go to court. It makes a big difference to know there's hope, that we can stay in our homes.

Local Law 53 was supposed to be implemented in November 2021, but still nothing has happened. We need you to ensure that the city complies with Local Law 53 immediately by issuing the Request for Proposals so community groups can apply and expand our outreach & education about RTC with our neighbors.

Second, we need you to ensure that no tenant faces housing court and the possibility of homelessness without legal representation. New York City tenants have a Right to Counsel. We fought hard to win this right.

- But we are now hearing that the courts are speeding up eviction cases and forcing tenants to go through the process unrepresented if there are not enough attorneys available right at that moment.

- If the courts are speeding up the eviction process, that means the courts are working for landlords. It means the courts are not being neutral. New York City tenants have a Right to Counsel in eviction cases.
- Who do we hold accountable if we have this right and it is not being respected? Why do the courts always work in rich landlords' favor?

We look to you, our city councilmembers, to work with the courts and the New York City Office of Civil Justice to make sure our Right to Counsel is respected & enforced. If a tenant has a Right to Counsel and there is not enough attorneys right then and there to represent them, the court cannot just sit back and allow landlords to come in with their high-priced attorneys and decide the case moves forward anyway, without tenants being represented. If we have a Right to Counsel, adjourn the case until the tenant can get an attorney. This is the only way to make sure that the courts are not just working for landlords, but that they are really working for the people of New York City.

Thank you for this opportunity to testify.



Committee on General Welfare

Hearing on the Impact of the Expiration of the Eviction Moratoriums

February 28, 2022

Testimony of Genesis Miranda Make the Road New York

My name is Genesis Miranda and I am a Housing Attorney at Make the Road New York (MRNY), a non-profit organization based in the communities of Bushwick, Brooklyn; Jackson Heights, Queens; Port Richmond, Staten Island; Brentwood, Long Island, and White Plains, Westchester County. MRNY builds the power of immigrant and working class communities to achieve dignity and justice through organizing, policy innovation, transformative education, and survival services, which includes legal services. Our organization consists of more than 24,000 members, most of whom are immigrants and many of whom lost loved ones, jobs, and income during the COVID-19 pandemic. I submit this testimony on behalf of MRNY and I thank the Committee for the opportunity to participate in this hearing.

During the pandemic, our legal services department used all the tools at our disposal to help keep tenants housed during this public health crisis. The most useful and important tools we had to keep our members housed were the various eviction moratoria put in place by the Governor and State Legislature during the pandemic. Most iterations of the eviction moratorium had a broad impact, stopping the vast majority of eviction cases from moving forward and preventing new cases from being filed.

This brought peace of mind to millions of tenants across the state, allowing them to focus on moving forward emotionally and financially, rather than worrying about where their children would sleep at night if they were to lose their homes. Unfortunately, they no longer have that peace of mind.

MRNY's members belong to the low-income, immigrant communities hardest hit by COVID-19 and are still suffering from the aftermath of the pandemic. Many have not regained full time or regular work. Many are struggling with medical bills they cannot afford. And many are still grieving the loss of family and friends. They continue to live in instability and continue to need the safety that the eviction moratorium used to provide.

Not only was our membership and the communities we serve the hardest hit by the pandemic, they are also the communities that found themselves in Housing Court more often before the pandemic. It is well-established that Black, brown, and immigrant communities consistently face higher rates of eviction than their white, non-immigrant counterparts. According to data compiled in the Eviction Crisis Monitor by the Right to Counsel Coalition and partners, one of

the top 10 zip codes with the highest rates of eviction is in our service area of Corona, Queens; one of the most immigrant-dense neighborhoods in the state. We know that with the protections of the moratorium stripped away, these disparities in housing security and evictions will continue to grow, with repercussions for generations to come.

During the pandemic, our offices responded to a significant increase in tenant harassment, discrimination, and failure to maintain housing standards. While the eviction moratorium was in place, we were able to focus our legal services on fighting unscrupulous landlords trying to skirt the law. With the eviction moratorium lifted, we now must shift gears to also defending against evictions in Housing Court, leaving us with less capacity available to fight tenant harassment. Not only will many tenants lose their homes absent the moratorium, the tenants who are able to stay will not have as many resources to ensure that they can live in safe, habitable homes.

In conclusion, the expiration of the eviction moratoria will and has already started to have a devastating impact on millions of tenants across the state, with a disproportionate impact on the historically marginalized Black, brown, and immigrant communities who were also hardest hit by the pandemic. We expect to see many tenants lose their homes and many tenants be forced to live in substandard conditions. We hope the range of testimony today will prompt the Council to take bold action to protect tenants who continue to be vulnerable, even as the COVID-19 pandemic begins to subside.



TESTIMONY OF THE NEIGHBORHOOD DEFENDER SERVICE

before the

Committee on General Welfare

IN RELATION TO

Impact of the Expiration of the Eviction Moratoriums

by

Emily Ponder Williams

Managing Attorney, Civil Defense Practice

February 28, 2022

Introduction:

I am Emily Ponder Williams, Managing Attorney of the Civil Defense Practice at Neighborhood Defender Service of Harlem (NDS). NDS is a community-based public defender office that provides high-quality legal services to residents of Northern Manhattan and a member of the Leap coalition, a collective of civil legal services providers serving low- and no-income clients facing displacement and other civil legal needs. Since 1990, NDS has been working to improve the quality and depth of criminal and civil defense representation for those unable to afford an attorney through holistic, cross-practice representation. As a holistic public defender office, NDS is particularly familiar with the collateral consequences of homelessness and instability, including an increased chance of entering the criminal legal and child welfare systems. With an aim to help disentangle clients from these systems, NDS has provided these essential civil legal services to our clients for the last 30 years. With the early implementation of Right to Counsel in key Northern Manhattan zip codes, NDS joined the Right to Counsel Coalition and also began serving the community through the Right to Counsel Program.

Throughout the pandemic, as many cases grinded to a halt in Housing Court, NDS continued zealously serving our clients. We represented individuals illegally locked out of their homes, asserted the rights of those protected under eviction moratoriums while defending those who were excluded, and worked with clients to obtain hundreds of thousands of dollars in State ERAP assistance. Our advocacy has involved attorneys, social workers, and non-attorney advocates working to address not only a client's legal case, but also assisting them in obtaining stabilizing benefits and connecting them with other social services. At all times, we have remained committed to providing the highest quality, holistic legal services as we fight to preserve our clients' homes and the stability that minimizes future system contact.

Challenges to Effective Representation

As the eviction moratorium lifts, our commitment remains unchanged. However, the current influx of cases assigned through the Right to Counsel program has strained our already limited capacity to do so. This influx comes from older cases commenced pre-pandemic but paused due to the moratorium as well as through new filings. Indeed, some cases have been pending for *years* and may be mid-trial or on appeal, but only now assigned through Right to Counsel because they were not eligible under the zip code assignment model pre-pandemic. On a given day assigned to intake, NDS attorneys must field cases coming through three different virtual "courtrooms" and may be assigned 25-30 new cases each shift to be handled by our 7 staff attorneys, two supervisors with support from two legal advocates and a social worker with other practices. In between intake shifts, our staff is fielding a constant stream of referrals sent directly from the court or through Housing Court Answers asking us to connect with unrepresented litigants. Each assignment requires us, outside of the courtroom, to attempt to contact the potential client through phone or email to assess income eligibility and engage. All of these assignments require follow up with the court and the Office of Civil Justice to indicate whether we are retaining a client, we cannot contact a potential client, or the potential client is ineligible financially. For those we have not been able to contact, the court still requires us to appear on subsequent court dates. These processes require significant time, effort, and coordination by our staff. Indeed, the volume and inefficiencies around the right to counsel assignment process places a heavy burden on providers and strains our ability to provide our clients with more than just access to an attorney, but rather a meaningful right to counsel.

Realizing a True Right to Counsel

To be sure, a true Right to Counsel requires much more than appearing in court and filing legal papers; in many cases, our representation requires us to work with the client and various city and State agencies to obtain rental assistance and subsidies, resolve public benefits issues, connect clients with social services,

and more. These are integral to the legal case, yet require extensive non-court advocacy. The challenge of obtaining rental assistance in the present moment is illustrative of the dedicated advocacy required. Throughout the pandemic, obtaining any form of assistance besides State ERAP funding was nearly impossible. HRA required our clients who were clearly ineligible for ERAP to submit an application anyway and secure a denial before the agency would consider a “One Shot Deal” request. Even then, HRA’s inefficiencies prevented nearly all of our clients from obtaining non-ERAP assistance; the agency often required submission of the same documents numerous times, then would fail to act on an application despite consistent follow up and advocacy on behalf of NDS attorneys. After 30 days with no action, the agency would deem the application denied, and require submission all over again.

These challenges have remained in the current stage of the pandemic, despite the fact that the State has made patently clear no ERAP funds are available. For instance, one NDS Legal Advocate recently worked with a client to obtain arrears assistance from HRA after she was, as expected, found ineligible for ERAP assistance. In all respects, she met the qualifications for a One Shot Deal. However, three weeks after submitting an application along with a detailed advocacy letter from NDS’s advocate and proof of the ERAP denial, HRA denied the application without explanation. Upon further inquiry, HRA told NDS’s advocate the application was denied because an ERAP application was pending. When NDS’s advocate contested this false basis and once again provided proof of the ERAP denial, HRA claimed the application was “expired” and would have to be resubmitted. Only after significant advocacy, including laying out the patently nonsensical and prejudicial actions taken by HRA on emails including numerous HRA supervisory personnel, was the One Shot Deal application approved and our client able to avoid eviction.

This example details just how essential non-legal, holistic services are to providing meaningful representation to tenants facing eviction. Yet, current contracts with the Office of Civil Justice, and the unending tide of cases assigned through Housing Court, leave little room to hire any staff besides line attorneys to handle the required case volume. The lack of ability to provide additional supervisory, administrative, social work, and non-legal support is a distinct contrast to the City’s recognition of how essential these holistic services are in other assigned counsel contexts, including criminal court and child welfare proceedings. Indeed, NDS’s Criminal Defense and Family Defense practices have long benefitted from the City’s recognition that the right to counsel means more than mere access to an attorney.

We thank City Council for their efforts in ensuring tenants have access to counsel in Housing Court. However, it is essential to provide the same robust support to indigent tenants in Housing Court as in other contexts in order to fully realize the right to counsel. This is true not only in the moment of ending eviction moratorium, but as New York City continues to pioneer and define this right. Doing so is of paramount importance as legal services offices like NDS fight for *lasting* stability for our clients, their neighborhoods, and the fabric of New York City.

**NORTHERN MANHATTAN
IMPROVEMENT CORPORATION
(NMIC)**

TESTIMONY

Regarding

Impact of the Expiration of the Eviction Moratoriums

PRESENTED BEFORE:

THE NEW YORK CITY COUNCIL COMMITTEE ON GENERAL WELFARE

February 28, 2022

PRESENTED BY:

Jesenia Ponce, Esq.

Supervising Attorney

NORTHERN MANHATTAN IMPROVEMENT CORPORATION (NMIC)

My name is Jesenia Ponce, and I am a Supervising Attorney at Northern Manhattan Improvement Corporation (hereafter, “NMIC”). On behalf of NMIC, we thank you for providing us the opportunity to present our testimony on the impact of the expiration of the eviction moratorium.

NMIC is a community-based settlement house that since 1979 has supported underserved immigrant neighborhoods in New York with several strategies to preserve safe and affordable housing for low-income residents. Our affordable housing initiatives include providing ongoing community organizing assistance to tenant associations across 36 buildings, housing development that has brought over 400 units and 15 buildings under tenant control, Weatherization services that completed weatherizing in 302 units across 6 buildings this past year, and our housing legal work which takes on individual and group cases to maintain housing for residents and achieve broad systemic change. All NMIC clients accessing housing services are also encouraged to enroll in our wide array of other programs that address Immigration, Education/Career, Finance/Benefits, Health, and Holistic needs.

Our Housing Legal team is made up of 30 paralegals and attorneys dedicated to handling legal cases related to housing. In a typical year, we prevent over 1,000 evictions and handle an additional 2,000 housing cases, including fighting rent overcharges and preserving rent-freezes. We specifically provide these services to low-income residents and the average income of the tenants we serve is less than \$19,000.

The Director of our legal programs is active on several knowledge-sharing coalitions including LEAP and the NYS Coalition. Our staff coordinates services, including co-litigating on impact cases or working with pro bono attorneys, with over a dozen law firms. A common observation from staff and partners is that the most effective tool for preventing homelessness and preserving affordable housing during the COVID-19 pandemic was the eviction moratorium. The moratorium allowed our staff to deter possible evictions by helping clients access public and private resources to stay current on rent and to secure relief for rental-arrears that inevitably accrued during economic shutdowns that disproportionately impacted low-income New Yorkers. For example, in 2021, my team assisted 513 individuals in applying for rent-relief from LRAP/ERAP, One Shot Deals, and charitable sources. In total, these 513 households received \$4,283,548. Still, our community continues to experience financial instability and rent insecurity due to loss of income and unemployment caused by the pandemic. The end of the eviction moratorium has only increased the barriers to housing stability and self-sufficiency our community already faces.

While indigent tenants have suffered the most severe consequences from loss of employment during the pandemic, the expiration of the moratorium has cleared the path for over 200,000 pre-pandemic eviction cases to move forward in housing court. Landlords are once again able to exploit the court system and rely on the fact that tenants will not know their rights to effectuate unjust and/or unnecessary evictions. Indeed, our organization has received a staggering number of calls on our housing intake line from tenants seeking advice after their landlord forced them out of their apartment or convinced them they had to vacate because the moratorium is over. This is particularly prevalent in immigrant communities where English is not the primary language. These tenants fear immediate eviction if they do not adhere to the landlord's timeline to surrender possession of their apartments. For example, soon after January 15, we received an inquiry from a tenant who had vacated his apartment because the landlord said they would evict him quickly. The tenant indicated that because there was no longer a moratorium in place, he believed he needed to vacate and to move his family into shelter. The impact of this extends beyond the trauma of actual evictions. It has also instilled fear among tenants in low-income communities who are confused about their rights, believe they no longer have protection after the expiration of the moratorium, or are afraid to seek assistance due to their immigration status. Such tenants are left to the mercy of their landlord or the possibility of navigating the housing court system alone.

Additionally, tenants who have not been able to pay off pre-pandemic and pandemic arrears are scrambling to find rental assistance to avoid a judgment and warrant in housing court that can now be executed by a Marshal and lead to homelessness. While many tenants who accumulated arrears during the pandemic were able to attain rental assistance through the Emergency Rental Assistance Program (hereinafter "ERAP"), hundreds were left without aid, as funding for the program was quickly depleted. Although tenants can still apply and receive temporary eviction protection, they continue to accumulate arrears with no real hope of attaining assistance unless the program receives additional funding. Thus, the arrears will persist and ERAP eviction protections will terminate once a decision is rendered on their application, risking homelessness for hundreds of families who have applied after the reopening of the portal in January.

Moreover, thousands of tenants who were sued for nonpayment before the shutdown must now determine how to obtain rental assistance for pre-pandemic arrears—arrears which are likely to be higher if the tenant was unable to secure ERAP assistance. With tenants unable to get a One-Shot Deal unless they can afford their ongoing rent and rent voucher programs being woefully underfunded, tenants often find themselves at a dead-end. As we have observed in our office, some of these tenants surrender possession because they feel they have no other options. This will greatly impact the affordable housing stock in New York City, will lead to more overcrowding of shelters that are already at capacity, and will destabilize communities. There is no bureaucratic work around this issue because there is simply not enough funding for rental assistance programs. An increase in funding for city rental subsidies is needed to reflect the current housing market, realistically serve our communities, and prevent the imminent displacement of hundreds of families.

Finally, the impact that the expiration of the moratorium has had and will continue to have on legal services is insurmountable. Advocates lack proper support to manage the wave of eviction proceedings. Legal services agencies must absorb referrals for 200,000 pre-pandemic eviction cases that are now proceeding in housing court as well as referrals for eviction cases filed during the pandemic. This has led to a crisis of capacity, as legal services are working at higher-than-normal caseloads without additional funding. Housing attorneys maintained a full caseload before the pandemic, and the additional wave of eviction proceedings will influence services provided and will have a debilitating effect on staff. This additional strain on our workplace poses a risk of high turnover, as staff find the increase in workload overwhelming and nearly impossible to navigate efficiently. As housing legal services, we are part of the frontline of eviction prevention, but we are less equipped to overcome the wave of eviction proceedings without proper funding for support.



Thank you to the New York City Council’s Committee of General Welfare for holding a hearing on the impact of the expiration of the eviction moratorium. My name is Oksana Mironova and I am a housing policy analyst at the Community Service Society of New York (CSS). We are a leading nonprofit that promotes economic opportunity for New Yorkers. We use research, advocacy, and direct services to champion a more equitable city and state.

We have been closely tracking eviction rates in New York City for decades. Before the pandemic began, the role of evictions in long-term housing instability among Black and Latinx tenants was well documented by both organizers and scholars. According to CSS’s 2019 Unheard Third survey—the longest running scientific survey of low-income communities in the nation—Latinx and Black tenants were more likely to be threatened with an eviction than white or Asian tenants.

The pandemic exacerbated pre-existing racial and class inequalities in our city. Today, nearly 220,000 renter households have been sued for eviction in housing court. Further, in our 2021 Unheard Third survey, we found that:

- More than one in four low-income tenants are behind on their rent during the pandemic, with Black and Latinx tenants – and particularly women – at greatest risk for long term consequences as a result of rent debt.
- In the past year, rents increased for 43 percent of tenants below the federal poverty line.
- Rents rose at a higher rate for low-income tenants of color than for low-income white tenants: 49 percent of Asian tenants and 41 percent of Black and Latinx tenants experienced rent increases, compared to 32 percent of white tenants.
- More than one third of low-income tenants reported that they were worried they would be evicted or forced to move when the eviction moratorium ends.

Additional analysis is included in our recent report, [*Low-Income New Yorkers are an Inch Away from Eviction: How to Address Rent Debt and Eviction Pressure to Keep Them Housed.*](#)

The courts have begun to work through a growing backlog of eviction filings, and landlords are suing more and more tenants for eviction each day. We will see a growing number of both informal self-evictions and formal, marshal-executed evictions in a few months.

Below are recommendations for easing the city’s looming eviction crisis:

Right to Counsel

New York was the first city in the country to implement a Right to Counsel (RTC) law. Between 2017, and 2019 evictions in zip codes where Right to Counsel was implemented declined by 29 percent, compared to a 16 percent decline in zip codes with similar eviction, poverty, and rental rates.

Following the implementation of RTC, we worked closely with the Right to Counsel Coalition to advocate for Local Law 53, which requires the City to work with tenant organizers to educate tenants about RTC. It was supposed to go into effect in November 2021, but Local Law 53 was not implemented. The city is now out of compliance and the law needs to be implemented immediately. Right to Counsel is extremely effective at

keeping people housed, but it does not work if tenants do not know to take advantage of it. Trusted, neighborhood-based groups are the key to getting information to tenants facing eviction.

Eviction Case Backlog

Eviction cases are often complex and require both time and nuance. Unfortunately, New York City's housing courts are struggling with a backlog of eviction filings, creating a dangerous environment for tenants. In the Bronx, judges used to hear one case every 30 minutes in their Right to Counsel intake part; now they hear two cases every 15 minutes. This is an impossible position for legal services organizations, leading to inadequate attention for tenants.

In the coming months, housing court should only move the cases for tenants with legal representation, and adjourn all others, until legal services organizations have more capacity. Under the Housing Stability and Tenant Protection Act (HSTPA), housing court judges have the flexibility to adjourn cases. Similar adjournments happen in parallel court systems, like Family Court.

Rental Assistance

Rental assistance can act as a key mechanism for both keep renters facing eviction housed and to help homeless New Yorkers find homes. There are many federal and state rental assistance programs, the largest of which is the Section 8 voucher program. CityFHEPS is the rental assistance program that the city has the most direct control over. Unfortunately, there are a number of administrative and enforcement obstacles for using CityFHEPS for eviction prevention. Most crucially, New Yorkers must stay in a shelter for ninety days before becoming eligible and are faced with systemic source of income discrimination from landlords. Further, undocumented New Yorkers are not eligible for CityFHEPS.

In [2019](#), only 20% of New Yorkers who received CityFHEPS were able to secure housing, and the average shelter stay was 450 days. According to a recent report by Neighbors Together and Unlock NYC, [An Illusion of Choice: How Source of Income Discrimination and Voucher Policies Perpetuate Housing Inequality](#), tenants who gain access to vouchers are forced into lower quality units with higher rates of HPD violations, compared to non-voucher holders.

The city should work to expand eligibility to CityFHEPS to effectively prevent evictions and ramp up enforcement of housing code and source of income discrimination laws, to prevent voucher holders from facing homelessness.

Abolishing & Replacing the Tax Lien Sale

Today, the authorization for the city's tax lien sale comes to end. This harmful, Giuliani-era policy:

- accelerates the loss of equity in low-income communities of color,
- fuels speculation in the housing market,
- lessens the city's leverage over delinquent landlords and subjects their tenants to harmful conditions,
- squanders opportunities to create affordable housing and community facilities,
- and, privatizes core aspects of city government.



For low-income tenants, having a building in the tax lien sale results in months or years of instability and physical decline. Often, financially distressed buildings are purchased by speculative investors who both withdraw services and hike up rents, resulting in terrible living conditions and eventual displacement. In gentrifying neighborhoods, unscrupulous investors in distressed properties often try to evict long-term Black and Latinx tenants, and bring in higher-income white tenants.

The city must end this harmful program. It must replace it with an alternative tax collection system that stabilizes rental buildings facing tax foreclosure by turning them into social housing.

Community Opportunity to Purchase Act

The city's eviction crisis may have another downstream effect: if rent arrears persist, many landlords will likely be unable to meet their mortgage payments, setting off another foreclosure crisis. The Community Opportunity to Purchase Act (COPA), introduced by Councilmember Rivera in the last session, gives nonprofit organizations and community land trusts a right of first refusal for the purchase of rental buildings in New York City. Tenants in Washington, D.C. have had this right for over 30 years. San Francisco recently passed similar legislation and the neighboring municipalities of Berkeley and Oakland are not far behind.

Right of first refusal laws are built on several interconnected pillars: neighborhood stabilization, permanent affordability, community wealth, and resident control. New York City should pass a similar law, giving tenants more power during their building's sale, because ownership changes make tenants vulnerable to eviction and displacement. When tenants can intervene in the building sale, they gain power to negotiate for better conditions, reasonable rents, or even to bring in a responsible landlord.

Thank you for the opportunity to testify.

If you have any questions about my testimony or CSS's research, please contact me at omironova@cssny.org.



RTCNYC Coalition Testimony, Hearing of the Committee of General Welfare
February 28, 2022

Good morning and thank you for the opportunity to testify today. Please accept our testimony on behalf of the Right to Counsel NYC Coalition, which led and won the campaign to establish a Right to Counsel for tenants facing eviction. We are proud of NYC's groundbreaking Right to Counsel legislation and applaud the City Council, the Mayor, and the Office of Civil Justice for its dedication to making the Right to Counsel available to all New Yorkers during this pandemic. The law had tremendous impact in just the first few years since it passed: 84% percent of tenants who had RTC won their case and stayed in their homes, landlords are suing people less and community groups are actively using the Right to Counsel as a powerful tool to protect and advance tenants' rights. Right to Counsel has also helped develop a body of more just case law, lower tenants' rents, re-stabilize apartments, and has forced landlords to make repairs.

As we have seen, during the COVID-19 pandemic, Right to Counsel is more important than ever before. We know that evictions and housing instability have a disproportionate impact on people of color, especially women and children of color. Evictions and housing instability also have significant impacts not just on people's housing, but on people's education, employment, family relationships, physical and mental health, and so much more. NYC's Right to Counsel moves us closer towards achieving economic, gender, and racial justice.

We are here today to urge this committee to immediately and fully implement Local Law 53 and to work with the courts to ensure that no case move forward without an RTC attorney.

Immediately and Fully Implement Local Law 53:

The expansion of RTC to work with and fund community organizing groups to do the necessary education and outreach work of RTC, [Local Law 53](#), is so incredibly critical. While we applauded the city for passing legislation in May of last year, with an effective date of November 2021, we are deeply disappointed that it has not yet been implemented. With 1.2 million households behind on rent due to the COVID-19 pandemic and more than 220,000 eviction cases pending across the city, New York tenants need this law now more than ever. We were told the city allocated \$3.6 million towards this bill, had drafted the RFP and was going to release it in November of last year. To date, we haven't seen it. We know the mayoral and city council administrations take time to transition but **with the expiration of the eviction protections and cases moving forward, we can't wait.** The city is now out of compliance with its own law and it needs to implement it now.

Why is this law important?

- Right to Counsel has been proven to stop evictions in NYC, but many tenants who are eligible for Right to Counsel don't know about it or are too afraid to use it. When tenants don't know or use



their rights, they are more easily harassed out of their apartments. This leads to the displacement of mostly poor Black and brown New Yorkers.

- A survey done by volunteers at Bronx Housing Court found that **53%** of tenants who had Right to Counsel did not know about this right before arriving in court.
- When tenants don't know they have a Right to Counsel, they might decide not to appear in court, decline representation, sign agreements with their landlord's lawyer prior, decide not to ask for repairs in fear of being evicted, or face a variety of other serious consequences.
- Local Law 53 requires the city to support organizers who would work to ensure that tenants know about their Right to Counsel and feel supported using it. More tenants will be prepared to defend their homes against eviction and fight for their right to a safe, affordable home.
- Tenant organizing is the most effective means of ensuring tenants know about their rights. Tenant organizing groups create an environment where tenants feel supported by a community that is working together to combat landlord abuse, ensuring that a landlord cannot target an individual tenant for standing up for their rights.
- We need to stop informal evictions! 54% of forced moves that take place in NYC are the result of informal evictions, such as a tenant leaving due being told to leave, landlord harassment, a lack of repairs, etc. When tenants know they have the right to a lawyer and are organized, they can fight back when landlords try to push them out.

To meet the needs of tenants across the city, this law must be implemented now. **We urge this committee to work with the necessary offices to release the RFP so that tenant organizing groups can do their work to educate and organize tenants across NYC during this incredibly scary time.**

Ensure that no case move forward without an RTC attorney:

We are deeply concerned about the pace with which cases are moving forward in NYC's Housing Courts and we are calling on the city, specifically the Office of the Civil Justice to work with the courts to ensure that no eviction case moves forward without an RTC attorney.

Legal services organizations are not immune from the unprecedented labor shortage facing the nation and RTC attorneys have a massive accumulation of eviction cases due to the pandemic. With the expiration of the eviction protections and cases moving forward at faster rates, this creates a significant problem. In the Bronx, for example, judges used to hear one case every 30 minutes in the RTC intake part; now it's two cases every 15 minutes. This means that cases are being assigned at rates that far exceed the capacity of the legal services organizations, which will ultimately lead to tenants not getting the quality representation needed to effectively litigate their cases. Across organizations, attorneys are taking on unprecedented caseloads; some attorneys have upwards of 60-80 cases. This is not only unsustainable for the attorneys and an additional driver of the labor shortage and RTC attorney attrition, but it is incredibly unjust for tenants facing eviction, who deserve attorneys with sufficient time and resources to defend themselves and their homes. Unfortunately, while judges clearly have discretion to give longer adjournments to create the time needed for organizations to create the necessary capacity, they are doing the opposite and giving very short adjournments, in some cases as little as one to two weeks. [The legal arguments](#) for multiple and prolonged adjournments for the purposes of Right to Counsel assignment, both in terms of NYC's Right to Counsel law and also as a matter of due process, are clear.



We urge this committee to work with all necessary bodies, specifically the Office of the Civil Justice to work with the courts to ensure that no eviction case moves forward without an RTC attorney.

As our [eviction crisis monitor](#) shows, the neighborhoods hit hardest by COVID-19 are also being targeted for eviction. It would be unconscionable if these mostly Black and brown tenants could not get the representation they deserve. In addition, cases have already slowed down during the pandemic, and there was no great collapse. There is no reason to return to the fast-paced, high-volume courts of the past. They were unjust then, and they would be a death sentence now, especially as new COVID-19 cases surge across NYC due to the Omicron variant.

As we have done over the past two years, slowing down the court system is the only moral response. The courts can do this by moving ***only the cases where tenants are represented forward and adjourn all the rest until the legal services organizations have capacity to take more cases.*** These adjournments happen in other courts, like family court, where there is a Right to Counsel. There is a legal basis for judges to grant repeat adjournments for the assignment of counsel and due process requires it, plus judges have a broad discretion to adjourn cases as they see fit. Thanks to the Housing Stability Tenant Protection Act, housing court judges have much greater ability to adjourn cases. We are calling on this committee to work with the courts and OCJ to make this a reality.

We look forward to working with you on this. Thank you for the opportunity to testify today.

TAKEROOT JUSTICE

TakeRoot Justice Testimony

By: Keriann Pauls, Esq.

Before the New York City Council Committee on General Welfare
Regarding: The Impact of the Expiration of the Eviction Moratorium

February 28th, 2022

I am Keriann Pauls, Director of Coalitions and Resource Management at TakeRoot Justice and previously a Housing Rights attorney. Our organization provides legal, participatory research and policy support to strengthen the work of grassroots and community-based groups in New York City to dismantle racial, economic and social oppression. Our Housing Rights team works side-by-side with tenants as they fight against harassment & displacement, demanding better living conditions, affordable rents, and a voice in the policies that shape their neighborhoods.

While TakeRoot Justice is not directly a part of the Right to Counsel program, we have been pulled into the work through the Anti-Harassment Tenant Protection grant that funds group, building-wide legal actions on behalf of tenants affirmatively taking their landlords to court for repairs and other injustices.

The eviction moratorium ended, but the crises of the Covid-19 pandemic and the burden of navigating confusing benefits programs and processes continues. Many of our clients recently fell ill with Covid during the Omicron wave and experience related hardships, such as loss of employment, grief due to sick family members, and all the trauma humans face as a result of pandemic. And now, on top of it all, their landlords and the courts are moving forward with their evictions.

It is monumental that City's Right to Counsel was passed prior to the pandemic, and expanded before the lifting of the moratorium. This tenants' victory has safeguarded and empowered so many New Yorkers as they fight to save their homes. However, our legal teams are struggling to keep up with the volume and pace of the eviction cases and the way they are being assigned. TakeRoot Justice and our community of legal services providers fight zealously to provide high quality and holistic legal representation for our clients, as that is what tenants deserve and what results in stability for their lives and their families. When faced with unmanageable caseloads, this standard of case handling is jeopardized, which negatively impacts tenants, causes staff burnout [which exacerbates the great resignation our organizations have experienced], and ultimately erodes the mission and mandate of the Right to Counsel program.

There are achievable solutions for the City, courts and agencies to implement that would ensure NYC tenants have safe, affordable housing and are protected from displacement.

Managing the Right to Counsel Intake Process

The Human Resources Administration's Office of Civil Justice works in partnership with the housing courts to implement programming for the Right to Counsel. Legal services providers and advocates have provided both HRA and the Courts with tangible and attainable ways to address the capacity concerns that we all face. Providers have called for a more manageable number of cases calendared each intake date and for the courts to provide sufficient adjournments for each case. Implementing these changes is within the power of HRA and the Courts and would help ensure the tenants of this City have access to a robust right to counsel and for legal services providers to provide sustainable, holistic representation.

Improving Rental Assistance Benefits Programs

The Human Resources Administration and the Office of Temporary Disability Assistance can improve access and processing of rental assistance programs, to help resolve their eviction cases and prevent their displacement. The confusion for tenants and advocates around the need to apply for ERAP before being able to apply for One Shot Deals has both complicated the court cases, and provided an unnecessary hurdle for tenants, leaving them uncertain about what benefits they can access and how.

Additionally, our clients who are eligible and trying to access FHEPS/CityFHEPS have had to wait two (2) months or longer for an initial application appointment with HomeBase. This delay in processing is adding to the ongoing backlog of cases and unmanageable caseloads our organizations face. Much of our staff time is spent unnecessarily trying to get through the red tape for our clients to access benefits, which compounds the capacity concerns we are already facing.

Finally, for our clients who have benefits, such as housing vouchers, the City has a huge gap in its service in that there is no relocation support for tenants who need to transfer to new homes. Many are facing unsafe or unmanageable housing conditions and must relocate, but the City's restrictions and lack of support services make it nearly impossible for voucher-holders to find a safe and affordable place to move.

Resources for Impactful Legal Work, Organizing and a Focus on Racial Justice

We are at a moment of dealing with a housing crisis that the City, State & country have never encountered before. The solutions that the government pursues must encompass sustainable strategies that empower tenants so they can protect their homes, live with dignity and thrive. And these solutions must directly address the fact that housing justice is a Racial Justice matter. The Covid-19 pandemic has hit BIPOC communities the hardest, and the policies and resources for recovery must first flow to these communities and their advocates.

Close ties to the communities we serve are essential for dealing with crises and planning for the future. Expanding funding for CBOs focused on tenant organizing and outreach is the best way to ensure NYC residents are positioned to access resources and fight for their rights.

Tenants must also have a right to free attorneys when they need to affirmatively enforce their rights against unscrupulous landlords, and form group associations to take collective action. The City must continue funding the Anti-Harassment Tenant Protection program, alongside the Right to Counsel, so that legal services providers like TakeRoot Justice and our allies, can represent tenants on the offense, taking legal action, fighting against unsafe conditions, improper deregulation, harassment, and a myriad of unlawful landlord tactics that must be kept in check.

TakeRoot Justice is a proud member of the Leap coalition (<https://leap-ny.org/>), comprised of community-based, civil legal service providers working collaboratively to serve no-income, low and moderate-income New Yorkers. Leap and its members play instrumental roles in both the

Right to Counsel and Anti-Harassment Tenant Protection programs. We approach this work as community lawyers, and emphasize the importance of sustainable caseloads, sufficient resources to support holistic client services, and funding to fight against tenant harassment and displacement beyond individual eviction cases; these are essential to protecting our communities and ensuring tenants live with dignity in their homes.

TRINITY CHURCH WALL STREET

02.28.22 - Trinity Testimony - Committee on General Welfare

February 28, 2022 | **Subject:** Oversight - Impact of the Expiration of the Eviction Moratoriums.

Dear Chair Diana Ayala and Members of the Committee on General Welfare,

My name is Bea De La Torre, and I am the Managing Director, Housing and Homelessness, at Trinity Church Wall Street. Thank you for providing Trinity with the opportunity to submit testimony on the expiration of the eviction moratorium and our recommendations for what New York City's elected leaders should do to protect vulnerable New Yorkers from the threat of eviction.

As many of you know, Trinity Church Wall Street is an Episcopal Church down the street from City Hall with a congregation of more than 1,600 parishioners, who represent all five boroughs and form an ethnically, racially, and economically diverse congregation. In addition to our parish ministry, Trinity Church carries out our mission of faith and social justice by providing direct services, operating a grant-making program, and engaging in advocacy at the City and State level to break the cycles of mass incarceration, mass homelessness, and housing instability across New York City.

Trinity Church is deeply concerned by how the COVID-19 pandemic has worsened New York City's housing and homelessness crisis. Although the State's eviction moratorium provided vulnerable New Yorkers with a critical layer of protection from the threat of losing their homes at some of the worst points of this crisis, this policy was only a temporary solution to a much deeper crisis. In light of this reality, Trinity has focused its advocacy efforts on ensuring that the City and State have adequate resources in place to protect vulnerable households from eviction once the moratorium was lifted.

Since the onset of COVID-19, nearly one million residents—a [quarter of renters](#)— throughout New York State have fallen behind on their rent and amassed rental arrears due to the financial hardship caused by this pandemic, and a disproportionate number of these households are in New York City. An alarming [report](#) from *The New York Times* also recently uncovered that more than 68,000 NYCHA households (about 42% of all NYCHA residents) have accrued rental arrears as of November 2021.

TRINITY CHURCH WALL STREET

Now that the eviction moratorium has expired and landlords have resumed hauling tenants to Housing Court again for nonpayment proceedings, we urgently need our elected leaders at the City, State, and federal levels to enact critical policies and improve key programs to protect New Yorkers with outstanding rental arrears to stave off a massive wave of evictions in the months ahead.

We commend Governor Hochul for the significant improvements that her Administration made to the State's Emergency Rental Assistance Program (ERAP) to ensure the efficient distribution of rental assistance funds over the past few months and help hundreds of thousands of households pay their rental arrears. We also thank all our elected leaders at the City and State level for their efforts to build greater awareness about the ERAP program and ensure that more vulnerable New Yorkers had access to these critical funds. However, as the demand for the Emergency Rental Assistance Program continues to vastly outpace the federal government's funding allocated to New York, we urge the City Council and the Mayor to continue lobbying members of Congress and demand that they secure additional aid to replenish critical funding for ERAP.

We also believe that the recent changes made to the CityFHEPS program will help to protect New Yorkers from the City's looming eviction crisis. We commend the City Council for its passage of [Intro 0146-2018](#) last year, which raised the value of the CityFHEPS vouchers to match the Section 8 program while allowing individuals to remain eligible indefinitely as long as their income does not exceed 80% of the Area Median Income (AMI). These long overdue changes to CityFHEPS will help address New York City's homelessness crisis and ensure that more households can access safe and affordable housing. We also applaud the Governor's signing of legislation to provide a similar increase for StateFHEPS vouchers.

Despite these changes, we believe that the City Council can make additional changes to the CityFHEPS program's eligibility and administrative rules to make it a more effective tool in protecting vulnerable New Yorkers from a wave of mass evictions in the months ahead, as well as reduce the duration of shelter stays.

TRINITY CHURCH WALL STREET

In the program's current form, New Yorkers can qualify for CityFHEPS only if they have resided in a homeless shelter for three months. Additionally, recent [reports](#) have highlighted how countless New Yorkers who qualify for the program often have to extend their stays in shelters due to delays and administrative hurdles during the approval process, often caused by significant staffing shortages and poor communication within the Department of Social Services (DSS) and with their partner nonprofit service providers, as well as complicated paperwork and bureaucratic obstacles.

We urge the City Council to introduce and pass legislation that would expand the eligibility for CityFHEPS to low-income New Yorkers that are brought to Housing Court for nonpayment eviction proceedings. This change to the program's eligibility rules would ensure that households facing the threat of eviction are given the critical support needed before they are forced to enter the shelter system in the first place.

We also call on the City Council and the Mayor to expand funding in the FY23 budget to hire more staff within DSS devoted to processing CityFHEPS applications and provide them with training, as well as streamline the entire application process and speed up payments to landlords. We believe that a larger and better prepared staff devoted to this issue would help reduce the average duration of shelter stays and help more New Yorkers find affordable and safe housing.

While the recommendations outlined above are by no means exhaustive, we believe that they would have a significant impact on preventing evictions in the immediate months ahead, while also helping more New Yorkers secure permanent and affordable housing opportunities in the future.

Thank you for providing Trinity the opportunity to submit testimony.



Breaking the Cycle of Homelessness
for Women and their Children

Testimony of Win (formerly Women In Need) for the NYC Council Committee on General Welfare: Impact of the Expiration of the Eviction Moratoriums

Good Morning. My name is Josefa Silva, and I'm the Director of Policy and Advocacy for Win. Thank you to Chair Ayala and to the distinguished members of the General Welfare Committee for the opportunity to testify on the expiration of the eviction moratoriums.

Win is New York City's largest provider of shelter and permanent supportive housing for families with children, who have experienced homelessness. We operate 13 family shelters located across 4 boroughs, along with 365 units of permanent supportive housing. In total, we served more than 9,000 individuals last year.

One of the reasons that Win exists is that New York City has a shortage of housing that is affordable to the lowest income New Yorkers. Before the pandemic, in fiscal year 2019, twenty-seven percent of the families in Win shelters were found eligible by DHS because of eviction. That was nearly 600 families who stayed in a Win shelter that year because they had been evicted. This is likely an undercount, because families often double up and couch surf after eviction to avoid shelter.

There are currently 50,109 evictions already in motion, including cases that had been decided prior to and paused by the moratoriums.¹ Add to that the 77,208 evictions that have been filed since March of 2020, and new and old eviction orders threaten to displace tens of thousands of families in New York City. And those evicted will be the most vulnerable and in need of help; one in four low-income tenants in New York City are behind on their rent during the pandemic.² This will overwhelm our shelter system, and will force a return to drastic measures of the past.

In November of 2016 New York City reach an all-time high of 13,225 families and 42,016 individuals in shelter.³ That need overwhelmed shelters, forcing the City to use expensive, unsafe, and inappropriate hotels and infamous "clusters" for homeless families, where harrowing incidents of assaults, exploding radiators, and others led to the death of mothers and children. Luckily, hotels for homeless families are quickly being phased out thanks to a decrease in the number of families in shelter. The end of the eviction moratoriums will result in a spike in homelessness that will require the city to return to hotels

¹ Baltz, Greg. NYU Furman Center. "Data Update: Analysis of Renters at Risk as Eviction Moratorium Expires" The Stoop. NYU Furman Center Blog. January 15, 2022. <https://furmancenter.org/thestoop/entry/data-update-analysis-of-renters-at-risk-as-eviction-moratorium-expires>

² Mironova, O., Stein, S. January 2122. Low_Income New Yorkers are an Inch Away from Eviction. Community Service Society Brief. https://smhttp-ssl-58547.nexcesscdn.net/nycss/images/uploads/pubs/Eviction_Pressure_V2.pdf

³ Ibid

and clusters to meet the explosion in need.

There is no doubt that the eviction moratorium was a necessary, emergency intervention that helped to prevent homelessness during the pandemic. We recognize it was not meant to be a long-term solution to housing vulnerability, and the lack of a long-term solution means there is now an influx in need facing the city's safety nets and homeless shelter system.

The long-term solution is an expanded rental assistance program to bridge the gap between what low-income New Yorkers can afford and the real-world cost of housing. New York City's rental assistance voucher – CityFHEPS – has the potential to mitigate housing vulnerability and protect low-income New Yorkers from homelessness. But not enough New Yorkers are able to use this key solution. Today, Win is presenting three areas of reform that would fix this.

First, it's time to create a voucher that can prevent evictions. Currently, CityFHEPS is targeted to helping New Yorkers leave homelessness. Expanding access to CityFHEPS for people facing eviction before they lose their homes would prevent homelessness in the first place, saving the city a substantial amount on shelter costs and avoiding the trauma and disruption of homelessness for those families.

Second, New York City needs to improve its systems for the CityFHEPS vouchers, while also working with landlords to build participation in the program. Right now, households attempting to use their CityFHEPS voucher face a number of administrative and programmatic barriers. At Win, we see families lose apartments to long application processing times, delays on apartment inspections and approvals, late payments to landlords, among other administrative issues. DSS must make improvements, starting with the HOMES platform, and provide sufficient and competent staffing so the program functions properly. DSS should also set up a hotline where landlords can get general information and have their questions answered by a live person, as well as to resolve individual issues such as delayed payments with HRA.

Finally, New York City must step up thorough enforcement so that landlords can't discriminate against families who use vouchers. At Win, many of our families face illegal source of income discrimination. The City has a tool in place to investigate and penalize this discrimination: the Commission on Human Rights. Currently, the Commission on Human Rights is critically understaffed. Win joins Neighbors Together and other advocates to call for a \$1 million increase in this year's budget for the Source of Income Unit at the Commission on Human Rights.

Low-income New Yorkers spend a disproportionate amount of their income on rent – leaving them one missed shift or one emergency expense away from eviction. While the eviction moratorium temporarily halted this long-standing problem, the housing affordability gap remains and we expect homelessness rates to increase. By strengthening CityFHEPS, we can bridge the affordability gap and dramatically reduce the degree of vulnerability that so many households carry.

Thank you for your time and attention to this critically important issue. Win looks forward to working with you in the coming months to address the needs of New York's most vulnerable families.



Breaking the Cycle of Homelessness
for Women and their Children

About Win

Win provides safe, dignified shelter with the on-site social services that help families break the cycle of homelessness, including case management, support for housing searches, employment and income building programs, and mental health support from licensed social workers. All of our programs and services are provided by staff who are trained in trauma-informed care, so that a family's time at Win helps them heal while working toward their goals and toward permanent, stable housing. In total, we served more than 9,000 individuals last year.



Monday February 28, 2022

**New York City Council General Welfare Committee's Oversight Hearing on the
Expiration of the Eviction Moratorium's Impact**

**Written Testimony of The Bronx Defenders
Submitted By: Siya Hegde (Policy Counsel) and Runa Rajagopal (Managing Director),
Civil Action Practice**

The Bronx Defenders (“BxD”)¹ thanks Chairwoman Diana Ayala and her colleagues in the Committee on General Welfare for organizing this hearing on housing and evictions in the aftermath of the eviction moratorium’s expiration.

BxD’s Civil Action Practice (“CAP”) was one of the first public defender offices in the country to address the civil enmeshed penalties of our clients’ multi-legal system contact. Our litigation and advocacy initiatives focus, in large part, on defending tenants from the threat of eviction and other forms of housing displacement. We firmly believe in housing as a human right, have been a longstanding collaborator in the movement to establish a right to counsel in housing, and are proudly one of the city’s legal service providers providing representation under the Universal Access Program. Our Housing Right to Counsel team has expanded in size and expertise over the past three years, enabling us to respond as effectively as possible to the critical housing needs of the community we serve.

We respectfully submit these written comments and recommendations as an individual legal organization, a member of the Right to Counsel NYC Coalition, and a member of the Leap Coalition.²

¹ We are a holistic public defender non-profit that is radically transforming how low-income Bronx residents are represented across various legal systems, and, in doing so, is transforming those systems themselves. Our robust staff of over 400 consists of criminal, civil, immigration, and family defense attorneys, as well as social workers, benefits specialists, legal advocates, parent advocates, investigators, paralegals, data and communications experts, and team administrators, all of whom collaborate to provide quality holistic advocacy to our clients. Through an interdisciplinary team-based structure, we have pioneered a groundbreaking, nationally-recognized model of representation called holistic defense that works to address the causes and consequences of multi-legal system involvement. We annually defend over 20,000 Bronx community residents in criminal, civil, immigration, and child welfare cases, reaching thousands more through our community intake, organizing, and youth mentorship programs. Through impact litigation, policy advocacy, and community organizing avenues, we also push for broader systemic reform at the local, state, and national levels. Our direct services advocacy with clients and community members inform our innovative initiatives to bring about real and lasting change.

² Leap is a membership organization comprised of direct civil legal services providers in NYC: Brooklyn Defender Services, Brooklyn Legal Services Corporation A, CAMBA Legal Services, Catholic Migration Services, The Door, Goddard Riverside Law Project, Housing Conservation Coordinators, JASA/Legal Services for the Elderly, Lenox

Every Eligible Tenant Must Receive Representation & the NYC Office of Civil Justice Must Work with the Office of Court Administration to Slow the Current Volume & Pace of Evictions to Meet Current Right to Counsel Provider Capacity.

The COVID-19 pandemic's economic fallout has disproportionately undermined housing stability in low-income communities, immigrant communities, and communities of color. In communities like The Bronx, which is overwhelmingly comprised of low-income Black, Latine, and immigrant tenants, the impact of the eviction moratorium's expiration is magnified, with almost 75,000 households³ currently facing eviction (as compared to 40,000 in Manhattan, 51,000 in Brooklyn and 36,000 in Queens). Without the support of the City Council to ensure the Office of Civil Justice works with the Office of Court Administration to slow the current volume and pace of current filings, provider capacity will soon be exhausted and tenants will be evicted without representation, in violation of the law and their fundamental due process rights under right to counsel.

We know having a lawyer matters. In its first three years, our City's Right to Counsel law enabled 86% of tenants to stay housed after being brought to Housing Court for an eviction proceeding. This came with a number of other housing justice advancements, namely tenants' ability to seek rent abatements, enforce repairs for substandard housing conditions, and defend against illegal lockouts and displacements. Overall, the law has achieved a 29% decline in evictions in those zip codes where it was implemented. In recent weeks, the higher volume of affirmative litigation (i.e., repairs, harassment, and illegal lockout cases) and eviction filings has placed an enormous strain on Right to Counsel provider capacity – The Bronx alone has seen close to 4,000 new eviction filings since the moratorium's expiration.

The Right to Counsel NYC Coalition and its robust membership base of tenant leaders and housing attorneys and advocates--including The Bronx Defenders--were on the frontlines both to establish a right to counsel and in the fight for an eviction moratorium during this pandemic. For nearly two years, organizers conducted eviction blockades and actions across the city and state to stop the court eviction mill. We demanded concrete, comprehensive solutions to avoid an avalanche of case filings and tens of thousands of New Yorkers rendered homeless.

Since the eviction moratorium's expiration over six weeks ago, legal service providers like ours have seen an unprecedented spike in cases referred out of Housing Court, with judges also making their way through the backlog of pre-pandemic eviction filings without due process consideration of whether tenant-respondents have had access to counsel. This increase of eviction filings is compounded by the thousands of eviction cases that were pending during the moratorium and are now actively proceeding in Court. For example, during our last February intake shift, there were 144 cases calendared, with CAP connecting with close to 70 of the tenants who appeared that day. In comparison, during our November 2021 intake shift, there

Hill Neighborhood House, Make the Road New York, Inc., Mobilization for Justice, Neighborhood Defender Service of Harlem, New York Lawyers for the Public Interest, Northern Manhattan Improvement Corporation, TakeRoot Justice, The Bronx Defenders, Urban Justice Center, and Volunteers of Legal Services.

³ The data referenced in this testimony is from the New York State Office of Court Administration as [collected by the Housing Data Coalition and the Right to Counsel Coalition](#).

were 86 eviction cases calendared, with our team connecting with the 27 tenants who appeared and requested represented. With each new shift, we are now connecting with double the numbers of tenants facing eviction, on top of our current, pending workload.

While we are a relatively smaller team of housing attorneys and advocates in comparison to other legal providers in the city, our holistic capacity in housing litigation and advocacy is supplemented by the specialized support of team-based social workers, civil legal advocates, benefits advocates, housing policy counsel, and team administrators. In response to this diversity of staff composition, we have had to expand rapidly to have the requisite number of attorneys, program support, and supervision to meet the needs of the client demographic we serve. In the aftermath of the moratorium's expiration, we are already experiencing various hiring and retention challenges as well as funding scarcities that undercut the capacity of Right to Counsel legal services. In short, the needs of our clients outweigh the capacity we have to serve as providers and if we do not slow the eviction mill down and volume and pace of eviction proceedings in Court, tenants will be evicted without representation.

Recommendations: While City Council must effect the full implementation of the Right to Counsel and Local Law 53 to expand legal providers' and tenant organizers' resource capacity, it must create accountability to ensure the OCJ and OCA are working together to slow down the housing court eviction mill. At present, all eviction cases are on track to move forward, including those in which eligible tenants have not yet been assigned an attorney. As one recommendation, the courts should only proceed with hearing cases where eligible tenants have retained an attorney. We need support from the Council and OCJ to make sure this happens.

Tenants in Need of Emergency Rental Assistance Must Have Adequate and Streamlined Funding Avenues from the Human Resources Administration

In addition to increasing the funding and operational capacity of legal service providers, the City has a responsibility to address the long-term housing affordability crisis that the moratorium's expiration has exacerbated. The Bronx remains one of New York's hardest hit regions in terms of COVID-19 death rates as well as its number of residents threatened with eviction. Since the start of the pandemic, city landlords have filed for an estimated total of 60,720 residential evictions, of which Bronx landlords are responsible for nearly 35% -- the highest proportion of active pandemic eviction cases out of any borough.⁴ Many more pending cases were filed before the pandemic. Tens of thousands of unemployed Bronx residents have been unable to pay rent, with heavy reliance on the state's Emergency Rental Assistance Program ("ERAP"), which has experienced major delays in application processing and funding disbursement.

As the Office of Temporary Disability Assistance ("OTDA") doled out \$2 billion in total rental assistance through March 1, 2022—earmarking an additional \$440 million in provisionally

⁴ See *New York Eviction Filings Tracker*, Housing Data Coal., JustFix.nyc, & ANHD (2021), <https://housing-data-coalition.github.io/rtc-eviction-viz/> (Off. of Court Admin. data managed by the Right to Counsel NYC Coalition's Housing Courts Must Change! Campaign).

approved applications pending landlord verification⁵—\$256.5 million in rental arrears payments were awarded to tenants in The Bronx alone, making Bronx County the second highest in the state for emergency rental application disbursement.⁶ Altogether, Bronx tenants filed 72,298 rental arrears applications.⁷

To contextualize this sizable need for accessing emergency rent assistance, landlords who filed eviction proceedings in February 2022 alone sought over \$12 million in arrears from Bronx tenants. Many of our clients who are federal Section 8 voucher holders, for example, have been de-prioritized by OTDA’s review process, leaving them with few avenues other than One-Shot Deals from the Human Resources Administration (“HRA”) for alternative and/or supplemental rent relief. Clients for whom ERAP funds covered a lesser portion of arrears, thus, remain at a higher risk of eviction – especially those whose eviction proceedings have been issued a judgment.

In one case example, our client, Ms. R., was recently denied a One-Shot Deal while OTDA announced its funding depletion for ERAP applications submitted after September 21, 2021. Ms. R’s pending ERAP application for nearly \$7,000 had been submitted in October 2021. As such, the denial of her application by the HRA Rental Assistance Unit is dispiriting given the local agency’s knowledge that funds from the state are unavailable at this time. Her attorney has been diligently following up with HRA for days, but has received no response back.

We have also seen increasingly arbitrary award determinations issued by HRA. In at least two instances, clients who applied for One-Shot Deals in the aftermath of ERAP funding were told that HRA was capping its funding disbursement at \$10,000, only about half of the One-Shot Deal amount they applied for. Moreover, for those tenants who cannot demonstrate ongoing ability to pay future rent, the prospect of securing One-Shot Deal funds is far less tenable. Scenarios like this raise concern for tenants with a lower likelihood of receiving ERAP funds due to the state’s funding scarcity. Moreover, we find private charity organizations across the citywide Homebase system to also be facing a dearth of funding resources, with low staff capacities at various sites causing delays in screening tenants for CityFHEPS vouchers and assistance with generating voucher renewals that reflect subsidy increases.

In the aftermath of the moratorium’s lapse, we have also found landlords to be non-cooperative in certain ERAP application processes. These instances mostly concern those tenants who they bring to Housing Court for a holdover eviction proceeding without cause. Even if these tenants are protected against any case activity pending an eligibility determination on their

⁵ See OTDA, *New York State Emergency Rental Assistance Program Reports – Summary Data through March 1, 2022*, Emergency Rental Assistance Program (ERAP) (2022), <https://otda.ny.gov/programs/emergency-rental-assistance/program-reports.asp>.

⁶ See OTDA, *New York State Emergency Rental Assistance Program Rent Arrears and Prospective Rent Payments by County Through February 8, 2022* (2022), <https://otda.ny.gov/programs/emergency-rental-assistance/monthly-reports/ERAP-County-Payments-22-02-08.pdf>

⁷ See OTDA, *New York State Emergency Rental Assistance Program Applications by County and Zip Code Through February 8, 2022* (2022), <https://otda.ny.gov/programs/emergency-rental-assistance/monthly-reports/ERAP-County-Zip-Application-Counts-22-02-08.pdf>.

ERAP application, landlords' refusal to accept ERAP funds poses a separate set of concerns when HRA's funding pot for One-Shot Deals is lower than ideal.

Recommendations: In order to optimize the litigation and advocacy services of legal providers, HRA's process for allocating housing subsidies and One-Shot Deals should be streamlined and standardized so that more tenants can access the rental assistance they need to discontinue cases, and avoid judgments and evictions. Eligibility guidelines should also be relaxed. This would include eliminating the "ongoing ability to pay future rent" requirement for One-Shot Deal qualification, and basing applicants' funding needs on the dearth of ERAP funding availability (especially for those tenants who are federal voucher holders or SSI recipients).

Thank you again for the opportunity to submit this written testimony on behalf of BxD.

**Written Testimony Submitted to the New York City Council Committee on General
Welfare Hearing on Oversight – Impact of the Expiration of the Eviction
Moratoriums**

February 28, 2022

My name is Lauren Springer and I'm a tenant leader with Catholic Migration Services (a non-profit legal services provider & community-based organization actively engaged in tenant organizing work). I'm also on the steering committee of the NYC Right to Counsel (RTC) Coalition.

The Right to Counsel Law, a landmark piece of legislation guaranteeing the right to counsel in eviction proceedings, was won after a three-year, tenant-led fight. To secure this victory, we used a plethora of tools at our disposal, including among other things holding rallies, press conferences and townhall meetings; testifying at City council hearings and meeting with elected officials; collecting 7000 petition signatures; making Community Board presentations; developing a wide base of supporters; and employing an active social media campaign and tapping into the power of the press. But even after securing this right in August 2017, tenants continued to fight to strengthen the law, securing two key legislative victories in May 2021. Specifically, the passage of Local Law 53 (which provides for the support and funding of community-based tenant organizing groups for RTC outreach and tenants-rights education) and Local Law 54 (which eliminated the five-year phase-in period, immediately providing full citywide coverage of this right).

The expiration of the eviction moratorium has made the RTC Law and its amendments even more critical as tenants face an onslaught of eviction cases. While Local Law 53 became effective in November 2021, four months later, community-based organizations have to yet receive any of the \$3.6 million purportedly allocated towards this bill and the request for proposals has yet to be released. The city needs to get in compliance with its own law by releasing funding to the organizers. For tenants to exercise their rights, they need to know they have them.

Additionally, we need to slow down the housing court process by adjourning cases where tenants are unrepresented so as not to render the RTC law ineffective. Local Law 54 was passed in recognition of the needs of the times and reflected a codification of OCJ's practice instituted during the COVID pandemic. It eliminated the five-year phase-in period, which was implemented, in the first place, to allow legal service providers time to hire, train, and support staff and for the courts to establish the necessary infrastructure. Unfortunately, the legal services providers are not immune from the widespread staffing shortages facing many organizations. It's our understanding from Coalition partners that Judge Jean Schneider (NYC Housing Court Citywide Supervising Judge) has taken the position, that, where providers don't have capacity to accept cases in intake parts, the court plans to move these cases forward in resolution parts without an attorney, irrespective of a tenant's eligibility for

RTC. That plan is simply untenable. Moving cases forward without an attorney subverts the intent and purpose of the RTC law and represents a retraction of the ground gained by tenants in securing this hard-won right. To be clear, no case should move forward without an attorney.

Moreover, legal representation should be meaningful. Tenants are entitled to due process and quality representation and do not deserve an overworked, overburdened attorney with caseloads so huge they cannot devote adequate time, attention, effort, and resources to their clients' cases. Nor should cases be proceeding with all deliberate speed so that the clearing of court dockets is carried out at the expense of effectuating a tenant's right to legal representation.

Thus, I strongly urge this City Council to fully implement both Local Law 53 by providing funding and support to tenant organizers and ensure that Local Law 54 is carried out as intended.

Thank you.

Good afternoon committee members and Chair. My name is Dianna Prashad. Thank you for allowing me the opportunity to address the committee for today's hearing to provide my perspective on the impact of the Moratorium.

Today marks the final day of Black History Month and yet I will be discussing how systemic racism in our city agencies like DSS, and HPD has adversely impacted my wife and I as black LGBTQ homeowners and taxpayers.

While I understand the intent of the moratorium was to safeguard New Yorkers who were experiencing financial hardships due to COVID19, in my case, the Moratorium protections were abused by NYC agencies particularly DSS and HPD to enact an agenda of retaliation and discrimination against my household.

My wife and I belong to a community of first time homeowners who by way of our contracts are obligated to maintain our homes as primary residences. On March 14, 2020, DSS illegally placed a client family into the home attached to mine and has been paying that homeowner a CityFHEPS voucher to breach her contract.

Our homes are precluded from being rented and thus DSS clients are not supposed to be onsite renters due to these contracts that we hold with NYC HPD.

Every homeowner in my development is required to remain in our homes until 2032.

Because of this moratorium DSS has refused to remove their illegally placed DSS clients from the home attached to mine from March 15, 2020 to present.

On December 2, 2021 my ongoing nightmare with these NYC agencies as well as their clients was published in "The City" an online newspaper. I will be attaching this article as addendum to my testimony today.

From March 15, 2020 to present, my wife and I have been dealing with numerous issues from this illegally placed DSS client family into a home precluded from rented:

- We have been and continue to be threatened with physical and bodily harm by this illegally placed DSS client family. These threats were even verbalized to the NYPD. They have been enduring from 2020 to the present day.
- They have damaged our property.
- They have made threats to damage our vehicle and in January 2021 these threats were realized in vivid detail. There are police reports documenting this.
- We are being consistently debased on our sexuality and continue to experience homophobic slurs by parents and children alike.

- Our quality of life has been adversely affected since the home was only supposed to be occupied by three person household and this DSS client family consists of nine or more people and an indeterminate amount of people that have been residing there.
- DSS has allowed an active drug dealer to reside and deal drugs on premises as this is the occupation of the father of this household.
- DSS clients have also allowed an illegal car rental scheme being brought to our community by these illegally placed DSS clients.
- DSS has also allowed an illegal daycare to be operated out of this private home where it is a nuisance to homeowners.
- The quality of life issues from this family are numerous and enduring until the present day. They entertain 24 hours per day; have a constant flow of human traffic through the premises; they knowing, intentionally and purposefully are blasting their music throughout our house and have been pounding on our walls when we notify the police.
- These DSS clients are outright disruptive and these behaviors and their illicit activity have all been reported to the agencies inclusive of their Commissioners in writing such as Gary Jenkins, Bill DE Blasio, Louise Carroll, Stephen Banks, Erin Drinkwater and even HPD's General Counsel Nicholas Lundgren, yet nothing has been done to date to terminate this illicit rental.
- DSS has refused to take legal action against their clients now citing Homebase while HPD has remained mute despite their role in illegally and erroneously approving the homeowner's fraudulent application registering her home with an active owner occupancy contract as a CityFHEPS rental.
- This collective onslaught by these illegally placed DSS clients coupled with DSS' refusal to relocate them has adversely affected and continues to adversely impact twenty-two year career as I work from home and have done so pre-COVID19.
- From March 2020 to December 2021, Erin Drinkwater and Stephen Banks have used many excuses to keep their problematic clients in an illegal rental where they are actively harassing us and causing quality of life and safety issues even though per HPD, DSS was informed in July 2021 that their illegally placed DSS

clients were supposed to have been relocated from this premises at which time the Moratorium was DSS' handy excuse.

- **Post-moratorium the Jenkins Administration is now citing “Homebase” to protract these DSS clients’ illegal stay in the residence next door where our safety is at stake. What this means is that DSS is still trying not to remove this problematic and unruly clients from an illegal rental.**
- **DSS is aware of their clients’ desire to remain in the illegal residence and have provided them and continue to provide them with a plethora of excuses using gray areas in Social Service policy to continue their illegal occupation of the home and this is simply because these clients were displaced in a black community.**
- On West 79th Street when faced by the selfsame complaints of quality of life, drug dealing and safety issues via the case of the Lucerne Hotel, DSS promptly launched a legal campaign expediting evictions of homeless clients even with a backlogged court system to remove these clients from being a nuisance to a Caucasian community all of whom were in legal housing.
- My issues predated this court case and two-years later I am still experiencing the selfsame issues with pushback from these NYC agencies via their refusal to remove problematic clients from illegal housing where they continue to harass my wife and I , cause safety and quality of life issues and adversely impact my career.
- **Let me be clear that *this is not a case of landlord abuse. DSS clients were not duped into the illegal rental arrangement but rather were complicit in occupying an illegal home and were thus intrinsic to the scheme’s success.***
- ***Furthermore, “Homebase” is not being employed here to stay an eviction or circumvent landlord abuse since these DSS clients are not being evicted. They were to be relocated to legal housing but now DSS is employing “Homebase” protection to allow them to remain in the illegal rental and DSS is enabling them to the present day allowing the fraud to persist to the present day.***

- ***This DSS client family has been provided with legal apartments to view from August 2021 but have refused all and by October 2021 have even refused to view apartments invoking “Homebase” to remain transfixed in an illegal rental where they continue to harass my family, pose a safety issue for my wife and I not to mention cost me issues with my career.***
- I would like to know how DSS is being allowed to abuse their authority and infringe on our lives as taxpayers devoid of accountability.
- **How is it possible for there to be two similar cases during the Moratorium in two racially distinct communities (i.e. Eastern Far Rockaway a predominantly black low income/working class community and West 79th Street a upper class Caucasian community) yet they are handled disparately by the selfsame NYC agency, namely DSS using parameters of race and social class as mitigating factors for relief?**
- We are here to demand the removal of this illegal DSS client family.
- **We are demanding equal treatment and equal protection under the law and we are seeking your intervention by way of investigation and in placing policies and legislation in place eradicating these gray areas in Social Service laws that (a) allow both DSS personnel and clients alike to arbitrarily controvert protections set aside to safeguard against landlord abuses in legal rental arrangements (b) allow for the furthering of fraud in an illicit rental arrangement (c) as well as to circumvent disparate treatment which continues to disproportionately affect black and brown communities when the same overtures are not being employed by DSS in predominantly Caucasian communities.**

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REPORTING FOR NEW YORKERS

QUEENS

Queens Couple's Dream Home Turns to Catch-22 Nightmare Over 'Neighbors From Hell'

BY KATIE HONAN | KHONAN@THECITY.NYC | DEC 2, 2021, 8:10PM EST



Rockaways resident Dianna Prashad says she and her wife have been harassed and threatened by neighbors, Nov. 22, 2021. | Ben Fractenberg/THE CITY

A Far Rockaway couple say they're being harassed by their next-door neighbors who are accused of illegally renting a home purchased through a city program that requires the owners to live there for 25 years.

Dianna and Pam Prashad, who are in the same program, say that means they're now stuck with "neighbors from hell" — and unable to move elsewhere.

"This home was our happy place," Dianna Prashad, 45, said of the two-story, blue-and-white semi-attached home in Edgemere that she bought in 2007.

But since March 2020, just as the pandemic lockdown went into effect, the Prashads say they've faced harassment — including anti-gay slurs — from tenants next door. The neighbors moved in after the owner relocated to Delaware despite the requirement that she stay in the home for 25 years, the Prashads say.

The couple said they are receiving "constant threats" from the next-door neighbors, who they believe are targeting them because of their sexuality.

The alleged harassment began soon after the new tenants moved in, according to the Prashads. The couple say they called the police on April 22, 2020 after their next-door neighbors allegedly threatened to assault Pam while she was outside her home, they said.



The Prashads' home. | Ben Fractenberg/THE CITY

“Come and get this ass-whooping, d---,” one neighbor allegedly yelled at Pam Prashad.

Another time, the same tenant said of Pam, “that b---- needs a good ass-whupping,” the couple said.

In April, the tenants began yelling at the couple for no apparent reason as they planted flowers in front of their home, according to footage captured on the Prashads' security camera and reviewed by THE CITY.

“We’ve been directly targeted,” Pam Prashad, 50, said.

Police a Frequent Presence

They say they’ve also called the police multiple times to break up loud parties that often go into the early morning, even on weekdays, according to the Prashads.

Those calls haven’t helped.

“The police come every other day,” said one neighbor, Armando Cruz, who lives on the other side of the Prashads, although the home isn’t attached.

But he said he hadn’t heard loud music and wasn’t bothered by the people living two-doors down.



Security camera footage the Dianna Prashad says shows her neighbors harassing her and her wife, Nov. 22, 2021. | Ben Fractenberg/THE CITY

Another neighbor, Angel, who declined to give his last name, has lived across the street for more than a decade and said he sometimes hears parties and motorcycle engines revving outside in the summer.

“I don’t feel it, because they’re not next to me,” he said.

Other neighbors both on the block and around the corner said they weren’t aware of any loud parties, but knew about the dispute between the two households.

Since January, there have been seven complaint reports filed for harassment at the location, according to an NYPD spokesperson. A police source said residents of both homes have called the cops on each other.

A woman who answered the door at the home the Prashads call problematic declined to comment after speaking to her lawyer.

Couple Faults City

The tenants in that home are renting through a CityFHEPS voucher, officials confirmed. The Prashads said that points to a left-hand-right-hand failure on the part of City Hall for failing to check if the home was legally allowed to be rented.

Dianna Prashad purchased her house through a first-time home buyer program administered by the city's Department of Housing, Preservation and Development, which teamed with private developers to build on city-owned land.

Those who bought homes through the program had to meet income requirements and then received a grant from the city to help them put a down payment. But it came with a clause that required them to remain in the home for at least 25 years — with the grant reduced each year they stayed.

A spokesperson for HPD noted that the majority of homeowners who have bought homes through these types of programs are in compliance, and the programs have been important in helping people afford a piece of real estate in an increasingly expensive city.

“Homeownership is a powerful tool to stabilize neighborhoods and help New Yorkers build equity and intergenerational wealth,” the spokesperson, Anthony Proia, said.

When owners don't comply, “the city will pursue legal action to ensure compliance,” he said.

COVID-19 and the statewide eviction moratorium has also further complicated the tenants' situation, an official said, but the Prashads believe the city should find comparable housing for the tenants so they can be left alone.

And the larger issue is the city's own lack of enforcement on its own covenant of home ownership, the couple said.

The Prashads said they've only been asked once to verify they lived in the home, back in 2010. This lack of enforcement has allowed some people to take advantage of the program, while they and others have suffered, Dianna Prashad said.

"Given the primary residence clauses in our contracts, I should not have had to report the breaches on my block as it was HPD's responsibility to monitor these contracts for compliance," she added.

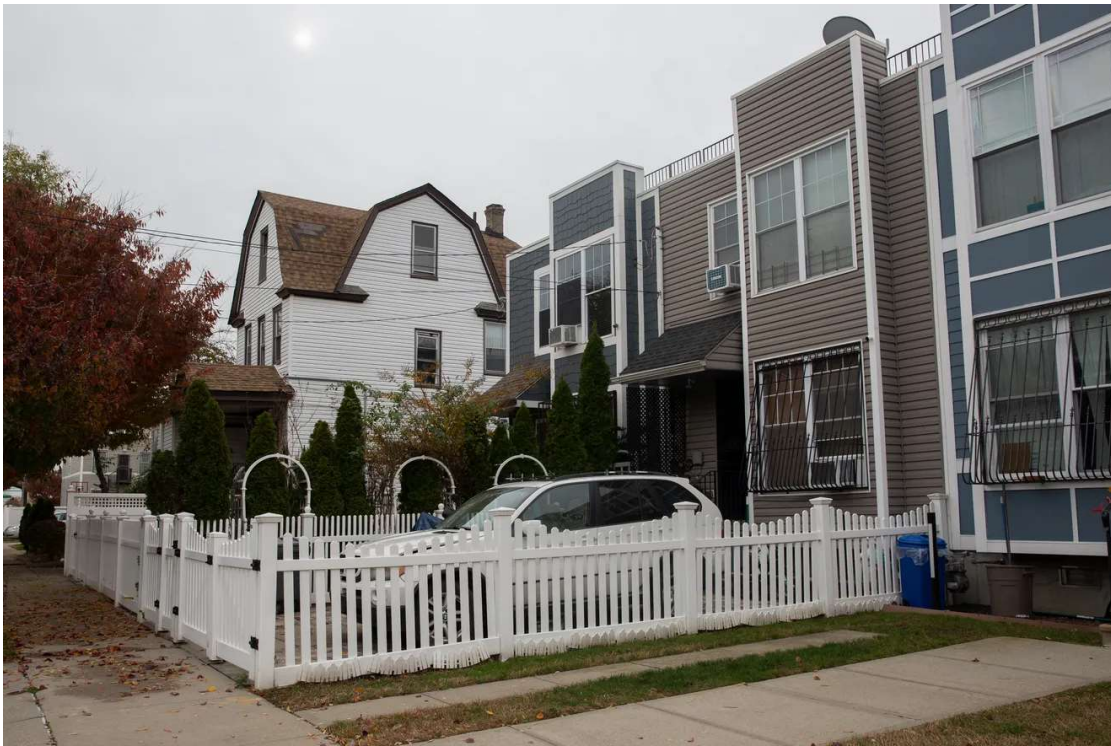
'I No Longer Feel Safe'

She feels stuck in the home, she said. To move, she would have to first find a buyer willing to take on the 11 years left on her deed, and then pay off her mortgage and the money remaining on the city-issued grant to first buy the home — totaling close to \$200,000, she said.

Dianna Prashad said she spent close to \$100,000 after the home was severely damaged due to Hurricane Sandy, and current real estate prices around New York City make it nearly impossible for her to buy elsewhere.

HPD investigates complaints about homeowners violating the owner-occupancy agreements and also when there are changes to the mortgage, Proia said.

HPD says it's currently pursuing legal action against the next-door neighbor in question, Gail McMillan, who paid off her existing mortgage but is still required to live in the house if she owns it.



The block in Edgemere, Queens, Nov. 22, 2021. | Ben Fractenberg/THE CITY

City property records show she took out a second mortgage on the home in March, where she listed her primary residence as Delaware — and that the Queens property is an investment to receive rental income.

McMillan declined to comment when reached by phone.

The Prashads sued the city over the situation in September 2020. The couple filed an appeal in the case this past August after a judge ruled in favor of the city’s motion to dismiss the claim, according to court documents.

“This has affected my job, the city is aware of this but they don’t care,” Dianna Prashad, who works from home in a government job, said.

The couple has received the support of local elected officials, including Councilmember Selvena Brooks-Powers (D-Queens) and Rep. Gregory Meeks (D-Queens, Long Island), who sent a letter to the mayor in October on behalf of the Prashads.

“This ongoing situation has not only been extremely disruptive to the lives of Ms.

Prashad and her partner, but it is unacceptable that the city has allowed it to continue,” they wrote, demanding the city find a new home for the tenants.

“I no longer feel safe in my own home,” Dianna Prashad said.

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From: JOAN CHU <jchu3888@gmail.com>
Sent: Monday, February 28, 2022 4:06 PM
To: Testimony
Subject: [EXTERNAL] Testimony for 2-28-2022, 10am, Committee on General Welfare, Impact of the Expiration of the Eviction Moratorium
Attachments: Testimony for 2-28-2022, Committe on General Welfare, Impact of the Expiration of the Eviction Moratorium.docx

Dear Chair Ms. Ayala and Moderator Ms. Kilawan:

My name is Joan Zhu. I testified today at 1:40pm via Zoom Web on 2/28/2022, Committee on General Welfare, Impact of the Expiration of the Eviction Moratorium. My case went alive on NY1 News Live 10pm, Special Report on 2/17/2022. I am a small landlord who is at risk of losing the house after about 2 years of not getting any rent. My ineligible outrageous tenant is abusing the ERAP and playing the court system which hurts me as a landlord and other low income families who indeed need the help with the federal/city funding. I can be reached at _____ or email at jchu3888@gmail.com for further assistance.

Again, thanks so much for your time and consideration!

Best,

Ms. Zhu
a small landlord of a 2 family private house

Testimony for 2-28-2022, 10am, Committee on General Welfare, Impact of the Expiration of the Eviction Moratorium

My rich tenant owns 2 perfume factories in Brooklyn Industry City with estimated annual sales of \$4.5 million. On his reported tax return, he makes \$270,000 a year. He also owns a \$1.6 million mansion which is on the same street as my property. But he did not pay me a dime for 22 months, which is \$55,000 back rent, and he refused to move back to his mansion. Per ERAP's guideline, an application over 120% AMI will be denied. However, my tenant still applied for ERAP. After his ERAP got denied, he gave false testimony in court which successfully put my case off the court calendar. After my attorney filed a motion to restore my case in court, he applied for ERAP again. He is just simply abusing ERAP and hurts me as a landlord and other tenants who are in need of ERAP. My tenants fight, scream, and yell at late night and neighbors filed attested complaints with the Kings Supreme Court. My tenant has been harassing me by filing frivolous reports with HPD, texting me at 5am in the morning, and damaging my property. All of these were filed with Kings Housing Court and Kings Supreme Court. I even had a NY1 news reporter reported my case on NY1 News Lives 10pm. However, I still do not get any judge to rule on my case to evict my rich and outrageous tenants. My 2nd floor tenant could not endure my violent and noisy 1st floor tenant, so they have moved out. My neighbor at 2530 had built a sharp metal fence to separate my property from his because he is also afraid of my violent tenants. My rich tenants still ignore numerous court papers which were delivered to his attention and did not bother to hire an attorney despite the housing court judge having already requested him to hire one in November 2021.

My younger brother is getting married next week, on March 1st. I need to take my 2 family private house back so that our two families can live together in my two family house. Per ERAP's guideline, it does not matter whether a landlord receives ERAP or not, the non-paying tenants may be evicted, if the landlord wants to have the property back for herself and immediate family to use. I have already paid out \$8,000 attorney fee. But my cases are going nowhere. I had waited for 2 years to have the eviction moratorium expired. However, my illegible tenants are using the ERAP to prevent eviction and continue staying in my house for free. We cannot stop illegible tenants from applying for ERAP.

Can I disclose my Kings Supreme Court case no., Kings Housing Court case no., and ERAP case no. ? Are they all public info. ? Please see below for the link to the NY1 news and transcript.

<https://www.youtube.com/watch?v=fOHvBRDNUfY>

The eviction moratorium has been largely celebrated by housing advocates for keeping New Yorkers from becoming homeless. But it has put a strain on small landlords across the city, some who have gone nearly two years without any rental income. And while the moratorium has been lifted — many are still waiting for their day in court.

“They're playing with the system. They try to stay in a place as long as they can,” said Joan Zhu, a small property owner in Brooklyn.

Zhu said she hasn't received any rental income from her Sheepshead Bay apartment unit in nearly two years. She said once the eviction moratorium went into effect in March 2020, her tenant paid April's rent and hasn't paid a dime since.

“He asked me to put the mortgage into forbearance, not paying my property tax bill. He said, 'It's pandemic. There's nothing you can do about it. I just stay here,’” said Zhu.

Zhu said she pays \$3,128 a month for mortgage, property taxes and water at the two-family home. Her tenant's \$2,500-a-month rent payment would have covered the majority of that.

The eviction moratorium at first prevented landlords from filing any new eviction cases and paused pending evictions to prevent people from having to move and potentially be exposed to COVID-19. It also gave landlords protection from foreclosure on their mortgages. But that too expired, with the moratorium last month.

Renee Digrugilliers, who practices landlord-tenant law, said the pandemic protections are still hurting landlords.

“The two family homeowners who are dependent on this rent to pay their mortgages are going to lose their homes because nobody's doing anything to help them,” Digrugilliers said. “And the reality is, I shouldn't just single them out because the large landlords, of course, everybody thinks, 'Well, they can afford to take the hit'. But what everybody forgets is, they still have to pay their real estate taxes. They still have to pay to maintain the building. They still have to pay to heat the building. They still have to pay their employees. How do people think that these buildings are going to run?”

Zhu's case is one of tens of thousands of pending eviction cases in the city. Hers did go before a Brooklyn judge in November. According to court documents, her tenant told the judge he had an active E-RAP, application, and that put the case on pause. But according to Zhu's attorney, the tenant's E-RAP application was denied in October, a claim NY1 was unable to confirm. In a sworn affidavit, Zhu states her tenant owns a \$1.5 million home two blocks away and highlights a 2017 income tax return showing more than \$270,000 in income.

"I'm working so hard to keep them in my place. How would that be fair?" Zhu said.

We were unable to reach Zhu's tenant at her rental apartment, and by personal and business phones. It's not clear if he has retained an attorney for his eviction case. Her case is scheduled to go before a judge next week. Currently, her tenant owes her \$55,000, and she's paid out \$8,000 in attorney's fees.

Examples of Poverty Tenants Paying more than 30% for Living, Denied ERAP, Denied Ability to Transfer to Lower Cost Apartments; "Waiting" for funding

My name is Katrina Corbell, a current tenant in the Bronx. To the objections of some non-profit organizations, but with the overwhelming support of many others I applied for an ERAP. I waited for the application to work, as it had a delay at first. (We were supposed to apply in May 2021, right? But took OTDA about a month to get it going?)

I think I had about 3 or 4 user names because of complications in the systems. It didn't recognize incomplete applications at first, etc. Other issues for other opportunities to critique.

By the time August or September, 2021 arrived, my landlord urgently asked, supported tenants in my apartment to apply if we hadn't yet. I was surprised, tbh, as usually I was initiating things (as I had mentioned this to them months earlier and participated in actions demanding rent relief, but impressed that landlords/orgs were encouraging tenants to sign up, finally. Figures, as they are getting money out of it, I guess?).

It was such a headache as even the landlord's worker found one of my stalled applications, we had to update my password 3 times, finally got all of the information needed, and submitted a complete application.

The answer I received was that because I am in a certain category of apartment (rent stabilized, rent subsidized, project based section 8 or maybe there are others?), despite my (lack of) income qualifications as I am well below 30% AMI?, they need to hold the funds for others who do not have rent stability.

I also know I can go to other non-profits and many have rent or/and utility relief, and thank you for those programs and your donors. I haven't yet, because I dreamed of a day like this where we can show the issues that need to be dealt with, that those of us in poverty are still being overlooked. That those of us on TANF getting \$183 a month (with neighbors on SSI or VA/SSD) have utility bills sometimes \$45 a month, sometimes \$95 a month (after landlords and ConEd denied any assistance programs; finally that kicked in and about \$15-25 was saved?) *AND* wifi exclusively contracted to one partner for a fixed \$54.95; while some on SSD making, \$1300? 1500? Plus dependents' portions pay for a different section-8 rent that includes utilities and wifi for the same type of "30% max" baseline.

Ironically, my SSI application was approved after an 18 month process. It seems as though HRA and SSA will pay back HRA my \$215 monthly rent portions, although that and my ConEd (wifi doesn't count even though it was needed for my Covid, Long Covid, Epilepsy, Asthma, and Virtual Urgent Care appointments, my Mental Health appointments including an awesome case

worker who checked in on me during covid to make sure I was still alive, other health appointments; my church(es; and the non-profit organizations to meet, organize, rally and figure out what needs to get done) will end up exceeding the 30% rate that NYCHA and others use. Not only 30% of the SSI for Single adult, living alone (INSERT AMOUNT), but especially 30% of the amount of money after the health deductions are factored—averaging \$200. In 2021, SSI was around \$761 for outer boroughs. Less 200 means \$561. (Yes, if HPD, HUD, HRA, and SSI all work together, that amount might be adjusted as I am supposed to receive more than \$20 from OTDA, but they haven't yet. I likely get another Fair Hearing trial where the judge will ask why did you let this happen, and the city, county, or state agency sends a worker who shrugs and says they didn't enter anything, the system is so big and they are just sent to represent at the hearing. See my 2013 example when I was awarded backpay for HRA and OTDA denying me SNAP because homeless people had *no other life expenses* than food. Yeah.)

So, even if I were to be awarded ERAP, I couldn't fully, because it's being taken out of SSA. SSA will pay back HRA. Still funds directed to me, paying back, I get it, but hence making me ineligible to receive ERAP as now my rent will have been paid, if that makes sense. And I also wanted to speak on behalf of others this may be applying to, whom may be in similar positions, that may not have heard about this hearing or who never heard about possibly qualifying for ERAP as a case worker or landlord explained their rent would not qualify as I initially had. That project-based section-8 was guaranteed housing, hence not at risk for eviction so we need not apply for this. I asked, what about the utility assistance? What about the high, unforeseen costs covid-19 has had on my budget, my life? As those are examples of why I felt I was still eligible to apply, so I did.

I know this may be talking in circles: I visited the HPD website. They claim some of their housing is for 30% AMI, which is at least 28K for a household of 1. Most if not all of those housing programs do explicitly state that electricity is not included in the 30% rent. I have not had time to research how that level of housing is exempt from or able to differ from NYCHA standards, as my current income is more similar to NYCHA levels. Though currently at the SSI around 761 retroactively for some of 2020 and 780-something for 2021, and now 840 maybe for 2022, I first moved in here with TANF/GA of around \$22.50 every 2.5 weeks even though it is supposed to be every 2 weeks; then was briefly upgraded to \$91.50 every 2.5 weeks (again, supposed to be every 2 weeks); then completely cut because I did not miss a WeCARE appointment (to maintain disability status within HRA programs) to keep SNAP and GA in order to go to a reassessment meeting at a JobCenter (why did they not see I already had a mandatory appointment 9 miles away and could not be at two places at the same time?).

It took over three months as COVID-19 had also then hit both the city, state, select parts of the country and more attention in the world when Urban Justice Center helped make HRA reinstate and backpay the TANF/GA and SNAP. This was when 3 different departments at Urban Justice were trying to find out how to help me get food, how to help my ESA get food, when a dear

friend in Maryland had to pay for an uber/lyft when my “supportive” home was flooded from an upstairs tenant and the “support” was saying for me to pay for all expenses myself and submit for reimbursement (with what money?!?!).

More examples of the war on the poor. Wars on Poverty. From all angles. All hours. All the time.

I am trying to draw attention to why I filed for ERAP, as if I am going to by default already be paying at least 38% of my income for rent, at times much more. It took years to finally qualify for medical transportation services to be awarded. I only learned of this last week after demanding a fair hearing trial; then I was called and asked, “Why, it was granted Nov 2021?” 2019-2022 I keep relying on rideshare and taxicabs for transportation to at least train stations if not the \$50-75 appointments themselves. Those months, especially with 3 or 4 appointments, medical expenses were more than the 38%. I am currently working with NYC’s Financial programs to research the proper tax codes needed for which policies apply to me as far as NYCHA or HPD if I am a HUD tenant as far as this 30%-includes-utilities, as I had initially been told there was no utility assistance and then six-eight months later began receiving a small credit. (Not the equivalent of the difference between 30% and 215 though!)

Again, those of us who tried to apply in May, June 2021 even if only for utility assistance need to be listened to. Yes, various non-profits already have budget for assisting with bill payment. However, ideally why and how those on GA/TANF, SSI, SSD, VA benefits and similar forms of government and usually disability benefits, often poverty levels, were overlooked. “less risk of eviction,” yet then receive higher than 30% rent bills before factoring in basic utilities, let alone wifi? And yes, my landlord’s agency, or one employee, did threaten to evict me and send me back to Franklin to start the process over again instead of, perhaps, researching how to transfer me into a more income- or benefit-appropriate level program/placement. Others never return my call asking for guidance with the ERAP, but even the places OTDA referred me to never followed up with our scheduled appointment.

One thing I had tried researching, too, was if I had been awarded an ERAP was if I was entrapped in an unsafe building based on actions of my neighbor(s). I was told not necessarily, or/and I could still file emergency transfer requests with HPD, but HPD still has yet to return my call.

I do hope that there are ways for slum/landlords to not be entrapping tenants that are seeking financial assistance (rent and utilities) yet still seeking safe, homely places (“quiet enjoyment,” in peace and without interference) to live and safe neighbors to live around.



TESTIMONY OF THE NEIGHBORHOOD DEFENDER SERVICE

before the

Committee on General Welfare

IN RELATION TO

Impact of the Expiration of the Eviction Moratoriums

by

Emily Ponder Williams

Managing Attorney, Civil Defense Practice

February 28, 2022

Introduction:

I am Emily Ponder Williams, Managing Attorney of the Civil Defense Practice at Neighborhood Defender Service of Harlem (NDS). NDS is a community-based public defender office that provides high-quality legal services to residents of Northern Manhattan and a member of the Leap coalition, a collective of civil legal services providers serving low- and no-income clients facing displacement and other civil legal needs. Since 1990, NDS has been working to improve the quality and depth of criminal and civil defense representation for those unable to afford an attorney through holistic, cross-practice representation. As a holistic public defender office, NDS is particularly familiar with the collateral consequences of homelessness and instability, including an increased chance of entering the criminal legal and child welfare systems. With an aim to help disentangle clients from these systems, NDS has provided these essential civil legal services to our clients for the last 30 years. With the early implementation of Right to Counsel in key Northern Manhattan zip codes, NDS joined the Right to Counsel Coalition and also began serving the community through the Right to Counsel Program.

Throughout the pandemic, as many cases grinded to a halt in Housing Court, NDS continued zealously serving our clients. We represented individuals illegally locked out of their homes, asserted the rights of those protected under eviction moratoriums while defending those who were excluded, and worked with clients to obtain hundreds of thousands of dollars in State ERAP assistance. Our advocacy has involved attorneys, social workers, and non-attorney advocates working to address not only a client's legal case, but also assisting them in obtaining stabilizing benefits and connecting them with other social services. At all times, we have remained committed to providing the highest quality, holistic legal services as we fight to preserve our clients' homes and the stability that minimizes future system contact.

Challenges to Effective Representation

As the eviction moratorium lifts, our commitment remains unchanged. However, the current influx of cases assigned through the Right to Counsel program has strained our already limited capacity to do so. This influx comes from older cases commenced pre-pandemic but paused due to the moratorium as well as through new filings. Indeed, some cases have been pending for *years* and may be mid-trial or on appeal, but only now assigned through Right to Counsel because they were not eligible under the zip code assignment model pre-pandemic. On a given day assigned to intake, NDS attorneys must field cases coming through three different virtual "courtrooms" and may be assigned 25-30 new cases each shift to be handled by our 7 staff attorneys, two supervisors with support from two legal advocates and a social worker with other practices. In between intake shifts, our staff is fielding a constant stream of referrals sent directly from the court or through Housing Court Answers asking us to connect with unrepresented litigants. Each assignment requires us, outside of the courtroom, to attempt to contact the potential client through phone or email to assess income eligibility and engage. All of these assignments require follow up with the court and the Office of Civil Justice to indicate whether we are retaining a client, we cannot contact a potential client, or the potential client is ineligible financially. For those we have not been able to contact, the court still requires us to appear on subsequent court dates. These processes require significant time, effort, and coordination by our staff. Indeed, the volume and inefficiencies around the right to counsel assignment process places a heavy burden on providers and strains our ability to provide our clients with more than just access to an attorney, but rather a meaningful right to counsel.

Realizing a True Right to Counsel

To be sure, a true Right to Counsel requires much more than appearing in court and filing legal papers; in many cases, our representation requires us to work with the client and various city and State agencies to obtain rental assistance and subsidies, resolve public benefits issues, connect clients with social services,

and more. These are integral to the legal case, yet require extensive non-court advocacy. The challenge of obtaining rental assistance in the present moment is illustrative of the dedicated advocacy required. Throughout the pandemic, obtaining any form of assistance besides State ERAP funding was nearly impossible. HRA required our clients who were clearly ineligible for ERAP to submit an application anyway and secure a denial before the agency would consider a “One Shot Deal” request. Even then, HRA’s inefficiencies prevented nearly all of our clients from obtaining non-ERAP assistance; the agency often required submission of the same documents numerous times, then would fail to act on an application despite consistent follow up and advocacy on behalf of NDS attorneys. After 30 days with no action, the agency would deem the application denied, and require submission all over again.

These challenges have remained in the current stage of the pandemic, despite the fact that the State has made patently clear no ERAP funds are available. For instance, one NDS Legal Advocate recently worked with a client to obtain arrears assistance from HRA after she was, as expected, found ineligible for ERAP assistance. In all respects, she met the qualifications for a One Shot Deal. However, three weeks after submitting an application along with a detailed advocacy letter from NDS’s advocate and proof of the ERAP denial, HRA denied the application without explanation. Upon further inquiry, HRA told NDS’s advocate the application was denied because an ERAP application was pending. When NDS’s advocate contested this false basis and once again provided proof of the ERAP denial, HRA claimed the application was “expired” and would have to be resubmitted. Only after significant advocacy, including laying out the patently nonsensical and prejudicial actions taken by HRA on emails including numerous HRA supervisory personnel, was the One Shot Deal application approved and our client able to avoid eviction.

This example details just how essential non-legal, holistic services are to providing meaningful representation to tenants facing eviction. Yet, current contracts with the Office of Civil Justice, and the unending tide of cases assigned through Housing Court, leave little room to hire any staff besides line attorneys to handle the required case volume. The lack of ability to provide additional supervisory, administrative, social work, and non-legal support is a distinct contrast to the City’s recognition of how essential these holistic services are in other assigned counsel contexts, including criminal court and child welfare proceedings. Indeed, NDS’s Criminal Defense and Family Defense practices have long benefitted from the City’s recognition that the right to counsel means more than mere access to an attorney.

We thank City Council for their efforts in ensuring tenants have access to counsel in Housing Court. However, it is essential to provide the same robust support to indigent tenants in Housing Court as in other contexts in order to fully realize the right to counsel. This is true not only in the moment of ending eviction moratorium, but as New York City continues to pioneer and define this right. Doing so is of paramount importance as legal services offices like NDS fight for *lasting* stability for our clients, their neighborhoods, and the fabric of New York City.