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**THE COUNCIL OF THE CITY OF NEW YORK**

**COMMITTEE REPORT OF THE LEGISLATIVE DIVISION**

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**COMMITTEE ON GENERAL WELFARE**

**Hon. Diana Ayala, Chair**

**COMMITTEE ON HOUSING & BUILDINGS**

**Hon. Pierina Sanchez, Chair**

**March 27, 2023**

**Oversight: Universal Access to Legal Services Law**

**Proposed Res. No. 345-A:** By Council Members Sanchez, Stevens, Restler, Joseph, Williams and Abreu

**Title:** Resolution calling upon the New York State Legislature to pass and the Governor to sign, A.1493/S.2721, in relation to establishing a New York state office of civil representation to provide access to legal services in eviction proceedings

**Proposed Res. No. 499-A:** By Council Members Abreu, Restler, Hudson, Richardson Jordan, Ayala, Marte, Joseph, Riley and Krishnan

**Title:** Resolution calling upon the New York State Legislature to introduce and pass, and the Governor to sign, A.4993/S.3254, requiring that any party eligible under local law for free legal counsel for an eviction proceeding, that has made a good faith effort to secure such counsel, may be granted an adjournment by the court for additional time to secure counsel

1. **Introduction**

On March 27, 2023, the Committee on General Welfare, chaired by Deputy Speaker Diana Ayala, and the Committee on Housing and Buildings, chaired by Council Member Pierina Sanchez will hold an oversight hearing entitled “Universal Access to Legal Services Law” regarding the implementation of Local Law 136 of 2017. This law created the Universal Access to Legal Services (UA) program, also known as Right to Counsel, which provides representation to low-income New Yorkers facing eviction in New York City Housing Court. The Committee on Housing and Buildings will also consider Proposed Resolution (Res.) Number (No.) 345-A, sponsored by Council Member Sanchez, and Proposed Res. 499-A, sponsored by Council Member Shaun Abreu. The Committees expect to receive testimony from the Office of Civil Justice (OCJ), legal service providers, advocates, other key stakeholders, and members of the public.

1. **Background**

In 2014, the New York City Human Resources Administration (HRA)/Department of Social Services (DSS) created the Homelessness Prevention Administration (HPA) to consolidate and streamline its homelessness prevention work.[[1]](#footnote-2) In 2015, HRA/DSS created the Tenant Support Unit to conduct outreach in select neighborhoods and inform tenants of their rights; field complaints about building repairs, harassment, and eviction; and make referrals to free or low-cost legal services to prevent eviction.[[2]](#footnote-3) In 2015, the New York City Council passed Local Law 61, creating the OCJ as part of HRA/DSS, to coordinate City-funded civil legal services programs and assess the effectiveness of these programs.[[3]](#footnote-4) OCJ functions as an integrated unit within HPA, complementing the HPA’s eviction prevention services (e.g. rental assistance and emergency grants) with the provision of free and low-cost civil legal services to New Yorkers in need of such services.[[4]](#footnote-5)

New York City’s investment in civil legal services—free and low-cost legal assistance to individuals with non-criminal legal problems, such as tenants facing eviction, disrepair, and other housing issues—has increased significantly, from $6 million in Fiscal Year 2013 to $166 million in Fiscal Year 2022.[[5]](#footnote-6) This increase is driven in part by New York City’s initiative to provide civil legal assistance to low-income tenants facing eviction and other housing-related legal problems to tackle the issues of homelessness and lack of affordable housing.[[6]](#footnote-7)

Even more New Yorkers now find themselves straining or unable to pay their rent, which may lead to eviction. In 2021, more than half (53% or just under 1 million households) of New York City renters, were considered rent burdened, meaning they paid more than 30% of their incomes toward rent.[[7]](#footnote-8) Additionally, 32% of New Yorkers are severely rent burdened, meaning that they spend at least 50% of their income on rent.[[8]](#footnote-9) Among those who were severely rent burdened, 17% reported missing one or more rent payments in the past year, and two out of every five such households were still behind on rent when they were surveyed.[[9]](#footnote-10) These rent burden rates also highlight the racial disparities in the rental housing market, with 36% of households headed by a Black or Hispanic New Yorker being severely rent burdened in 2021.[[10]](#footnote-11)

The issue of rent burden is compounded by a dwindling affordable housing stock and unscrupulous landlords abusing rent-regulation laws.[[11]](#footnote-12) Between 2005 and 2017, over 425,000 apartments renting for $900 or less per month disappeared from the city’s housing inventory.[[12]](#footnote-13) Of these units, over 55% of them saw rent increases between $1,051 and $1,650.[[13]](#footnote-14) In 2005, 78.4% of rental apartments in New York City rented for $1,200 or less per month, but by 2017, just 60% of apartments rented for that amount.[[14]](#footnote-15) One factor that may have contributed to rising housing costs is that the supply of housing has failed to keep up with the continuing growth in the City population.[[15]](#footnote-16) Between 2005 and 2016, the City added an estimated 576,000 residents, but only added 76,211 new units.[[16]](#footnote-17) Further, while rent regulation laws help preserve affordable housing, historically, landlords have used loopholes to displace tenants from rent-regulated apartments, harassing tenants into vacating their homes and allowing these landlords to “cash in” on rising market rents.[[17]](#footnote-18) The City lost 88,518 units of rent-regulated housing between 2005 and 2017, which is more than the entire addition to the stock of occupied rental housing.[[18]](#footnote-19) More regulated units were removed from the inventory than were added in every year except 2017, when a large number of rental units were stabilized after the renewal of the 421-a program.[[19]](#footnote-20) The 421-a program is a tax incentive for real estate developers that exempts certain new multiple dwellings from local property taxation.[[20]](#footnote-21)

1. **Universal Access**

In 2017, the City Council passed Local Law 136, known as the UA law or Right to Counsel, which tasks OCJ with providing free legal representation to tenants earning no more than 200% of the federal poverty level and who are facing either eviction in Housing Court or tenancy termination from New York City Housing Authority (NYCHA).[[21]](#footnote-22) Local Law 136 also requires OCJ to provide free limited legal assistance to tenants who earn more than 200% of the federal poverty level.[[22]](#footnote-23) The law mandated that OCJ implement these programs before Fiscal Year 2022.[[23]](#footnote-24) In light of this mandate, HRA’s baseline budget in Fiscal Year 2018 included $77 million for tenant legal services programs, consisting of the Administration’s $15 million investment in the first phase of the UA implementation and $33 million for Anti-Harassment and Tenant Protection (AHTP) programs.[[24]](#footnote-25) By Fiscal Year 2019, the baseline budget for tenant legal services increased to more than $104 million.[[25]](#footnote-26)

However, in 2020, as the COVID-19 pandemic began, OCJ pivoted from expanding coverage to eligible tenants in phases by zip code to providing access to legal services to all eligible tenants citywide.[[26]](#footnote-27) The City Council codified this approach, and the Mayor signed Local Law 54, which officially accelerated the mandate for RTC by over one year to meet the needs of New Yorkers during the pandemic.[[27]](#footnote-28)

Historically, the number of tenants represented by an attorney in housing court has been low, with only an estimated 1% of tenants having representation in housing court in 2013.[[28]](#footnote-29) However, according to OCJ, by the fourth quarter of 2021, more than 71% of tenants facing eviction were represented by counsel in housing court, a 38% increase from the first half of Fiscal Year 2020.[[29]](#footnote-30) When cases where only brief legal assistance or advice was provided to tenants are included, that number increased to 74% of tenants receiving RTC legal services.[[30]](#footnote-31) In raw numbers, 12,736 individuals received City-funded legal assistance in Fiscal Year 2014, before the UA law was enacted.[[31]](#footnote-32) That number increased to 87,419 in Fiscal Year 2018 and 105,045 in Fiscal Year 2019.[[32]](#footnote-33) However, those representation rates differed considerably across the boroughs. Manhattan and the Bronx had the highest rates of representation both at 89%, followed by Queens at 85%, Staten Island at 68%, and Brooklyn at 59%.[[33]](#footnote-34)

1. *UA Impact on Housing Court*

Since its implementation, UA has had a significant impact on the outcomes of Housing Court proceedings. Early data after UA’s implementation indicates that tenants achieve better results when represented by counsel than they would otherwise have achieved.[[34]](#footnote-35) Unrepresented tenants lack familiarity with fast-paced, legally-complicated housing court procedures.[[35]](#footnote-36) Before UA’s implementation, a study by Natasha Leonard, a senior program specialist for housing and community development at the National League of Cities, estimated that 80% - 90% of landlords in housing court had legal representation while only 3% - 10% of tenants had legal representation.[[36]](#footnote-37) The study found that tenants were 88% more likely to have legal representation as a result of the program.[[37]](#footnote-38) Further, tenants who received legal representation as a result of the program were 62% less likely to be subject to possessory judgments and 72% less likely to have eviction warrants issued against them; they even saw an 85% reduction in monetary judgments issued against them in back rent.[[38]](#footnote-39)

During Fiscal Year 2018, of the 22,000 New Yorkers represented by attorneys provided through UA in eviction proceedings, 84% were able to remain in their homes.[[39]](#footnote-40) In addition, during 2017 and 2018, eviction filings decreased in zip codes covered by UA by 11% as compared to eviction filings in zip codes not covered by UA, where eviction filings decreased only 2%.[[40]](#footnote-41) In Fiscal Year 2019, eviction case filings decreased by 6%.[[41]](#footnote-42) During Fiscal Year 2019, 41,000 households were provided with access to counsel through UA.[[42]](#footnote-43) 62% of tenants in UA zip codes were represented by counsel, nearly twice the citywide rate of representation of 32%.[[43]](#footnote-44) In Fiscal Year 2019, 10,636, or 84%, of households covered by UA were allowed to stay in their homes, with the greatest percentage–92%–in Manhattan.[[44]](#footnote-45)

OCJ has also worked with the court system to raise awareness of UA. On September 16, 2019, the Chief Administrative Judge of the Courts issued an Administrative Order amending section 208.42 of the Uniform Rules for the New York City Civil Court.[[45]](#footnote-46) Pursuant to this Administrative Order, each Notice of Petition, which starts a Housing Court proceeding, is required to include information about UA.[[46]](#footnote-47)

1. *UA Impact on NYCHA Tenancy Termination Proceedings*

In Fiscal Year 2020, OCJ started rolling out UA for NYCHA residents facing administrative termination of tenancy proceedings.[[47]](#footnote-48) The first phase of this roll out provides coverage to NYCHA head of households who are 62 years of age or older.[[48]](#footnote-49) Legal access is provided immediately onsite.[[49]](#footnote-50) In order to facilitate representation, NYCHA schedules the first case appearance for these individuals on a specified day during which “OCJ staff and legal services provider partners screen and conduct intakes to provide immediate on-site legal services.”[[50]](#footnote-51) This onsite program will serve as a model for future roll outs of UA for NYCHA residents.[[51]](#footnote-52) Prior to the roll out of this program, during Fiscal Year 2019, only 56% of NYCHA households facing administrative termination proceedings received representation through UA.[[52]](#footnote-53)

1. **Improving UA Eligibility, Intake, and Tenant Outreach**

In November 2018, OCJ held a public hearing where advocates and legal services providers testified on the implementation of the UA law.[[53]](#footnote-54) Both advocates and providers identified broad areas where UA needs substantial improvements to ensure implementation is successful, including: (a) eligibility; (b) intake; (c) tenant outreach; and (d) Housing Court infrastructure.

1. *Eligibility*

As previously discussed, UA is limited to tenants earning no more than 200% of the federal poverty guidelines. Both advocates and legal service providers find this criteria too restrictive.[[54]](#footnote-55) Currently, to be eligible, tenants must earn less than 200% the federal poverty line, meaning that a family of three would need to earn less than $49,720 to be eligible. Oskana Mironova, a housing policy analyst from the Community Service Society and the author of the recent study from the OCJ on UA, states, “if you’re in this space where you’re above 200% of the federal poverty line, but you’re not super wealthy, you’re not going to have enough money to hire lawyers.”[[55]](#footnote-56) The New York City Right to Counsel (RTC) Coalition estimates that 31% of tenants in the City’s Housing Court do not have representation because they make over the current income threshold.[[56]](#footnote-57)

 In addition, UA only provides full legal representation in Housing Court eviction proceedings and NYCHA tenancy termination proceedings.[[57]](#footnote-58) Advocates and legal services providers find this requirement too restrictive as it does not cover cases in higher courts or administrative hearings, such as NYCHA administrative hearings (besides tenancy termination hearings), Supreme Court ejection cases, Housing Development Fund Corporation (HDFC) cases, and Housing Preservation Development (HPD) hearings for Mitchell-Lama residents.[[58]](#footnote-59) Moreover, the law does not guarantee tenants legal counsel in appeals.[[59]](#footnote-60) According to the Legal Aid Society, “with more tenants than ever being represented and wining their cases, landlords are filing more appeals. Without legal representation to defend their victories, tenants will be left alone when the final, most consequential, decision is made.”[[60]](#footnote-61)

The RTC Coalition, has called for the expansion of the program eligibility requirement, including increasing the income threshold to 400% of the federal poverty level and providing full legal representation in appeal cases and cases in administrative hearings and higher courts.[[61]](#footnote-62)

1. *Intake*

Currently, tenants eligible for representation under UA are connected with legal services providers via an intake process that takes place in the courthouse.[[62]](#footnote-63) Legal services providers have found this process inefficient and ineffective because of the lack of adequate staffing to meet the demand for legal representation.[[63]](#footnote-64) Both legal service providers and advocates have called on OCJ to consider creating neighborhood-based intake clinics, leveraging community-based tenant advocacy organizations as facilitators, to connect eligible tenants to legal counsel before going to Housing Court.[[64]](#footnote-65) Urban Justice Center asserts that tenants are often unaware of the UA program until their first appearance in Housing Court.[[65]](#footnote-66) According to the RTC Coalition, a neighborhood-based intake model would allow tenants to be assigned legal counsel early in the process, ensuring that these tenants do not waive their rights.[[66]](#footnote-67)

In addition, advocates and providers have taken issue with the dearth of ADA-accessible confidential spaces in Housing Courts to conduct interview intake.[[67]](#footnote-68) In the Bronx, Brooklyn, and Staten Island, providers conduct intake in non-confidential spaces in the courthouse, including in hallways and cubicles that are not sequestered from other court users and personnel.[[68]](#footnote-69) This setup makes it impossible to maintain attorney-client privilege, according to ALAA.[[69]](#footnote-70) A recent report to Judge Janet DiFiore, Chief Judge of the Court of Appeals and of the State of New York, from the *Special Commission on the Future of New York City Housing Court* (composed of housing court judges, legal service providers, OCJ, and landlords for tenants) recommends that Housing Court must make space available for confidential tenant-counsel intake.[[70]](#footnote-71)

1. *Tenant Outreach*

Advocates and legal services providers have said that tenant outreach is another area that needs substantial improvement.[[71]](#footnote-72) According to an RTC Coalition member, many eligible tenants are unaware of their right to legal counsel and never make it to Housing Court, where legal counsel is provided, because of intimidation.[[72]](#footnote-73)

A survey in Bronx Housing Court, conducted by Northwest Bronx Community and Clergy Coalition, Community Action for Safe Apartments -New Settlement, and Housing Court Answers in the fall of 2018, illustrates the need for further outreach.[[73]](#footnote-74) During the survey, these groups found that 52% of tenants living in RTC-eligible zip codes did not know that the program existed before they arrived in Housing Court.[[74]](#footnote-75) The need for representation is also evident in the needs of the surveyed tenants as 75% of those surveyed reported having issues getting repairs done and 30% reported feeling harassed.[[75]](#footnote-76)

The RTC Coalition has urged OCJ to fund neighborhood-based tenant advocacy groups to conduct more tenant outreach and education, and to respond to landlord harassment. [[76]](#footnote-77) The Center for Independence of the Disabled NY (CID-NY), a RTC Coalition member, has also urged that funding for outreach and education be directed to ensure that people with disabilities are reached.[[77]](#footnote-78) This is particularly important since this group is most vulnerable to eviction and displacement.[[78]](#footnote-79) The RTC Coalition has also proposed that the City fund: (1) a public awareness campaign that includes paid subway and other media ads; (2) an ADA compliant hotline that tenants can call to get information about the program and schedule appointments with legal services providers; and (3) a web-based portal where tenants can go to check their eligibility and find information about legal services providers in their neighborhoods.[[79]](#footnote-80)

1. *Housing Court Infrastructure*

Advocates also expressed concerns regarding the structure of Housing Court, which poses significant challenges to the successful implementation of the UA law.[[80]](#footnote-81) Besides aforementioned lack of confidential tenant-counsel intake spaces, Housing Court facilities do not have ADA-accessible conference spaces in which tenants and attorneys can prepare their cases.[[81]](#footnote-82) In addition, most Housing Court facilities are not fully ADA accessible.[[82]](#footnote-83) Some courtrooms do not have space to accommodate tenants who are wheelchair users, and there is little clear signage to help tenants and attorneys navigate the courthouse.[[83]](#footnote-84) These issues form the basis of the RTC Commission’s recommendations to Judge DiFiore on improving the City’s Housing Court.[[84]](#footnote-85)

1. **Steady Decline of Tenant Representation Rates Since End of Moratorium**

During the eviction moratorium from March 20, 2020, to January 15, 2022, the number of executed residential evictions were held to minimal levels.[[85]](#footnote-86) Filings of residential eviction cases continued during this time, but at lower amounts than pre-COVID.[[86]](#footnote-87) In addition, with the expansion of UA and fewer cases being filed, the percent of tenants with representation in eviction cases rose substantially, reaching over 70% at the end of 2021. [[87]](#footnote-88)



Figure

Following the end of the eviction moratorium, the number of residential eviction cases filed and the number of residential evictions executed rose while the share of tenants with representation in eviction cases fell sharply.[[88]](#footnote-89) The number of monthly eviction case filings have reached their highest levels since the start of the COVID-19 pandemic, with at least 10,000 new cases filed each month and steadily increasing.[[89]](#footnote-90) According to The City, over 17,000 tenants did not have legal counsel in Housing Court in 2022.[[90]](#footnote-91) The weekly rate of legal representation for tenants in Housing Court has steadily declined since January, dropping as low as 6% in September.[[91]](#footnote-92) By December 2022, the total representation rate in Housing Court fell to under 31%.[[92]](#footnote-93) The representation rate drop has significantly impacted communities of color the most. Since the end of the moratorium, 82% of new eviction cases were issued in majority non-white zip codes, yet tenants from majority white zip codes were 45% more likely to receive counsel that tenants from majority non-white zip codes.[[93]](#footnote-94)



Figure

Along with this, executed evictions, while not occurring as frequently as pre-COVID months, continue to rise at a steep rate.[[94]](#footnote-95) Over 4,000 evictions have occurred since January 15, 2022, and 662 were executed in November 2022. [[95]](#footnote-96)



Figure

1. **Lack of Attorneys in Housing Court**

As the eviction moratorium expired, the number of housing attorneys leaving the field skyrocketed.[[96]](#footnote-97) In June, the Association of Legal Aid Attorneys, the union representing legal service workers, called on the City to increase salaries once it became clear that thousands of tenants were not receiving representation.[[97]](#footnote-98) Nevertheless, the City kept the funding for OCJ programs roughly at the same level.[[98]](#footnote-99) This left the Office of Court Administration (OCA) as the only entity that could provide a short-term remedy, as they can control case calendaring.[[99]](#footnote-100)

In April 2022, Legal Services NYC (LSNYC), Legal Aid, and New York Legal Assistance Group (NYLAG) wrote a letter to OCA calling on them to slow down the calendaring of Housing Court cases to ensure that tenants receive representation.[[100]](#footnote-101) However, OCA has refused to slow down the calendaring of new cases with Lucian Chalfen, spokesperson for the Court system, saying that slowing down eviction cases is like “asking the Courts to discriminate solely on who is petitioning the court” which, he added, “would set a dangerous and potentially unconstitutional precedent.”[[101]](#footnote-102) However, tenant attorneys across the city have said that adjourning or delaying cases where an eligible tenant cannot be guaranteed a lawyer is well within the law.[[102]](#footnote-103) Tenant attorneys argue the city court system has legal precedent for delaying cases until it’s able to meet a staffing need.[[103]](#footnote-104) As an example, if court staff in New York do not have the needed interpreters’ available, cases are adjourned until staff needs are met.[[104]](#footnote-105)

Poor pay and high caseloads have depressed the number of attorneys willing to participate in right to counsel.[[105]](#footnote-106) On February 21, 2023 more than 250 attorneys, paralegals, and other staffers within NYLAG, a significant number of whom work in the Tenant’s Rights Unit, walked off the job to demand pay raises and a better union contract.[[106]](#footnote-107) This follows a work stoppage by providers at the Legal Aid Society on February 8, 2023.[[107]](#footnote-108) The attorneys claim that salaries, which start at around $70,000 a year for an attorney out of law school, are not commensurate with the work they do and have led to increased attrition rates.[[108]](#footnote-109) The ending of the eviction moratorium has led to civil defense attorneys carrying a significantly larger caseload than they have had at any point in their careers.[[109]](#footnote-110) At one legal service provider, where the pre-pandemic norm was to handle about 60 cases over the course of a full year, it has become common for attorneys to have that many cases active at one time.[[110]](#footnote-111) While providers receive a new graduating class of attorneys every fall, the pool of applicants seems to be shrinking as more graduates are put off by the relatively low salaries offered by legal service providers.[[111]](#footnote-112)

1. **Fiscal Year 2023 Funding for Housing Related Legal Services**

In its Fiscal Year 2023 Preliminary Budget Response (Response)[[112]](#footnote-113), the Council included a proposal relating to the City’s Right to Counsel Program administered by OCJ. Given the end of the eviction moratorium and the economic impact of the pandemic in the City, the Council called on the Administration to ensure that OCJ’s programs were adequately resourced to address need and to add additional funding, as necessary. No additional funding was added to the budget in the Fiscal Year 2023 Executive Plan (Executive Plan), the Fiscal Year 2023 Adopted Plan (Adopted Plan), or the November 2022 Financial Plan (November Plan) to address the considerable uptick in demand for anti-eviction legal services.

As of the Preliminary Plan, HRA’s Fiscal Year 2023 budget for housing-related legal programs totaled $162.3 million. The breakdown of budgeted funding, by program, is listed in the succeeding table.

|  |
| --- |
| **HRA's OCJ Housing Related Legal Services** |
| **Description** | **Fiscal Year 2023 Budget** |
| **Anti-Eviction Legal Services** |
| Legal and Related Services to Prevent Evictions or Loss of Housing | $7,554,300  |
| Expansion of Housing Court Legal Services for At-Risk Households | $3,000,000  |
| Housing Help Program (HHP) | $3,000,000  |
| Access to Council (Universal Access) | $105,619,000  |
| **Subtotal** | **$119,173,300**  |
| **Anti-Harassment Legal Services** |
| Anti-Harassment Tenant Protection Services (AHTP) | $42,927,830  |
| **Subtotal** | **$42,927,830**  |
| **TOTAL** | **$162,101,130**  |
|  |  |
| *Source: HRA* |  |

In addition to the funding budgeted through OCJ, the City Council also supports housing related legal services through its discretionary initiatives, as detailed in the following table. In Fiscal Year 2023, $650,000 was allocated to the Council’s Housing Court Answers Initiative, which is targeted to tenants who attend housing court and seek legal support. This funding supports anti-eviction education and referral services at the City's Housing Courts and anti-eviction legal services groups that provide counseling and/or full legal representation for tenants seeking assistance in Housing Court. In Fiscal Year 2023, $3.5 million was allocated to the Council’s Legal Services for the Working Poor Initiative which supports legal representation on a range of matters, including prevention of eviction and foreclosure, amongst other types of cases. In Fiscal Year 2023, $5.8 million was allocated to the Council’s Legal Services for Legal Services for Low-Income New Yorkers which supports direct legal representation on a range of matters including, housing related matters. In addition, this funding supports community legal education presentations and pro-bono/volunteer lawyer programs.

|  |
| --- |
| **Related City Council Discretionary Funding Contracted Through HRA** |
| **Initiative** | **Fiscal Year 2023 Budget** |
| Housing Court Answers | $650,000  |
| Legal Services for the Working Poor | $3,455,000  |
| Legal Services for Legal Services for Low-Income New Yorkers\* | $5,800,000  |
|  **TOTAL** | **$9,905,000**  |
|  |  |
| \* A portion of this funding, $250,000, is contracted through MOCJ. |   |
| *Source: City Council Finance Division* |   |

1. **Conclusion**

 At this hearing, the Committees will examine the lack of representation for tenants in Housing Court and the impact such lack of representation has on tenants and on efforts to address homelessness in New York City. Additionally, the Committees will review what actions the Administration has taken to address the lack of representation, and how the Council can best support those efforts.

Proposed Res. No. 345-A

..Title

Resolution calling upon the New York State Legislature to pass, and the Governor to sign, A.1493/S.2721, in relation to establishing a New York state office of civil representation to provide access to legal services in eviction proceedings.

..Body

By Council Members Sanchez, Stevens, Restler, Joseph, Williams and Abreu

Whereas, The New York City Right to Counsel law was passed by the City Council and went into effect in 2017 and it has been effective in keeping tenants in their homes; and

Whereas, The Community Service Society, a charitable organization, stated that only 1 percent of tenants were previously represented with an attorney in housing court but when the law was implemented 74 percent of the tenants facing eviction had an attorney; and

Whereas, In New York City, the Right to Counsel (RTC) law does not cover everyone, excluding, for example, households who are above the 200 percent of the federal poverty line and public housing residents; and

Whereas, Tenants throughout the rest of the state do not have a right to counsel; and

Whereas, Research from the Right to Counsel NYC Coalition, a tenant advocacy group, documented that there were 142,806 eviction cases pending in New York State on March 15, 2020, at the start of the COVID-19 pandemic, and as of February 26, 2023 there were over 276,668 active eviction cases; and

Whereas, Providing legal assistance to households who are at risk of housing instability not only adds a layer of protection but it saves public funds that could otherwise be spent on shelters or services for people who are experiencing homelessness; and

Whereas, According to the Right to Counsel NYC Coalition, courts are moving eviction cases at a pace that results in thousands of New York City tenants who are otherwise eligible for the RTC program being denied; and

Whereas, A.1493, introduced by Assembly Member Joyner and pending in the New York State Assembly, and companion bill S.2721, introduced by State Senator May and pending in the New York State Senate would create a New York State office of civil representation that would provide the right to free and full representation to all New Yorkers in all cases that might result in their displacement; and

Whereas, A.1493/S.2721 would also be a solution to the local court crisis since it would require the court system to mandate adjournments until a tenant has been able to secure an attorney and it could help pace cases to attorney capacity; now, therefore, be it

Resolved, That the Council of the City of New York calls on the New York State Legislature to pass, and the Governor to sign, A.1493/S.2721, in relation to establishing a New York state office of civil representation to provide access to legal services in eviction proceedings.

JLC

LS 9373

3/21/2023

Proposed Res. No. 499-A

..Title

Resolution calling on the New York State legislature to introduce and pass, and the Governor to sign, A.4993/S.3254, requiring that any party eligible under local law for free legal counsel for an eviction proceeding, that has made a good faith effort to secure such counsel, may be granted an adjournment by the court for additional time to secure counsel

..Body

By Council Members Abreu, Restler, Hudson, Richardson Jordan, Ayala, Marte, Joseph and Riley

Whereas, In 2017, New York City (NYC) was the first city in the nation to pass a law guaranteeing free legal services to all tenants facing eviction proceedings in housing court, also known as the Right to Counsel law, which mandated the provision of free legal representation for those making at or below 200% of the Federal Poverty Guidelines; and

Whereas, The New York City Council passed an expansion of the law in the summer of 2020, amidst the height of the COVID-19 pandemic, to cover all five boroughs immediately; and

Whereas, The Right to Counsel law has achieved measureable effects, as the NYC Office of Civil Justice found that over the past four years, 84% of tenants who received representation under Right to Counsel won their cases and stayed in their homes, and since its pandemic-related expansion, the Right to Counsel law saw 71% of tenants in housing court with full legal representation compared with a pre-pandemic rate of 38%, and a markedly better rate than the 1% of tenants with full legal representation in 2013; and

Whereas, According to the Community Service Society, the Right to Counsel law has led to an approximately 30% decrease in eviction filings since its 2017 origins; and

Whereas, The COVID-19 pandemic saw the temporary implementation of eviction moratoriums in an effort to keep New Yorkers in their homes during an unprecedented public health emergency and consequent economic crisis that saw billions in lost revenue and wages; and

Whereas, Despite improved economic indicators in 2022, New York City’s economy still has not fully recovered, as many New Yorkers are still experiencing the impact of at least two years of lost income, and according to sources like the New York City Comptroller and New York State Comptroller, New York City’s economic recovery is still lagging behind national averages while the economy attempts to reach pre-pandemic levels of activity; and

Whereas, New York City’s Independent Budget Office forecasted New York City’s workforce to not return to pre-pandemic levels until 2025; and

Whereas, The New York State eviction moratoriums expired in January 2022, allowing eviction cases to resume in housing courts across the city while New Yorkers are facing an estimated $3.3 billion in back rent; and

Whereas, Eviction cases resuming in the City have led to housing court calendars inundated with eviction cases as courthouses face two years of eviction case backlogs along with additional new filings, with around 200,000 eviction cases filed before and during the pandemic, 6,382 cases filed in February 2022, and 7,740 cases filed in March 2022, per data from the New York state Office of Court Administration; and

Whereas, Legal service providers contracted with the City to provide Right to Counsel services, The Legal Aid Society of New York City, Legal Services NYC, and New York Legal Aid Group, released a joint statement on April 5, 2022, detailing the need for a slowdown in scheduling court cases, as factors such as the backlog of pending eviction cases, lack of staff, the prep time needed for each case, and clustered case scheduling means there would be an insufficient number of attorneys and those in need will not have their lawfully provided legal representation in housing court; and

Whereas, The contracted legal service providers have been declining hundreds of cases per month due to a lack of resources, for example, Legal Services NYC had to decline more than 475 cases in the Bronx in March of 2022; and

Whereas, From March to May 2022, Office of Court Administration data shared with New York Daily News revealed that approximately 2,500 defendants otherwise eligible for Right to Counsel representation were forced to go to housing court without any legal representation due to the insufficient number of lawyers to keep up with the number of cases scheduled in the housing docket; and

Whereas, Eviction places New Yorkers into incredibly unstable environments, contributing to increases in homelessness while also straining New York City’s already overburdened shelter system;

Whereas, New York State Assembly bill A.4993, sponsored by State Assemblymember Linda B. Rosenthal, and Senate bill S.3254, sponsored by State Senator Brad Hoylman-Sigal, would require courts to adjourn eviction proceedings to provide parties to that eviction proceeding with adequate opportunity to secure counsel in jurisdictions like New York City where access to counsel is guaranteed under law; now, therefore, be it

Resolved, That the Council of the City of New York calls on the New York State legislature to introduce and pass, and the Governor to sign, A.4993/S.3254, requiring that any jurisdiction in which a party is eligible under local law for free legal counsel for an eviction proceeding, that has made a good faith effort to secure such counsel, may be granted an adjournment by the court for additional time, if such party has in good faith attempted to secure such counsel and is unable to obtain counsel through no fault of their own, the court shall adjourn the trial of the issue for consecutive periods of not less than fourteen days each until the party is able to secure counsel

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