

**Testimony of Civil Justice Coordinator Raniece Medley, Office of Civil Justice,
New York City Department of Social Services**

**Before the New York City Council, Committee on General Welfare
Oversight: Universal Access to Legal Services Law and Tenant Protection -
March 27, 2023**

Good morning. I want to thank Deputy Speaker Ayala, the General Welfare Committee, Chair Sanchez and the Housing and Buildings Committee for holding today's hearing and for the opportunity to testify about the Universal Access to Legal Services Law. My name is Raniece Medley and I serve as Civil Justice Coordinator of the Office of Civil Justice (OCJ). Joining me today are Marricka Scott-McFadden, who serves as Deputy Commissioner for Intergovernmental and Legislative Affairs at the Department of Social Services (DSS), and Bruce Jordan, who serves as the Chief Homelessness Prevention Officer at the Human Resources Administration (HRA).

Making the vision of expanded access to legal services a reality for those facing the threat of eviction has required the commitment of so many including the leadership of the Council, including both present and former Council Members. Much credit is also due to the team at DSS-HRA's Office of Civil Justice (OCJ) as well as the advocates and legal services providers, who put in the hard work representing and supporting those facing eviction. It takes precisely this broad range of stakeholders and expertise to guide the implementation of this ambitious law. HRA'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 Universal Access-Right to Counsel-Law. Over five years ago, 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 Universal Access Law was enacted in 2017, the landscape for access to housing justice for tenants in New York City has been transformed.

Upon implementation of the Universal Access law, residential evictions by city marshals fell by over 40% between 2013 and 2019, while nationwide evictions climbed. The percentage of tenants facing eviction in court with the help and protection of legal representation stood at 38% at the end of 2019, pre-pandemic and 62% at the end of FY22, 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: in resolved cases in FY2022, 86% of households

represented in Housing Court and public housing proceedings by OCJ tenant lawyers were able to remain in their homes.

In 2020, at the outset of the COVID-19 pandemic, OCJ accelerated the citywide implementation of Right To Counsel, more than 2 years ahead of the legal mandate to meet the needs of the most vulnerable in housing court. We understood that early implementation may not be the smoothest approach to the planned expansion of services, but we answered the call and providers showed up to support tenants citywide.

We are keenly focused on addressing the needs of those facing eviction in housing court and OCJ has continued to work closely with our network of legal services provider-partners and the Office of Court Administration (OCA) to address issues impacting the cases of New Yorkers who are entitled to free legal counsel as part of the City's Right to Counsel program.

Early on as staffing and coverage challenges presented, OCJ formally wrote to OCA to amplify provider concerns and to seek support and adoption of various measures, many recommended by providers themselves.

By July 2022, OCJ, working with OCA, was able to begin re-establishing presence in borough housing courts to screen for legal services eligibility and to facilitate tenant connection with counsel, to alleviate the draw on provider resources. We returned with enhanced visibility; OCJ staff wearing bright turquoise buttons announcing their presence for free legal services along with some provider staff circulating with distinctive tee shirts promoting services. Accompanying signage with the same bright turquoise is also visible in the halls of housing courts across the city where OCJ staff and providers are on-site for intake and connection with tenants at their initial court appearances.

Continued engagement with OCA and our provider partners grew into OCA standing up a Working Group. The Working Group led to job fairs with local law schools to connect providers to recent grads and has also been a space to consider court processes and tenant connection to resources, both of which have consistently been part of the discussion. Also, out of that Working Group came the Administrative Part pilot which has significantly increased HRA presence in Housing Court to ensure eligible clients get quick access to financial assistance that will allow them to stay in their homes.

HRA launched a pilot in Kings County Housing Court on February 21, 2023. The pilot co-locates HRA homelessness prevention services in the courthouse to further assist individuals in active eviction proceedings at their first appearance. Granted a 45-day adjournment by the court, individuals visit the HRA team at the courthouse who ~~assess individual eligibility for~~ *initiate an assessment for* a "one-shot deal," rental assistance or other benefits that could address their housing concerns.

It is important to note that here in New York, a tenant does not have to find themselves in court to receive help when rent arrears become a looming threat. Homebase is a citywide resource - tenants can access by visiting one of the 26 Homebase locations, learn more by calling 311, or by visiting www.nyc.gov/homebase. Through a variety of rental assistance programs, tenants can be connected to helpful resources including assistance with benefits, financial counseling, mediation

services, job search assistance, and links to useful community resources. We will continue to engage with Court administrators and other key stakeholders to uphold access to tenants.

As New Yorkers, we are and should be proud of the leadership shown in our Universal Access Law that supports underserved communities who have not had their voice heard. It works alongside the other tools we use to keep individuals and families in their homes.

Thank you again for giving us an opportunity to discuss this first in the nation initiative.



PUBLIC ADVOCATE FOR THE CITY OF NEW YORK

Jumaane D. Williams

**TESTIMONY OF PUBLIC ADVOCATE JUMAANE D. WILLIAMS
TO THE NEW YORK CITY COUNCIL COMMITTEE ON
HOUSING AND BUILDINGS AND COMMITTEE ON GENERAL WELFARE
MARCH 27, 2023**

Good Morning.

My name is Jumaane D. Williams and I am the Public Advocate for the City of New York. Thank you very much Chair Sanchez and Chair Ayala and members of the Committee on Housing & Building and the Committee on General Welfare for holding this hearing and allowing me the opportunity to provide testimony.

New York City has been in a housing crisis since before the pandemic started. I have advocated for housing affordability throughout my entire career and this crisis is worse today than when I started out as an organizer. As the cost of rent and basic necessities further increases, more New Yorkers will be evicted from their homes, especially communities of more color, low-income communities, and immigrant communities. In addition, rent-stabilized apartments are quickly disappearing which is causing more New Yorkers to be displaced and in turn are leaving the City.

During my time at the Council, I was one of the sponsors for [Local Law 136 of 2017](#) also known as the Right to Counsel law. Six years have passed and we are still dealing with the same issues around evictions. It is disappointing that we have gone so far to pass this law and yet it is not being sustained by the court system. We have failed New Yorkers.

The City needs to support those who are struggling, especially those rent-burdened tenants who have been left without a moratorium or legal counsel. Thank you to Councilmember Sanchez and Councilmember Abreu each for introducing resolutions today regarding this matter.

[Res 0345-2022](#) will allow for a designated office to be in charge of making sure that every person has access to counsel and will provide any further assistance. As for [Res 0499-2023](#), it will ensure that no more eviction cases will proceed until the tenant has legal counsel. I hope my colleagues today can see the seriousness of this matter and support these two resolutions. We can work together to protect all tenants during a time of need.

Thank you.



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BRAD LANDER

**Testimony of New York City Comptroller Brad Lander Before the New York City Council
Committee on General Welfare
March 27, 2023**

Thank you, Chair Ayala and members of the General Welfare Committee, for holding this critical oversight hearing on access to legal services for tenants facing the threat of eviction.

New York City's affordable housing crisis continues to grow more severe. Rents have skyrocketed to historic levels, while the vacancy rate for homes below \$1,500 remains the lowest it has been in decades at less than 1%. The Association for Neighborhood Housing and Development (ANHD) found that eviction filings have drastically risen, with over 110,000 filings since the expiration of the eviction moratorium. Compounded with the lack of Good Cause Eviction protections, each day more and more households are added to the growing list of executed eviction warrants. Those rates are highest in low-income communities of color—the same communities devastated by the COVID-19 pandemic.

Evictions are a leading cause of homelessness in New York City. The New York City Department of Homeless Services' (DHS) shelter census continues to push historical records with over 72,000 homeless New Yorkers in its care, including 23,000 asylum seekers that have arrived to our City since last Spring. An additional 9,000 migrants are currently being housed across seven Humanitarian Emergency Response and Relief Centers (HERRCs), raising the total shelter population to a devastating 81,000 people. These unsustainable shelter levels only heighten the need for at-risk tenants to receive legal representation, so that these residents can remain in their homes and avoid the shelter system entirely.

While the housing crisis deepens, the Universal Access to Legal Services program remains a key tool in protecting tenants against some of its most detrimental impacts. As an Office of Civil Justice's (OCJ) [report](#) on Universal Access to Legal Services notes, this is an overwhelmingly successful program that helped 78% of households with legal representation remain stably housed in FY22. An estimated 82% of households facing eviction are eligible for UALS but over 17,000 households have faced eviction in court alone since the end of the moratorium. OCJ must join elected officials, legal service providers and affected tenants in advocating to the Office of Court Administration (OCA) to halt any eviction where a tenant has not received legal assistance under the law.

Adequate funding is also key to the success of the City's Right to Counsel legislation. I urge the City Council to ensure that the Human Resources Administration (HRA) fully funds Local Law 53 of 2021 so that tenant organizing groups can expand their outreach and education efforts to the communities hardest hit by the housing crisis. HRA must release the Request for Proposals (RFP) for FY2024 for \$3.57 million that was initially due for release in November 2021. Full implementation of Local Law 136 of 2017 and the new mandates of Local Law 20 of 2023 expanding representation for senior citizens also require an additional \$70 million dollars to help

legal service organizations meet their mandates. The \$166 million allocated to Right to Counsel only covers about 70 percent of its current cost, without accounting for changes that are vital, including fair salaries for legal services workers and caseloads that ensure all tenants receive the best possible representation.

This work to fortify Universal Access to Legal Services must be done in consort with a more expansive evaluation and commitment to access to justice and civil Gideon. Especially as the City rapidly expands immigrant and attendant legal services to address the crisis in that sector, we must embrace the interconnectedness of all the programs funded via OCJ that ultimately keep New Yorkers healthy and, in their homes, including defending workers, combatting consumer debt and foreclosures, and assisting domestic violence survivors and veterans. Tenants experience enmeshed civil consequences across multiple justice systems and OCJ should also increase funding and capacity for holistic representation, considering the expertise of social workers, public benefits specialists, legal advocates, paralegals, policy counsel and advocates, and other civil legal service providers.

Additionally, OCJ must provide timely and transparent information on the status of Right to Counsel's implementation in collaboration with tenants and organizers. In January 2023, my office sent a letter to the OCJ highlighting the requirements under Local Law 61 of 2015, which require OCJ to submit to the Mayor and Council a five-year plan for providing free and low-cost legal services to low-income residents. OCJ reported they would provide the 5-year strategic plan by January 31, 2023; however, nearly two months later, the plan has not yet been published. Our office also requested the timeline for the latest Universal Access Implementation Report. The timeline of February 2023 subsequently provided by OCJ passed without an updated report.

I look forward to continued partnership with the City Council to ensure that we keep tenants and our communities stable. Thank you.

REBNY Testimony | March 27, 2023

The Real Estate Board of New York to The Committee on Housing & Buildings on the Implementation and Expansion of Right to Counsel, Resolution 0345 and Resolution 0499

The Real Estate Board of New York (REBNY) is the City's leading real estate trade association representing commercial, residential, and institutional property owners, builders, managers, investors, brokers, salespeople, and other organizations and individuals active in New York City real estate. REBNY thanks the Council for the opportunity to submit comments regarding the implementation and expansion of the city's Right to Counsel Program.

REBNY supports expanding the Right to Counsel Program. Regardless of why a tenant is in Housing Court, having equal access to legal representation is important. According to a 2018 paper "Protect Tenants, Prevent Homelessness" from the National Law Center on Homelessness and Poverty, "There is not enough affordable and available housing for America's millions of low-income renters.... The lack of affordable housing causes housing instability for low-income renters and leads to increased risk of eviction." A key recommendation from that paper, based on evidentiary practice, is that guaranteeing counsel in housing cases leads to more families staying in their homes.

The Regional Planning Association found that less than 2% of owners are "bad landlords." These bad actors are defined as having high eviction rates and over 10 housing code violations, which indicate a repeated pattern of harassment and neglect. The majority of those impacted by poor behavior are also low income and geographically concentrated, with 43% of people affected by bad landlords living in the Bronx.

The existing "Right to Counsel" program – enacted in 2017 and the first of its kind in the country – has been critical in decreasing evictions. In the areas where the program is offered, it is attributed for the majority of the decrease in evictions in those zip codes. According to the Rent Guidelines Board 2022 Income and Affordability Study, it is estimated that 84% of households facing eviction in Housing Court who had counsel avoided eviction. The RTC program, which was being phased in zip code by zip code, achieved full implementation in Jun 2021.

In FY 2021, RTC legal assistance was provided to 42,265 households in NYC for tenant issues such as eviction, disrepair, and landlord harassment. Despite the number of eviction filings falling by approximately 49,000 during FY 2021, the number of households receiving City-sponsored legal

services increased 11% compared to FY 2020, and 79% compared to FY 2017 (prior to the formal launch of the RTC program).

REBNY supports the City Council's efforts to ensure universal access to legal services and adequate time to secure counsel when necessary. Resolution 0345 is in support of a proposed bill before the State Legislature that would establish a New York state office of civil representation to provide access to legal services in eviction proceedings. The resolution 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. The RTC program has proven that when provided with legal services, tenants are able to remain housed and avoid eviction at much higher rates. It is estimated that the number of tenants in housing court rose from 1% in 2013 to more than 30% in 2019, with figures indicating that 84% of households facing eviction in Housing Court who had counsel had been able to avoid eviction. Moreover, the proportion of households who were threatened with eviction rose from 9% in 2020 to 13% in 2021.

REBNY supports efforts at the state level to expand access to legal services for those at risk of housing instability. As much as eviction cases harm tenants, moratoriums during the pandemic also increased the amount of rental arrears, which left owners, nonprofit and for-profit affordable housing owners alike, facing financial distress. Since the eviction moratorium ended, New Yorkers are facing as estimated \$3.3 billion in back rent. With this in mind, REBNY also encourages the office of civil representation to identify sources of public assistance that may be accessed by tenants in need to address the outstanding arrears if assistance in paying rent is necessary on an on-going basis.

Resolution 0499 would require 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. REBNY supports efforts to allow any party that is eligible under local law for free legal counsel for an eviction proceeding, that has made a good faith effort to secure such counsel, to be granted an adjournment by the court for additional time as long as that time is reasonable and certain. The backlog of eviction cases coupled with staffing shortages have left tenants otherwise eligible for counsel, denied. Legal services NYC had to decline 475 cases in the Bronx alone, in March 2022. Tenants unable to obtain counsel through no fault of their own should be eligible for additional time to secure such legal services for an eviction case. The RTC program has led to a decrease in 30% of eviction filings since its inception, and it's estimated that 84% of households facing eviction in Housing Court who had counsel had been able to avoid eviction.

Additionally, there should be additional investments in tools further upstream to ensure stability for the thousands of households on the brink of homelessness. A lawyer near the end of that process is helpful but homelessness is a complex problem that requires multiple modes of intervention at the city, state, and federal level to combat. This includes efforts to increase the supply of all types of housing.

Thank you for the consideration of these points.

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Testimony before the New York City Council
Committee on General Welfare Regarding the
Universal Access to Legal Services Law



Monday, March 27, 2023

Thank you to Chair Ayala and members of the Committee on General Welfare for the opportunity to submit testimony regarding New York City's Universal Access to Legal Services Law. The Association for Neighborhood and Housing Development (ANHD) builds community power to win affordable housing and thriving, equitable neighborhoods for all New Yorkers. As a member organization of community groups across New York City, we use research, advocacy, and grassroots organizing to support our members in their work to build equity and justice in their neighborhoods and citywide.

Right to Counsel is a historic victory for tenants and is resoundingly effective. As the Office of Civil Justice (OCJ) has reported, 84% of tenants represented by a Right to Counsel attorney are able to stay in their homes.¹ New York City's Right to Counsel law has paved the way for tenants who are facing eviction to access legal representation in jurisdictions across the country. But New York City tenants' Right to Counsel is in crisis. The courts have decided to calendar cases at a pace that legal services providers cannot handle and move cases forward regardless of whether eligible tenants are represented. This is a failure by our judges and elected officials, and it is resulting in thousands of tenants being evicted unnecessarily. It is the City's responsibility to uphold the Right to Counsel that we passed, and the City is remaining silent and complicit in this crisis. We need the City Council, Administration, and Office of Civil Justice to call for tenants' Right to Counsel to be upheld and made universal, not steamrolled.

ANHD unequivocally supports the Right to Counsel Coalition's demands for the New York City Council to uphold our Universal Access to Legal Services (Right to Counsel) Law by:

- Fully funding Right to Counsel. The lack of full funding for RTC is leading to attrition at legal services organizations and discouraging effective representation. We need the City Council to further the legacy of Right to Counsel by adding at least \$70 million dollars to fund Local Law 136
- Calling on the Human Rights Administration to fund Local Law 53 immediately by releasing the FY2024 Request For Proposals for the \$3.57 million they have allocated
- Passing City Council Resolution 499 in support of Defend Right to Counsel legislation at the State level (S3254/ A4993), which would mandate that the courts adjourn cases until eligible tenants are able to receive Right to Counsel. It is critical that this legislation be included in the budget and that the Council demand its passage.
- Passing Resolution 345 in support of Statewide Right to Counsel (S2721/ A1493) for all New York tenants.
- Publicly demanding that the courts pause all cases for eligible tenants who don't have Right to Counsel until there is attorney capacity
- Ensuring that OCJ manage the waitlist of tenants to make sure that all tenants who have been denied Right to Counsel get representation

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https://www.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ_UA_Annual_Report_2021.pdf

- Ensuring that OCJ meets regularly with tenants and organizers to develop solutions and that it will comply with the law to hold annual hearings and release annual reports

Our analysis of data from the Office of Court Administration shows the extent of the crisis

ANHD, along with University Neighborhood Housing Program, JustFix, and BetaNYC, have been collaborating with the Right to Counsel Coalition for over four years to obtain, publish, and analyze housing court data from the Office of Court Administration (OCA). This data allows us to quantify the state of evictions in New York. With access to OCA data, we have been able to track trends in eviction filings throughout COVID and the implementation and expiration of various legal protections against evictions.

Filings have taken off since the end of eviction protections

Despite multiple protections against evictions proceeding through the courts, landlords consistently filed eviction cases in large volumes throughout most of the pandemic. **Over 82,000 residential evictions were filed in New York City between March 23, 2020 and January 15, 2022. Over 130,000 evictions have been filed since then.**

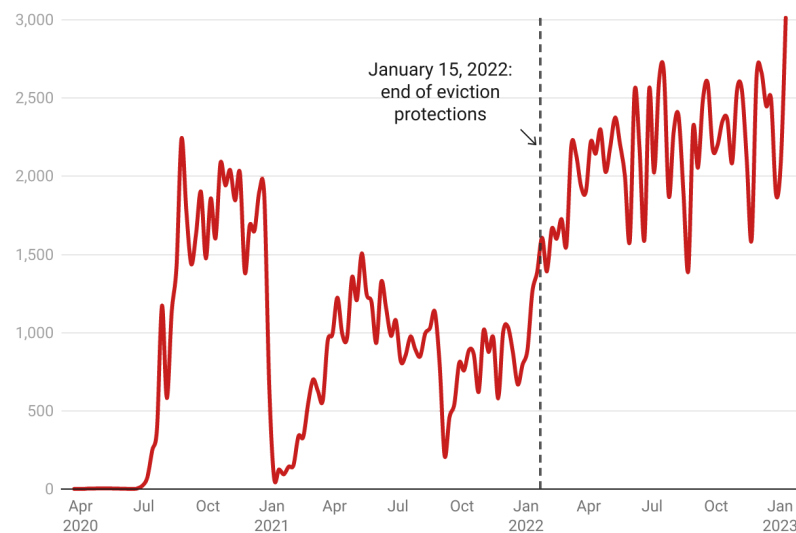


Chart by ANHD. Data source: NYS Office of Court Administration via the Housing Data Coalition in collaboration with the Right to Counsel Coalition, available at github.com/housing-data-coalition/oca.

As you are aware, advocates warned that the lifting of eviction protections would flood and overwhelm the courts. The Right to Counsel Coalition and the legal services providers that represent tenants in their eviction cases knew that there was not adequate infrastructure to handle all the eviction cases in the pipeline. But in contrast with the series of orders that accounted for the exceptional circumstances of the pandemic by slowing eviction cases, on January 15 2022, the courts reverted to the pre-pandemic status quo, with grave consequences.

Since early last year, providers have not been able to take on all tenants facing eviction who are eligible for Right to Counsel. Tenant attorneys, who do their work because they care deeply about the right to housing of New York City's most marginalized and vulnerable tenants, are

overworked and exhausted. Over and over, they are facing the impossible choice of either turning tenants away, meaning that tenant may unnecessarily lose their home, or taking on so much work that they simply cannot do all of it with integrity. As a result, they are experiencing intense burnout, meaning that attorneys are leaving their organizations in droves, only exacerbating the problem. Unionized attorneys are striking in part due to these unsustainable caseloads. The situation is absolutely untenable and unjust to tenants and attorneys alike.

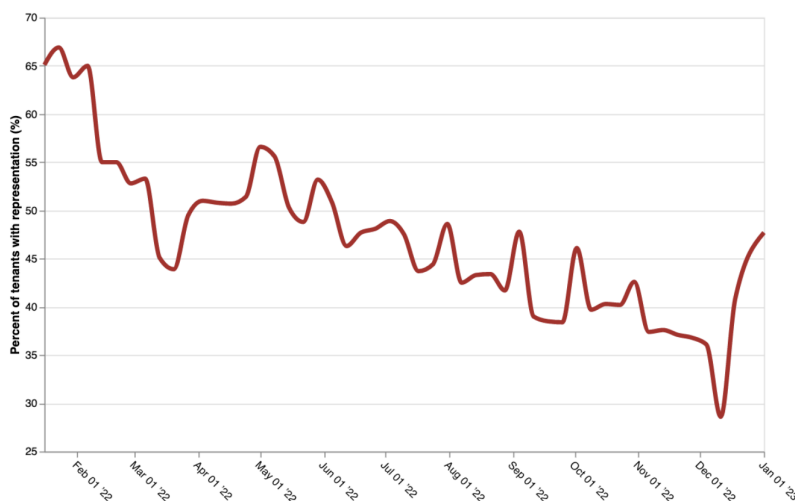
Less than half of tenants have representation

In collaboration with the Right to Counsel Coalition and the other organizations involved in this work, ANHD calculated the “rate of representation” for eviction cases that were filed since January 15 of last year. To do this, we took all residential non-payment and holdover cases filed in New York City courts after that date that have had two scheduled appearances already occur. We excluded cases in which tenants never appeared. We then took the share of cases in which the defendant was represented by counsel or was marked as “SRL” - a self-represented litigant. By dividing the represented defendants by the total number of cases that met these criteria, we arrived at our rate of represented tenants.

What we found was the following: out of all eviction cases that have been filed in New York City since eviction protections ended on January 15, 2022, **only 47% of tenants who appeared in court² have received representation in their case** – whether through Right to Counsel or not. Because some of those tenants have private attorneys, the share of tenants with Right to Counsel representation is lower than 47%. The share of unrepresented tenants equates to over 19,000 households – 19,517 as of last week – who are facing eviction in court alone. In contrast, it has been estimated that 82% of households facing eviction should be eligible for Right to Counsel.³ This is the current state of affairs, and it is shockingly inadequate.

Share of Represented Tenants

Percent of all tenants with eviction cases who are represented by an attorney by the week the case was filed



² Instances in which tenants did not appear in court are excluded from this analysis.

³

<https://cdn2.hubspot.net/hubfs/4408380/PDF/Cost-Benefit-Impact-Studies/SRR%20Report%20-%20Eviction%20Right%20to%20Counsel%20%203%2016%2016.pdf>, p.3.

Denying legal representation and protections in housing court impacts Black and brown tenants most. As a result of discriminatory housing policy, racist systems of urban development, segregation, wealth extraction, and disinvestment from communities of color, poor Black and brown tenants are most often the ones losing their homes through eviction. ANHD has found that evictions are filed more than twice as often in majority people of color zip codes compared to majority white zip codes.⁴ Evictions destabilize households and communities and fuel displacement. They are violent and disruptive, and result in tenants entering a shelter system that is under-resourced and an unaffordable, competitive housing market that prioritizes profit over people. They have a harmful impact on education, employment, relationships, and physical and mental health. New York has the power to change this, and it is the City's responsibility to make sure we do.

Fully fund Right to Counsel

New York City must take all actions within its control to ensure Right to Counsel is implemented and upheld.

RTC **must** be fully funded in order to achieve its purpose. Legal services providers have communicated that RTC is currently funded at only 60-70% of its current cost, barring RTC from being upheld. **The City must increase the budget for RTC by at least \$70 million, while also aiming to increase funding to achieve best practices and enable RTC to reach its full potential.** Funding for RTC must also be tied to the number of cases, so that we do not return to a cycle of insufficient implementation that denies tenants their right.

Additionally, Local Law 53 mandated the funding of tenant organizing in support of Right to Counsel, but despite allocating \$3.6 million of funding, the Human Resources Administration (HRA) never released the Request for Proposals that was scheduled for November 2021. **The Council must push HRA and the Office of Civil Justice (OCJ) to release this RFP immediately,** so that tenant organizers may do their job to ensure that Right to Counsel is upheld and tenants have access to their rights.

Push the courts to change course

When properly implemented, RTC keeps 84% of tenants facing eviction in their home. But because of the decisions of our courts, RTC is failing to meet its mandate. We call on you to demand the following of the courts:

- Issue an administrative order that mandates all eviction cases where a tenant is eligible for RTC be stayed until the tenant is able to retain an RTC attorney
- Calendar new eviction cases only after all eligible tenants with currently pending cases have retained counsel for full representation.

⁴ <https://anhd.org/report/new-yorks-pandemic-rent-crisis>

- Reduce the volume of eviction cases on court calendars so that the number of new cases each day matches legal service provider capacity to provide full representation to all eligible tenants.
- Provide sufficient time between court dates to allow time for lawyers to complete essential work on each case, keeping in mind the current staffing shortages and work overload.

Senator Brad Holyman and Assemblymember Linda Rosenthal have introduced legislation (S3254/ A4993) that would mandate judges provide the necessary adjournments tenants need to get Right to Counsel. We are calling on you to pass Resolution 499 in support of this critical legislation, sending a strong message to your colleagues in the senate and assembly to include this critical legislation in the budget.

Support Statewide Right to Counsel

In addition to immediate measures to Defend RTC in New York City, we need Statewide legislation to fix the crisis in housing courts. Statewide Right to Counsel (S2721/ A1493) not only expands RTC to all tenants across the State, it mandates that the court system uphold it. The legislation requires that courts notify tenants of their RTC, give them the information they need to reach an attorney, and adjourn cases until they have been able to connect with one, matching the pace of cases to attorney capacity. The courts have refused to solve the crisis on their own; legislation will mandate that they uphold the law.

It is imperative that Statewide Right to Counsel is not only passed this session but also fully funded. With adequate funding, providers will have a greater ability to hire not only attorneys, but social workers and other support staff critical to implementing Right to Counsel. We are fighting for \$172 million in FY 24, \$62.5 million of which would go to New York City.

The Council must support this legislation by passing Resolution 499 and urging your colleagues in the State legislature to pass and fund Statewide Right to Counsel now.

Ensure that OCJ is following its mandate

It is the responsibility of the Council to make sure that the OCJ, which was created to implement Right to Counsel and is responsible for upholding it, is fulfilling its mandate. Currently, OCJ is not doing so. OCJ is required by law to hold hearings and release reports annually on RTC, and did neither in 2022.

OCJ has a history of pushing the courts to make changes that are fully within their power in order to uphold RTC, such as adjusting calendars, posting accurate signage, and having judges make announcements to inform tenants of their rights and options. The implementation of RTC was a collaboration between OCJ and the courts. Now, OCJ is remaining silent and allowing legal service providers to take the blame for a problem that can only be solved by the courts.

OCJ used to meet regularly with members of the Right to Counsel Coalition, and under the new administration, they have not. We call on the Council to ensure that OCJ:

- Manage the waitlist of tenants to make sure all tenants who have been denied RTC get a lawyer
- Ensure that OCJ meets regularly with tenants and organizers to develop solutions
- Ensure that OCJ complies with the law by holding annual hearings and releasing annual reports

Stable housing is critical to the overall health and wellness of individuals and communities, and we have the power and tools to ensure that stability for tenants. Housing court, as it is operating today, is failing to do so, and the Council must do everything in its power to solve the current crisis in housing courts.

Thank you again for the opportunity to testify. If you have any questions or for more information, please contact Lucy Block at lucy.b@anhd.org.



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TESTIMONY OF:

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BROOKLYN DEFENDER SERVICES

Presented before

**The New York City Council
Committees on General Welfare and Housing and Buildings**

Oversight Hearing on Universal Access to Legal Services Law and Tenant Protection

March 27, 2023

My name is Lauren Price, and I am a supervising attorney in the Civil Justice Practice at Brooklyn Defender Services (BDS). Thank you to the Committees on General Welfare and Housing and Buildings, Chair Ayala, and Chair Sanchez for holding this important hearing. I would like to take this opportunity to speak in support of ongoing efforts to expand and strengthen meaningful access to legal services and express our support for the resolutions proposed in support of state right to counsel efforts.

Brooklyn Defender Services provides multi-disciplinary and client-centered criminal, family, and immigration defense, as well as civil legal services, social work support and advocacy, for approximately 22,000 people in Brooklyn every year. BDS' Civil Justice Practice (CJP) aims to reduce the civil collateral consequences for our clients and to be a one stop for essential social and legal services support for a broad range of legal issues; 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.

We applaud the council for prioritizing this important issue and know we all share the goal of minimizing evictions and keeping New Yorkers stably housed. We understand the focus on expanding and fully staffing the current model of the right to counsel (RTC) program and recognize the importance of ensuring all tenants who find themselves in court have access to counsel. While additional resources and further expansion may be necessary to reach that goal, we ask the council to continue to ensure robust funding for pre-litigation advice and diversion from court, to prioritize the expansion of the Anti-Harassment Tenant Protection (AHTP) program and other community facing programs, and to strive for creative ways to allow tenant choice and participation in how they address landlord tenant issues, rather than focusing on a one size fits all approach that could eventually come to resemble "housing court arraignments."

Last, because universal representation will not result in universal housing stability on its own, we ask for the continued expansion of resources aimed at resolving the underlying causes of eviction filings by increasing affordable housing options and expanding access to rental assistance subsidies and programs to help tenants pay their rent and stay out of court all together.

Pre-Litigation Support and Solutions are Critical

As an interdisciplinary public defender office, our civil attorneys work with clients of our assigned counsel practices to provide support and advice for a wide range of legal issues and concerns, including landlord tenant issues. We routinely work with tenants who have yet to find themselves in court, or who are simply trying to gather information about their rights and remedies; we assess potential succession claims after a family member leaves an apartment, review proposed lease terms, and advise on how best to approach a landlord for repair requests. In many situations, we are giving a tenant what may amount to bad news: “your apartment is non rent regulated,” “your landlord *can* raise the rent past the amount you can afford,” “yes, it does seem likely you will have to vacate this apartment and you should start your apartment search now, we can help.”

We are disappointed to hear stories of tenants who find themselves facing eviction in court who are still unable to get a lawyer, we are equally corned that many tenants who are ultimately connected with an attorney through the RTC program could have benefited greatly from having access to counsel *months earlier*, before they found themselves in court. Early access to legal services can serve as a means of avoiding a court proceeding entirely or as a path to more rapidly reducing their arrears, establishing program or voucher eligibility, or finding alternative affordable housing options in cases where relocation is ultimately necessary.

AHTP Is Essential to Keep Tenants out of Court and Reduce Strain on RTC Providers

We would like to take a moment to highlight the importance of the Anti-Harassment Tenant Protection program and the services it allows us, and our colleagues in the LEAP coalition and elsewhere, to provide. The crucial, full array of services offered by AHTP providers are distinct from, and complementary to, the representation provided through RTC program. While RTC enables tenants to have greater success once they are brought to court by a landlord attempting to evict them, AHTP’s pre-litigation services prevent tenants from being brought to court in the first place.

Focusing on supporting tenants before they are in court is essential to keeping tenants in their homes and out of the shelter system, addressing landlord harassment, improving living conditions to ensure that apartments are habitable, and maximizing the affordability of housing by ensuring tenants have lawful rent increases and lease terms. AHTP also increases the likelihood that systemic, building wide issues are identified and can be most efficiently and economically addressed. AHTP staff can uniquely and effectively represent those tenants as a group, maximizing judicial economy by consolidating the housing court cases in one action to obtain better outcomes, identify larger common issues, and empower tenants through collective action.

Most crucial to our current program, it allows legal service providers with existing clients—like public defenders, neighborhood offices, those that serve special populations or provide expertise in specific systemic issues—to provide full representation services to vulnerable New Yorkers without requiring that every tenant wait until their first court appearance to be connected to an attorney.

Without AHTP, without funding for legal services *before* a tenant is taken to court, many cases end up in court unnecessarily, other cases longer to litigate than if addressed earlier, and many tenants find themselves in a situation where the stakes are unnecessarily high, an illness or a delayed train away from a default judgement. For this reason, expanding access to support and representation before a case is filed should be seen as just as essential a priority as court-based intake. A focus on affirmative, pre-litigation assistance ensures cases that can be resolved without court intervention are and that tenants who do end up in court are already aware of their rights and remedies and on the path to resolving their issues.

The City Should Support Client Choice and Continuity of Representation

Unfortunately, not *all* issues can be resolved outside of court. Civil legal service programs should be empowered to provide tenants with flexibility and choice in their representation. The people represented by BDS' Civil Justice Practice are referred to us by other internal units. Our clients are already working with our office in another forum, which allows us to establish work directly with clients without requiring screening or an extensive in-person intake procedure. This minimizes client stress, saves time and resources, and allows us to anticipate civil legal problems and intervene before, and even prevent, litigation.

Providing civil representation within BDS minimizes confusion for our clients and saves clients the time of going through a complicated intake procedure with another provider, as well as and the emotional labor of discussing sensitive details of the case at a new office, or with a new attorney if they find themselves in housing court. Continuity of representation allows us to ensure that an outcome in one forum is less likely to have an adverse effect in another. Our criminal defense clients routinely face eviction based on allegations mirroring those in a criminal proceeding. Our family defense clients may be fighting to keep their family together in part because of unjust landlord harassment or unsafe living conditions. Our model allows us to provide crucial legal services to attain not only the best outcomes in housing court, but in criminal, family, and immigration proceedings as well.

BDS clients are often involved in multiple complex legal systems. Their civil legal needs are best met by attorneys who have knowledge in and access to these other legal systems. CJP attorneys routinely go to criminal and family court with our clients and colleagues, and directly inform those courts about our clients' housing and civil issues. When an incarcerated client faces housing consequences, we have the infrastructure in place to communicate with that client. We often prevent incarcerated tenants from defaulting in Housing Court because our colleagues refer those cases to us early.

Providing tenants with continuous representation is not just administratively efficient, it is also client-centered and results in concrete victories for the people we serve. This is clear when looking at NYCHA termination of tenancy proceedings. BDS criminal defense attorneys refer

cases involving NYCHA tenants to CJP promptly before the threat of eviction has arisen. We consult with the criminal attorney and advise how a potential plea would affect our client's NYCHA housing before NYCHA has even started termination proceedings.

The city must support holistic practice in civil legal services, as is the model in citywide criminal and family defense. Funding from the Council and the city ensure include essential support staff and non-attorney team members; ensuring our offices can fund not just attorneys, but social workers, benefits advocates, paralegals, and other supportive staff who are essential to favorably resolving our clients' cases.

Other Programs and Resources are Necessary to Keep Tenants in their Homes

The passage of right to counsel, and its continued expansion, has been an incredibly important step for the city. It is also important that we acknowledge that attorneys cannot stop every eviction. Ignoring the basis for an eviction filing puts undue reliance on attorneys to stop all evictions and more must be done to ensure effective housing advocacy. Internally, many providers, including BDS, rely on benefits advocates, paralegals, and affordable housing specialists to assist clients in resolving accessing benefits and subsidies, overcoming adverse actions, and applying for and finding affordable housing options. Focusing on, and funding, eviction prevention based solely on how many attorneys are available for court-based intake ignores the essential workers who truly address the underlying causes of an eviction filing and help drive the resolutions of the victories we celebrate as the hallmark of the RTC program.

Outside our organizations, we must also focus on the essential programs and resources at DSS and other city and state agencies that are essential to ensuring resolutions in housing court are possible. After an impressive success rate in the early years of the RTC program—as bad landlords, unscrupulous landlord attorneys, and frivolous filings were confronted with represented tenants and unprecedented rates—the city will see a plateau for strictly lawyer driven resolutions of cases. It will then become more clear the city must provide robust funding for, and access to, rental assistance and affordable housing programs to meaningfully prevent evictions.

Additional Recommendations

With our colleagues and fellow AHTP providers, BDS respectfully ask the council to:

- Eliminate the cap on advice/brief services cases: Presently, advice-only cases can only make up 10% of a provider's enrollments in any borough and 20% of the enrollments citywide. This limit drastically decreases the number of tenants providers can serve, discourages pre-litigation resolution of cases, and limits tenant access to counsel.
- Lift restrictions on work with NYCHA tenants through the AHTP program, to ensure tenants in one of our city's greatest affordable housing resources have the same rights as everyone else.
- Amend contract terms to reflect the true value of the AHTP Work by including non-attorney advocates and support staff and eliminate rollover restrictions to provide compensation for 100% of rollover cases.

- Provide appropriate credit for building-wide impact cases without individualized data and automatic income waivers for related individual representation of tenant group members who are part of building wide cases.
- Increase funding to providers dedicated to administering these grants: Providers working in consortium should receive funding to support the administration of the contract and coordination of the coalition work to ensure maximizing efficiency is incentivized.

Conclusion

BDS enthusiastically supports the city's groundbreaking Right to Counsel initiative and its commitment to implementing and expanding the program.

As assigned counsel criminal, family, and immigration proceedings, we have seen the difficulties caused by requiring all representation commence in the same way, at the same point, in every proceeding. Criminal and family defense providers have spent recent years creating programs to connect clients to counsel and other resources before a court proceeding begins, or preventing a court filing altogether, by providing supportive services as soon as law enforcement or the Administration for Children's Services begins an investigation. Civil legal services in New York City are moving in the opposite direction. Many providers have had to drastically reduce the resources they have available for community facing advice and assistance as they struggle to fully staff the right to counsel intake. To avoid eviction, it is critical that a tenant is connected with resources as early as possible. We urge the City Council to work with Mayor Adams to fully fund pre-litigation civil legal assistance.

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 Bill Bryan, Director of the Civil Justice Practice, at bbryan@bds.org.

Catholic Migration Services Testimony for City Council Oversight Hearing on Right To Counsel (3/27/23)

Catholic Migration Services (CMS), a not-for-profit legal services provider affiliated with Catholic Charities of Brooklyn and Queens and the Roman Catholic Diocese of Brooklyn, provides free legal services and Know Your Rights education to low-income individuals regardless of race, religion, ethnicity, national origin, or immigration status. We assist immigrants with immigration legal services, tenants in Queens with housing legal services, and low-wage workers with employment legal services.

As tenants and tenant advocates in the CMS community, we have been in Queens Housing Court firsthand and have witnessed tenants being denied their Right to Counsel (RTC). To echo the message of the Right To Counsel NYC Coalition, of which CMS is part, Right to Counsel is one of the city's best, most powerful and most effective tools to stop displacement, reduce homelessness, and expand and uphold tenants' rights. But today, after years of success, that Right is being violated. We are writing to urge the City to do everything in its power to uphold, defend and strengthen Right to Counsel.

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 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.

NYC is the first city in the nation to establish RTC. On the heels of our success, 15 other cities and 3 states have passed RTC and it has sparked a national movement. The law has had tremendous impact in just the first few years since it passed: 84% percent of tenants who obtained legal representation in housing court as a result of RTC won their case and stayed in their homes, landlords sued people less and community groups are actively using the Right to Counsel as a powerful tool to protect and advance tenants' rights. With Right to Counsel, more housing court cases are litigated, resulting in case law that clarifies when tenants are entitled to rent abatements, the rules around rent regulation, and the warranty of habitability.

Yet, in the last year, more than 17,000 tenants were denied Right to Counsel. Without proper legal representation, tenants are making life-altering decisions about moving out and signing stipulations without having a chance to consult an attorney. Thousands of families are being evicted who wouldn't be evicted if they had RTC! This is absolutely outrageous. Denying tenants RTC impacts poor tenants of color the most.

We are all well aware of the capacity challenges the legal services organizations face, the backlog of cases due to COVID that the court only started addressing last year and the pressure from the landlords to move cases forward with or without the appropriate legal representation. However, we don't accept the logic that cases have to move forward at a rate that outpaces justice for tenants and denies them their rights under NYC law.

We are calling on you to support and uplift our demands to the court, specifically that the courts:

- Issue an administrative order to mandate that all eviction cases where a tenant is eligible for RTC shall be administratively stayed until the tenant has had an opportunity to meaningfully meet with and retain a right to counsel attorney.

- Calendar new eviction cases only after all eligible tenants with currently pending cases have retained counsel for full representation.
- Reduce the volume of eviction cases on court calendars so that the number of new cases each day matches legal service provider capacity to provide full representation to all eligible tenants.
- Provide sufficient time between court dates to allow time for lawyers to complete essential work on each case, keeping in mind the current staffing shortages and work overload.

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. It's critical that OCJ and the city administration as a whole commit to upholding the current law and resist any attempts to water it down. Doing so would accept the court's logic that cases have to move fast at all costs--COVID showed us that is not true--and permanently weaken a powerful law in the face of a temporary challenge.

In addition, the pace of cases cannot be separated from the current labor shortage---moving cases at a pace that forces RTC lawyers to make choices where they can't represent tenants to their best ability is deeply demoralizing and unethical. Implementing the above changes would go a long way towards retaining a talented, experienced and passionate tenant bar.

Senator Holyman and Assemblymember Rosenthal have introduced legislation (S3254 / A4993) that would mandate judges provide the necessary adjournments tenants need to get RTC. Right now there is language about adjournments in eviction cases in the Assembly on house budget but it does not cover NYC tenants. We are calling on you to pass Resolution 499 in support of this critical legislation, sending a strong message to your colleagues in the senate and assembly to include this critical legislation in the budget.

The City Must Fund RTC In Two Critical Ways

First, in May of 2021 the city passed Local Law 53, which ties tenant organizing to Right to Counsel. The intent of Local Law 53 is clear - to fund trusted tenant organizing groups working in low-income communities of color to lead outreach and education efforts through community meetings, workshops, Tenant Association meetings, and more. This is the vital work of tenant organizers, and ensuring that tenants are informed of Right to Counsel and supported prior to an eviction case being filed. Tenants knowing about their rights and exercising them is a preventative and proactive measure.

We understand that HRA allocated \$3.6 million towards this bill, had drafted the Request for Proposal (RFP) and was going to release it in November of 2021 but it was never released. We understand that OCJ plans to release an RFP on this for FY 2024 for \$3.57 million. We are urging you to ask OCJ/HRA to release this RFP NOW in order for tenant organizing groups to do their work to educate and organize tenants across NYC about their rights.

Second, Local Law 136 as it stands is not fully funded. While the city allocated \$166 million it simply isn't enough to cover the full cost of the work. The retention rates at the legal services organizations are proof of this. As those in the provider community can attest, RTC is currently funded at about 60-70% of its current cost, and that's not even accounting for what it would cost if we were to implement best practices with all of the support roles tenants need, fair salaries for legal services workers, and caseloads that ensure all tenants receive the best possible representation. This means that the city needs to increase the budget for RTC by at least \$70

million dollars to fund the law as it is now, while also looking to further increase the funding to achieve best practices and its full potential for tenants. In addition the city needs to set up a mechanism to monitor the cost---if cases go up the cost goes up and the city needs to proactively plan for this.

Oversight of the Office of Civil Justice

The Office of Civil Justice was created to implement Right to Counsel and is responsible for upholding it. OCJ is not fulfilling that responsibility. By law, the Office of Civil Justice is supposed to hold annual hearings on RTC and release annual reports. They did neither in 2022.

We understand that ultimately, the State courts must implement our City law, and are not legally compelled to do so without legislation at the State level. However, OCJ has a history of pushing the courts to make changes that are fully within their power in order to uphold RTC, such as adjusting calendars, posting accurate signage, and having judges make announcements to inform tenants of their rights and options. The implementation of RTC was a collaboration between OCJ and the courts. Now, OCJ is remaining silent and allowing legal service providers to take the blame for a problem that can only be solved by the courts.

In addition, OCJ used to meet regularly with the members of the Right to Counsel Coalition; under this administration they don't. OCJ can't just meet with the organizations they contract to. They must meet with and hear from tenants and tenant groups directly.

The City must ensure that OCJ follows the requirements of the law, advocates with the Courts to uphold it and meet regularly with tenant groups to make sure their practices are rooted in the needs of tenants facing eviction.

Support Statewide Right to Counsel

We need statewide legislation to fix the crisis in NYC. Statewide Right to Counsel (A1493 / S2721) not only expands RTC to all tenants across the state, it also creates rules for the court system to uphold it. Passing Statewide RTC mandates adjournments and essentially legislates what the Chief Judge has so far failed to do. The bill requires that courts notify tenants of their RTC, give them the info they need to reach an attorney, and adjourn cases until they've been able to connect with one. RTC will mandate the courts uphold Right to Counsel and match the pace that cases move forward to attorney capacity. Despite massive protests, the courts have so far refused to solve the crisis. Legislation will mandate that they uphold the law. If the provisions in Statewide RTC had been in place, we would not be having the crisis we have in NYC, period.

It's imperative that this legislation is not only passed this session but also fully funded. With adequate funding, providers will have a greater ability to hire not only attorneys, but social workers and other support staff critical to implementing Right to Counsel. We are fighting for \$172 million in FY 24. \$62.5 million of that funding would go to NYC.

It's imperative that city council members Pass Resolution 345 in support of Statewide Right to Counsel (A.1493/S.2721) for all New York tenants to urge their colleagues in the state legislature to pass and fund it NOW.

In summary, Right to Counsel keeps New Yorkers in their homes. It is up to us to ensure its success. We are calling on all members of the City Council to be RTC champions and publicly fight to defend RTC. Specifically we are asking that you:

- Pass City Council Resolution 499 in support of our Statewide Defend RTC Legislation (S3254 / A4993), which would mandate that tenants have the time they need to get RTC.
- Pass Resolution 345 in support of Statewide Right to Counsel (A.1493/S.2721) for all New York tenants.
- Demand that the courts pause all cases for eligible tenants who don't yet have RTC until there is lawyer capacity
- Ensure that OCJ manage the waitlist of tenants to make sure that all tenants who have been denied RTC get a lawyer
- Ensure that OCJ meets regularly with tenants and organizers to develop solutions and that it will comply with the law to hold annual hearings and release annual reports.
- Fully Fund RTC. As it exists now, the law is not currently fully funded. This is leading to retention challenges at legal services organizations and discouraging zealous representation. We need the City Council to build on and maintain the legacy of RTC and add at least \$70 million dollars to fund Local Law 136.
- Call on HRA to Fund Local Law 53 Immediately; HRA must announce publicly when they will release the Request For Proposals (RFP) for FY 2024 and the \$3.57 million they have allocated.
- Support and advocate for Statewide Right to Counsel to be passed and funded this session.

We urge you to address this crisis with the seriousness and urgency it deserves.

Signed,
Catholic Migration Services



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March 28, 2023

Good morning,

This testimony is submitted on behalf of the executive leadership at the Center for Independence of the Disabled, NY (CIDNY). CIDNY's mission is to ensure full integration, independence, and equal opportunity for all people with disabilities by removing barriers to the social, economic, cultural, and civic life of the community.

CIDNY is testifying today before the City Counsel Oversight Hearing on Right to Counsel (RTC) to provide support for New York City's Universal Access to Legal Services program for tenants facing eviction, and to advocate for increased funding to expand this program to ensure more access to this crucial legal support for our consumers.

The Covid-19 pandemic has had devastating impacts on low-income tenants and put many people from our city's most marginalized groups, including those with disabilities, at risk of losing their right to safe, appropriate, and affordable housing. CIDNY has seen firsthand how people with disabilities, particularly people with mental health disabilities, are among the most at risk for eviction, landlord harassment, and homelessness. CIDNY works with individuals with disabilities throughout the five boroughs of New York City, and many of CIDNY's consumers contact our offices specifically because they are experiencing issues related to their housing and are at risk of being evicted from their homes. With the ending of the State's Eviction Moratorium, this problem has only worsened. In fact, calls to CIDNY related to housing and eviction cases have increased dramatically in the past year, and the need to ensure access to legal services to assist people with disabilities in responding to their housing concerns has reached a critical point.

CIDNY does not currently provide direct legal service representation in matters related to housing to our consumers because CIDNY does not have the funding to do so. As such, a large part of CIDNY's role when consumers contact us for a housing issue is to refer them to a legal service provider where they can get an attorney to provide them with legal advice and direct representation. CIDNY is extremely grateful for the implementation of the RTC law, since we know that the RTC program has been very successful in reducing evictions. The existence of this program has also made it possible for CIDNY to better advise our consumers about their right to get an attorney to assist them when they are facing the threat of eviction. However, CIDNY is extremely concerned by the feedback we have received from Consumers, who often report back to CIDNY that they are unable to get the assistance they require, despite the existence of the RTC program. It has become clear that legal service organizations in NYC who have been tasked with implementing this program are becoming increasingly unable to sustain the program and are unable provide the level of services the program requires to meet the needs of our consumers.

Given the above, CIDNY is advocating for increased funding to organizations who are currently implementing the Right to Counsel Program, as well as to expand funding to enable CIDNY and other organizations to hire



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experienced attorneys and develop the programs required to appropriately address the legal needs of people with disabilities related to their housing.

Towards that goal, CIDNY is hereby requesting an amount of \$300,000 to enable CIDNY to hire experienced attorneys to advise and represent our consumers with disabilities when they are facing legal issues related to their housing needs and the serious potential for eviction.

Furthermore, CIDNY is also advocating for more accessibility and reasonable accommodation for people with disabilities to better enable them to access housing court proceedings and the RTC programs. CIDNY is often contacted by consumers who have received a notice of eviction from their landlord and are overwhelmed and completely unaware of their right to obtain an attorney and reasonable accommodations for print access to assist them in these proceedings. In fact, by the time we are contacted by consumers it is often too late for them to find an attorney to assist them. People with disabilities access information very differently. Some people use assistive technology, human readers, braille documents, and/or screen-reading devices. Thus, it is imperative that universal access must include access to print documents and the ability for these documents to be understood for those individuals with cognitive disabilities. True access must include the right to counsel and the ability to understand the information presented. CIDNY is requesting that OCJ work with disability rights advocacy organizations to ensure that efforts are made to ensure that people with disabilities can have equal access to the RTC program, and all other aspects of housing court proceedings. CIDNY believes that safe and stable housing is a right for all!

Thank you for the opportunity to testify on this important matter for our consumers, and for your consideration of our testimony.

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**Center for Justice Innovation
New York City Council
Joint Hearing of the Committee on General Welfare & the Committee on Housing and
Buildings
Oversight – Universal Access to Legal Services Law and Tenant Protection
March 27, 2022**

Good afternoon, Chairs Ayala and Sanchez and esteemed Council Members of the Committees on General Welfare and Housing and Buildings. Thank you for the opportunity to provide testimony today. Since its inception, the Center for Justice Innovation (formerly the Center for Court Innovation), referred to as ‘the Center’ throughout these remarks, has supported the vision embraced by Council of a fair, effective, and humane justice system and public safety built through sustainable, community-driven solutions that cultivate vibrant neighborhoods.

The Center’s longstanding partnership with Council over the past 25 years has helped bring this vision to life through evidence-based and racially-just programming that spans the justice continuum. We operate programs in all five boroughs, ranging from community-based violence prevention programs to reentry initiatives, civil access to justice programs, and court-based programs that reduce the use of unnecessary incarceration, just to name a few. Our firsthand experience operating direct service programs and conducting original research uniquely positions us to offer insights that Council can look to as it considers strengthening the regulations laid out in the Universal Access to Legal Services law and tenant protections, generally.

The Center’s Housing Justice Initiatives

The Center’s Harlem Community Justice Center and Red Hook Community Justice Center have operated for more than 20 years as the City’s only community-based housing courts, hearing all residential landlord and tenant matters from Central and East Harlem (zip codes 10035/10037) and the Red Hook Houses, respectively. Through the Center’s onsite Housing Help Centers in Harlem and Red Hook, we support problem solving on rent and repair complaints, lease renewals, and other housing issues. We also operate a standalone Housing Justice Resource Center in Brownsville, Brooklyn. Finally, earlier this year, the Center launched a pilot program, the Brooklyn Eviction Diversion Initiative, with the Office of Court Administration in Kings County Civil Court.

The Center’s mission across these programs is improving access to justice, responding to the human needs of litigants, advocating for safe and healthy housing conditions, and preventing eviction. Every year, we work with more than 2,500 clients facing eviction or experiencing

severe housing repair needs to navigate the court process, access assistance with arrears, obtain legal counsel, and receive social services. Given our experience, we are encouraged by Council's consideration of the Universal Access to Legal Services law and offer the following set of recommendations to fully realize and strengthen this groundbreaking and important law.

1. Full legal representation for tenants in housing court is essential and should be fully funded to provide the level of protection intended.
2. Legal services should be made available as early as possible. The Center recommends extending representation to the point of Answer, when a litigant is first answering the landlord's petition for eviction against them.
3. The Center knows firsthand the value of community-based interventions, like our Housing Help Center, and we recommend fully funding and implementing Local Law 53, among other community-based, preventive, tenant organizing and education efforts.

The Harlem Community Justice Center: Housing Help Center

For more than 20 years, the Center's Harlem Community Justice Center has been the housing court for all landlord tenant matters in Central and East Harlem. The Center operates an on-site Help Desk. The Help Desk supports tenants through housing court processes as well as provides a wide range of preventive assistance to promote housing stability. Currently, Harlem's housing court part is being heard downtown in Manhattan Civil Court, but the Center is helping Harlem tenants every day out of the Harlem Community Justice Center and directly in the community. Though the court part is operating downtown, we are excited to bring virtual access to the clerk's office to the Housing Help Center. This will allow us to help tenants file Answers, Orders to Show Cause, and HP Actions.

Despite not being co-located with the court at the present moment, after two decades of being in Harlem, the Center is a known and trusted resource to tenants in the neighborhood. The Housing Help Center's days are busy, helping tenants to better understand and respond to notices they've gotten from their landlord or the court. We also support those who are fearful of being evicted after falling behind in rent. The Center works with a significant number of Seniors, community members with disabilities, and those with mobility issues who come to us in wheelchairs, walkers, and accompanied by Home Health Aids. We also work with a lot of residents. Finally, we work with many tenants who have experienced extensive trauma, suffer from cognitive impairments, or mental health issues. Each of these issues compound the already immense stress and barriers our clients confront as they navigate Housing Court and fight to stay in their homes.

The Center's Experience with Right to Counsel

Our Harlem Housing Help Center serves a full docket of clients facing eviction in Housing Court who are eligible for a free attorney under Universal Access, but are not receiving services. The Center recognizes the importance of direct representation in housing court and legal service referrals, which has always been a critical component of the assistance we provide tenants. Since the eviction moratorium lifted a year ago, there has been a rush of filings, and it has become increasingly rare for our clients to receive direct representation. This makes it

exceedingly difficult for us, as advocates, to have an impact on the Housing Court process, even in the most desperate of situations.

Prior to the COVID-19 pandemic, the Center made direct legal service referrals to legal service providers, such as to our partners at Neighborhood Defender Services, Manhattan Legal Services (LSNYC), or New York Legal Assistance Group (NYLAG), on behalf of our clients. This was common when a case was particularly complicated or involved high stakes. We are aware of the capacity issues within Legal Service providers, and now advise our clients to call Housing Court Answers or the 311 Tenant Helpline to ask for “Right to Counsel”. We have found it challenging to connect with the correct unit, even when clearly asking for “Right to Counsel”. We often get mixed responses and have even been directed to The Human Resources Administration’s (HRA) public benefits unit or the Housing Court Help Centers.

The Center connects with the Office of Civil Justice directly on behalf of tenants who receive a Notice of Petition. We are being told tenants must wait until they are in court to be connected to legal services. However, more often than not, clients who should be eligible for a free attorney are not being connected, even after several court appearances. In other instances, our clients share with us that they spoke with a legal service provider but were told they only have the capacity to give legal advice, not full representation.

Center Support Pre/Concurrent with Legal Representation

Whether or not our clients access legal representation, the Center continues to work with them, helping to identify ways we can assist leading up to their first court appearance. For example, when a tenant comes to the Center after receiving a rent demand, we ask if they agree with the amount claimed they owe. We assist in requesting a rent ledger and breakdown from their landlord, and cross reference it with the rent demand. If the tenant is a resident of the New York City Housing Authority (NYCHA) or Section 8 housing, we help them complete any outstanding annual or interim recertifications, if there has been a change in their household composition or income.

There are often discrepancies around the amount of arrears claimed. The Center helps tenants complete a rent grievance and compile receipts and documentation of payments made. When a tenant does not dispute the amount owed, we begin the process of applying for financial assistance using a rent demand letter. Finally, the Center assists with One Shot Deal applications, and referrals to other rental assistance providers such as Catholic Charities, The Bridge Fund, Home Base, and other charities helpfully maintained and shared by Housing Court Answers. We also participate in public benefits advocacy, if there are issues with cash assistance, City FHEPS, or SNAP benefits.

As tenants move through our Housing Help Center, our staff inquire about their home conditions, utilities, and any outstanding repairs. We help tenants identify and document repair needs, submit requests to landlords in writing, submit tickets to NYCHA, and file HP actions. For seniors and residents with disabilities, we offer home visits to document repairs and reasonable accommodation requests. Perhaps most importantly, the Center utilizes this time with tenants to inform them of the Housing Court processes in New York City and their rights and

protections within it. Our staff prepare tenants for what to expect in Housing Court, how to answer a petition, the importance of documenting any defenses and counterclaims, and the importance of appearing at Housing Court dates. When tenants first receive a Rent Demand letter or notice of petition, we find that misinformation is rampant and the panic is often palpable. We see the importance every day of our presence in the Harlem community—being accessible, multi-lingual, resourceful, and able to give tenants clear, tangible next steps.

Conclusion

In closing, the Center strongly believes in the importance of high-quality, holistic legal services for tenants facing eviction, which were envisioned in the passage of the Universal Access to Legal Services Law in 2017. Full legal representation for tenants in Housing Court is essential and should be fully funded to provide the level of protection intended, which includes adequate staffing levels of attorneys, paralegals, and social workers with competitive salaries and benefits to attract and retain talented and committed tenant advocates.

The Center urges the Office of Civil Justice to amend the referral process, making Right to Counsel as open, early, and accessible as possible. We have seen the value of tenants speaking directly with an attorney after a Notice of Petition, not having to wait for their court date. As such, we support increased funding for Right to Counsel, to not only provide full access to clients who are eligible but extend representation at the point of the Answer.

Lastly, the Center recommends expanding community-based interventions, like our Housing Help Center. Fully funding and implementing Local Law 53 would be a strong step in the right direction. Most tenants are not aware they have the right to a free lawyer in Housing Court or are apprehensive to exercise their rights. Local Law 53 would support tenant organizers and non-profits in proactive and affirmative tenant outreach, education, and organizing, to reach every neighborhood and building in New York City.

We call on Council to support community-based services, like those we offer in Harlem, which can stabilize clients in their homes, avert eviction filings, and complement the legal assistance of full representation. By partnering with the Center, Council can go beyond transforming the legal system to cultivating vibrant and prosperous communities that center access to justice for all who live here. We thank Council for its continued partnership and are available to answer any questions you may have.



Thank you to the New York City Council Committee on General Welfare for holding a hearing on NYC's Right to Counsel law. My name is Oksana Mironova and I am a senior 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 tracking New York's eviction trends for decades. From 2020 to 2021, New York held off a sharp increase in evictions with rental assistance programs and an eviction moratorium. With the end of the moratorium in early 2022, eviction filings climbed sharply. Our 2022 Unheard Third Survey—the longest running survey of low-income people in the US—[shows that](#) 15 percent of all tenants were targeted for eviction, the highest share in a decade. Families with children under 18 account for nearly half of attempted evictions, while making up only 28 percent of New York City's households.

As a result of the uptick in evictions, one in five tenants of all incomes – and nearly one in four low-income tenants – have had to move in with others because of financial reasons in 2022.

In late 2017, New York became the first city in the country to implement a Right to Counsel (RTC) law. RTC proved to be effective from the onset. [Looking back at two years of data in late February 2020](#), we found that evictions in zip codes covered by RTC declined by 29 percent, 13 points more than in non-RTC zip codes with similar eviction, poverty, and rental rates. Further, 84 percent of tenants with access to counsel in eviction cases were able to stay in their homes. The data shows that RTC was extremely effective in bringing eviction rates down in NYC.

Unfortunately, today, more and more eligible tenants are facing housing court without legal counsel as thousands of eviction cases move forward without RTC. Last year, [14,000 tenants with eviction cases](#) were denied their legal right to an attorney. Analysis by [the publication The City](#) last year showed that tenants living in upper Manhattan, the Bronx, and northeast Queens and the Rockaways had the least access to attorneys.

New York City must do more to defend and uphold RTC, including:

- Demanding that the courts pause eviction cases for RTC-eligible tenants until they are able to be represented by a lawyer.
- Working to ensure that all tenants who have been denied RTC are able to access counsel.
- Ensuring that the Office of Civil Justice (OCJ) establishes a regular meeting schedule with tenants and organizers.

More broadly, the City of New York must fully fund Right to Counsel to avoid destroying this highly effective strategy for preventing evictions at a critical time. The city allocated \$166 million to cover the cost of Right to Counsel, but extreme labor shortages among legal service providers are proof that this amount is simply not enough. RTC is funded at about 70 percent of its current cost, without accounting for changes that are vital, including fair salaries for legal



services workers and caseloads that ensure all tenants receive the best possible representation. The city must increase the RTC budget by at least \$70 million, while looking to further increase the funding to achieve its full potential.

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.

Monday, March 27, 2023



**NYC Council Committee on Housing & Buildings
Jointly with the Committee on General Welfare**

Public Hearing - Right to Counsel

**Testimony of Esteban Girón
Member, Crown Heights Tenant Union (CHTU)
Board Member, Tenants Political Action Committee**

Good morning. My name is Esteban Girón, and I am a rent-stabilized tenant and member of the Crown Heights Tenant Union (CHTU). We are a tenant-led, all-volunteer union of tenants and tenants associations that was founded in October 2013 in response to rampant gentrification, displacement, illegal overcharges and rising rents in Crown Heights, Brooklyn. We use a "Unite and Fight" organizing model that brings together long-term tenants and new residents with the common goal of stopping the exploitation and harassment of ALL tenants. I also serve on the Board of Tenants Political Action Committee, helping to elect pro-tenant state legislators and city councilmembers. It is an honor to testify before you today in support of fully funding the Right to Counsel program and sending a strong message to our State Legislature that laws passed in this chamber are not optional.

Crown Heights North in the 35th District has seen more evictions than any other neighborhood in the city since the end of the eviction moratorium over a year ago. At the same time that the statewide moratorium was expiring, talk of a major rezoning along Atlantic Avenue began in earnest, and landlords picked up the pace of clearing the way for a younger, whiter, and wealthier demographic even more they had done in the past decade. The results have been devastating. The vast majority of tenants in my neighborhood qualify for Right to Counsel but have nonetheless been evicted without any representation. We would be in a very different situation right now if we had emerged from the pandemic with a fully-funded Right to Counsel program, and if judges and administrators with the Office of Court Administration really cared about the rule of law.

You will have the opportunity to vote in favor of some resolutions calling on state lawmakers to uphold the law that we worked so hard to pass. This is a great way to show support for tenants who are suffering. It is frustrating that so much of the administration of the Right to Counsel program depends on decisions made in Albany by people who don't have to answer to the residents of NYC. But while the NYC Council may not have oversight or direct authority over

granting adjournments or forcing the Office of Court Administration to follow the law, you do have direct authority and oversight over the city budget. Fully funding this program right away is the bare minimum. If you aren't demanding the full funding of the Right to Counsel program, I don't believe you care about tenants or homeless folks, or that you are a champion for working class Black and brown tenants in your district. Without a roof over one's head there is no healthcare, there is no education, there is no food security, there is no public safety, and there is no future. What could be more important than ensuring families don't become homeless?

For now, groups like CHTU and Brooklyn Eviction Defense (BED) have been fighting evictions not only through the courts, but on the streets by physically stopping or even overturning evictions. We will continue to do this work for ourselves and for our neighbors, and we are watching to see how serious you all are about providing real, tangible support for your vulnerable constituents. We need to see 70 Million more in funding. Show us that we matter to you. Thank you.

3-27-23 Beverly Rivers Testimony for City Council Oversight Hearing on Right to Counsel

Monday, March 27th, 2023

Right to Counsel is the right for tenants to have legal representation when they are in court. Tenants are not actually receiving RTC right now and they haven't been for over a year. As a tenant leader for Flatbush Tenant Coalition, I fought for Right to Counsel in support of comrades and some of them were not able to get a lawyer to represent them.

Right to Counsel is important to us tenants because, at this very moment, I am in court facing eviction and, fortunately, I have a lawyer representing me. Because of my experience in housing court, I am seeing that, without a lawyer, a tenant could be really lost. The landlords' lawyers are always badgering and bullying unrepresented tenants. I am confused because we fought for Right to Counsel in the rain, in the snow, and we won our fight for that right. Yet, we are still being PERSECUTED by being denied the Right to have a lawyer to represent us.

I demand that the City Counsel call on the Office of Civil Justice to make sure that all tenants who have been denied Right to Counsel receive an attorney. I also demand that the City Counsel adequately fund the Right to Counsel program. Legal Service Providers are underfunded and need additional resources to adequately represent tenants facing nonpayment and eviction cases. We fought for years to win RTC and we were successful in getting out right, so please, give us what is due to us.

Thank you,



Beverly Rivers
Steering Committee Member
Flatbush Tenant Coalition

NYCCouncil testimony General Welfare with Housing and Buildings
27th of March, 2023 10 AM

Greetings my/our honorable (110th) NYCCouncil
My name is Mx. Joe-Anthony Sierra & reside at
185 St Mark's Pl, Apt. 11 K, St. George,
Staten Island, NY, 10301-1657 Richmond County
NYC Council District 49

I above-named testify before your honors under penalty of perjury.

The above-mentioned address has been my residence for sixteen years
July 2023.

It is a Mitchell-Lama HPD supervised post Asset management have
erroneously miscited law regarding renewal of leases on existing tenants
post renovation in court ordered preservation.

The US Senator of NY requested that they on order to seek the
displacement of all individuals after they had a change of mind in renewing
the mortgage as agreed with US dept of HUD, for them to get the clearance
from the Secretary. Ultimately denied property owners/aka management
sued HUD and their response for the US agency to mind their business in
REBNY accustomed market standards, the judge agreed with HUD that
there wasn't any affordable housing in the area, therefore to be preserved.

- I won in conference with my defense that my original lease withstood
moreover transfer of ownership as HPD & the petitioner cited 'new
owners'.
- I thank you & implore you to make RTC Right To Council stronger in
perpetuity. I lobbied 109th previous NYCCouncil for RTC.
- I never would've sacrificed myself as a Tenant Advocate facing the
potential of eviction, the scariest thing after a natural
disaster/crash/tragedy if it wasn't for the Right To Council.
- The property owner has violated the terms of their financing & HPD
does not care has shown favoritism. I won't go as far to speculate

that it is an intimate one but demonstratively a favorable thus in my case biased relationship nonetheless.

- I have done pretty well not being represented by counsel.
- I waited three and half years to get a decision. Hearing July 2018 received Jan 2023 & I had to demand it. In the interim suffered at the hands of landlord agents. That was enough time to shop for a judge.
- I cite illegal eviction because in the Mitchell-Lama law NY consolidated Private Housing Finance Article II Limited Profit Housing Companies they cited renewal of leases-I responded after demanding they show it that it does apply to me as it specifically applies to new or transfer tenants, I am neither.
- In absence of it shouldn't be covered by Congressional consolidation of HUD anti-displacement, I cite half the building of 434 units. HPD never cared about my alleged Finance violations of the petitioner.
- I lost hearing and was expected as I said the truth of which none of my defenses were mentioned only that of the petitioner I object as hearsay it is their way of doing business as if it were a legal HUD rules and regulations standards when it isn't.
- We are Section 8 as in reaching out to the NYC 109th Mayor it was granted as a solution to keep housed as possible. Yet there was still a massive displacement in forcing in unit tenants to renew leases under duress with threats of immediate eviction. I became a tenant advocate and sacrificed myself to tell the wrongdoing.
- Autonomy of HPD is scary. I pray the NYC Council Committee will fix that. In the Hearing decision ordering me to renew a lease even after I challenged their defense not in the law, "new owners reason that I must renew a lease."
- Section 8 tenants never sign leases as applicant or in lease renewals pursuant to HUD required contract is signed by project/landlord agents before Section 8 HUD local agent gives clearance to tenant to sign a new lease or renew which usually means agreed to rental increase. Hypothetically the choice remains that of the tenant.
- HPD cited the City Charter to be able to tell me that I must sign a lease I can not afford, moreover as a Section 8 recipient.

- The petitioner's violation was to demand that existing tenants renew leases before the Section 8 applications determinations were finalized. Many were not accepted thus causing displacement in which law says should've been reimbursed for the hardship. It is not only for renovation purposes they were deceived of their rights and HPD let it happen scary that they cite NYC City Charter as the right to do so.
- Moreover HPD deceived me by telling me from the very start of conferences held every month for many months until I requested a hearing that I was unable to appeal the administrative judge aka asset manager/lawyer' decision. Recorded as I brought it up at hearing.
- In the Hearing decision I missed the one sentence regarding my/the 'right to an appeal~Article 78. In a hearing last month I brought this egregious issue up that I was denied the right to an appeal from day one to the 1st conference except in hearing. It was recorded on audio tape.
- The property owner is HUD multi financed and has violated the terms of the financing with as I claim mass displacements HPD doesn't care & both may have defamed me to HUD therefore may have prevented an inquiry.
- Moreover property owners are in violation of financing thus HUD contract systemic accounting irregularities I have documented three years of it personally was HPD notified & supervision dismissed health violations complaints denial if building wide services as the matter was under litigation.
- Moreover HPD ignored how property owners also violated financing HUD contract with landlord harassment (partial in/of existing tenant units) renovation no one was afforded the right to temporary accommodations as per anti-displacement Congress codified HUD rule on the bottom signature line of contract.
- As tenant advocate I had to contact NYC EPA regarding the renovation harassment after seeing many tenants were dying weekly; those that did die had suffered from lung diseases-a stop order was

issued of the two buildings simultaneous renovation, what felt to many as a freight train derailed into our homes/units.

- I pray to NYC Council to demand HPD (Frances Lipa) stop deceiving tenants. How many that came before were told from the beginning of (illegal) certificate of eviction conferences that they couldn't appeal an intent to mislead except after hearing corrected therefore disclosed & potentially missed by inhabitant as was my case.
- The NYC Charter is under the US constitution and does give HPD autonomy moreover the power to deny constituents/inhabitants rights.
- I have a hearing in the above matter whether a certificate of eviction will be granted because I won't be strong armed under duress to illegally renew a lease as Section 8 client pursuant to addendum landlord agents sign before applicant is granted permission to sign a lease, same applies to renewal of leases.
- HPD did not care about their failure and that of HPD Section 8 to miss (financing=blueprints sign off) that the building was (a grandfathered mistake) inadequately ventilated as per (NYC) building codes/requirement of gas stove/heating elements in kitchens without a window to have egress ventilation. Twelve units on each floor only center (4 total 2 on each side) center 1 bedroom units have them not the corner or elevator bank (2 are 1 bedroom) units have kitchen gas exhaust vents. HPD ignored my advocacy for correction years before COVID 19. It spread like wildfire & how I caught it-I had a face covering from 8th of March 2020 when the state announced to do so with a state of emergency.
- I pray to the NYC Council to make all administrative hearings (HPD) transparent & easier. How does a person with limited education file an Article 78 without counsel, not a denial of rights from the hardship.
- I wish to continue but am limited with a 72 hour expiration. Plan to keep HPD committee abreast of situation as faced with an illegal eviction HUD does not have the power to stay if the landlord wouldn't have LGBTQIA discriminated I never would've been granted an inquiry in the above issues raised. US HUD Fair Housing Equal Opportunity (FHEO) is investigating yet I still face a potential eviction

and not from rent arrears I have over two months of a rent credit (my section 8 portion)

- Thank you please keep RightToCounsel RTC.

**Homeless Services United's Written Testimony for
The NY City Council's 3/27/23 Joint Oversight Hearing of the
General Welfare and Housing and Buildings Committees
on Universal Access to Legal Services Law and Tenant Protection**

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, Deputy Speaker Ayala and Chair Sanchez and members of the General Welfare and Housing and Buildings Committees for allowing me to submit written testimony.

Universal Access to Counsel for tenants is critical to ensuring that low-income households know and can exercise their rights in housing court when facing an eviction. In NYC housing court cases where tenants were represented by a lawyer, 85% of those households were able to successfully avoid an eviction¹, which is an amazing testament to the effectiveness of Local Law 136 of 2017. But since the ending of the eviction moratorium, the courts have refilled court dockets irrespective of the capacity of City-contracted legal services providers to take on new cases. This winter, Manhattan courts expanded from 3 to 4 Parts to increase the number of cases court dockets could handle, but without additional resources for City-contracted UAC legal providers to meet the represent the increased number of cases.

As it currently stands, there are simply not enough UAC housing court attorneys to represent every eligible household facing eviction. Despite the best effort of legal providers who are literally working at maximum capacity, the lack of attorneys coupled with the relentless pace set by the Office of Court Administration (OCA) is causing more and more households to be unable to access legal services through UAC when facing an eviction. The capacity crunch is so dire that legal providers are having to resort to waitlisting new cases until staff can close current cases. **To be clear, the City is responsible for ensuring there are sufficient legal services to assist all income-eligible households and should commit additional funding and resources to meet this unmet need and fulfill its obligations under Local Law 136 of 2017.**

HSU supports NYC Council Resolution 499-2023 calling on the State Legislature and Governor to pass legislation requiring the State Office of Court Administration to manage the housing docket to set an upper limit for how many housing cases can be placed on a calendar per month, such that tenants eligible under UAC can access legal services. And as Borough President Levine testified yesterday, the City must present an united front to get this accomplished in Albany. The Human Resources Administration's Office of Civil Justice and Mayor Adams should join the Council in calling for the State Office of Court Administration to slow the pace of the housing court docket to ensure the City can meet its legal obligations under Local Law 136 of 2017.

The goal of the Right To Counsel law is to ensure that every low-income New Yorker facing eviction has access to qualified legal representation to navigate the process and retain housing whenever possible.

¹ https://www.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ_UA_Annual_Report_2019.pdf

To achieve this takes more than successfully defending and closing a housing court case. To ensure that tenants receive quality services through Universal Access to Counsel, attorneys need both the bandwidth to provide the holistic undercare to stabilize someone's situation to ensure they do not fall back into arrears post court, and strong connections to other community-based organizations, as the strength of the safety net lies in the overlapping coverage provided by multiple agencies to triage and support households in need. To achieve this, it will take added investments to UAC provider contracts to increase headcount and retain qualified experienced staff who forged connections with other providers within the space.

Further, if households are to be truly stabilized to prevent displacement in the long term, there must be robust training support for new housing attorneys to understand rental assistance vouchers and public benefits screening and processes, a successful strategy to holistically support the long-term needs of UAC clients which includes the need to fund comprehensive undercare and benefits access work which is currently not reimbursed by UAC contracts², and coordination with other eviction prevention programs like Homebase to collaboratively assist tenants. Currently only a few of the larger legal services providers with access to other funding streams are able to offer some measure of benefits access work for their clients. **In addition to ensuring that legal services contracts right size salaries and headcounts to reach sustainable case ratios for attorneys we recommend UAC contracts expand to incorporate benefits access work for all UAC clients, which is critical to reducing housing instability for low-income households.**

Likewise, there must be parallel investments made to shore up community-based eviction prevention programs like Homebase who also are currently struggling with record high vacancies and turnover within their programs. This could be accomplished by the City committing \$90 million from its allotment of Federal HOME ARP funding to Homebase programs to increase wages to close vacancies and retain qualified staff, and expanded headcount to bring caseloads back down to sustainable levels.

And within this same vein, the Human Resources Administration should be empowered by the City to expand headcount at units responsible for public benefits and rental assistance processing in addition to the current budget vacancies they are working to fill. Homebase and legal service providers are both encountering processing and approval delays within respective HRA units which impedes their ability to resolve housing court cases. As UAC providers need additional staff to keep pace with the housing court docket, HRA needs to expand their own frontline staff relative to the increasing number of households applying for assistance.

In order to enable UAC providers to provide the best and most efficient representation for their clients, HSU also recommends that all UAC providers be granted the ability to process in-community CityFHEPS applications for their clients, similar to how legal providers can gain authorization to process State FHEPS applications. To ensure this capability is sustainable, UAC contracts should also be adjusted to cover the additional staffing costs to support this added service. In doing so, the City can relieve the current

² CUNY Law Review: *Civil Gideon and NYC's Universal Access: Why Comprehensive Public Benefits Advocacy Is Essential to Preventing Evictions and Creating Stability*
<https://academicworks.cuny.edu/cgi/viewcontent.cgi?article=1494&context=clr>



HOMELESS SERVICES UNITED

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NEW YORK, NY 10018
T 212-367-1589
www.HSUnited.org

bottleneck accessing in-community CityFHEPS at Homebase programs, which are currently the only access point for tenants in need of a voucher. In this way, UAC providers will be able to quickly resolve their housing court cases and ensure tenants don't slip back into arrears.

HSU is extremely grateful to the Council for your leadership on and stewardship of the Right To Counsel, and for urging our partners in the State Legislature to push the State Office of Court Administration to work in tandem with legal services providers to provide sufficient opportunities for tenants to access free legal services. With added investments to address workforce challenges and the coordinated efforts of non-profits, the courts, and government partners and elected officials, New York can continue to be a beacon of housing equity in this country.

Thank you for the opportunity to testify, and if you have any questions, please contact me at elee@hsunited.org.

Thank you for the opportunity to testify. My name is Jenny Laurie, I am the executive director of Housing Court Answers, a nonprofit which helps tenants avoid eviction. We do our work through the staffing of information tables in the NYC Housing Court and via a hotline. One of our tasks is to refer tenants to the legal service providers – our phone number is on the forms used by landlords in the eviction process: *Please contact your attorney immediately for more information – if you don't have an attorney call 718-557-1379*

Our hotline currently receives between 350 and 400 calls a day from tenants in various stages of a court proceeding. In the first half of this fiscal year, we took over 20,000 calls on our hotline. I lay out these numbers only to hi-lite that huge numbers of people are desperate for help. We know the numbers of tenants with potential need is much greater – landlords filed over 110,000 eviction cases since the end of the moratorium in January of 2022 according to ANHD.

Prior to the lifting of the eviction protections, we were able to refer tenants directly to legal service providers for conferences prior to their first appearance. We also had the ability to refer folks who missed their court dates, or somehow missed legal assignment, to the Office of Civil Justice for a direct connection to a legal service provider. We knew these tenants would get representation – and would have the best possible outcome on their cases.

Since the ending of the moratorium, the courts and the providers have been overwhelmed. There is no longer a sense of shared responsibility to preserve community. According to the right to counsel coalition, over 14,000 tenants were denied their right to counsel in 2022. Judging from our hotline calls, 2023 is heading to even higher numbers.

In any given year about half of tenants sued for nonpayment don't respond to their cases according to a recent report by the Furman Center. These defaults result in judgments and evictions. 40% of warrants issued statewide came from default judgments, according to the authors. This situation was worsened by the pandemic when thousands of tenants self-evicted.

The authors found that having a right to counsel made for fewer defaults – even though tenants had to appear to get counsel.

More than any other factor, the speed of calendaring cases in the housing courts is making right to counsel impossible. The city is giving tenants an impossible maze of hoops to jump through to get an attorney. Housing Court Answers supports the call for the city to:

1. Push back against the court's rapid calendaring of cases;
2. Push the court to calendar new eviction cases only after all the backlog of tenants with pending cases have been matched to attorneys;
3. Push the court to reduce the volume of eviction cases on court calendars to match the capacity of legal service providers.
4. Fully fund Local Law 53 and the Right to Counsel program to provide for robust legal representation and tenant organizing.

Testimony before the New York City Council Committee on General Welfare Regarding Oversight of Tenants' Right to Counsel

Monday, March 27, 2023

Thank you for the opportunity to testify. We – ANHD, JustFix, and BetaNYC – are submitting this testimony as members of the Housing Data Coalition and a collective of groups that have been collaborating with the Right to Counsel Coalition for over four years to obtain, publish, and analyze housing court data from the Office of Court Administration (OCA).

This data allows us to quantify the state of evictions in New York City and New York State. With access to OCA data, we have been able to track trends in eviction filings throughout COVID and the implementation and expiration of various legal protections against evictions.

Filings have taken off since the end of eviction protections

Despite multiple protections against evictions proceeding through the courts, landlords consistently filed eviction cases in large volumes throughout most of the pandemic. **Over 82,000 residential evictions were filed in New York City between March 23, 2020 and January 15, 2022. Over 130,000 evictions have been filed since then.**

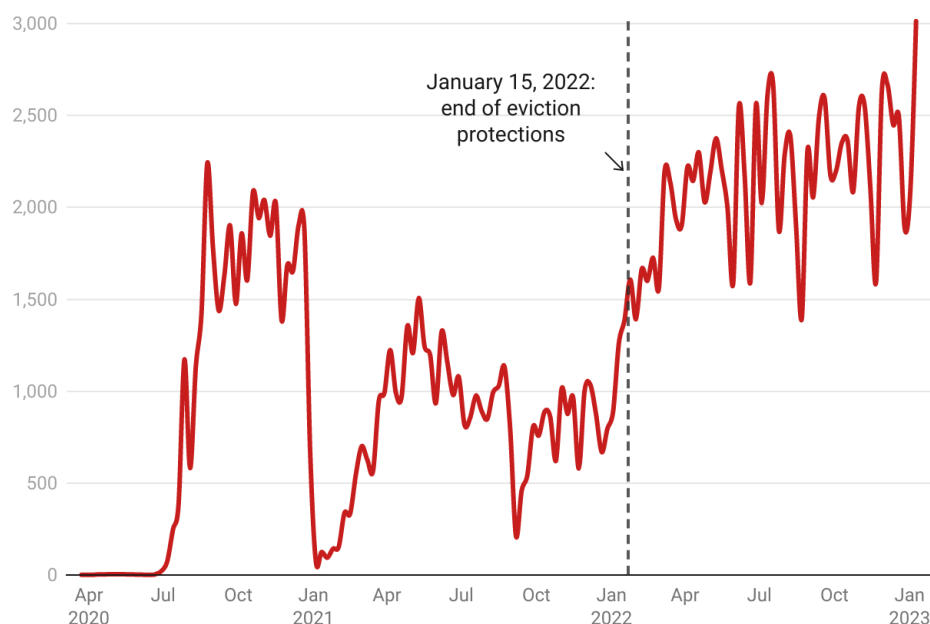


Chart by ANHD. Data source: NYS Office of Court Administration via the Housing Data Coalition in collaboration with the Right to Counsel Coalition, available at github.com/housing-data-coalition/oca.

As you are aware, advocates warned that the lifting of eviction protections would flood and overwhelm the courts. The Right to Counsel Coalition and the legal services providers that represent tenants in their eviction cases knew that there was not adequate infrastructure to handle all the eviction cases in the pipeline. But in contrast with the series of orders that accounted for the exceptional circumstances of the pandemic by slowing eviction cases, on January 15 2022, the courts reverted to the pre-pandemic status quo, with grave consequences.

Since early last year, providers have not been able to take on all tenants facing eviction who are eligible for Right to Counsel. Tenant attorneys, who do their work because they care deeply about the right to housing of New York City's most marginalized and vulnerable tenants, are overworked and exhausted. Over and over, they are facing the impossible choice of either turning tenants away, meaning that tenant may unnecessarily lose their home, or taking on so much work that they simply cannot do all of it with integrity. As a result, they are experiencing intense burnout, meaning that attorneys are leaving their organizations in droves, only exacerbating the problem. Unionized attorneys are striking in part due to these unsustainable caseloads. The situation is absolutely untenable and unjust to tenants and attorneys alike.

Less than half of tenants have representation

In collaboration with the Right to Counsel Coalition and the other organizations involved in this work, ANHD calculated the “rate of representation” for eviction cases that were filed since January 15 of last year. To do this, we took all residential non-payment and holdover cases filed in New York City courts after that date that have had two scheduled appearances already occur. We excluded cases in which tenants never appeared. We then took the share of cases in which the defendant was represented by counsel or was marked as “SRL” - a self-represented litigant. By dividing the represented defendants by the total number of cases that met these criteria, we arrived at our rate of represented tenants.

What we found was the following:

Out of all eviction cases that have been filed in New York City since eviction protections ended on January 15, 2022, **only 47% of tenants who appeared in court¹ have received representation in their case** – whether through Right to Counsel or not. Because some of those tenants have private attorneys, the share of tenants with Right to Counsel representation is lower than 47%. The share of unrepresented tenants equates to over 19,000 households – 19,517 as of this week – who are facing eviction in court alone. In contrast, it has been estimated that 82% of households facing eviction should be eligible for Right to Counsel.² This is the current state of affairs, and it is shockingly inadequate.

¹ Instances in which tenants did not appear in court are excluded from this analysis.

² Report of Stout Risius Ross, Inc. for Pro Bono and Legal Services Committee of the New York City Bar Association: The Financial Cost and Benefits of Establishing a Right to Counsel in Eviction Proceedings Under Intro 214-A, 2016.

<https://cdn2.hubspot.net/hubfs/4408380/PDF/Cost-Benefit-Impact-Studies/SRR%20Report%20-%20Eviction%20Right%20to%20Counsel%20%203%2016%2016.pdf>, p.3.

Share of Represented Tenants

Percent of all tenants with eviction cases who are represented by an attorney by the week the case was filed

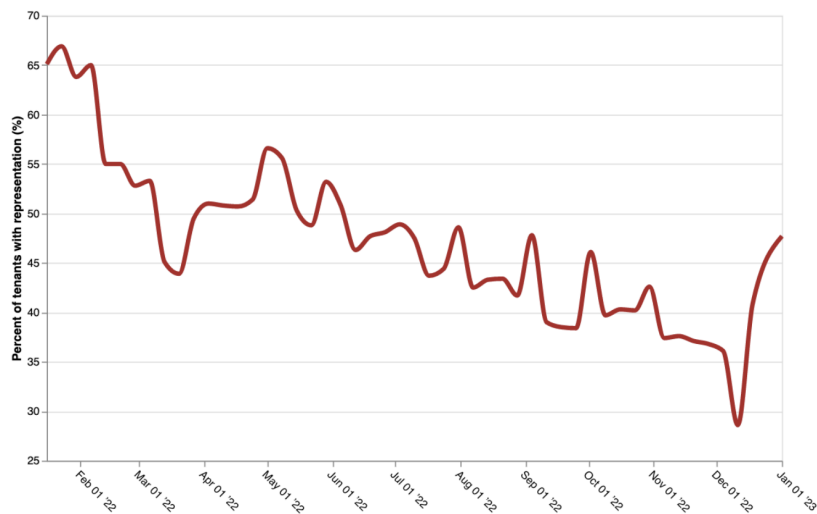


Chart by the Association for Neighborhood and Housing Development (ANHD) in collaboration with the Right to Counsel Coalition. Data source: NYS OCA.

Denying legal representation and protections in housing court impacts Black and brown tenants most. As a result of discriminatory housing policy, racist systems of urban development, segregation, wealth extraction, and disinvestment from communities of color, poor Black and brown tenants are most often the ones losing their homes through eviction. ANHD has found that evictions are filed more than twice as often in majority people of color zip codes compared to majority white zip codes.³ Evictions destabilize households and communities and fuel displacement. They are violent and disruptive, and result in tenants entering a shelter system that is under-resourced and an unaffordable, competitive housing market that prioritizes profit over people. They have a harmful impact on education, employment, relationships, and physical and mental health. New York has the power to change this, and it is the City's responsibility to make sure we do.

Fully fund Right to Counsel

New York City must take all actions within its control to ensure Right to Counsel is implemented and upheld.

RTC must be fully funded in order to achieve its purpose. Legal services providers have communicated that RTC is currently funded at only 60-70% of its current cost, barring RTC from being upheld. The City must increase the budget for RTC by at least \$70 million, while also aiming to increase funding to achieve best practices and enable RTC to reach its full potential. Funding for RTC must also be tied to the number of cases, so that we do not return to a cycle of insufficient implementation that denies tenants their right.

Additionally, Local Law 53 mandated the funding of tenant organizing in support of Right to Counsel, but despite allocating \$3.6 million of funding, the Human Resources Administration (HRA) never released the Request for Proposals that was scheduled for November 2021. The

³ <https://anhd.org/report/new-yorks-pandemic-rent-crisis>

Council must push HRA and the Office of Civil Justice (OCJ) to release this RFP immediately, so that tenant organizers may do their job to ensure that Right to Counsel is upheld and tenants have access to their rights.

Push the courts to change course

Right to Counsel was a landmark victory that was hard-fought by advocates and tenants alike to shift the enormous historic imbalance between landlords and tenants and reduce homelessness. When properly implemented, RTC keeps 84% of tenants facing eviction in their home. But because of the decisions of our courts and government officials, RTC is failing to meet its mandate.

We call on you to uplift the following demands to the courts:

- Issue an administrative order that mandates all eviction cases where a tenant is eligible for RTC be stayed until the tenant is able to retain an RTC attorney
- Calendar new eviction cases only after all eligible tenants with currently pending cases have retained counsel for full representation.
- Reduce the volume of eviction cases on court calendars so that the number of new cases each day matches legal service provider capacity to provide full representation to all eligible tenants.
- Provide sufficient time between court dates to allow time for lawyers to complete essential work on each case, keeping in mind the current staffing shortages and work overload.

Senator Brad Holyman and Assemblymember Linda Rosenthal have introduced legislation (S3254/A4993) that would mandate judges provide the necessary adjournments tenants need to get Right to Counsel. We are calling on you to pass Resolution 499 in support of this critical legislation, sending a strong message to your colleagues in the senate and assembly to include this critical legislation in the budget.

Support Statewide Right to Counsel

In addition to the other measures outlined, we need Statewide legislation to fix the crisis in housing courts. Statewide Right to Counsel (S2721/A1493) not only expands RTC to all tenants across the State, it mandates that the court system uphold it. The bill requires that courts notify tenants of their RTC, give them the information they need to reach an attorney, and adjourn cases until they have been able to connect with one, matching the pace of cases to attorney capacity. The courts have refused to solve the crisis on their own; legislation will mandate that they uphold the law.

It is imperative that Statewide Right to Counsel is not only passed this session but also fully funded. With adequate funding, providers will have a greater ability to hire not only attorneys, but social workers and other support staff critical to implementing Right to Counsel. We are fighting for \$172 million in FY 24, \$62.5 million of which would go to New York City.

The Council must support this legislation and that they urge their colleagues in the State legislature to pass and fund it now.

Ensure that OCJ is following its mandate

It is the responsibility of the Council to make sure that the OCJ, which was created to implement Right to Counsel and is responsible for upholding it, is fulfilling its mandate. Currently, OCJ is not doing so. OCJ is required by law to hold hearings and release reports annually on RTC, and did neither in 2022.

OCJ has a history of pushing the courts to make changes that are fully within their power in order to uphold RTC, such as adjusting calendars, posting accurate signage, and having judges make announcements to inform tenants of their rights and options. The implementation of RTC was a collaboration between OCJ and the courts. Now, OCJ is remaining silent and allowing legal service providers to take the blame for a problem that can only be solved by the courts.

OCJ used to meet regularly with members of the Right to Counsel Coalition, and under the new administration, they have not. We call on the Council to ensure that OCJ:

- Manage the waitlist of tenants to make sure all tenants who have been denied RTC get a lawyer
- Ensure that OCJ meets regularly with tenants and organizers to develop solutions
- Ensure that OCJ complies with the law by holding annual hearings and releasing annual reports

Stable housing is critical to the overall health and wellness of individuals and communities, and we have the power and tools to ensure that stability for tenants. Housing court, as it is operating today, is failing to do so, and the Council must do everything in its power to solve the current crisis in housing courts.

Thank you again for the opportunity to testify.

Signed,

Association for Neighborhood and Housing Development (ANHD)

JustFix

BetaNYC

LEGAL SERVICES FOR THE WORKING POOR

City Fiscal Year 2024

City Council Preliminary Budget Hearing
Committee on Housing and Buildings held jointly with
Committee on General Welfare

March 27, 2023

Introduction

Thank you Chairs Ayala and Sanchez, Committee members on General Welfare and Housing and Buildings and to the New York City Council at large for the long-standing support of the Legal Services for the Working Poor Coalition. My name is Leslie Thrope. I work for Housing Conservation Coordinators, one of the five members of the Legal Services for the Working Poor (LSWP) Coalition that also includes CAMBA Legal Services, Mobilization for Justice, NMIC, and TakeRoot Justice. The Coalition was created with support from the City Council to address the civil legal needs of working poor and other low-income New Yorkers whose income is slightly higher than the poorest New Yorkers, thus rendering them ineligible for free civil legal services while being only one missed paycheck away from facing eviction or other dire consequences. Our Coalition members are in support of the bills presented today as the expansion of the right to counsel for the most vulnerable New Yorkers statewide is essential to

the health and safety of all tenants at risk of eviction. Additionally, Coalition members also provide services under the Right to Counsel program and we are witnessing firsthand the crisis in housing court as we do not have the capacity to keep up with the speed at which new eviction cases are filed while pre-Covid cases are revived and moving forward. However, I am here to provide an insight on why the services that our Coalition provides is so important to alleviate further stress on the current crisis that persists in housing court and more importantly, how our work, made possible by the Legal Services for the Working Poor funding, helps stabilize housing for thousands of NYC households and can even obviate the need for an eviction filing.

We continue to see that working poor New Yorkers, many from communities of color, who can barely make ends meet, face catastrophic consequences as a result of civil legal problems. Common problems include: not being paid for their work or not being paid overtime; identity theft; the freezing of a bank account as a result of a collection lawsuit they did not even know about; or being denied public benefits to which they are entitled. Without access to lawyers to assist them, the lives of working New Yorkers can spiral downward as they experience other problems, including increased risk of eviction or foreclosure. Our legal services organizations represent these New Yorkers in all five boroughs in consumer, foreclosure, immigration, benefits, employment, bankruptcy, and housing matters in state, appellate, and federal courts, and various administrative agencies.

Conclusion

This Council's funding for Legal Services for the Working Poor is the only funding that specifically targets the civil legal needs of working people to ensure continued self-sufficiency for families struggling to survive in New York City. If we are not able to meet the legal service needs of the many people in our communities who seek our help, particularly those whose lives continue

to be upended by the impacts of the COVID-19 crisis, systemic racism, and rising inflation, the human consequences will be dire: immigrant families will continue to live in uncertainty and fear; children whose families have been wrongly denied unemployment benefits, public assistance, or SNAP/food stamps will go hungry; families whose homes could be saved through aggressive foreclosure or eviction defense will become homeless; people with disabilities will be denied the disability benefits they need to live with dignity; and workers who have been cheated of wages by unscrupulous employers will go unpaid.

For the above reasons, it is *vital*ly important that the City Council: 1) support a Statewide Right to Counsel Program; and 2) provide relief to those New York City tenants who require meaningful representation under the City's Right to Counsel program; and 3) continue to support the Legal Services for the Working Poor program which provides flexible funding for legal services organizations to meet the needs of their clients who are over income for most traditional legal service programs, including RTC and AHTP, and also provides a diverse array of civil legal services to those working poor New Yorkers. Thank you.



OVERSIGHT: UNIVERSAL ACCESS TO LEGAL SERVICES LAW

March 27, 2023

JOINT TESTIMONY ON THE ANTI-HARASSMENT AND TENANT PROTECTION PROGRAM PROVIDERS BY LEAP, LEGAL SERVICES NYC AND THE LEGAL AID SOCIETY

Presented by: Keriann Pauls, Director of Coalitions and Resource Management at TakeRoot
Justice and Coordinator of LEAP's AHTP Programmatic Work

Priam Saywack, Deputy Director, Tenant Rights Coalition, Legal Services NYC, Queens
Program

and Jessica Bellinder, Supervising Attorney, Housing Justice Unit-Group Advocacy, The Legal
Aid Society

LEAP

LEAP is a legal advocacy partnership, comprised of community-based, direct civil legal services providers. We work collaboratively to increase the availability, breadth and depth of quality civil legal services for marginalized individuals and communities across New York City. We work as a coalition under the AHTP program with the Urban Justice Center as lead agency, TakeRoot Justice as coalition coordinators, and the following members: The Bronx Defenders, Brooklyn Defenders, Brooklyn Legal Services Corp. A, CAMBA Legal Services, Catholic Migration Services, Communities Resist, Goddard Riverside Law Project, JASA Legal Services for Elder Justice, Make the Road NY, Mobilization for Justice and NMIC.

LEGAL SERVICES NYC

Legal Services NYC (LSNYC) fights poverty and seeks racial, social, and economic justice for low-income New Yorkers. LSNYC is the largest civil legal services provider in the country, with an over 50-year history and deep roots in all of the communities we serve. Our staff members assist more than 110,000 low-income New Yorkers each year and, along with other legal services

organizations in the City, LSNYC's housing practice is at the forefront of the fight to prevent evictions, preserve affordable housing, and uphold tenants' rights.

THE LEGAL AID SOCIETY

The Legal Aid Society (LAS), the nation's oldest and largest not-for-profit legal services organization, was founded in 1876 to provide free legal representation to marginalized New York City families and individuals. The Legal Aid Society's legal program operates three major practices – Civil, Criminal and Juvenile Rights – and through a network of borough, neighborhood, and courthouse offices provides comprehensive legal services in all five boroughs of New York City for clients who cannot afford to pay for private counsel. Each year, the Society handles more than 250,000 cases and legal matters for clients, taking on more cases for more clients than any other legal services organization in the United States.

Our Civil Practice works to improve the lives of low-income New Yorkers by helping vulnerable families and individuals to obtain and maintain the basic necessities of life - housing, health care, food and self-sufficiency. We serve as a “one-stop” legal resource for clients with a broad variety of legal problems, ranging, among others, from government benefits and access to health care, to immigration and domestic violence. Our depth and breadth of experience is unmatched in the legal profession and gives the Society a unique capacity to go beyond any one individual case to create more equitable outcomes for individuals, and broader, more powerful systemic change at a societal level.

Our work has always taken an explicit racial and social equity lens and the current health and housing crisis has further focused our efforts to advocate for the needs of New York's marginalized communities.

Introduction

Thank you to the City Council for holding a hearing on Oversight of Universal Access to Legal Services and allowing us to speak about the Anti-Harassment and Tenant Protection (AHTP) program. AHTP funding represents New York City's commitment to preserving and restoring safe and affordable housing in vibrant neighborhoods where low-income New Yorkers can thrive. By ensuring tenants have free legal resources under the AHTP grant, the City gives meaning to local, state, and federal laws that protect tenants from abuse, harassment, exploitation, and displacement. Tenants with legal support from AHTP providers can negotiate to resolve conflicts before they escalate and can effectively employ the mechanisms of our administrative and legal justice system to hold landlords accountable to their legal obligations to tenants. AHTP work helps reduce the number of people entering the shelter system thereby saving the City's scarce financial resources and supports the work of city agencies like the Department of Housing Preservation and Development (HPD), that do not have the capacity to record or address all housing standard violations.

Purpose

As the current AHTP provider contracts come to an end, the release of a Request for Proposal to fund it for the next 2-3 years is forthcoming. OCJ and program stakeholders are evaluating the current model, contract structure, and funding to ensure alignment with the goals of the AHTP program in the upcoming FY 2025 request for proposals. Based on our years of experience implementing the AHTP program, close relationships with our client communities, and deep understanding of the harassment and displacement threats that they face, the AHTP Providers highlight the program's successes over the past eight years, analyze challenges, and propose recommendations to improve the program.

Some of the recommendations which are discussed in detail below are:

1. Reserve Provider Capacity for Affirmative and Group Representation
2. Ensure that Case Rates Reflect Actual Costs and Provide Funding Fairness
3. Lift Restrictions on Work with NYCHA Tenants
4. Amend Contract Terms to Reflect the True Value of the AHTP Work
 - a. *Eliminate rollover restrictions and provide compensation for 100% of rollover cases*
 - b. *Eliminate the 4-month restriction for reporting multiple cases for a client*
 - c. *Permit and adequately fund sub-contracting with Community-Based Organizations (CBOs) for tenant organizing*
 - d. *Provide appropriate credit for building-wide impact cases without individualized data*
 - e. *Provide credit for community outreach events and targeted community outreach*
 - f. *Eliminate the liquidated damages clause which can take back money providers have spent to provide services;*
 - g. *Provide automatic income waivers for related individual representation of tenant group members who are part of building cases;*
 - h. *Lift the cap on advice/brief services cases so that we can reach more tenants, and*
 - i. *Increase funding to LEAP providers dedicated to administering the grant for their coalition of local providers.*

Background of program

The AHTP program was established in 2015 as a part of New York City's housing development plan, which included rezoning of six neighborhoods: East New York (Brooklyn), Long Island City (Queens), Jerome Avenue Corridor (Bronx), Flushing West (Queens), Bay Street Corridor (Staten Island) and East Harlem (Manhattan). To mitigate the anticipated consequent tenant harassment and displacement, particularly of low-income Black and Brown residents, the City established the AHTP program to provide eligible tenants in those neighborhoods with free legal

assistance and representation through a combination of advocacy, affirmative litigation, and where necessary, eviction defense. The goals of the program are to:

- avert housing abandonment;
- prevent tenant displacement;
- improve, preserve, and expand the amount and quality of affordable housing for low-income New Yorkers; and, most importantly
- stabilize communities and preserve the diversity and integrity of NYC neighborhoods.

Initially, legal services were provided by The Legal Aid Society and Legal Services NYC. In 2016, LEAP, a coalition of community-based legal services providers, was added as an AHTP provider and in 2020, the program was expanded to include all NYC neighborhoods.

Safe, stable, affordable housing is a dwindling precious resource in New York City. Affordable housing is permanently lost when tenants are displaced or evicted from rent regulated and rent controlled apartments and rents are increased above what is affordable for community residents. The loss of housing jeopardizes the ability of tenants to maintain employment, health care, and family stability, continue with education and school attendance, and preserve neighborhood ties. It can also result in homelessness, particularly for low-income tenants and those with disabilities who have a more challenging time finding new appropriate housing. The loss of affordable housing destabilizes communities and completely alters the tenor and make-up of long-term communities. Indicators of preservation of stable and diverse communities include declines in evictions; reductions in the loss of subsidized and rent stabilized housing; improvements to the housing stock, including the provision of heat and hot water and other essential services; and the preservation of affordable rent.

The AHTP program prioritizes group and building-wide assistance but also assists individual tenants where possible. The program includes a helpline for affected tenants, referrals from the Family Justice Centers, collaboration with tenant organizers, and collaboration with community organizations and elected officials to build awareness of constituents at-risk of displacement and provide additional resources. The program also provides community outreach, educating members of the community about their legal rights and facilitating tenant organizing to enable group representation.

AHTP's Services are Essential

The crucial, full array of services offered by AHTP providers are distinct from, and complementary to, the representation provided through the Right to Counsel (RTC) program. While RTC enables tenants to have greater success once they are brought to court by a landlord attempting to evict them, AHTP's upstream, preventive services prevent tenants from being brought to court in the first place. Moreover, the program keeps tenants from ending up homeless and in the shelter system because it targets landlord harassment designed to force tenants out,

improves living conditions to ensure that apartments are habitable, maximizes the affordability of housing by making sure that all units eligible for rent regulation remain regulated, and thwarts attempts by landlords to take unlawful or impermissible rent increases.

Additionally, where members of tenant groups that we are supporting are sued in housing court, AHTP staff can uniquely and effectively represent those tenants as a group, maximizing judicial economy by consolidating the housing court cases in one action to obtain better outcomes, identify larger common issues, and empower tenants through collective action.

At a time when the communities we serve are facing a crisis of housing affordability, discrimination, and escalating tenant harassment, it is crucial that these services be sustained.

AHTP Helps Prevent Tenants from Being Sued by Their Landlords

Through community outreach and education, the provision of advice and brief assistance, and advocacy and negotiations with landlords, AHTP diverts tenants from being brought to court by their landlords and provides tenants with the information and help they need to resolve their housing issues without litigation.

Program staff create and distribute brochures and videos and conduct trainings to inform and educate tenants about housing matters. AHTP service providers attend town halls, street fairs, meetings with civic leaders, tenants' associations, and elected officials, and work on targeted efforts to promote legislative change. Program staff provide advice, legal research, and/or brief services on a myriad of housing and housing related issues including, but not limited to, public benefits, housing programs, rental subsidy programs and disability benefits. This advice has a broad impact that includes ensuring that a tenant can succeed to a family member's tenancy in an affordable apartment, helping a tenant obtain a SCRIE benefit to reduce their rent burden and assisting a tenant to retain and obtain rental subsidies such as Section 8 and FHEPS.

Program staff also engage in robust advocacy and negotiations with owners such as to obtain proper lease renewals or deal with inadequate building security. They also advocate and collaborate with various community partners and governmental agencies to ensure landlords provide proper building maintenance and improvements in compliance with laws and regulations.

AHTP Combats Tenant Harassment and Improves Living Conditions

Program staff partner with tenant groups and organizers to advocate for improved living conditions and an end to tenant harassment, and to bring lawsuits to address those issues. That work can include writing advocacy letters, assisting with a press strategy, or partnering with elected or government officials. If litigation is beneficial to the tenants, AHTP staff aggressively pursue building-wide cases for repairs and relief from harassment to hold landlords accountable. Cases of particularly egregious landlord neglect may require the commencement of a 7A case for the appointment of an administrator to take over building management. Staff also file

administrative proceedings such as complaints with DHCR (Division of Housing and Community Renewal) that address deplorable living conditions and inadequate building services. AHTP providers also improve living conditions by fighting housing discrimination, including race, disability, and income discrimination through state and federal lawsuits and complaints with the State and City Human Rights Commissions.

AHTP Ensures Affordability of Housing, Fights Deregulation and Illegal Rent Increases and Restores Units to Affordability

AHTP providers engage in research, advice, advocacy and litigation to ensure that units remain affordable and that their rent regulated status remains protected. Providers review countless rent histories to check the validity of rent increases or deregulation and provide advice and advocacy services if discrepancies are found. If advocacy is insufficient to resolve these concerns, affirmative litigation or administrative proceedings may be commenced to have the rent and status adjusted. When landlords seek rent increases for regulated units through Major Capital Improvement (MCI) applications, providers work with tenants to oppose those applications. To increase and protect the stock of permanently affordable housing, program staff help client groups buy buildings and form low-income housing cooperatives. They also prepare and/or review leases, relocation or buy-out agreements, contracts, deeds, mortgages, liens and other encumbrances, transfers and assignments, articles of incorporation, by-laws, offering plans, insurance policies, loan documents, and administrative and regulatory filings.

AHTP Providers Represent Tenant Groups in Eviction Proceedings

AHTP has a unique model for providing eviction defense representation. Where multiple tenants in a building are sued in eviction cases in retaliation for asserting their rights, or because they withheld rent to obtain better conditions, AHTP providers can consolidate those cases so systemic issues are apparent, defenses can be raised more efficiently and effectively, and tenants can exercise their collective power.

Success and Impact of AHTP

Tens of thousands of New Yorkers have been served by this program and this work has not only benefited clients, but also their household members, neighbors and communities. Collectively, AHTP providers have reported on the following to the Department of Social Services' Office of Civil Justice¹ (OCJ):

- Represented more than 12,500 clients in tenant-initiated lawsuits in housing court. This includes HP actions – both building-wide cases and individual matters - to combat harassment, restore essential services such as heat and cooking gas, and obtain long-needed repairs. It also includes 7A cases for the appointment of an administrator to take over building management.

¹ New York City's Office of Civil Justice (OCJ) was created in 2015 to oversee and monitor City- supported civil legal services available to low-income and other vulnerable New Yorkers, as well as to study the needs for and the impact and effectiveness of civil legal services for New Yorkers.

- Filed more than 6,800 complaints to administrative agencies on behalf of tenants to challenge unlawful rent hikes, fight against discrimination, and demand essential services and repairs.
- Provided legal assistance to more than 21,900 individuals, helping prevent litigation, thus sparing tenants the hardship of dealing with court and lessening the volume of cases.
- Represented more than 1,250 clients in Supreme or Federal court to enforce a variety of tenants' rights such as fighting discrimination, seeking damages for warranty of habitability claims, combating harassment and more.

Importantly, the data reported to OCJ each month does not capture the full impact of our work, as detailed in the “Challenges and Opportunities” section. Although AHTP legal support often has building-wide impact, reporting restrictions limit our ability to count every tenant benefiting from our work. Examples of AHTP services that benefit all residents of a building include cases involving MCI challenges; restoration of essential services such as gas, heat, and hot water; and restoration of tenants to their homes after building fires. Our collective impact is even greater than the abovementioned figures suggest.

In addition to the numbers and data, client and tenant association stories of the AHTP cases illustrate how essential the program is and the dynamic nature of the legal providers' work.

- **LEAP Coalition**

TakeRoot Justice, a member of LEAP and coordinator of the coalition's work under the AHTP program, has spent years providing legal representation and support for the residents at 700 East 134th Street in the Bronx. In 2017, their landlord tried to push these residents out of their homes by filing eviction cases and claiming that the building was not subject to the rent stabilization laws before the Department of Homes and Community Renewal (DCHR). With the support of community organizers, these long-term Bronxites formed a tenant association, represented by TakeRoot Justice, to fight deregulation and defend against displacement. Using legal leverage, resident and organizing power, and relationships within the affordable housing developer community, TakeRoot Justice connected the residents with the Urban Homesteading Assistance Board (UHA). In 2019, UHAB approached the landlord to purchase the building and convert it to a limited equity cooperative. In 2022, the sale closed, and these tenants are on their way to owning their apartments.²

- **Legal Services NYC**

Legal Services NYC filed two collective actions against Seaview Towers for their severe lack of repairs and harassment on behalf of 29 low-income tenants who live in twenty-story Mitchell-Lama buildings in Far Rockaway, Queens. Petitioners include families and individual

² See <https://www.nytimes.com/2022/05/06/realestate/tenants-eviction-port-morris-bronx.html>

tenants who have disabilities and are elderly. Seaview Towers has repeatedly failed to cure hazardous conditions and make necessary repairs both in the common areas and in individual apartments. During the 2022 holiday season, while New York endured record-setting below-freezing temperatures, Seaview Tower tenants had no heat or hot water. Tenants also live in a constant state of fear due to broken and defective elevators, forcing disabled tenants to wait in the lobby for hours, miss medical appointments, and obstruct receipt of in-home health care. In addition, both buildings have unsecured back doors, which have allowed strangers to enter the buildings and at least two shootings over the past decade. Without dedicated AHTP funding, LSNYC would not have been able to file these actions and these tenants would have remained in unsafe conditions and without services.³

- **The Legal Aid Society**

For a decade, the landlord at 601 and 614 40th Street in Brooklyn, New York subjected its current and former Latino tenants to racially motivated harassment to drive them out of their rent regulated apartments so the units could be illegally deregulated and rented at market rates. The landlord also harassed newer deregulated tenants, who didn't have the benefit or protections of the rent stabilization laws. Moreover, the landlord had already displaced many long-term Latino tenants through its campaign of harassment and displaced newer deregulated tenants by refusing to renew the leases of those who tried to exercise their basic tenant rights.

The Legal Aid Society (LAS) filed a class action lawsuit in federal court alleging that the landlord was violating the Federal Fair Housing Act, the Rent Stabilization Laws, and New York City Housing Maintenance Code and Human Rights Law. LAS successfully obtained relief for the entire class of tenants in those buildings. A permanent injunction was imposed whereby the landlord was required to: stop its pattern of harassment and baseless evictions; comply with all housing laws; re-regulate previously illegally deregulated units; give former Latino tenants the right of first refusal for any vacant apartments going forward; and agree to monitoring of compliance with the settlement for several years. The landlord agreed to not request information concerning race, national origin or other protected statuses from current or prospective tenants; undergo housing discrimination training; hire a management company acceptable to parties to manage the properties; complete outstanding repairs; provide plaintiffs with rental records and repair tickets; adjust rents to the proper legal amounts and provide leases reflecting the proper rents; and provide a copy of the so-ordered stipulation to current and prospective tenants. The lawsuit resulted in affordable units being restored to the market, prevented further displacement of tenants in the buildings, and restored improperly displaced tenants.⁴

³ See https://www.thecity.nyc/2023/2/15/23600334/seaview-towers-lawsuit-mitchell-lama?_amp=true

⁴ See, <https://www.amny.com/news/brooklyn-landlord-discrimination-latino-1.16330393> See also, <http://www.nydailynews.com/new-york/brooklyn/landlord-harassed-latino-tenants-demanded-immig-info-article-1.3775385>

Challenges and Opportunities

The AHTP providers recommend the following changes to the AHTP program to ensure its sustainability and advance its goals of preventing tenant displacement and ensuring livable conditions for low-income residents of our city.

1. Reserve Provider Capacity for Affirmative and Group Representation

Affirmative, group-oriented representation prevents eviction proceedings from arising in the first place, builds strength among tenants to advocate for their rights, ensures that housing is livable and safe, and recovers affordable housing by challenging fraudulent or improper deregulation of apartments. It is essential to reserve the capacity of legal services providers to focus on combating tenant harassment and displacement separate and apart from the Right to Counsel program.

2. Ensure that Case Rates Reflect Actual Costs and Provide Funding Fairness

While the present economic realities make AHTP work critical, funding has not kept up with the salary needs for our staff and rising costs of rent, insurance premiums, office materials, etc. The contract is not structured to cover yearly increased costs including cost of living adjustments (COLA), despite the fact that New York City has the fourth highest cost of living of any city in the country and the eleventh highest cost of living of any city in the world.⁵ In comparison, Social Security beneficiaries will receive an 8.3% COLA increase for 2023, the highest increase since 1981,⁶ to account for rising costs of living. There should be sufficient funding for contracted legal service providers to pay their staff at all salary steps, at a minimum, at parity with staff at the City Law Department, including but not limited to annual COLA increases as well as funding in the first year to make up for the years without any such increases. These increases are pivotal for us to be able to continue to hire and retain the staff necessary to perform high-quality, impactful work.

3. Lift Restrictions on Work with NYCHA Tenants

After long-standing disinvestment in public housing in New York City, New York City Housing Authority (NYCHA) residents are at the highest risk of being denied access to habitable, safe, and affordable housing. Since NYCHA housing is among the only remaining permanently affordable housing options in New York City, it is particularly critical that the rights of NYCHA residents are defended. Currently, AHTP providers can only assist NYCHA tenants in very narrow circumstances. As a result, we must turn away many NYCHA tenants in need of help, even though this work directly contributes to the goals of the AHTP program. Therefore, AHTP providers should have the discretion to assist NYCHA tenants.

⁵ [Cost of Living Index 2023 \(numbeo.com\)](https://numbeo.com/cost-of-living/index.html)

⁶ [What To Expect From The Social Security Cost-Of-Living Adjustment \(forbes.com\)](https://www.forbes.com/sites/roberta/2022/12/14/what-to-expect-from-the-social-security-cost-of-living-adjustment/)

4. Amend Other Contract Terms to Reflect the True Value of the AHTP Work

- ***Eliminate rollover restrictions and provide compensation for 100% of rollover cases:*** Effective and complex group representation is almost always a multi-year endeavor. There are numerous steps between identifying a building in crisis, working with the tenants to build collective strength, and then engaging in litigation and advocacy on various fronts. In recognition of this complexity and the increased cost of these cases, legal service providers should be allowed to “roll over” all these cases so that they count as work under our contracts until they are complete.
- ***Eliminate the 4-month restriction for reporting multiple cases for a client:*** Because AHTP staff provide holistic housing assistance to clients, it is common that clients need help on more than one housing issue. For example, tenants may choose to withhold rent due to their landlord’s failure to make repairs, leading to nonpayment cases. Under the current terms of the AHTP contract, the legal services providers' ability to assist clients with multiple issues within 4 months is limited. This restriction should be lifted to allow us to provide more help and reflect the realities of this work.
- ***Permit and adequately fund sub-contracting with Community-Based Organizations (CBOs) for tenant organizing:*** To build strength in communities and help tenants form associations and assert their rights to affordable and habitable housing, AHTP providers need assistance from organizers at CBOs. Because CBOs possess expertise in organizing and are deeply connected to their communities, they are highly effective complements to AHTP work. However, AHTP funding cannot currently be sub-contracted to CBOs which often forces legal services providers to find alternative funding or do without and engage in group representation without the essential assistance of community organizers. Consistent with the City’s commitment to ensure appropriate organizing support for tenants as shown by the Partners in Preservation initiative, the sub-contracting restriction should be lifted and there should be sufficient passthrough funding for these partnerships.
- ***Provide appropriate credit for building-wide impact cases without individualized data:*** AHTP providers are only funded for assisting tenants when they obtain onerous individualized data, including social security numbers and detailed income information, and get forms signed by each tenant. Although the providers often work in buildings with hundreds of tenants, they may represent a tenant association (rather than the individual tenants) or represent one tenant in proceedings that benefit every tenant in the building. Some examples are Major Capital Improvement (MCI) challenges where a landlord seeks to raise everyone’s rent for a building-wide improvement, or a Housing Part (HP) proceeding to restore gas to a building. While providers do not have the resources and tenant cooperation to open a case and collect data and forms for each affected individual, the successful representation of even one tenant benefits the entire building. Getting

credit under the contract for only one unit of service undervalues this work, disincentivizes handling these complex and critical issues and does not reflect the full positive impact. Therefore, providers should receive more than one unit of service credit for these types of cases, commensurate with their value and the work involved.

- ***Provide credit for Know Your Rights trainings and community outreach:*** Community outreach events and targeted community outreach are vital components to AHTP work. Community outreach events, such as Know Your Rights trainings, participation in resource fairs, and holding legal clinics are a critical part of the AHTP work that informs tenants of their rights and how they can assert those rights without the assistance of a lawyer. The providers help build power in the low-income communities they serve and give tenants tools to stave off gentrification. Community outreach events also amplify the impact of the work beyond the tenants who are represented. Providers hold events with CBOs, elected officials, and with other stakeholders who seek out their expertise. Providers also spend significant time participating in targeted community outreach, including door knocking, sending cold mailings and informational flyers, and holding numerous tenant informational meetings at targeted buildings where they advise tenants of their rights and possible actions to redress harm. Currently, AHTP providers do not receive credit for fulfilling the required units of service under our contract for neither outreach events nor targeted community outreach. This should be rectified, and providers should be permitted to report attendance and receive credit for each tenant in attendance without individualized intake requirements, in addition to receiving credit for their efforts to try and mobilize tenant groups in communities that are at risk for harassment and displacement.
- ***Eliminate the liquidated damages clause:*** Under the current contract, legal services providers may be charged liquidated damages for each household below the delineated targets. As emphasized in previous sections, the group representation contemplated under the AHTP contract often does not follow a definite, predictable timeline. The threat of liquidated damages does not increase the number of households legal services providers assist under the contract. Instead, the threat hinders the ability of providers to allow cases to fully develop through working with organizers, building relationships with tenant associations by attending multiple meetings before litigation begins, and collaborating with agencies. Therefore, the liquidated damages clause should be eliminated from future contracts.
- ***Provide automatic income waivers for related individual representation of tenant group members who are part of building cases:*** Tenants who are eligible for group representation should be able to depend on qualifying for representation in related, individual legal matters. Under the current contract, a tenant who is represented in a

group action against their landlord may be deemed income ineligible for representation in a subsequent eviction proceeding brought in retaliation for their participation in the group action. This is antithetical to the contract's objectives and results in incomplete representation. Therefore, income waivers should automatically extend to related individual representation in future contracts.

- ***The cap on advice/brief services cases should be eliminated:*** Presently, advice-only cases can only make up 10% of a provider's enrollments in any borough and 20% of the enrollments citywide. This limit drastically decreases the number of tenants providers can serve. Much building work does not culminate in group litigation due to lack of organization amongst many other factors, yet many of the tenants involved would still benefit greatly from advice on overcharge issues, filing individual actions for repairs and to stop landlord harassment, and their rights as tenants generally. In addition, providers routinely give individualized advice to tenants at Know-Your-Rights events that is ultimately not credited. Therefore, the cap on advice cases should be eliminated.
- ***Increase funding to providers dedicated to administering the grant:*** Providers working in consortium should receive funding to support the administration of the contract and coordination of the coalition work.

Conclusion

Without the legal resources that AHTP provides, low-income tenants cannot meaningfully benefit from the legal protections in city, state and federal laws that ensure habitable housing, accessibility, affordability regardless of source of income, and compliance with an array of rent laws while deterring discrimination and harassment. AHTP clients face a fierce housing market with no good alternatives when they find themselves in homes where their landlord is not complying with the law. Instead of going into shelter, tenants can stay and work together to enforce tenant protections. AHTP providers support our clients' efforts to form tenant associations and work collaboratively to improve housing conditions and hold landlords accountable for their legal obligations. Through this AHTP work, the City advances its goals of ensuring that New York's families have safe, decent housing that complies with all relevant laws, without exposing tenants to the dangers of an eviction case where they face the risk of homelessness.



Testimony for City Council Hearing March 27, 2023

Good afternoon. This testimony is being submitted on behalf of the unionized legal services workers who are dedicated to safeguarding the rights of tenants. This testimony was prepared collaboratively by representatives across Legal Services Staff Association 2320, Association of Legal Aid Attorneys 2325, CAMBA Legal Services Workers United 2325 member organizations. We thank the City Council for allowing us to testify about our experience on the front lines of implementing the Right to Counsel (RTC) program.

We are proud to stand alongside the RTC Coalition in championing this historic piece of legislation and, more importantly, in demanding that OCJ, OCA, and the City Council take corrective action to uphold RTC. Our overarching goals as housing advocates are to eliminate evictions, end homelessness, ensure tenants' homes are safe places to live, and stabilize communities. RTC is vital to achieving those goals, and it is proven powerful: since RTC passed, evictions have plummeted, landlords have sued tenants less often, and almost 85% of tenants who had RTCI stayed in their homes.

Adequate Funding and Retention

We join the RTC Coalition in demanding that the City fully fund the RTC. As the RTC Coalition has said in their testimony, the city needs to increase the budget for RTC by at least \$70 million dollars to fund Local Law 136 as it is now, while also looking to further increase the funding to achieve best practices and its full potential for tenants. **In addition, the city needs to set up a mechanism to monitor the cost---if cases go up the cost goes up and the city needs to proactively plan for this. We also join the RTC Coalition in demanding that the city immediately issue the RFP for FY 2024 to implement Local Law 53 so that tenant organizing groups can do their work to educate and organize tenants across NYC about their rights.**

This is a time of crisis for RTC in housing court. To be blunt: OCJ and the Courts are undermining the principles of RTC by underfunding legal services organizations who provide vital legal services, pushing unmanageable caseloads on tenant case handlers, and allowing cases to be calendared at rates faster than attorneys can take them. Consequently, workers at nearly all provider organizations are leaving at unprecedented rates, and those who stay are often forced to take mental health leaves of absence due to the grueling and unhealthy demands of their work. Without sufficient funding, legal services organizations are not able to fully staff our offices in order to represent the increased number of clients seeking assistance.



As a result of all this, [more than 19,000 tenants are being DENIED RTC](#), according to the RTC Coalition's "NYC Crisis Monitor."

OCJ, the agency in charged with upholding the RTC, must ensure that legal services organizations are funded at the actual cost of implementing RTC – which includes fair wages for attorneys, paralegals, social workers, investigators, organizers, and the entire team of workers who come together to uphold a tenants' right to counsel. As it stands, our organizations are grossly underfunded and our staff are grossly underpaid, and staff are struggling to stay in this job they love with wages that are significantly below comparable positions in City government, significant student loan burdens, and untenable caseloads.

Calendaring

We ask that the City Council join the unionized legal service workers and RTC Coalition in demanding that **the courts pause all cases for eligible tenants until legal services can be provided. We also ask that the City Council demand that OCJ manage the waitlist of tenants to make sure that all tenants who have been denied RTC get a lawyer.** The Chief Judge has the power to issue an administrative order to stay cases. Stays are necessary to protect the due process rights of RTC-eligible tenants rather than an abstract violation of the due process clause of litigants. In truth, unrepresented tenants are the ones whose rights are violated when they are unable to receive the legal representation they are entitled to under the law.

The Court administrators can reduce the volume of eviction cases on the calendar each day and provide sufficient time between court dates to allow lawyers to fully investigate and litigate each case. The Court Administrators have claimed that they are powerless to implement the above measures and have suggested that it would be a violation of due process to do so. We the unionized legal service workers, however, have seen first-hand that these claims are inconsistent with the way court calendaring actually works. Court calendars have fluctuated wildly over the years, especially during the pandemic, as the Courts have responded to various needs, priorities, and interests. For example, a second "HP part" – the part dedicated to repairs cases – was added in Brooklyn last year and then taken away mere months later. If the Court can remove an entire court part dedicated to helping tenants enforce their repairs rights, it can certainly put fewer cases on the calendar each day in the "eviction" parts.

Moreover, the current calendaring of cases is overwhelming not just the RTC providers, but also the Courts themselves. Time and time again, we have heard judges complain that they have too many cases, they cannot get decisions out fast enough, that there are not enough clerks to



upload court documents into the computers. There is an easy solution for that: calendar fewer cases.

Lastly, we to **Pass City Council [Resolution 499](#) in support of our Statewide Defend RTC Legislation (S3254 / A4993)**, which would mandate that tenants have the time they need to get RTC. Right now, adjournments for eviction cases are in the assembly one house budget but the language is weak and it explicitly **carves out NYC tenants!** This is our opportunity now to make sure that stronger language around adjournments passes in the budget!

Work with Unions

Finally, we ask that the City Council seek input directly from the unionized legal services workers – the very attorneys doing RTC work – while making decisions about the future implementation of the RTC. Time and time again, the City has spoken to our bosses, but has refused to meet with us – the workers – even though we are the ones on the ground carrying out RTC work. On January 19, ALAA, along with the Legal Services Staff Association and the National Organization of Legal Services Workers, sent a letter to OCJ and OCA which requested a meeting to discuss our concerns.

That is a shame, because we are the ones who understand all of the complexities that go into RTC work. Our clients need so much support to save their housing – paralegal support to help secure public benefits, social work support to navigate the traumas of housing insecurity, and legal support to ensure they are protected from landlords looking to take advantage of them at every turn. Although RTC lawyers are defense attorneys, we affirmatively fight for tenants' rights by challenging rent overcharges, obtaining much-needed repairs, securing housing subsidies and other public benefits to which our clients are entitled, and combating tenant harassment. Every case requires a complex web of advocacy to ensure our clients are getting the comprehensive, zealous representation they deserve.

For that reason, we call on the City Council to engage the City's legal services unions in meaningful conversation about how to get the RTC back on track. We also stand side by side with RTC in demanding that the City Council fully fund the RTC and advocate with the Courts for a calendaring system that will ensure every eligible tenant receives a lawyer.



**NEW YORK CITY COUNCIL
OVERSIGHT HEARING: UNIVERSAL ACCESS TO LEGAL SERVICES LAW
COMMITTEE ON GENERAL WELFARE
COMMITTEE ON HOUSING AND BUILDINGS**

MARCH 27, 2023

**WRITTEN TESTIMONY OF SUSAN J. KOHLMANN
PRESIDENT, NEW YORK CITY BAR ASSOCIATION**

Thank you for the opportunity to submit written testimony on the topic of New York City's Right to Counsel Law and current challenges.

Thousands of tenants are going unrepresented in the New York City Housing Court in contravention of our City's landmark Right to Counsel Law¹, which was designed to provide tenants facing eviction access to free legal representation and advice. This is not only an issue of access to justice but, given the vastly disproportionate rate of eviction proceedings brought against people of color, an issue of racial justice in our courts. It is incumbent upon all stakeholders to come together to institute policies that assure that those who are entitled to counsel are provided counsel.

New York City's 2017 Right to Counsel (RTC) Law was a much-needed reform to an unacceptably chaotic, imbalanced, and unjust system prevailing in the Housing Court. As former Secretary of Homeland Security Jeh Johnson stated in his 2020 *Equal Justice in the New York State Courts* report², the Housing Court had a "cattle call" culture in which settlements were largely produced via slapdash negotiations in hallways outside the courtroom. The system consistently disadvantaged unrepresented litigants with eviction filings and default judgments at unacceptable levels.

When RTC went into effect, drastically reducing the number of unrepresented litigants, the numbers of evictions, court filings and default judgments went down. During the COVID-19 pandemic, Housing Court shut its doors and an eviction moratorium halted evictions. When the moratorium was lifted in January 2022, the Housing Court was

¹ NYC Eviction Crisis Monitor, <https://www.righttocounselnyc.org/nycrcrisismonitor> (All websites last accessed on March 27, 2023).

² <https://www.nycourts.gov/whatsnew/pdf/SpecialAdviserEqualJusticeReport.pdf>

About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has over 23,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.

flooded with eviction cases and since then, cases have been permitted to move forward without counsel being provided for tenants who are entitled to representation. Now, a little over a year later, New York City's program for providing RTC in eviction proceedings is faltering - tenants facing eviction once again are largely unrepresented, and legal services providers have reported that Housing Court operations are sliding back to the system of chaos and one-sided-justice that RTC sought to address.

As Secretary Johnson highlighted in the 2020 Equal Justice report, the breakdown in Housing Court has serious implications for racial justice in New York's courts. The vast majority of litigants appearing in the Housing Court are Black and Latinx. The chaotic and imbalanced conditions of Housing Court therefore disproportionately impact those communities, and signal that the court system does not work for them and is not meant to work for them. When this happens, trust is diminished and the efficacy and reputation of the courts is diminished along with it.

But we know that RTC can be an antidote. A guarantee of high-quality legal representation prevents evictions and says that those who have the least deserve the same measure of justice as those who have the most. New York City recognized that fact when it codified into law a guarantee of counsel for tenants facing eviction, and it must find a way to protect that right today. The City needs to be a consistent and visible champion of RTC, vis-à-vis both the public and the court system.

In Housing Court, RTC must be preserved and the backsliding must be reversed. Much of the immediate problem would dissipate if the Office of Court Administration (OCA) would take a more flexible approach to the Housing Court calendar. There are common-sense measures that will combat the seeming randomness in calendaring and that can expedite settlement and funding. For example, pre-pandemic cases with two attorneys should be scheduled first, followed by adjourned new cases that have two attorneys. Motion parts need to refer tenants to legal services providers at all stages of the proceeding, not just at the first court date.

OCA should also adjust appearances so that attorneys who are engaged virtually are not required to appear physically. The courts' response to the COVID-19 pandemic has made virtual proceedings part of the norm, which is a welcome change. But the reality in the Housing Court, with some cases scheduled remote and some mandatory in-person, is that lawyers often do remote proceedings from the courthouse hallways on their way to in-person proceedings. Requests for virtual proceedings to accommodate a disability are not routinely honored. The Court should explore the possibility of having remote/in-person days and times, and accounting for remote conflicts as well as in-person ones.

RTC must be viewed as a right worth protecting, rather than as an obstacle to be overcome. We must recognize that there can be no meaningful court operations in Housing Court without RTC. That means, in addition to arranging calendaring and appearance practices to accommodate RTC, the courts must also adjourn cases to give RTC attorneys sufficient time to establish the attorney-client relationship and research and investigate complex cases. Anything less is not meaningful right to counsel.

The City should also ensure that RTC work is sufficiently funded so that legal services providers have the staff they need to provide meaningful representation of tenants facing eviction. These are cases where one's home is at stake and where the laws are complex. The Office of Civil Justice should work with all stakeholders to address this crisis and find solutions. In addition, tenant information and outreach efforts should be supported because RTC works best when tenants know about legal representation as early in the process as possible. The whole idea behind the RTC law was to level the playing field in Housing Court and give tenants a chance to assert their legal rights – this guidepost has not changed.

Justice for all litigants in New York City's Housing Court depends on our ability to preserve the right to counsel. We must act quickly and collaboratively to stop the backsliding and move toward a Housing Court that works for everyone.

Thank you for considering this testimony from the New York City Bar Association. If we can be of any further assistance, please contact Maria Cilenti, Senior Policy Counsel, at mcilenti@nycbar.org or 212.382.6655.

NYC OFFICE OF CIVIL JUSTICES' PROGRAMS TO PROVIDE UNIVERSAL ACCESS TO
LEGAL SERVICES FOR TENANTS FACING EVICTION HEARING

March 27, 2023

JOINT TESTIMONY ON RIGHT TO COUNSEL BY BROOKLYN LEGAL SERVICES
CORPORATION A, NEW YORK LEGAL ASSISTANCE GROUP, LEGAL SERVICES
NYC, THE LEGAL AID SOCIETY AND MOBILIZATION FOR JUSTICE

Presented by: Kristie Ortiz-Lam, Jonathan Fox, Rosalind Black, Nakeeb Siddique, and Omolola
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BROOKLYN LEGAL SERVICES CORPORATION A

Brooklyn Legal Services Corporation A (Brooklyn A) advances social and economic justice and community empowerment through innovative, collaborative, neighborhood-based legal representation and advocacy. We represent low- and moderate-income individuals and families throughout New York City. Our clients live in rapidly-gentrifying neighborhoods where many residents and small business owners have been displaced or are facing displacement and harassment. For over half a century, Brooklyn A has provided high-quality, low-barrier neighborhood-based legal services to individuals, families, nonprofit community-based organizations, community development corporations, coalitions, and small business owners, interested in developing and sustaining vibrant, healthy communities. Our Preserving Affordable Housing Program uses legal and advocacy strategies to preserve and protect affordable housing, prevent evictions, combat tenant harassment and discrimination, and ensure that working families, individuals, older adults and others live in stable environments and within their financial means.

An Example of Our Work:

We represented Tenant A in a nonprimary holdover proceeding where the tenant resided with her aunt for five years. Her aunt unfortunately passed away and we presented a succession defense. We prevailed after a three day trial where the court found that the relationship was more like a mother-daughter relationship, that the parties commingled their finances and that she lived in the apartment for the prerequisite two years.

NEW YORK LEGAL ASSISTANCE GROUP

New York Legal Assistance Group (NYLAG) uses the power of the law to help New Yorkers experiencing poverty or in crisis combat economic, racial, and social injustice. We address

emerging and urgent needs with comprehensive, free civil legal services, financial empowerment, impact litigation, policy advocacy, and community partnerships. We aim to disrupt systemic racism by serving clients, whose legal and financial crises are often rooted in racial inequality. Our Tenants' Rights Unit (TRU) fights for housing justice: fair, safe, and affordable housing for adults and families so that they can stay in their communities and thrive.

An Example of Our Work:

Tenant L came to our NYCHA HP Action Clinic at the Red Hook Community Justice Center for help drafting her petition. During our interview, we discovered she also had a complicated non-payment proceeding in Housing Court and a pending administrative rent grievance, both of which were currently unrepresented and would not have gone through any Right to Counsel intake process. She retained us on all three matters, we were able to get the erroneous non-payment proceeding dismissed, and are working closely with her to resolve her rent grievance and get her much-needed repairs.

LEGAL SERVICES NYC

Legal Services NYC (LSNYC) fights poverty and seeks racial, social, and economic justice for low-income New Yorkers. LSNYC is the largest civil legal services provider in the country, with an over 50-year history and deep roots in all of the communities we serve. Our staff members assist more than 110,000 low-income New Yorkers each year and, along with other legal services organizations in the City, LSNYC's housing practice is at the forefront of the fight to prevent evictions, preserve affordable housing, and uphold tenants' rights. Legal Services NYC is also a proud member of the Right to Counsel NYC Coalition, a tenant and organizer led coalition of tenant organizing, advocacy and legal services organizations, which fought for the right to counsel for NYC tenants facing eviction and which is working to ensure just implementation of the right to counsel law.

An Example of Our Work:

JW, who is a single mother with a disabled child living in a rent-regulated apartment in Harlem, came to us with over \$20,000 in arrears and no way to afford the rent. JW could not work due to her health and had only minimal unemployment income when we met her. We assisted her so that she received Emergency Rental Assistance (ERAP) of \$11,333. We applied for Family Homelessness and Eviction Prevention Supplement (FHEPS) on her behalf which paid another \$9,643 of the arrears, and provided an increased shelter payment so that the ongoing rent is affordable. We further assisted the household so that the minor, disabled child now receives Supplemental Security Income (SSI) of \$725/month and the family receives \$459/month in Supplemental Nutrition Assistance Program (SNAP or Food Stamps), as well as medical coverage. Repairs and a renewal lease were also obtained for the client. The arrears were fully resolved, and the proceeding was discontinued.

THE LEGAL AID SOCIETY

The Legal Aid Society (LAS), the nation's oldest and largest not-for-profit legal services organization, was founded in 1876 to provide free legal representation to marginalized New York City families and individuals. The Legal Aid Society's legal program operates three major practices – Civil, Criminal and Juvenile Rights – and through a network of borough, neighborhood, and courthouse offices provides comprehensive legal services in all five boroughs of New York City for clients who cannot afford to pay for private counsel. Each year, the Society handles more than 250,000 cases and legal matters for clients, taking on more cases for more clients than any other legal services organization in the United States.

Our Civil Practice works to improve the lives of low-income New Yorkers by helping vulnerable families and individuals to obtain and maintain the basic necessities of life - housing, health care, food and self-sufficiency. We serve as a “one-stop” legal resource for clients with a broad variety of legal problems, ranging, among others, from government benefits and access to health care, to immigration and domestic violence. Our depth and breadth of experience is unmatched in the legal profession and gives the Society a unique capacity to go beyond any one individual case to create more equitable outcomes for individuals, and broader, more powerful systemic change at a societal level.

Our work has always taken an explicit racial and social equity lens and the current health and housing crisis has further focused our efforts to advocate for the needs of New York's marginalized communities.

An Example of Our Work:

Starting in April 2021, LAS represented a 71 year old Bronx resident in an eviction proceeding, and ultimately helped her obtain succession rights to a Mitchell-Lama co-op apartment where she had lived for over 20 years. Despite paying her rent and complying with the rules of the co-op for nearly 10 years after the death of her brother, who was prior the tenant of record for the apartment. Proving that the Client had the right to succeed to her brother's tenancy was a challenge because although she was the primary caregiver for her brother for two years leading up to his death, she was unable to work and therefore did not file taxes, and she did not have the documents she would need to prove the claim.

LAS assisted found alternative ways to prove her succession claim by laboriously gathering the necessary supporting documentation, and helping her to file a Mitchell-Lama Succession Application. Through our assistance, the Client's succession claim was approved, and the holdover case in housing court was discontinued in December 2022. The Client now has a lease in her name, and since she resides in a rent-regulated Mitchell-Lama apartment, she should be able to live there for the rest of her life if she so desires.

MOBILIZATION FOR JUSTICE

Celebrating its 60th anniversary in 2023, Mobilization for Justice's mission is to achieve justice for all. MFJ prioritizes the needs of people who are low-income, disenfranchised, or have disabilities as they struggle to overcome the effects of social injustice and systemic racism. We provide the highest-quality free, direct civil legal assistance, conduct community education and build partnerships, engage in policy advocacy, and bring impact litigation. MFJ has a staff of more than 165 attorneys, paralegals, social workers, and support staff. It is a diverse, unionized, and collegial workplace where staff share the organization's mission to achieve social justice. MFJ's housing practice is honored to engage in Right to Counsel/Universal Access work in the Bronx and Manhattan, where we deploy a wide array of litigation and advocacy strategies to prevent eviction and to protect tenants' rights.

An Example of Our Work:

Tenant P defaulted in a non-payment proceeding, likely because the landlord failed to properly serve her with the petition, whereupon the Manhattan Housing Court awarded monetary and possessory judgments against Tenant P. On February 14, 2023, Tenant P and her family – including two minor children, the youngest of whom was 8 years old – were forcibly evicted from their home and later entered the shelter system. That same day, MFJ was serving as the Manhattan Right to Counsel provider on intake duty in the courthouse. Even though post-eviction cases do not fall within the defined ambit of RTC intake, the judge sent Tenant P to consult with MFJ after she filed a *pro se* order to show cause.

Despite having a full caseload and parental leave close on the horizon, the MFJ attorney who conducted the in-court intake offered to represent Tenant P and immediately began advocacy efforts, including making three court appearances in short succession and submitting a one-shot deal application to HRA. On March 2, 2023, HRA approved Tenant P for a one-shot deal for the full amount of rental arrears. The MFJ attorney then went to HRA, picked up the checks, and hand-delivered them to the landlord's office. After receipt of the checks, however, the landlord refused to restore Tenant P and her family to possession of their apartment and tried to extort an additional \$4,000 from Tenant P, claiming for the first time that she owed legal and marshal fees. MFJ's attorney then filed an affirmation and a memorandum of law to supplement Tenant P's *pro se* order to show cause and appeared in court for argument. In a written decision issued the next morning, the Court rejected the landlord's extrajudicial claim for additional monies and ordered that the landlord "shall restore [Tenant P] to possession forthwith and provide [Tenant P] with keys for the subject premises forthwith." Tenant P and her family left the shelter system and regained possession of their apartment on March 7, 2023.

INTRODUCTION

It is critical for low-income people to have legal representation in housing proceedings.¹ In New York City 68.1% of households are renters.² The negative consequences of evictions on poor people are well documented.³ Evictions compound financial difficulties, contribute to poor health, disrupt families, and increase the risk of homelessness.⁴ Tenants who have an attorney in an eviction proceeding are less likely to be subject to a possessory judgment, the money judgments in these cases are less than in cases when the tenant is unrepresented, and these tenants are less likely to have a warrant of eviction issued against them.⁵ Additionally, tenants who are represented by attorneys are almost guaranteed to remain housed.⁶

Prior to the Right to Counsel (RTC), 1% of tenants facing eviction had a lawyer compared to the more than 95% of landlords who were represented in eviction proceedings⁷— tenants faced David and Goliath odds as their cases proceeded. After the RTC law was passed in 2017, representation increased exponentially for tenants in eviction proceedings from 1% in 2013 to 30% in 2018.⁸ By 2019, legal representation in RTC zip codes had grown to 62%, with 84% of tenants who received RTC representation avoiding eviction.⁹

Concrete and quantifiable numbers illustrate how RTC saves money by reducing the number of housing insecure as compared to taxpayer dollars spent to shelter the same population. The shelter system is an extremely costly remedy for addressing housing insecurity – in Fiscal Year 2022, the average daily number of households /individuals in the New York City shelter system equaled approximately 27,000,¹⁰ costing the City and State approximately \$1.7 billion.¹¹

¹ See, The Effects of Legal Representation on Tenant Outcomes in Housing Court: Evidence from New York City's Universal Access Program, by Michael T. Cassidy and Janet Curre, NBER Working Paper March 2022, at pg. 3 Revised July 2022 available at: https://www.nber.org/system/files/working_papers/w29836/w29836.pdf (accessed 2/24/2023).

² Id. at 5.

³ Id. at 3.

⁴ Id.

⁵ Id.

⁶ See, Universal Access to Legal Services: A Report on Year One of Implementation in New York City Prepared by the Office of Civil Justice Fall 2018, page 27, available at:

<https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ-UA-2018-Report.pdf>(accessed 2/24/2023)

⁷ See, A Right to Counsel in Eviction: Lessons from New York City by Brian Bieretz December 31, 2019, available at: <https://housingmatters.urban.org/articles/right-counsel-eviction-lessons-new-york-city> (last accessed 2/24/2023).

⁸ See Universal Access to Legal Services: A Report on Year One of Implementation in New York City Prepared by the Office of Civil Justice Fall 2018, page 34 available at:

<https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ-UA-2018-Report.pdf>(accessed 2/24/2023)

⁹ See, Right to Counsel and Stronger Rent Laws Helped Reduce Evictions in 2019 by Oksana Mironova February 24, 2020, CSS, available at:

<https://www.cssny.org/news/entry/right-to-counsel-and-stronger-rent-laws-helped-reduce-evictions-in-2019>(accessed 3/19/23).

¹⁰ See, New York City By The Numbers. Prepared by the Independent Budget Office March 2023, available at: <https://www.ibo.nyc.ny.us/iboreports/how-have-city-costs-changed-with-shifts-in-state-and-federal-support-for-homeless-shelters-march-2023.html> (accessed 3/19/23).

¹¹ Id.

The need for RTC funding is significantly less than the nearly \$2 billion spent on sheltering the unhoused. Money spent on RTC significantly offsets the need to spend money on shelters.

While the Right to Counsel has had an immeasurable impact on individuals facing eviction and is essential to maintain, there is also no question that the Right to Counsel program and the various stakeholders tasked with its implementation face significant challenges. These challenges include: the expansion of right to counsel beyond the “zip-code approach,” the end of the various pandemic-related eviction moratoriums, Housing Court’s steady and increasing calendaring of eviction cases, inadequate funding for the program, and high rates of attrition by housing practitioners and staff at the various agencies. These interrelated factors leave large percentages of tenants across the city without the right to counsel in their eviction proceedings.

We thank the Council for holding this hearing to consider how NYC can ensure the best possible continued implementation of this groundbreaking initiative. All eyes are on us as the first jurisdiction to pass this landmark legislation—our success and failures will serve as a road map for other jurisdictions seeking to implement the right to counsel in eviction proceedings.

As a legal services provider community, we are committed to ensuring that the Right to Counsel realizes its full potential for preventing homelessness and displacement of low-income and vulnerable New Yorkers, building tenant power and balancing the scales of justice by making housing court a place where tenants can achieve just outcomes in their housing cases. In that spirit, and drawing on lessons learned from 5 years of RTC implementation, we offer this testimony to provide feedback and recommendations about this historic program.

I. RECENT CHALLENGES IN THE IMPLEMENTATION OF RTC

As we work together to sustain and strengthen the RTC program, it is worth reviewing the last few years of how the program has functioned during the height of the devastating COVID-19 pandemic. The pandemic resulted not just in nearly 20,000 deaths during the initial few months of the crisis, it resulted in unprecedented levels of unemployment, under-employment and economic distress. Those economic effects of the pandemic crisis inevitably resulted in a massive wave of housing instability in NYC. To meet the challenges posed by the crisis, especially for low-income, elderly and disabled New Yorkers, the legal services community in coordination with OCJ accelerated the roll-out of the RTC program Citywide during the course of 2020 and 2021. This sudden full implementation of the program without the necessary funding and resources, coupled with the wide-ranging changes in state law that came into effect in June 2019 which greatly increased the complexity of eviction defense law and practice, and the eventual end of the various pandemic eviction moratoriums has led to tremendous strain on the RTC program and on RTC stakeholders.

(a) Rapid Citywide Expansion of RTC

The RTC law enacted in 2017 provided for the program to be phased-in in all parts of NYC over a five-year period, starting with coverage for tenants in only a few ZIP codes in each borough. Before the pandemic struck NYC, as of early 2020, the RTC program and the legal services providers participating in the program were expected to provide representation to tenants in only 25 out of the City's 180 ZIP Codes.¹² The rush to implement the RTC program Citywide and expand its coverage to all ZIP Codes was necessary in the face of the housing instability caused by the pandemic; however, the swift pace of the expansion and lack of a concomitant increase in funding made it extremely difficult for the legal services providers to hire, train and retain the staff needed to meet the increased demand for services.

(b) The Housing Stability and Tenant Protection Act (HSTPA) of 2019

On June 14, 2019, New York State enacted landmark legislation called the Housing Stability and Tenant Protection Act (HSTPA) which enacted wide-ranging reforms and changes to the rights and protections of tenants across the state. Many parts of the HSTPA only became fully effective only as of the fall of 2019. At the time the pandemic struck NYC, the RTC legal services providers across NYC were only just beginning to grapple with the effects of the HSTPA and to re-train their eviction defense attorneys to account for the sweeping changes to the law that resulted from the legislation. There is no question that the HSTPA has greatly increased the complexity of the already labor-intensive nature of eviction defense practice, particularly in terms of the availability of legal defenses and motion practice required to adequately represent tenants in eviction proceedings.¹³

(c) Wave of New Eviction Filings Following the End of the Pandemic Eviction Moratoria

As a result of the pandemic crisis, New York City and state authorities implemented a series of overlapping eviction moratoria starting on March 16, 2020. The first moratorium was implemented by the state Judiciary. That moratorium was followed and superseded by the Governor's eviction moratorium, implemented by Executive Orders. Finally, the state Legislature enacted an eviction moratorium law in December 2020, and the Emergency Rental Assistance Program (ERAP) law in April 2021. The state eviction moratorium law lapsed in January 2022, and the ERAP law and its limited eviction moratorium protection is nearing its end. The number of residential eviction filings have increased during the last two years, as each of these eviction

¹² Cassidy, Michael T. and Janet Curre. The Effects of Legal Representation on Tenant Outcomes in Housing Court: Evidence from New York City's Universal Access Program. NBER Working Paper March 2022 (revised July 2022). Page 9. https://www.nber.org/system/files/working_papers/w29836/w29836.pdf (accessed 3/23/2023).

¹³ Braudy, Erica and Kim Hawkins. "Power and Possibility in the Era of Right to Counsel, Robust Rent Laws & COVID-19." *Georgetown Journal on Poverty Law and Policy* 28: 134-141.

moratoria lapsed.¹⁴ The increased number of eviction filings inevitably led to increased demand for RTC legal services Citywide, especially for low-income tenants. However, RTC providers have not had sufficient funding and resources in the face of this increased need for representation in eviction proceedings.

II. FUNDING LEVELS MUST REFLECT THE TRUE COST OF PROVIDING HIGH QUALITY, HOLISTIC LEGAL SERVICES

As we are anticipating a Request for Proposal/RFX to be released shortly that will provide right to counsel funding for the next 3 years, starting in Fiscal Year 2025, it is crucial that this RFX provide funding at a level sufficient for Legal Services Providers to provide high quality, holistic services. There has to be sufficient funding to meet the demand for representation in the new cases being filed and the backlog of eviction defense cases pending without representation.

Finally, the City should also work with providers to ensure we have programs that recruit, train and retain the necessary staff across the program.

(a) Funding to match the true cost to providers

Our current funding is substantially and harmfully less than the cost of administering the Right to Counsel program. Providers report that the funding currently covers only 60-70% of the full costs of their provider contracts. While the funding has always been challenging, the gap in the amount of funding versus the cost to providers has grown exponentially as providers have seen a 24% increase in how many hours it takes to resolve a case since 2018, while increased administrative and training burdens mean that staff have fewer hours available to do casework. At the same time, providers are grappling with growing expenses including rent increases on our existing spaces and rising healthcare, salary, and pension costs.

Without additional funding, the provider community has been forced to manage these increased costs by delaying hiring after staff departures, forgoing necessary support staffing such as social workers, paralegals, process servers or administrative support, and forgoing investment necessary to create and manage a fully implemented Right to Counsel program. To mitigate shortfalls, providers have subsidized the program with other funding. Consequently, other legal needs of low-income New Yorkers are not being met because of the RTC funding gap. This is neither sustainable nor fair. We cannot expand and build out our physical spaces or fund adequate wraparound operational support including human resources, finance, grant management and IT until the provider community is funded to cover the full costs of administering the Right to Counsel program.

¹⁴ Brand, David. “NYC Eviction Rate Continues to Rise Since Ban was Lifted, as Homelessness Surges.” Gothamist. January 18, 2023.
<https://gothamist.com/news/nyc-eviction-rate-continues-to-rise-since-ban-was-lifted-as-homelessness-surges> (accessed 3/23/2023).

(b) Funding to match the actual demand for services

While the case rate needs to be increased, we also need to ensure that there is enough funding to provide full legal representation to all tenants facing eviction proceedings. This means not only matching the anticipated number of new filings, but also ensuring there is funding to cover the backlog of cases that are pending where tenants do not have attorneys. Currently, the overall RTC program is based on a number of units of service that falls significantly short of this need. Continuing to underfund these needs undermines RTC and leaves people facing eviction without counsel.

(c) Funding to provide sufficient staffing and comprehensive legal and social services

i. Sufficient staffing

The funding must allow providers to hire and retain sufficient numbers of attorneys such that attorney caseloads can be maintained at a level where attorneys are not overburdened and where tenants can receive the best possible legal representation. Particularly because our practices rely on a regular influx of inexperienced attorneys to fill openings in a complex and rapidly changing area of law, these numbers also need to take into account the reduced caseloads that new attorneys are able to handle in their first year of practice.

Funding also needs to allow providers to hire enough attorneys to address the challenges that arise in our practice from the unprecedented rates of attrition and leaves. When existing staff take extended parental, medical or other leave, routinely lasting six months or more, their caseloads must be absorbed by the existing staff who are already operating at capacity. The same is true for the caseloads of staff who leave the organization. The funding should grow to allow providers to have more staff on hand to absorb these cases.

Further, legal service providers lack sufficient funding to provide salaries that will continue to attract and retain Right to Counsel attorneys.

ii. Funding for paralegal, social work and other support staff

The funding provided must take into account not just the cost of attorneys, but also the necessary staffing to provide holistic and high-quality services. Paralegals are crucial to engaging in public benefits advocacy and this need is growing as providers experience enormous hurdles and delays in trying to obtain FHEPS or other HRA benefits for our client. Because our clients come to us in crisis and may have underlying mental health, economic, social or age-related challenges, having social workers on staff is crucial to adequately serve our clients and support our attorneys in handling the enormous stress of clients facing eviction or other challenges. In the absence of paralegals, attorneys who are already overburdened are tasked with assisting clients in need with their public benefits advocacy, and, in the absence of licensed social workers, the same attorneys are also tasked with managing clients in crisis without necessary support or training in crisis

management. Moreover, working in an office where an attorney does not have other support needed to do the work such as investigators, process servers and administrative help increases the burden and stress on our attorneys, and does not allow them the time necessary to do the legal work on their cases.

iii. Sufficient funding to attract and retain experienced supervisors

The majority of attorneys entering the Right to Counsel practice are recent law graduates. Unlike private law firms where new attorneys may not work directly with a client or enter a courtroom for years, new Right to Counsel attorneys must immediately dive into all aspects of litigation including directly working with clients, researching and drafting legal papers, negotiating with opposing counsel, and handling all court appearances up to and including trials. This requires extensive supervision at every level to ensure high quality legal work on behalf of tenants.

However, attracting and retaining experienced supervisors remains a challenge across Right to Counsel legal service providers. Legal service providers lack sufficient funding to ensure appropriate supervisor to attorney ratios or provide competitive salaries, in some cases trailing experienced Law Department attorneys by more than twenty thousand dollars annually.

iv. Funding that takes into account staff training needs

High quality legal services require robust initial and ongoing training for all staff. Landlord-tenant law in New York City implicates complicated federal, state, and local laws and regulations. New attorneys must learn how to identify the type of rental housing at issue, the way the rent is set, and whether a tenant uses a subsidy to pay the rent to determine the respective rights and responsibilities of the parties. Resolving cases is also frequently dependent on an advocate's knowledge of numerous rent arrears and rent subsidy programs. Adequate training programs covering this material takes several weeks and must be offered repeatedly. Funding and caseload expectations for newly hired attorneys must take this into account.

Further, all staff must regularly attend updated training and other learning opportunities to keep pace with the rapidly changing legal landscape that is both the result of the Right to Counsel program itself and watershed changes in the law like the Housing Stability and Tenant Protection Act of 2019. Finally, most attorneys are never formally trained to be managers. When experienced attorneys are making the transition to supervisors, legal service providers must be able to provide them with development opportunities to ensure our on the ground staff receive appropriate supervision at all levels.

v. Funding to allow for affirmative litigation and community lawyering

Affirmative litigation and community lawyering are crucial tools that should be permitted and funded in an RTC practice. There are many contexts in which affirmative litigation is critical to preventing a tenant's eviction such as where a tenant is subject to housing discrimination by a landlord who won't accept their Section 8 voucher, making the apartment unaffordable, or where a tenant is subjected to deplorable housing conditions that results in a constructive eviction

because the tenant cannot occupy the apartment safely. While the Fiscal Year 2024 HPLP renewal contract, at an acute moment for preserving capacity for eviction defense representation, removed the ability of providers to take on this work unless the tenant is already subject to an eviction proceeding, the ability to address this need should be reinstated in the next contract.

Moreover, community lawyering – a collaborative approach employed by RTC Providers, clients, and community members to address and resolve collective concerns and empower community members to assert their legal rights – is an essential tool. Strong working relationships with key stakeholders in the communities that RTC Providers serve is imperative for the provision of holistic as well as integrated legal and social services. Inherent in fostering relationships within our clients’ communities is the idea that community members possess intimate knowledge of the issues impacting their neighborhoods. RTC Providers should be adequately funded so that they are able to have attorneys meet members of the community at neighborhood clinics, workshops, and similar settings. While in-court intake is an essential piece of the RTC law, the context is very different from meeting community members near their homes to hear and better understand the root causes of—and potential solutions to—housing instability. An absence of community lawyering ignores the unique needs of the populations served by RTC providers.

III. LEGAL SERVICES PROVIDERS NEED DEDICATED ADDITIONAL RESOURCES TO ENHANCE THE RIGHT TO COUNSEL ATTORNEY PIPELINE AND NEW-ATTORNEY TRAINING, WHICH WILL EXPAND PROVIDER CAPACITY

With the lifting of pandemic-related stays and NYC’s tremendous housing affordability crisis, the demand for eviction defense legal services far outstrips the capacity of the attorneys currently working at legal services providers. Without additional support and intervention, providers are left in an untenable position wherein staff are overworked and overwhelmed, leading to high attorney attrition rates. And tenants, in need of representation to protect their fundamental rights, are left without the high-quality legal services Right to Counsel envisioned. A sustainable Right to Counsel program will expand the capacity of legal services providers to meet the need for representation, will incorporate practices to train and mentor advocates who are engaging in this work, and will include regular conversations with legal services providers and stakeholders to respond to new and emerging issues that may be impacting the provision of services as envisioned by Right to Counsel.

(a) The City should partner with stakeholders to address the crisis of tenants with eviction cases not being provided with right to counsel and regularly convene stakeholders to discuss emerging issues.

We know that the community’s needs shift and change over time. A pressing community need is that tenants facing eviction are not all being provided with lawyers to represent them. The

challenges in provider capacity caused by the rapid expansion of the program to all zip codes are further exacerbated by Office of Court Administration's (OCA) refusal to slow down the calendaring of new eviction cases to match the providers' capacity to represent vulnerable tenants in housing cases.¹⁵ There were thousands of active eviction cases pending in Housing Court as of March 16, 2020 when OCA suspended evictions statewide (the statewide Covid eviction moratorium). With the end of the moratorium, thousands of low-income unrepresented tenants and occupants were served with notices of eviction and as a result started appearing in Housing Courts to stop their evictions. The number of residential evictions has risen each month since the end of the moratorium.¹⁶ According to the most recent reports, once the various eviction moratoria ended on January 15, 2022, the Housing court returned to business as usual. As landlords filed new eviction proceedings, and old proceedings were re-calendared, the Right to Counsel law assumed an even greater importance for low-income New Yorkers. Elected officials, legal services providers, and more importantly the tenants in need of these services have called on OCA to decrease the calendars during this time.¹⁷ These requests have been ignored by OCA and new cases are proceeding at breakneck speed with tenants going unrepresented. We call on OCJ and the City to partner with providers to ask OCA to slow down calendaring cases to match providers capacity and to adjourn cases to allow tenants to connect with counsel.

We hope that the City and OCJ convenes stakeholders regularly to discuss emerging issues and develop and implement responses that align with community needs and provider capacity. OCJ, agencies, courts, and providers, all must work together to ensure the success of Right to Counsel. Working together will lead to better outcomes for our communities, and for the long-term success of the Right to Counsel program.

(b) The City should commit additional resources to create a systematic pipeline to recruit new advocates to become Right to Counsel practitioners

In addition to providing funding and ensuring adequate time for training, the City should provide resources so that it can work with legal services providers to create an effective pipeline to harness the passion of new advocates of all backgrounds about the importance, promise, and career opportunities within Right to Counsel. With these additional resources, OCJ should incorporate into Right to Counsel programming the funding and time to enable providers collectively to recruit and train advocates dedicated to engaging in this work. Developing a

¹⁵ See, [NYC Led The Way On Right To Counsel For People Facing Eviction. Now Its Program is Struggling](#) by Roshan Abraham November 20, 2022 Next City available at: [NYC Led The Way On Right To Counsel For People Facing Eviction. Now Its Program Is Struggling. \(nextcity.org\)](#) (accessed on 2/24/2023).

¹⁶ See, [NYC Eviction Rate Continues to Rise Since Ban was Lifted, as Homelessness Surges](#) by David Brand January 18, 2023 Gothamist available at: [NYC eviction rate continues to rise since ban was lifted, as homelessness surges - Gothamist](#) (accessed 2/24/2023).

¹⁷ See, [Courts and Other Officials Must Act Now to Protect Right to Counsel in Eviction Proceedings](#) by Shaun Abreu & Diana Ayala, March 27, 2022 Gotham Gazette available at: [Courts and Other Officials Must Act Now to Protect Right to Counsel in Eviction Proceedings \(gothamgazette.com\)](#) (accessed 1/25/2023).

pipeline will expand program capacity and ensure ongoing services as Right to Counsel continues to grow to meet its full potential. At some point, this pipeline may start as early as high school, but there is a lot more that OCJ in partnership with legal services providers could be doing now to foster more interest in Right to Counsel among current law students. For example, multi-provider panels could present to law schools students nationally and locally on what it's like to be a Right to Counsel attorney. There could be presentations to law school public interest student groups, CLE programming, and job fairs. Law schools can be encouraged to create more housing clinics. There are a number of touchpoints to engage law students in New York City and beyond at every stage of their law school career, so they are eager to become Right to Counsel attorneys upon graduation. In the future, programming could be geared to college and even high school students, which could involve volunteer opportunities at legal services providers that could also expand provider capacity. A strong focus on law school pipeline efforts now would mean that whenever there was a vacancy at a Right to Counsel legal services provider, there would be a solid number of law graduates or soon-to-graduate 3Ls who were already primed to apply and ready to commit themselves to the important work of Right to Counsel.

(c) The City should commit resources so that OCJ can provide new Right to Counsel advocates with a comprehensive training institute leveraging the knowledge and expertise of the legal services provider community

Staffing alone isn't enough. We also need focused strategies to train up attorneys joining in this practice. New attorneys are critical to the continued success of Right to Counsel, but the City must commit additional resources to OCJ to ensure these new attorneys have an efficient introduction to the practice of housing law so that they can rapidly become powerful advocates in the fight for housing justice. With these additional resources OCJ would work with and provide additional resources to the legal services provider community to create a comprehensive training program for newly hired Right to Counsel practitioners. Incorporating training as an essential part of the Right to Counsel program must, at the same time, recognize that caseload standards cannot and should not be the same for new attorneys to this practice who are going through this training period.

Working collectively through OCJ's convening, the legal services provider community, which is replete with numerous Housing Court practitioners who are genuine experts in every domain of housing law, could efficiently create a comprehensive training institute that would take new attorneys and law graduates from inexperienced to practice-ready. The Housing Justice Leadership Institute, which started in 2019 as a partnership between the Sargent Shriver Center for Poverty Law and New York Law School, has successfully trained multiple cohorts of new and experienced supervising attorneys in both the hard and soft skills of being an effective Right to Counsel supervisor. There is tremendous promise that a similar program could be created for the newest Right to Counsel attorneys.

All the legal services providers currently commit a substantial amount of time and effort each creating its own training programs for new staff members, but these trainings take place contemporaneously with new staff members being expected to attend intake and take on complicated cases for representation. The long-term impact of failing to adjust caseload and intake expectations for newer staff means that it takes even longer to equip staff with the tools necessary to take on complex matters and is a contributing factor to ongoing attrition.

Prioritizing training would redound to the benefit of all: (1) legal services providers would be able to handle more cases more efficiently; (2) clients would be better served and obtain improved outcomes in their cases; (3) new attorneys would feel more confident, effective, and fulfilled in their work, fostering improved retention; (4) the experts in each domain of housing law in the provider community would be able to share their expertise broadly and prepare new attorneys for the complex and novel legal issues that will arise in their cases, (5) new attorneys would be primed to engage in successful motion practice resulting in judges issuing a range of new decisions that would advance the jurisprudence in a manner aligned with housing justice principles.

IV. OFFICE OF CIVIL REPRESENTATION SHOULD PARTNER WITH PROVIDERS TO CREATE A PROGRAM THAT MINIMIZES AND ADDRESSES ATTORNEY ATTRITION

For any program providing legal services in eviction proceedings to be successful and sustainable, including both New York City's existing program and efforts being considered at the state level through A.1493/S.2721, there must be an understanding of the current growing issue of attorney attrition. Legal Services providers are currently scrambling to fill vacancies and to attract dedicated and qualified attorneys to the practice. Attracting qualified candidates requires a housing practice that pays a living wage, provides training, mentorship, and support for staff, avoids burnout, and allows for a meaningful work-life balance for practitioners. The mass exodus of public defenders due to low pay and burnout over the last year was chronicled by the New York Times in an article published in June 2022.¹⁸ According to the article, public defenders, including housing attorneys, are often overworked and under compensated with their salaries well below the salaries of City lawyers and prosecutors.

Acknowledging and responding to the unprecedented attrition that all Right to Counsel providers have experienced is necessary to ensure the sustainability and success of the city's program and to guarantee the sustainability of any program implemented at the state level. Providers are experiencing inordinately high attrition rates and are competing against one another to hire from a very small pool of applicants.

¹⁸ See, *Hundreds Have Left N.Y. Public Defender Offices Over Low Pay* by Jonah E. Bromwich New York Times, June 9, 2022 available at: [Hundreds Have Left N.Y. Public Defender Offices Over Low Pay - The New York Times \(nytimes.com\)](https://www.nytimes.com/2022/06/09/nyregion/public-defender-offices-low-pay.html) (accessed 2/24/2023)

This increase in attrition is in line with that felt across the legal service field throughout this pandemic period, but is further exacerbated by the lack of funding and structural support afforded to advocates tasked with implementing the city's new and groundbreaking program, and will be even more significant in the event of an expanded statewide program. Staffing structures must enable providers to hire sufficient staff to provide adequate time for training, supervision, and client engagement outside of court: so that staff who join this program are able to sustain this practice.

High attrition rates impact remaining staff's sustainability as well. When a staff attorney with an active full caseload resigns, the capacity of the remaining staff shrinks because the departing attorneys' have a full caseload of ongoing and active cases, which must be redistributed among staff who are already at or near capacity. Remaining staff are then forced to familiarize themselves with the factual background and procedural history of the reassigned cases, leaching time and capacity to take on new client matters, and causing additional strain for staff that contributes to further attrition.

The most direct way to mitigate the risk of attrition for the statewide program is to fund that expansion sufficiently to enable providers to hire enough staff attorneys and to structure the program in a manner that ensures manageable caseloads for attorneys with varying levels of housing experience.

V. CONCLUSION

As we move through the many stages of this housing and health crisis, we remain on the frontline of efforts to ensure that the needs of New York's marginalized communities are met. We will continue to make the case for justice and equity. As our clients undergo this unparalleled crisis, we stand right there beside them. On behalf of Brooklyn Legal Services Corporation A, New York Legal Assistance Group, Legal Services NYC, The Legal Aid Society, and Mobilization for Justice, we thank you for your continued support, and for allowing us to testify today.

If you want to learn more about RTC and the issues discussed in the testimony, we invite you to read the RTC Concept Paper authored by the Legal Services Providers which can be found at <https://docs.google.com/document/d/14Vtdi7yfdw67YbnlUtYq9OkXP9WE55sAx24ZTjbVv38/edit?usp=sharing> and is attached to the version of this testimony submitted on-line.

Civil Legal Service Providers of New York City
Concept Paper:
Right to Counsel in Eviction Proceedings

March 15, 2023

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I. Introduction

In August 2017, New York City became the first jurisdiction in the nation to pass groundbreaking legislation ensuring tenants a right to counsel in eviction proceedings.¹ Local Law 136 of 2017, commonly referred to as the Right to Counsel (RTC) Law, or Universal Access (UA), applies to low-income tenants and occupants in eviction proceedings.² New York City's Office of Civil Justice (OCJ) administers the program and partners with RTC Providers to provide critical legal and social services to eligible tenants across the city.

RTC has been an invaluable tool to balance the scales of justice in eviction proceedings. Through RTC, New York City and the RTC Providers have fought for New York City neighborhoods, protected our neediest residents, and promoted access to safe and affordable housing.³ Our successes have inspired other cities and states to adopt similar models.

Despite these promising victories, the RTC program has faced numerous challenges including rapid expansion in client eligibility outstripping provider capacity, funding shortfalls, and staff attrition, while tenant needs continue to rise and the impact of the Covid pandemic remains acute. The result of these opposing trends in supply and demand led to a swift decline in the ratio of available attorneys to the number of clients seeking representation. Current data shows that the percentage of tenants represented by attorneys has steadily declined since January 2022.⁴ The percentage was as low as 3.2% during one week in October 2022, a far cry from the high rates of representation seen during the first two years of the RTC program.⁵

At this critical moment for RTC, we must collectively reflect on the lessons learned over the past five years and address the challenges that have arisen to ensure a sustainable RTC program that fully delivers on its ambitious objectives. Moreover, as the first city in the nation to implement RTC for eviction cases, we have a unique opportunity to devise solutions to challenges that other programs may encounter down the line. Drawing on lessons learned during this time, this paper outlines recommendations for a path forward that ensures quality legal services for tenants and a sustainable housing rights practice for the RTC Providers.

A. Purpose

As of March 2023, the current RTC Provider contracts are approaching their end dates and OCJ and DSS/HRA are preparing to release a new UA Request for Proposals (RFP). In anticipation of

¹ "State of the City: Mayor de Blasio and Speaker Mark-Viverito Rally Around Universal Access to Free Legal Services for Tenants Facing Eviction in Housing Court." *Office of the Mayor*. February 12, 2017. <https://www.nyc.gov/office-of-the-mayor/news/079-17/state-the-city-mayor-de-blasio-speaker-mark-viverito-rally-universal-access-free> (accessed 3/6/2023).

² Intro. 214-B/Local Law 136 of 2017. *New York City Council Legislation*. <https://intro.nyc/local-laws/2017> (accessed 3/6/2023).

³ Roumiantseva, Maria. "A Nationwide Movement: The Right to Counsel for Tenants Facing Eviction Proceedings." *Seton Hall Law Review* 52: 1351-1398. <https://scholarship.shu.edu/cgi/viewcontent.cgi?article=1843&context=shlr>

⁴ Id.

⁵ Abraham, Roshan. "NYC Led The Way On Right To Counsel For People Facing Eviction. Now Its Program Is Struggling." *Next City*. November 30, 2022. <https://nextcity.org/urbanist-news/nyc-right-to-counsel-for-people-facing-eviction-program-struggling-new-york>

the upcoming RFP, Providers offer this joint concept paper to highlight current challenges and offer recommendations for a robust and fully implemented RTC program. This paper is informed by our five years of experience representing the tenants of New York City as part of the RTC program as well as our previous decades of experience in tenant representation and eviction defense work. We hope to renew our partnership with OCJ, OCA, and DSS/HRA and work together to identify and implement solutions to the challenges highlighted in this paper.

B. Background and Pre-Covid Progress

Over the past five years, RTC has proven to be a critical tool to defend low-income New Yorkers at risk of eviction and keep them in their homes. In New York City, 68.1% of households are renters.⁶ The negative consequences of evictions on poor people is well documented.⁷ Evictions compound financial difficulties, contribute to poor health, disrupt families, and increase the risk of homelessness.⁸ Low-income people and people of color, particularly Black women, are disproportionately affected.⁹ Tenants who have an attorney in an eviction proceeding are less likely to be subject to a possessory judgment, the money judgments in these cases are less than in cases where the tenant is unrepresented, and these tenants are less likely to have a warrant of eviction issued against them.¹⁰ Additionally, tenants who are represented by attorneys are almost guaranteed to remain housed.¹¹ Prior to the RTC, 1% of tenants facing eviction had a lawyer compared to the more than 95% of landlords who were represented in eviction proceedings.¹²

II. Recent Challenges in the Implementation of RTC

Starting in 2019, the Covid pandemic and its devastating collateral impacts led to widespread economic precarity and housing instability. To meet rapidly escalating needs, New York City and the RTC Providers sought to scale up the program much sooner than planned. Despite these efforts, we have faced significant challenges that have left large percentages of tenants across the city without representation in their eviction proceedings. This is discouraging given the substantial progress seen during the first two years of the RTC program.

To deliver on the objectives of RTC and ensure its sustainability, we must analyze and address the challenges that RTC Providers and clients are facing. These challenges include:

- Expansion of the scale and scope of the program without additional funding to increase provider capacity;

⁶ Id at 5.

⁷ Id at 3.

⁸ Id

⁹ Braudy, Erica and Kim Hawkins. “Power and Possibility in the Era of Right to Counsel, Robust Rent Laws & COVID-19.” *Georgetown Journal on Poverty Law and Policy* 28: 121.

¹⁰ Id.

¹¹ *Universal Access to Legal Services: A Report on Year One of Implementation in New York City*. Office of Civil Justice. Fall 2018. Page 27.

¹² <https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ-UA-2018-Report.pdf> (accessed 3/6/2023)

¹² Bieretz, Brian. “A RTC in Eviction: Lessons from New York City.” *Housing Matters*. December 31, 2019. <https://housingmatters.urban.org/articles/right-counsel-eviction-lessons-new-york-city> (last accessed 3/6/2023).

- The absence of a case standard that accounts for the current realities of eviction defense work;
- Insufficient funding for comprehensive legal and social services that support and complement the work of attorneys to enable successful outcomes and prevent future evictions;
- Provider attrition and recruitment challenges; and
- Systemic problems that impede our ability to achieve timely, positive outcomes for clients in crisis.

A. Expansion of the Scale and Scope of the Program Without Commensurate Funding

In response to widespread housing instability, New York City accelerated full implementation of the program to ensure the health and welfare of New Yorkers and keep people in their homes. RTC Providers strongly supported these efforts. However, the increased demand for RTC services—resulting from the accelerated expansion of the RTC program and the enshrinement of new protections for tenants—has not been met with commensurate support to enable sustainable scale-up of the program. RTC Providers have periodically been forced to suspend or significantly limit intake due to our lack of capacity to accept new cases.

1. Citywide Expansion

The RTC law originally envisioned a five-year phase-in approach, known as the “zip-code approach,” in which five new zip codes (usually one per borough) would be added to the coverage area each fiscal year.¹³ Prior to the start of the Covid pandemic in 2020, RTC stakeholders were rolling out the program as planned and providing legal services to tenants in just 25 out of the 180 zip codes,¹⁴ gradually increasing the number of tenants served so that the court, providers, and HRA/DSS could absorb the expanded workload; however, the Covid pandemic and resulting housing instability made full expansion of the program even more urgent and necessary such that providers could not hire up and retain staff sufficient to meet the increased need.

2. Housing Stability and Tenant Protection Act (HSTPA) of 2019

The RTC Providers and other members of the tenant movement were at the forefront of advocacy for passage of this legislation, which contained some of the most significant and comprehensive protections for rent-regulated tenants and other tenants in decades. On June 14, 2019, this landmark legislation mandated significant changes and reforms to the principal statutes governing Housing Court proceedings and created additional rights and recourse for tenants at risk of eviction.¹⁵ This

¹³ Cassidy, Michael T. and Janet Curre. *The Effects of Legal Representation on Tenant Outcomes in Housing Court: Evidence from New York City’s Universal Access Program*. NBER Working Paper March 2022 (revised July 2022). Page 9. https://www.nber.org/system/files/working_papers/w29836/w29836.pdf (accessed 3/6/2023)

¹⁴Id.

¹⁵ Brady and Hawkins 134-141.

made eviction defense work more complex and increased the number of motions filed and the amount of time required to resolve each case.

3. End of the Eviction Moratorium, the Backlog and New Filings

OCA suspended evictions statewide on March 16, 2020. Following the end of this moratorium on January 15, 2022, thousands of eviction cases that had been paused for two years resumed. In addition, landlords began filing new cases against their tenants. The number of residential evictions has risen in subsequent months, creating greater demand for tenant representation in Housing Courts.¹⁶ While low-income tenants had an accelerating need for RTC services at this time, RTC Providers dealing with the myriad of challenges outlined in this paper have not had adequate funding to scale up to meet the demand.

4. Expansion of Eligibility to Over-Income Seniors Further Strains the RTC Program

The recent inclusion of RTC coverage for seniors regardless of income in our current contracts further strains the RTC programs that are already struggling to meet the needs of low-income households facing eviction in housing court. We urge OCJ to prioritize funding for the lowest income New Yorkers. Moreover, while we recognize that seniors above 200% of the federal poverty guidelines need support in housing court, most of our organizations are dedicated to supporting low-income New Yorkers and we must use our limited resources to serve those communities. Furthermore, many providers' charitable purposes are explicitly limited to serving low-income communities. Requiring providers to serve non-low-income clients at the potential scale of RTC could pose significant hurdles to continued participation in the program.

B. Need for a Case Standard that Reflects the Current Realities of the Housing Practice

A successful RTC program requires that attorneys handling cases have reasonable and sustainable caseloads that enable them to provide high quality legal services. High caseloads can have a negative impact on case outcomes and impact an attorney's ability to comply with their ethical and professional responsibilities. High caseloads directly correlate to high levels of staff leave and attrition across providers. Caseloads must also adhere to the reasonable restrictions on capacity contained in the collective bargaining agreements that govern many of the RTC Providers.¹⁷

¹⁶ Brand, David. "NYC Eviction Rate Continues to Rise Since Ban was Lifted, as Homelessness Surges." *Gothamist*. January 18, 2023. <https://gothamist.com/news/nyc-eviction-rate-continues-to-rise-since-ban-was-lifted-as-homelessness-surges> (accessed 3/6/2023).

¹⁷ The staff of many providers, representing the majority of attorneys, are unionized, which means that the terms and conditions of their employment are governed by negotiated Collective Bargaining Agreements (CBA). Many of these CBAs have provisions that govern how many cases a staff attorney is expected to handle at a given time. For example, LSNYC's CBA §14.5 provides for reasonable and equitable workloads and considers various factors in determining workloads such as if staff have too much work to be able to regularly complete all work within a 35-hour work week. It provides that if an attorney has more than 40 active cases at one time, the employer has the burden of showing the attorney can handle those cases competently (and includes the reverse burden if there are less than 40 active cases).

In the absence of a uniform case standard for the housing practice, each provider has similar metrics to determine how many cases can be handled by an experienced attorney or a brand-new attorney to the practice. The number represents a range based on experience level and other factors. For example, in 2018 The Legal Aid Society (LAS) conducted a comprehensive, though now dated, study designed to determine how many cases an experienced attorney can handle per year. LAS and STOUT Consulting Partners concluded that, at the time, an experienced attorney could handle an average of **61 cases** per year. That study first identified the discrete tasks required to complete a case and then surveyed staff about how long each of those tasks take to complete as well as the likelihood of needing to complete those tasks. The study concluded that a full representation case required **23.1 hours** to complete.

As discussed throughout this paper, eviction defense work has changed significantly since 2018 when LAS and STOUT Study was conducted. While data is not available across all RTC providers, we have analyzed data available from individual providers to quantify general trends for eviction defense work over time. For example, available timekeeping data from Legal Services NYC's (LSNYC) Legal Server case management database indicates a sharp upward trend from 2018 in the number of hours needed to resolve a full eviction case. For FY 2018, LSNYC's data shows that each full representation eviction case took an average of at least **23.3 hours**, which is in line with the estimate calculated by LAS and STOUT for the same time period. By FY 2022, LSNYC's data shows that each full representation eviction case took **28.6 hours** on average. This represents a **24%** increase since 2018.

We attribute this change over the past five years to the following factors, which are not accounted for in the 2018 case standard:

- **Passage of the HSTPA in 2019**, which substantially increased tenant protections and made housing litigation in New York City, which was already complex, even more so. Certain HSTPA provisions gave rise to additional bases to dismiss Housing Court petitions, which has allowed RTC attorneys to prevail on numerous motions to dismiss cases. Motion practice, especially on novel issues, requires significant time and resources, but advances protections for all New York tenants. The additional tenant protections and changes to the legal landscape mean that providers must increase trainings for staff to stay current with the law.
- **Prevalence of new and less-experienced staff**: Due to high attrition rates as well as program expansion, RTC Providers have a greater number of new and less-experienced staff. New hires will necessarily carry a lower caseload and take longer to resolve cases than more experienced attorneys, reducing the number of new cases the program can accept.
- **Agency delays** during and since the pandemic in processing applications for rental arrears assistance, which have increased the time needed for cases to resolve.

- **Delays resulting from staff turnover** while cases are reassigned, and the new attorney gets up to speed, requiring a greater number of hours to resolve the reassigned cases.
- **Increased training and supervision needs** for newer staff and new supervisors.
- **More frequent engagement in recruitment and onboarding** due to high attrition.
- **Significant administrative requirements** throughout the process, from intake to data reporting.

We note two factors that contributed to reducing the average time per case, but not enough to offset the above factors: the temporary utilization of virtual appearances during the pandemic, which lessened travel time and waiting time in court; and the permanent use of e-filing in housing court. Except for the rarest cases, virtual appearances are no longer used in housing court and all trials are in person with limited exceptions.

Addendum A contains a more detailed overview of the tasks that may be required in atypical RTC case, including the extensive, time-consuming work that RTC Providers do to not only avoid eviction in the immediate term, but also to retain or restore housing subsidies and address issues such as housing conditions, housing discrimination and tenant harassment, which threaten our clients' longer-term housing stability.

OCA Case Standard Committee: OCA formed a committee in approximately fall 2022 to determine a case standard for individual attorney caseloads in the RTC program. While we are awaiting the results of the OCA case standard group to reach a conclusion about an average number of cases that an attorney can handle each year, we note that the LAS/Stout study from 2018 that concluded that attorneys could then handle 61 cases on average was based on attorneys then having 1,408 hours available for work and cases taking 23.1 hours, both inputs of which have undergone significant changes in opposite directions. The hours available for case work have decreased as discussed above due to the increased training needs with newer staff and increased legal complexity with the HSTPA; increased hiring and recruiting needs arising from high attrition; and the increased administrative burden of our work, such as more time spent on intake and OCJ-imposed data reporting. We estimate that the hours per case have increased by almost 24% for the reasons discussed above. Given the substantial impact that the new case standard will have on RTC Providers' budgeting for appropriate staffing, RTC Providers need time for engagement with the committee and OCJ and planning between the release of the case standard and the release of the RTC RFP. We would also urge that the case standard be revisited each year and flexibility be built into the contract to accommodate same, given the evolving dynamics of eviction defense and the volatility of the current context.

C. Insufficient Funding for Comprehensive Legal and Social Services

A central tenet of RTC is that everyone deserves the right to legal representation when their housing stability is at risk. For this access to be meaningful, tenants must have the opportunity to

speaking with knowledgeable advocates who can respond to the specific issues in their cases. This requires lawyers and paralegals who have the training, resources, and support necessary to meet the individualized needs of tenants across New York City.

1. Lack of Funding for Current Work

The current funding structure inhibits providers from covering their full actual costs for necessary staffing and facilities. As discussed in Section II(B) above, providers negotiated the original RTC contracts with OCJ based on the outdated case standards. Due to the factors mentioned above, our attorneys are spending more time per case and have less time available to do case work. Attorneys have also taken on cases beyond their capacity, leading to burnout and low morale and imperiling their professional and ethical responsibilities to clients.

As a result, all RTC Providers are currently underfunded, with many providers indicating that the current funding structure only covers 60% to 70% of the costs of administering the program. This underfunding will only worsen as providers' annual costs increase due to regular increases in operating costs, salaries, and fringe, causing further instability and shortcomings in the implementation of RTC.

Without additional funding, the provider community has been forced to manage these increased costs by forgoing necessary support staffing such as social workers, paralegals, process servers, or administrative support; and forgoing attorney hiring and other investment necessary to implement a robust and effective RTC program. To fill gaps, RTC Providers have subsidized the program with other funding. Consequently, other legal needs of low-income New Yorkers are not being met because of the RTC funding shortfall. This is also neither sustainable nor fair to other funders. We cannot expand and build out our physical spaces or fund adequate wraparound operational support including human resources, finance, grant management, and IT without sufficient additional funding.

2. RTC Needs Right-Sizing to Meet Actual Demand

In addition, the overall RTC program is based on a number of units of service that falls significantly short of actual need, as it does not account for backlogged cases and rollovers as well as total new filings. Continuing to underestimate and underfund the scale of need for eviction defense services will undermine the objectives of RTC and leave people facing eviction without legal counsel in contravention of the law. RTC funding needs to specifically address the back log of housing cases as well as new filings.

3. Insufficient Funding for Comprehensive Legal and Social Services

Throughout our decades of experience representing New Yorkers at risk of eviction, RTC Providers have developed a working model for implementing programming within communities and providing high quality legal services. With adequate funding, providers will have a balanced

staffing ratio that will translate to the provision of top-quality legal services for clients. The low budget ceilings force some RTC Providers to prioritize budgeting for attorneys to meet our case goals—even at numbers that are less than what is needed—at the expense of other essential staffing, including social workers and paralegals, who contribute meaningfully to client outcomes and the longer-term sustainability of the program. In the absence of these essential staff, these additional tasks fall on already overburdened attorneys and supervisors.

Supervision: Most attorneys recruited for RTC are recent law graduates. Unlike at private law firms, where new attorneys may not work directly with a client or enter a courtroom for years, new RTC attorneys immediately handle all aspects of litigation, including directly working with clients; researching and drafting legal papers; negotiating with opposing counsel; and handling all court appearances up to and including trials. This requires extensive supervision at every level to ensure high-quality legal work on behalf of tenants. However, attracting and retaining experienced supervisors remains a challenge across RTC Providers. Legal service providers lack sufficient funding to ensure appropriate supervisor-to-attorney ratios.

Social workers: In addition to facing the traumatic situation of potentially losing their homes, our clients have often experienced past trauma or mental health issues that impact their ability to participate in their legal cases. They can become agitated or non-responsive, particularly when an eviction is looming. Social workers play a critical role in ensuring that our most vulnerable clients have meaningful access to justice. In addition to assisting attorneys on best practices for working with clients who have experienced trauma or mental health issues, social workers also directly support clients through the stress and emotional impact of a housing court case and can address their other interrelated needs (such as access to benefits). Their assistance to clients to retain or restore housing subsidies directly contributes to preventing eviction in the longer term. Other RTC models, including those in criminal and family court, incorporate social workers to best meet client needs. The RTC program should adopt this best practice.

Paralegals: Paralegals are crucial to engaging in public benefits advocacy and this need is growing as providers experience enormous hurdles and delays in trying to obtain FHEPS or other HRA benefits for our clients. Paralegals also assist attorneys in legal drafting, research, case management and other tasks needed for robust client representation. In the absence of paralegals, already-overburdened attorneys are tasked with handling all aspects of the case, including necessary public benefits advocacy. Moreover, working in an office where an attorney does not have other support needed to do the work such as investigators, process servers and administrative help, increases the burden and stress on our attorneys, and does not allow them the time necessary to do the legal work on their cases.

Community lawyering: Community lawyering – a collaborative approach employed by RTC Providers, clients, and community members to address and resolve collective concerns and

empower community members to assert their legal rights – is an essential tool that should be incorporated into future RTC work. Strong working relationships with key stakeholders in the communities that RTC Providers serve is imperative for the provision of holistic as well as integrated legal and social services. Inherent in fostering relationships within our clients' communities is the idea that community members possess intimate knowledge of the issues impacting their neighborhoods.

There must be adequate funding to allow RTC Providers to have attorneys meet members of the communities they serve at neighborhood clinics, workshops, and similar settings. While in-court intake is an essential piece of the RTC law, the context is very different from meeting community members near their homes to hear and better understand the root causes of—and potential solutions to—housing instability. An absence of community lawyering ignores the unique needs of the populations served by RTC providers. It is worth noting that the RTC law contains provisions for community engagement and awareness-raising about the program.

D. Attrition and Recruitment Challenges

RTC Providers have faced unprecedented levels of staff attrition (estimates range from 20% up to 55%) since FY21. Due to attrition, leaves and other challenges, providers are scrambling to fill vacancies. One provider saw six of the thirteen law graduates (46%) hired for the RTC program resign within the first year. In years prior, this provider had an attrition rate below 5%. The increased attrition rate is not unique to the RTC program and has affected legal service programs more broadly; however, for RTC attorneys specifically, the common challenges faced by all legal services attorneys have been exacerbated by the lack of funding and structural support for the program.

1. Lack of Adequate Pay

Salary levels for legal service providers are not competitive with their public- and private-sector peers. As *The New York Times* reported in June 2022 in their coverage of the mass exodus of public defenders over the last year, the annual salaries of public defenders lag behind those of their City counterparts by \$10,000 or more.¹⁸ The wage gap between our staff and the private sector is even more substantial. For supervisors, who are critical to ensuring high-quality service provision, the gap is even greater. Moreover, the basic living costs faced by our staff, including rent, healthcare, caregiving, and student loans, continue to rise, making staying at our organizations and providing this critical work impossible for many attorneys, particularly in light of ongoing Covid-related economic hardships, high inflation, and the looming recession. Though the City took small steps toward increasing pay in 2019, the issue remains largely unaddressed. See [Defenders and Legal Services Organizations Press Release on Parity for FY23](#).

¹⁸ Id.

While this issue goes beyond the RTC program and affects all non-profit legal services providers in New York City, it is nonetheless a driving factor in RTC program staff attrition. If the RTC program is to be sustainable into the future, we need to be able to offer competitive salaries and benefits to our staff.

2. Burnout from Mounting Workloads

With the rapid expansion of RTC coverage, the demand for representation quickly outpaced the RTC Providers' capacity.¹⁹ Following the citywide expansion of the program without an equivalent increase in funding (as described in Section II(A)), many providers had to handle more cases with the same number of staff, causing frustration, low morale and work-life imbalance. Moreover, high rates of staff attrition contribute to a vicious cycle by further straining remaining staff. When a staff attorney with an active caseload of 35–40 or more cases resigns, those cases must be redistributed among remaining staff who are already at or near capacity. These staff must then meet the client and familiarize themselves with the factual background and procedural history of the reassigned cases, which reduces their capacity to take on new client matters and further overwhelms those staff, driving more attrition. Such reassignments also erode attorney-client trust and cause delays, negatively affecting the quality of service that the client receives.

3. Vicarious Trauma

The devastating impact of evictions on individuals and families cannot be overstated. Evictions destabilize families, and housing instability can have a snowball effect on all aspects of an individual's life from poor health outcomes to employment. Eviction defense work is also emotionally taxing for our frontline staff, who work with vulnerable low-income clients as they endure the trauma of potentially becoming homeless. As described in Section II(C), many of our clients also have previous traumatic experiences or mental health issues. Our staff are committed to their clients and personally invested in obtaining the best possible outcomes for them. Many experience vicarious trauma as a result of working closely with clients living in profoundly difficult circumstances. While the emotional toll of eviction defense work is unavoidable given the high stakes, it must be taken into account when considering capacity to handle new eviction matters, and the resources and support that clients and client-facing staff need to deliver the program.

4. Recruitment Challenges

For the reasons described above, recruiting new attorneys—particularly recent law school graduates—has become increasingly challenging, with numerous providers competing to recruit and retain a small pool of candidates. Recruitment challenges also stem from age old law school practices that may prioritize marketing private sector work to students over lower paying non-profit sector work such as RTC attorney work. Overstretched providers are leaning on existing

¹⁹ Rabiya, Sam. "Less Than 10% of Tenants Facing Eviction Actually Got a Lawyer Last Month, Undermining RTC Law." *The City*. October 27, 2022. <https://www.thecity.nyc/2022/10/27/23425792/right-to-counsel-housing-court-tenant-lawyers> (accessed 3/6/2023).

scarce resources to recruit staff. Examples of provider recruitment efforts include participating in housing recruitment efforts hosted by Fordham Law School and New York Law School, organized by former NYC HRA Commissioner Steve Banks; participating in public interest law school fairs and recruitment events; and hosting law interns, pro bono scholars and fellows.

Several RTC Providers are hiring third-year law students who have not yet graduated law school or passed the Bar exam, a strategy that is primarily used by some Criminal Practice firms with a long history of RTC work. Law school graduates must be accompanied by a licensed attorney at every court appearance until they are admitted to the NY Bar. This prolonged close supervision and support further stretches the capacity of RTC supervisors. In addition, bar passage rates have been on the decline, which increases the risk for organizations using this strategy. Attracting qualified candidates requires a housing practice that pays a living wage; provides training, mentorship, and support for staff; avoids burnout; and allows for a meaningful work-life balance for practitioners.

Experience has taught the providers that short-term fixes, such as relying heavily on *pro bono* support or supplementing with for-profit attorneys, will not solve this structural challenge. Pro bono attorneys lack housing experience and require substantial support, training, and management, which consumes staff time and negates the benefits of added capacity. For-profit attorneys have different incentives than non-profit providers, whose mission is to serve low-income people. Non-profit providers as outlined in the addendum provide quality and comprehensive legal services to clients, services that require time, support, and resources to complete.

E. Systemic Inefficiencies Serve as Barriers to Efficient Resolution of Cases

Systemic inefficiencies of HRA/DSS and OCA directly impact how quickly staff attorneys can resolve a case to create capacity to take on a new case. See Addendum B for an example of systemic inefficiencies encountered in obtaining a subsidy for a client. While the below-mentioned issues are outside the control of the RTC Providers, we have included them as they should be considered in setting the revised case standard and future program goals.

1. Pace of Calendaring Exceeds Provider Capacity

The current pace of scheduling new eviction cases beyond the providers' capacity has exacerbated the challenges caused by the rapid expansion of the program and staff attrition.²⁰ As noted in Section II(A), following the end of the statewide eviction moratorium in January 2022, the thousands of eviction cases that had been paused for nearly two years resumed while at the same

²⁰ Abraham, Roshan. "NYC Led The Way On RTC For People Facing Eviction, Now Its Program is Struggling." *Next City*. November 20, 2022. <https://nextcity.org/urbanist-news/nyc-right-to-counsel-for-people-facing-eviction-program-struggling-new-york> (accessed 3/6/2023).

time landlords began filing new cases. The number of residential evictions has risen in subsequent months.²¹

Even before the end of the moratorium, in late 2021, RTC Providers sought relief from OCA as capacity and attrition issues mounted. RTC Providers, elected officials, and tenants called on OCA to moderate the pace of calendaring to match the on-duty Provider's capacity so they would be able to continue to offer full legal representation to all qualified tenants.²² There is precedent for this request: OCA recently moderated the volume of intake cases to match OCJ's capacity in the new Brooklyn Administrative Part pilot. However, this relief still has not been afforded to RTC Providers. We further note that moderating the calendaring of cases will also alleviate some of the challenges that the courts are facing, including lack of staffing and the longer time needed to resolve more complex cases.

2. Lack of Specific Times (Times-Certain) for Court Appearances

Since hearings are not scheduled at specific times, clients and RTC attorneys spend hours waiting in court for cases to be heard. An in-court appearance, even for a simple adjournment of a case, routinely takes anywhere from one to three hours, sometimes even the entire day. As a result, our clients must often miss a day of work and wages and must arrange for child-care. Moreover, attorneys must spend half or full days in court, unable to do all other client work until the evening. This directly contributes to burnout and limits our capacity to handle new cases.²³

3. Loss of Dedicated Provider Spaces in Court Houses

For years and even decades, many legal services providers had dedicated courthouse offices. These offices served as additional workspaces and provided spaces for providers to meet with and immediately assist the neediest clients, primarily people referred by the court who had already been evicted. Over the last two years, in almost every borough, providers have been removed from these spaces. Instead, providers are connected with clients in crisis on RTC intake days in cramped courthouse spaces that are often shared and do not afford privacy for clients, contributing to an atmosphere of disrespect. The loss of these spaces further compounds many of the challenges discussed in this paper.

4. Underfunding of HRA/DSS and HomeBase

HRA/DSS and HomeBase are chronically underfunded and understaffed, which directly impacts the time within which cases might be resolved. While these delays are outside of the control of

²¹ Brand.

²² Abreu, Shaun and Diana Ayala. "Op-Ed: Courts and Other Officials Must Act Now to Protect RTC in Eviction Proceedings." *Gotham Gazette*. March 27, 2022. <https://www.gothamgazette.com/130-opinion/11194-courts-protect-right-to-counsel-nyc-evictions-housing> (accessed 3/6/2023).

²³ The use of times-certain may also help move proceedings forward, as counsels will be less likely to be "double-booked." One major contributing factor to the hours RTC providers spend waiting in court is that their Opposing Counsels have multiple matters scheduled before multiple parts, and don't appear timely. Times-certain will help set expectations of when a case will be heard, incentivize counsel's appearance, and increase judicial efficiency.

Providers, stakeholders should take them into account when estimating how many hours outside of court each case requires, and the lifespan of every case. Addendum B contains two examples of the level of engagement required for this portion of Provider work.

III. Recommendations

To ensure that tenants receive the effective representation to which they are entitled under the law, we must learn from the initial years of implementing the RTC. The solutions presented and discussed below present a roadmap outlining requirements for the successful implementation of the program going forward, including structural support for comprehensive legal and social services; programmatic sustainability; a reasonable case standard; and adequate funding.

1. Increase funding level to meet actual need at full cost of services

Funding allocated to the RTC contracts must be sufficient to cover not only costs with current levels of staffing, but the costs associated with the expansion necessary to adequately represent all cases required by the RTC law. As discussed throughout this paper, the funding must consider:

- the increased amount of time and effort per case;
- the need for annual increases in wages and cost of living;
- sufficient funding to include adequate and holistic staff, including social workers and paralegals;
- actual units of service (consider backlogs, rollovers, and new filings);
- additional staffing to buffer against attrition and case reassignment; and
- staffing structures that ensure adequate time and resources for training, supervision, and client engagement outside of court.

The size of the RTC program (total funding, case rate, etc.) should further account for the factors below and incorporate feedback and data from OCA, OCJ, and the Providers:

- Expected number of total cases that are eligible for full representation and brief advice, including rollovers and the backlog caused by the pandemic and eviction moratorium
- Average numbers of tenants represented (annually) per attorney for both full representation and brief advice
- Number of staff attorneys required (taking into consideration the case cap standard)
- Number of supervisors required to support staff development and ensure high quality representation
- Number of paralegals, social workers, and other support staffing necessary to provide holistic and high-quality services
- Total personnel costs

- Total additional other-than-personnel costs (training, facilities, administration, start-up, etc.)
- Other indirect costs
- Total estimated annual cost of representation for eligible tenants in each year
- Average estimated cost per case
- Minimum adequate staffing ratios to ensure appropriate supervision and support (for example, Staff Attorney to Supervising Attorney; Staff Attorney to Paralegal; Paralegal to Paralegal Supervisor; Attorney to Social Worker; etc.)
- Compensation for providing brief advice to all clients who are entitled to it (i.e., over-income tenants)

2. Fund Equitable Wages for Legal Service Providers, Including RTC Staff

It is a matter of fairness and equity that the City's funding allows Providers to pay their staff attorneys, at a minimum, at parity with City in the Law Department and Assistant District Attorneys at all salary steps (and similar respective salaries for all non-attorney positions). Offering competitive salaries is essential to reducing RTC staff attrition and recruiting qualified law graduates.

3. Allow RTC Providers to budget for and hire additional attorneys to offset attrition in the immediate term

In the immediate term, RTC Providers need to recruit additional staff to counteract staff departures until the attrition rate stabilizes. Although this may appear to give Providers excess capacity on paper, it actually gives Providers an opportunity to hire the correct number of staff attorneys for this Project to remain sustainable and able to continue to serve new clients. Funding for law school recruitment, internship program coordination, and pro bono engagement, all of which help providers to increase capacity and create a stronger pipeline of attorneys to the work, should also be included, as should direct funding for law school fellowships or scholarships to encourage law students entry into RTC housing practice

4. Engage Exclusively with Not-For-Profit Organizations to Implement RTC

As indicated above, RTC work should be delivered by not-for-profit providers whose mission is to serve low and no-income populations and who have deep experience in providing high-quality representation for tenants in housing court. The legal requirement that RTC be provided by non-profit legal services organizations is a key component of the RTC statute fought for successfully by NYC tenants. The practices and standards of for-profit attorneys are obviously shaped by their motivation to maximize the profits generated by their work. This results in a model of legal practice that is inconsistent with the vision of right to counsel as a tool to empower tenants and comprehensively uphold their rights. For-profit attorneys are incentivized to refrain from fully litigating cases, to quickly settle with landlords, and to avoid holistic services where possible. This

is the antithesis of what NYC tenants are entitled to under the right to counsel statute and certainly does not honor the vision NYC tenants, advocates, organizers, and legislators had when they successfully established RTC under the law. Similarly, RTC services should not be provided by landlord attorneys and firms, whose loyalties have historically been to advance the interests of NYC landlords and whose practices are generally rooted in the quest to ensure landlords maximize their profits, including through housing court cases. The NYC legal services community has a long history of excellent legal representation for tenants, deep expertise in landlord-tenant law, and strong ties to tenant organizing groups and tenant communities. As such, RTC work should only be conducted by non-profit organizations who can demonstrate they meet these standards and whose only incentive is to zealously represent the tenants of New York City.

5. Right-Size RTC to Meet Actual Current Demand (Including Rollovers, Backlogged Cases, and New Filings)

OCJ needs to ensure that it is contracting for enough cases to provide full legal representation to all tenants facing eviction proceedings as required by the RTC law. This means not only matching the anticipated number of new filings, but also ensuring there is funding to cover the cases that are pending where tenants do not yet have attorneys. Cases in the backlog often represent clients closest to eviction who require urgent legal assistance. Additionally, as discussed above, as housing cases are taking longer to resolve, many cases often need to be rolled over into the next fiscal year.

6. Provide Compensation for 100% of Rollovers

Rollovers—cases that are not resolved by the end of the program year—are a substantial driver of the disconnect between need and capacity. As the amount of time needed to resolve a case has grown significantly since 2018, an increasing number of cases remain unresolved at the end of the year. The current RTC Provider contracts do not allow for all rollover cases to be counted again the following year. In previous years, OCJ has provided a memo near the end of each contract year allowing a very limited percentage of rollovers. Given the realities of eviction defense, as discussed in Section II(A), this restriction on rollovers no longer reflects the realities of our practice; negatively impacts planning and capacity; and compromises our ethical obligations to our clients. Therefore, we seek to be able to count cases each year until the cases are complete.

7. Consider Strategic Long-Term Investment in a Robust Pipeline of Law Students and Graduates for RTC

OCJ should work with legal services providers to create an effective pipeline to harness the passion of new advocates of all backgrounds about the importance, promise, and career opportunities within the RTC program. Similar to our training recommendation, OCJ should incorporate funding into RTC that enables Providers collectively to recruit and train advocates dedicated to engaging in this work. Developing a pipeline will expand program capacity and ensure ongoing services as RTC continues to grow to meet its full potential. At some point, this pipeline could start as early

as high school; however, there are many opportunities for OCJ, in partnership with legal services providers, to foster more interest in RTC among current law students. These include presentations to law school public interest student groups; CLE programming; job fairs; and partnerships with law schools to create additional housing clinics. There are multiple touchpoints at which to engage law students in New York City and beyond at every stage of their law school career, so that they are eager to become RTC attorneys upon graduation.

8. Consider RTC Provider Feedback in Determining the New RTC Case Standard

As described in Section II(B), a committee convened by OCA is currently creating a RTC case standard. RTC Providers urge the committee to meaningfully engage with us in the case standard process so that the standard can benefit from our years of experience delivering RTC services and our in-depth knowledge of the challenges that attorneys face. Once the case standard is completed, RTC providers request time to review the case standard and engage with OCA and OCJ prior to the release of the RTC RFP.

IV. Conclusion

Any RFP/RFX should include more funding for the successful operation of the program as outlined above. Funding should cover the full cost of the program including the cost for essential staff beyond attorneys. It should also ensure that providers have the flexibility to prioritize representing low-income tenants in line with each organization's core values and charitable purposes.

This Paper is collectively submitted for consideration by the following Legal Services providers:

Brooklyn Legal Services Corporation A
CAMBA Legal Services
Housing Conservation Coordinators
Legal Services NYC
Mobilization for Justice
Neighborhood Association for Inter-Cultural
Affairs, Inc.

Neighborhood Defender Service
New York Legal Assistance Group
Northern Manhattan Improvement Corporation
The Bronx Defenders
The Legal Aid Society
Urban Justice Center – Safety Net Project

V. Addendum A: Current Workflow Employed by RTC Providers

Assessment: Most families and individuals are connected with and introduced to a Legal Services Provider in court, on the Provider's assigned RTC intake day. The family or individual is able to meet with an attorney, paralegal, or designated support staff member from the Provider's organization who will determine or confirm eligibility for representation, conduct an organization-specific pre-screening interview, and gather relevant documents for review.

Initial Interviews: Each UA Provider conducts an organization-specific interview known as the intake process. The purpose of the intake is to allow the Legal Services Provider to understand the facts of the case and assess potential defenses. If the Provider determines that the individual is eligible and that its staff has sufficient capacity to, the Provider will enter into a retainer agreement with the new client. If there is a conflict that prevents representation, the Provider will re-refer the family or individual to another Provider for representation. Subsequently, an attorney is assigned to represent the tenant in the "covered" housing eviction proceeding and a Notice of Appearance is entered on the client's behalf. Representation includes, but is not limited to: a) conducting factual interviews; b) performing legal research; c) preparing motions; d) writing briefs; e) preparing for trial; and f) engaging in benefits advocacy.

Factual Interviews: The UA Provider/assigned attorney conducts interviews with the client to seek details, facts, and prior housing and other collateral cases related to the eviction proceeding to obtain pertinent details to the client's rights, claims, and defenses allowing the Provider to zealously, strategically, and creatively achieve the client's desired outcomes, and connect the client with necessary supplemental services or resources. During the factual interview, the assigned attorney evaluates whether the tenant's rent level is correct, whether there are conditions that require repair, and whether these might constitute defenses to the proceeding.

Assistance with housing discrimination and/or tenant harassment claims: If after the factual interview an attorney determines housing discrimination and/or harassment exists, the advocate may engage in affirmative litigation or file a motion raising a counterclaim to assist a tenant in raising these claims.

Institution of all appropriate remedial actions to retain or restore a housing subsidy: Frequently, our clients are facing a housing crisis because of economic instability. Fortunately, many of these individuals are eligible for subsidies that will help ensure their rent remains affordable. Examples of such subsidies include Section 8, FHEPS, and CityFHEPS. Thus, Providers frequently approach eviction cases with a dual-track mentality. They defensively attempt to prevent eviction, while at the same time working affirmatively with government agencies, such as HPD, NYCHA, and HRA to ensure that, once the eviction case is over, clients have a long-term housing stability plan in

place. These affirmative efforts can range from informal advocacy all the way to the commencement of Article 78 proceedings to challenge wrongful denials.

Ongoing client contact, including follow-up interviews, and consultations: Attorneys must maintain communication with clients to obtain documents and/or information to assist in ongoing efforts to relocate tenants, help with the payment of arrears, and present defenses and/or counterclaims to the court. It is important to note that many clients are experiencing trauma by the time they reach Housing Court, and this can, at times, cause the standard channels of communication to deteriorate and require extra or special efforts.

Legal Research: The Court of Appeals called housing law in New York City an “impenetrable thicket.” Each case presents interesting legal issues involving some variety of local, state, and federal law. Accordingly, Providers must conduct legal research to ensure that tenants are aware of and presenting all legal defenses to their eviction case. Additionally, because the applicable laws will vary depending upon the type of housing, Providers conduct property specific research, such as rent histories from DHCR, property ownership on ACRIS, violations with HPD and DOB, etc. The assigned attorney conducts research and analysis to find support for the specific legal or practice-oriented issue presented, which includes researching statutes, regulations, legal codes, and common law court decisions to back up the legal argument being made in a motion or brief filed with the court.

Preparation of Motions and Briefs: Representative Attorneys/Counsel use legal research to identify the relevant legal problems and provide clients with accurate legal guidance. Providers frequently file motions, including motions to dismiss, for discovery, and for summary judgment. Briefs and motions may also be filed to request relief, for example to afford tenants the opportunity to safely relocate in holdover proceedings or obtain emergency rental arrears assistance awards in nonpayment cases for example, and where appropriate, can also assist in the obtention of settlements that better incorporate their interests. Written advocacy enables counsel to seek immediate Court intervention to protect tenants’ interests and rights.

Preparation and filing agency and court papers: Upon completion of motions, briefs, and other legal instruments, attorneys serve documents on opposing counsels, and file these documents online via the New York State Electronic Filing Systems, NYSCEF, where appropriate, or in person if a case has yet to be converted or filed to the electronic NYSCEF platform.

Preparation for hearings and trials: Attorneys prepare clients and cases for presentation of evidence to the appropriate judicial body by gathering and preparing admissible evidence, engaging in witness identification and preparation in defense or prosecution of the client’s case. Preparation can include obtaining and serving subpoenaed documents and/or testimony, etc.

Representation at all types of judicial hearings, trials, appeals, and other such forums as required, including settling and/or litigating cases through trial: Housing litigation is an all-encompassing term. Some cases involve a quick settlement or discontinuance. Others involve years of protracted litigation comprising motion practice, trial, and appeal, and may necessitate litigating claims in multiple forums at once (e.g., Supreme Court and Federal Court). The administration of RTC must take into account the fact that litigation is inherently unpredictable and that not all cases can be handled the same.

Appeals

Social Workers: Other RTC models including those in criminal and family court, regularly incorporate social workers to best meet the needs of those being represented by public defenders. This best practice should be duplicated in the UA RTC program. The trauma of being at risk of losing your home is often compounded by other experiences of trauma or mental health symptoms that an individual may experience or have experienced over their lives. This impacts their ability to participate in their legal cases. They can become escalated, agitated, and non-responsive when faced with the realities of their housing case particularly when an eviction is looming. Social workers can provide support to attorneys in understanding trauma and/or mental health symptoms and give guidance regarding the best way to engage with clients. Social workers are further able to directly support clients through the stress and emotional impact of a housing court case and work collaboratively with the attorneys to ensure that the clients are able to meaningfully engage with counsel and the system throughout their case.

VI. Addendum B: Case Examples of Out of Court Advocacy Impacting Provider Capacity and Programmatic Sustainability

A. Securing CityFHEPS through Homebase

The following timeline of a recent CityFHEPS voucher application process, which took a full six months, demonstrates the extensive level of engagement required to advocate for our clients. The Legal Services Provider (LSP) advised the client to begin working with Homebase in July 2022, which he did. The parties entered into the stipulation on August 23, 2022 that set an October 31, 2022 pay-by date. The following timeline here can be corroborated with emails and/or contemporaneous notes in the LSP's case management system.

July 25, 2022: Client went to Homebase for assistance with CityFHEPS and was assigned a caseworker. LSP reached out to Homebase caseworker via email that same day.

July 26, 2022: LSP left a voicemail message for Homebase caseworker.

July 28, 2022: LSP left another voicemail message for Homebase caseworker, as there was no response to either the voicemail or email.

August 3, 2022: LSP sent an email to other Homebase contacts at the same location, including the Executive Director.

August 10, 2022: LSP left a voicemail for Homebase Executive Director.

August 23, 2022: Client called LSP while at Homebase to notify LSP that Homebase had lost/misplaced all documents he had already provided to Homebase. While the client was at Homebase, LSP called Homebase caseworker to discuss the client's application. The caseworker stated that he would send a list of required documents, which he did.

September 15, 2022: LSP sent all available documents to Homebase caseworker via email.

September 19, 2022: LSP sent further documents to Homebase caseworker via email.

September 26, 2022: LSP reached out to Homebase caseworker to inquire about the CityFHEPS application status. Homebase caseworker responded stating additional documents were needed.

September 29, 2022: LSP provided requested documentation via email. Homebase caseworker responded and stated the documentation was legally insufficient (NOTE: LSP attorney *strongly* disagrees with caseworker's determination of legal sufficiency), so LSP took immediate steps to ensure the paperwork met the caseworker's specifications.

October 13, 2022: LSP sent the requested paperwork to Homebase caseworker via email.

October 28, 2022: LSP sent an email to Homebase caseworker asking for a status update and reminding the caseworker that the landlord could move forward with an eviction on November 1, 2022 if monies were not paid. Homebase caseworker responded the same day, stating that client had not kept appointments, so no application had been submitted. LSP immediately called client, who was shocked to learn that there were appointments he had allegedly missed. The client immediately went to Homebase to clarify what was needed. While at Homebase, caseworker told client he needed a “budget letter” with no further explanation, thereby prompting client to obtain a new Social Security budget letter.

November 1, 2022: Client brought Social Security budget letter to Homebase caseworker, only to be told he needed a new HRA budget letter.

November 3, 2022: Client re-applied for Single Issue Cash Assistance, per Homebase caseworker’s instructions.

November 7, 2022: LSP emailed Homebase caseworker again to inquire about what was needed to facilitate submission of the application. Homebase caseworker responded that client had not completed the “requested task” and refused to clarify what that task was or what exactly was required.

November 9, 2022: LSP reached out to the Homebase Executive Director to clarify what documents/tasks may be needed. ED responded the same day and clarified what action was needed. LSP worked with client to ensure compliance.

November 30, 2022: LSP reached out to Homebase to notify caseworker that the client’s HRA benefits were open as required for purposes of obtaining funding.

December 1, 2022: Homebase caseworker informed LSP that CityFHEPS application had been submitted on November 16, 2022.

December 13, 2022: LSP emailed Homebase caseworker to inquire about status of application. Homebase caseworker responded the same day stating that there were no updates.

December 20, 2022: LSP contacted Homebase caseworker for an update. Homebase caseworker replied the same day and stated that additional documents were required, despite indicating seven days earlier that no further documents were needed. The client states that he did not receive any communication from Homebase between December 13–20. It is also unclear why so many basic documents were required if the application had been submitted on November 16. Nonetheless, LSP took immediate steps to comply with the new document requests.

December 21, 2022: LSP provided all requested documents within one day of the request.

December 22, 2022: Homebase caseworker emailed LSP to state that Client must re-apply for Single Issue Cash Assistance. This is typically the first step in a CityFHEPS application. LSP immediately contacted client, who went to HRA to re-apply to put his case on “SI Status.”

December 27, 2022: LSP emailed Homebase caseworker with client’s new HRA application confirmation number and requested clarification on the status of the CityFHEPS application that was allegedly submitted on November 16, 2022. Homebase caseworker stated that all delays were attributed to Client’s delays in complying with requests. LSP also contacted HRA on this date to ensure that client’s application was put into “SI Status.”

December 28, 2022: HRA confirmed via email to LSP that Client’s HRA application was in “SI Status.” LSP informed Homebase caseworker of this information via email. Homebase caseworker responded that he refused to move forward with the application until he received the notice that the case had been put into “SI status” and also advised he would only update LSP on the case status once it had been approved. LSP then forwarded an email from HRA stating the case was in “SI Status;” Homebase again responded that it would not move forward until it received formal notice. LSP emailed a formal request that Homebase update LSP on all elements of the application process as LSP is an agent for the client.

December 30, 2022: Landlord served a Notice of Eviction on Client. LSP immediately emailed Homebase to update them about the Notice of Eviction and to implore Homebase to clarify the status of the application that had allegedly been filed/the application to be filed. LSP also implored Homebase to file the application as soon as possible. Homebase never responded to LSP’s December 30, 2022 email.

January 5, 2023: Homebase ED emailed LSP stating that Client’s CityFHEPS had been approved.

January 6, 2023: LSP filed an Order to Show Cause to stay the Notice of Eviction.

January 9, 2023: The Court signed the OSC and scheduled the matter for a January 26, 2023 court appearance.

January 18, 2023: LSP inquired about the status of the checks. Homebase ED responded stating that there were system issues which were delaying the checks.

January 24, 2023: LSP inquired again about the checks. Homebase ED and Caseworker responded stating the checks were available. LSP arranged to pick up the checks at 2:15 on January 26, 2023, and explained that client’s return date on the Order to Show Cause LSP had filed was at 3:00 that afternoon

January 26, 2023: LSP went to Homebase to pick up checks. Security informed LSP that he had not seen Homebase caseworker Checks were eventually tendered at 2:50 p.m. after waiting

approximately 35 minutes. The underlying nonpayment proceedings was discontinued with prejudice.

B. Engaging with HRA to Obtain a One-Shot Deal

June 2022: HRA responded to LSP's advocate inquiry and stated that HRA was issuing CA/SNAP benefits immediately and was reviewing client's FHEPS application. LSP requested an update from HRA when it had resolved the FHEPS issue and followed up approximately two weeks later, but HRA did not respond to either email.

July 2022: LSP contacted HRA to request an update on the FHEPS case. HRA told LSP advocate that HRA reinstated client's FHEPS benefits.

September 21, 2022: Client retained LSP in the nonpayment proceeding pending against her.

October 2022: LSP requested information from HRA as to whether client's case was still open.

November 2, 2022: LSP's first court appearance as attorney for client.

November 5, 2022: HRA advised LSP advocate that FHEPS was covering client's total rent and that HRA had issued retroactive FHEPS from August 2021 through June 2022.

November 8, 2022: Client informed LSP that her SNAP benefits had stopped. LSP submitted advocate inquiry, and HRA responded that client did not recertify. LSP advocate asked HRA if LSP could provide the necessary documents or if a new application was necessary. LSP did not receive a response.

November 14, 2022: Client and LSP fully submitted to HRA a One-Shot Deal (OSD) application; LSP sent an advocacy letter with supporting documents.

November 15, 2022: Client went to HRA Benefits Access Center to get benefits reinstated. Client advised LSP that her benefits had resumed, but SNAP payment was lower than it had been.

November 18, 2022: Parties appeared in court and confirmed the settlement stipulation filed the previous day that established a pay-by date of January 6, 2023.

November 22, 2022: HRA's Rental Assistance Unit (RAU) requested documentation that had already been submitted in LSP's November 14, 2022, advocacy email. LSP sent an explanation and attached the documents again. LSP also included new stipulation of settlement stating the January 6, 2023, deadline by which client must pay rental arrears to avoid eviction.

December 5, 2022: LSP emailed RAU requesting an update. On December 9, 2022, RAU advised there was no update.

December 14, 2022: LSP emailed RAU to explain that if anything further was needed for client's application, LSP would provide it.

December 21, 2022: LSP emailed RAU again about OSD application status and reminded RAU of the payment deadline to avoid eviction. Client reported to LSP that her benefits had stopped again. LSP submitted an advocate inquiry, to which HRA responded that the client had not completed her recertification. LSP responded explaining the client's efforts to recertify. Client returned to HRA Benefits Access Center to reapply, again.

December 27, 2022: HRA's Advocate Inquiry service advised that if client did go to the center, the processing party will instruct her on next steps and that "participant must keep in touch with Benefits Access Center." LSP responded that client was told that HRA would call her, but she never received the call and was hoping to reinstate her benefits as soon as possible. Advocate Inquiry responded and said, "participant must keep in touch with Benefits Access Center."

December 28, 2022: HRA told client to return, again, to the HRA Benefits Access Center, where HRA told client she would receive a telephone call for an interview. Client never received a telephone call from HRA. LSP emailed Benefits Advocate Center explaining client's efforts to reinstate her benefits.

January 3, 2023: LSP emailed RAU to request information on the status of the OSD application and reminded RAU of the January 6, 2023, payment deadline. LSP advocate emailed HRA's Benefits Access Center to follow up regarding client's benefits/interview issues.

January 4, 2023: LSP emailed HRA to advise of a change in client's household, and to try to coordinate a telephone interview.

January 4, 2023: HRA's RAU reported that it had no record of the client's OSD application. LSP emailed RAU to explain again that the client had applied for a OSD in November 2022 and to reiterate the payment deadline. LSP attached advocacy documents again.

January 6, 2023: LSP filed an OSC seeking more time to get client's benefit issues untangled and set straight so that the arrears amount to be paid as agreed to on November 16, 2022, by the parties to the eviction proceeding could be satisfied.

January 7, 2023: On Saturday, RAU stated that the HRA Benefits Access Center needed to register the application.

January 9, 2023: The next business day (Monday), LSP advocate emailed HRA's Benefits Access Center, explaining the client's pressing need for a OSD and for benefits to demonstrate an ongoing ability to pay rent. LSP did not receive a response. LSP advocate spoke with the client about reapplying and reminded her that benefits would need to be in place so that a OSD could be

approved. LSP emailed RAU to advise of outreach to Benefits Access Center and requested that RAU advise if it registered the OSD application.

January 11, 2023: LSP emailed HRA with an explanation and documentation of client's ongoing efforts to reinstate her benefits and to complete the OSD application.

January 12, 2023: LSP advocate emailed FHEPS unit to ask for information on the status of client's benefits and followed up on January 23, 2023. LSP did not receive a response.

January 17, 2023: On the return date of the OSC that LSP filed on January 6, 2023, the parties settled the OSC with a judgment, execution of the warrant stayed through and including March 3, 2023, for the client to resolve the benefits issue and satisfy the judgment. Client reapplied for benefits at HRA Benefits Access Center that same date.

January 19, 2023: Client reported to LSP advocate that client had participated in HRA's application interview by telephone and provided all the documents requested by HRA. Client began receiving SNAP benefits but was not sure if her Cash Assistance benefits had resumed because she had not received a payment yet.

January 25, 2023: LSP emailed HRA to request confirmation that all client's benefits would resume. Client said she was sending documents again to HRA. LSP faxed documents to Benefits Access Center including identification/proof of relationship for household members, stipulation delaying warrant of eviction to March 3, 2023, ConEdison bill, school enrolment documentation, lease.

January 27, 2023: Client and LSP reapplied for a One-Shot Deal. LSP emailed advocacy letter and supporting documents (including an updated stipulation extending the deadline to execute warrant) to RAU, FHEPS unit, and Benefits Access Center representatives.

The outcome of this case is still pending.

NYC OFFICE OF CIVIL JUSTICES' PROGRAMS TO PROVIDE UNIVERSAL ACCESS TO
LEGAL SERVICES FOR TENANTS FACING EVICTION HEARING

March 27, 2023

JOINT TESTIMONY ON RIGHT TO COUNSEL BY BROOKLYN LEGAL SERVICES
CORPORATION A, NEW YORK LEGAL ASSISTANCE GROUP, LEGAL SERVICES
NYC, THE LEGAL AID SOCIETY AND MOBILIZATION FOR JUSTICE

Presented by: Kristie Ortiz-Lam, Jonathan Fox, Rosalind Black, Nakeeb Siddique, and Omolola
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BROOKLYN LEGAL SERVICES CORPORATION A

Brooklyn Legal Services Corporation A (Brooklyn A) advances social and economic justice and community empowerment through innovative, collaborative, neighborhood-based legal representation and advocacy. We represent low- and moderate-income individuals and families throughout New York City. Our clients live in rapidly-gentrifying neighborhoods where many residents and small business owners have been displaced or are facing displacement and harassment. For over half a century, Brooklyn A has provided high-quality, low-barrier neighborhood-based legal services to individuals, families, nonprofit community-based organizations, community development corporations, coalitions, and small business owners, interested in developing and sustaining vibrant, healthy communities. Our Preserving Affordable Housing Program uses legal and advocacy strategies to preserve and protect affordable housing, prevent evictions, combat tenant harassment and discrimination, and ensure that working families, individuals, older adults and others live in stable environments and within their financial means.

An Example of Our Work:

We represented Tenant A in a nonprimary holdover proceeding where the tenant resided with her aunt for five years. Her aunt unfortunately passed away and we presented a succession defense. We prevailed after a three day trial where the court found that the relationship was more like a mother-daughter relationship, that the parties commingled their finances and that she lived in the apartment for the prerequisite two years.

NEW YORK LEGAL ASSISTANCE GROUP

New York Legal Assistance Group (NYLAG) uses the power of the law to help New Yorkers experiencing poverty or in crisis combat economic, racial, and social injustice. We address

emerging and urgent needs with comprehensive, free civil legal services, financial empowerment, impact litigation, policy advocacy, and community partnerships. We aim to disrupt systemic racism by serving clients, whose legal and financial crises are often rooted in racial inequality. Our Tenants' Rights Unit (TRU) fights for housing justice: fair, safe, and affordable housing for adults and families so that they can stay in their communities and thrive.

An Example of Our Work:

Tenant L came to our NYCHA HP Action Clinic at the Red Hook Community Justice Center for help drafting her petition. During our interview, we discovered she also had a complicated non-payment proceeding in Housing Court and a pending administrative rent grievance, both of which were currently unrepresented and would not have gone through any Right to Counsel intake process. She retained us on all three matters, we were able to get the erroneous non-payment proceeding dismissed, and are working closely with her to resolve her rent grievance and get her much-needed repairs.

LEGAL SERVICES NYC

Legal Services NYC (LSNYC) fights poverty and seeks racial, social, and economic justice for low-income New Yorkers. LSNYC is the largest civil legal services provider in the country, with an over 50-year history and deep roots in all of the communities we serve. Our staff members assist more than 110,000 low-income New Yorkers each year and, along with other legal services organizations in the City, LSNYC's housing practice is at the forefront of the fight to prevent evictions, preserve affordable housing, and uphold tenants' rights. Legal Services NYC is also a proud member of the Right to Counsel NYC Coalition, a tenant and organizer led coalition of tenant organizing, advocacy and legal services organizations, which fought for the right to counsel for NYC tenants facing eviction and which is working to ensure just implementation of the right to counsel law.

An Example of Our Work:

JW, who is a single mother with a disabled child living in a rent-regulated apartment in Harlem, came to us with over \$20,000 in arrears and no way to afford the rent. JW could not work due to her health and had only minimal unemployment income when we met her. We assisted her so that she received Emergency Rental Assistance (ERAP) of \$11,333. We applied for Family Homelessness and Eviction Prevention Supplement (FHEPS) on her behalf which paid another \$9,643 of the arrears, and provided an increased shelter payment so that the ongoing rent is affordable. We further assisted the household so that the minor, disabled child now receives Supplemental Security Income (SSI) of \$725/month and the family receives \$459/month in Supplemental Nutrition Assistance Program (SNAP or Food Stamps), as well as medical coverage. Repairs and a renewal lease were also obtained for the client. The arrears were fully resolved, and the proceeding was discontinued.

THE LEGAL AID SOCIETY

The Legal Aid Society (LAS), the nation's oldest and largest not-for-profit legal services organization, was founded in 1876 to provide free legal representation to marginalized New York City families and individuals. The Legal Aid Society's legal program operates three major practices – Civil, Criminal and Juvenile Rights – and through a network of borough, neighborhood, and courthouse offices provides comprehensive legal services in all five boroughs of New York City for clients who cannot afford to pay for private counsel. Each year, the Society handles more than 250,000 cases and legal matters for clients, taking on more cases for more clients than any other legal services organization in the United States.

Our Civil Practice works to improve the lives of low-income New Yorkers by helping vulnerable families and individuals to obtain and maintain the basic necessities of life - housing, health care, food and self-sufficiency. We serve as a “one-stop” legal resource for clients with a broad variety of legal problems, ranging, among others, from government benefits and access to health care, to immigration and domestic violence. Our depth and breadth of experience is unmatched in the legal profession and gives the Society a unique capacity to go beyond any one individual case to create more equitable outcomes for individuals, and broader, more powerful systemic change at a societal level.

Our work has always taken an explicit racial and social equity lens and the current health and housing crisis has further focused our efforts to advocate for the needs of New York's marginalized communities.

An Example of Our Work:

Starting in April 2021, LAS represented a 71 year old Bronx resident in an eviction proceeding, and ultimately helped her obtain succession rights to a Mitchell-Lama co-op apartment where she had lived for over 20 years. Despite paying her rent and complying with the rules of the co-op for nearly 10 years after the death of her brother, who was prior the tenant of record for the apartment. Proving that the Client had the right to succeed to her brother's tenancy was a challenge because although she was the primary caregiver for her brother for two years leading up to his death, she was unable to work and therefore did not file taxes, and she did not have the documents she would need to prove the claim.

LAS assisted found alternative ways to prove her succession claim by laboriously gathering the necessary supporting documentation, and helping her to file a Mitchell-Lama Succession Application. Through our assistance, the Client's succession claim was approved, and the holdover case in housing court was discontinued in December 2022. The Client now has a lease in her name, and since she resides in a rent-regulated Mitchell-Lama apartment, she should be able to live there for the rest of her life if she so desires.

MOBILIZATION FOR JUSTICE

Celebrating its 60th anniversary in 2023, Mobilization for Justice's mission is to achieve justice for all. MFJ prioritizes the needs of people who are low-income, disenfranchised, or have disabilities as they struggle to overcome the effects of social injustice and systemic racism. We provide the highest-quality free, direct civil legal assistance, conduct community education and build partnerships, engage in policy advocacy, and bring impact litigation. MFJ has a staff of more than 165 attorneys, paralegals, social workers, and support staff. It is a diverse, unionized, and collegial workplace where staff share the organization's mission to achieve social justice. MFJ's housing practice is honored to engage in Right to Counsel/Universal Access work in the Bronx and Manhattan, where we deploy a wide array of litigation and advocacy strategies to prevent eviction and to protect tenants' rights.

An Example of Our Work:

Tenant P defaulted in a non-payment proceeding, likely because the landlord failed to properly serve her with the petition, whereupon the Manhattan Housing Court awarded monetary and possessory judgments against Tenant P. On February 14, 2023, Tenant P and her family – including two minor children, the youngest of whom was 8 years old – were forcibly evicted from their home and later entered the shelter system. That same day, MFJ was serving as the Manhattan Right to Counsel provider on intake duty in the courthouse. Even though post-eviction cases do not fall within the defined ambit of RTC intake, the judge sent Tenant P to consult with MFJ after she filed a *pro se* order to show cause.

Despite having a full caseload and parental leave close on the horizon, the MFJ attorney who conducted the in-court intake offered to represent Tenant P and immediately began advocacy efforts, including making three court appearances in short succession and submitting a one-shot deal application to HRA. On March 2, 2023, HRA approved Tenant P for a one-shot deal for the full amount of rental arrears. The MFJ attorney then went to HRA, picked up the checks, and hand-delivered them to the landlord's office. After receipt of the checks, however, the landlord refused to restore Tenant P and her family to possession of their apartment and tried to extort an additional \$4,000 from Tenant P, claiming for the first time that she owed legal and marshal fees. MFJ's attorney then filed an affirmation and a memorandum of law to supplement Tenant P's *pro se* order to show cause and appeared in court for argument. In a written decision issued the next morning, the Court rejected the landlord's extrajudicial claim for additional monies and ordered that the landlord "shall restore [Tenant P] to possession forthwith and provide [Tenant P] with keys for the subject premises forthwith." Tenant P and her family left the shelter system and regained possession of their apartment on March 7, 2023.

INTRODUCTION

It is critical for low-income people to have legal representation in housing proceedings.¹ In New York City 68.1% of households are renters.² The negative consequences of evictions on poor people are well documented.³ Evictions compound financial difficulties, contribute to poor health, disrupt families, and increase the risk of homelessness.⁴ Tenants who have an attorney in an eviction proceeding are less likely to be subject to a possessory judgment, the money judgments in these cases are less than in cases when the tenant is unrepresented, and these tenants are less likely to have a warrant of eviction issued against them.⁵ Additionally, tenants who are represented by attorneys are almost guaranteed to remain housed.⁶

Prior to the Right to Counsel (RTC), 1% of tenants facing eviction had a lawyer compared to the more than 95% of landlords who were represented in eviction proceedings⁷—tenants faced David and Goliath odds as their cases proceeded. After the RTC law was passed in 2017, representation increased exponentially for tenants in eviction proceedings from 1% in 2013 to 30% in 2018.⁸ By 2019, legal representation in RTC zip codes had grown to 62%, with 84% of tenants who received RTC representation avoiding eviction.⁹

Concrete and quantifiable numbers illustrate how RTC saves money by reducing the number of housing insecure as compared to taxpayer dollars spent to shelter the same population. The shelter system is an extremely costly remedy for addressing housing insecurity – in Fiscal Year 2022, the average daily number of households /individuals in the New York City shelter system equaled approximately 27,000,¹⁰ costing the City and State approximately \$1.7 billion.¹¹

¹ See, The Effects of Legal Representation on Tenant Outcomes in Housing Court: Evidence from New York City's Universal Access Program, by Michael T. Cassidy and Janet Curre, NBER Working Paper March 2022, at pg. 3 Revised July 2022 available at: https://www.nber.org/system/files/working_papers/w29836/w29836.pdf (accessed 2/24/2023).

² Id. at 5.

³ Id. at 3.

⁴ Id.

⁵ Id.

⁶ See, Universal Access to Legal Services: A Report on Year One of Implementation in New York City Prepared by the Office of Civil Justice Fall 2018, page 27, available at:

<https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ-UA-2018-Report.pdf>(accessed 2/24/2023)

⁷ See, A Right to Counsel in Eviction: Lessons from New York City by Brian Bieretz December 31, 2019, available at: <https://housingmatters.urban.org/articles/right-counsel-eviction-lessons-new-york-city> (last accessed 2/24/2023).

⁸ See Universal Access to Legal Services: A Report on Year One of Implementation in New York City Prepared by the Office of Civil Justice Fall 2018, page 34 available at:

<https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ-UA-2018-Report.pdf>(accessed 2/24/2023)

⁹ See, Right to Counsel and Stronger Rent Laws Helped Reduce Evictions in 2019 by Oksana Mironova February 24, 2020, CSS, available at:

<https://www.cssny.org/news/entry/right-to-counsel-and-stronger-rent-laws-helped-reduce-evictions-in-2019>(accessed 3/19/23).

¹⁰ See, New York City By The Numbers. Prepared by the Independent Budget Office March 2023, available at: <https://www.ibo.nyc.ny.us/iboreports/how-have-city-costs-changed-with-shifts-in-state-and-federal-support-for-homeless-shelters-march-2023.html> (accessed 3/19/23).

¹¹ Id.

The need for RTC funding is significantly less than the nearly \$2 billion spent on sheltering the unhoused. Money spent on RTC significantly offsets the need to spend money on shelters.

While the Right to Counsel has had an immeasurable impact on individuals facing eviction and is essential to maintain, there is also no question that the Right to Counsel program and the various stakeholders tasked with its implementation face significant challenges. These challenges include: the expansion of right to counsel beyond the “zip-code approach,” the end of the various pandemic-related eviction moratoriums, Housing Court’s steady and increasing calendaring of eviction cases, inadequate funding for the program, and high rates of attrition by housing practitioners and staff at the various agencies. These interrelated factors leave large percentages of tenants across the city without the right to counsel in their eviction proceedings.

We thank the Council for holding this hearing to consider how NYC can ensure the best possible continued implementation of this groundbreaking initiative. All eyes are on us as the first jurisdiction to pass this landmark legislation—our success and failures will serve as a road map for other jurisdictions seeking to implement the right to counsel in eviction proceedings.

As a legal services provider community, we are committed to ensuring that the Right to Counsel realizes its full potential for preventing homelessness and displacement of low-income and vulnerable New Yorkers, building tenant power and balancing the scales of justice by making housing court a place where tenants can achieve just outcomes in their housing cases. In that spirit, and drawing on lessons learned from 5 years of RTC implementation, we offer this testimony to provide feedback and recommendations about this historic program.

I. RECENT CHALLENGES IN THE IMPLEMENTATION OF RTC

As we work together to sustain and strengthen the RTC program, it is worth reviewing the last few years of how the program has functioned during the height of the devastating COVID-19 pandemic. The pandemic resulted not just in nearly 20,000 deaths during the initial few months of the crisis, it resulted in unprecedented levels of unemployment, under-employment and economic distress. Those economic effects of the pandemic crisis inevitably resulted in a massive wave of housing instability in NYC. To meet the challenges posed by the crisis, especially for low-income, elderly and disabled New Yorkers, the legal services community in coordination with OCJ accelerated the roll-out of the RTC program Citywide during the course of 2020 and 2021. This sudden full implementation of the program without the necessary funding and resources, coupled with the wide-ranging changes in state law that came into effect in June 2019 which greatly increased the complexity of eviction defense law and practice, and the eventual end of the various pandemic eviction moratoriums has led to tremendous strain on the RTC program and on RTC stakeholders.

(a) Rapid Citywide Expansion of RTC

The RTC law enacted in 2017 provided for the program to be phased-in in all parts of NYC over a five-year period, starting with coverage for tenants in only a few ZIP codes in each borough. Before the pandemic struck NYC, as of early 2020, the RTC program and the legal services providers participating in the program were expected to provide representation to tenants in only 25 out of the City's 180 ZIP Codes.¹² The rush to implement the RTC program Citywide and expand its coverage to all ZIP Codes was necessary in the face of the housing instability caused by the pandemic; however, the swift pace of the expansion and lack of a concomitant increase in funding made it extremely difficult for the legal services providers to hire, train and retain the staff needed to meet the increased demand for services.

(b) The Housing Stability and Tenant Protection Act (HSTPA) of 2019

On June 14, 2019, New York State enacted landmark legislation called the Housing Stability and Tenant Protection Act (HSTPA) which enacted wide-ranging reforms and changes to the rights and protections of tenants across the state. Many parts of the HSTPA only became fully effective only as of the fall of 2019. At the time the pandemic struck NYC, the RTC legal services providers across NYC were only just beginning to grapple with the effects of the HSTPA and to re-train their eviction defense attorneys to account for the sweeping changes to the law that resulted from the legislation. There is no question that the HSTPA has greatly increased the complexity of the already labor-intensive nature of eviction defense practice, particularly in terms of the availability of legal defenses and motion practice required to adequately represent tenants in eviction proceedings.¹³

(c) Wave of New Eviction Filings Following the End of the Pandemic Eviction Moratoria

As a result of the pandemic crisis, New York City and state authorities implemented a series of overlapping eviction moratoria starting on March 16, 2020. The first moratorium was implemented by the state Judiciary. That moratorium was followed and superseded by the Governor's eviction moratorium, implemented by Executive Orders. Finally, the state Legislature enacted an eviction moratorium law in December 2020, and the Emergency Rental Assistance Program (ERAP) law in April 2021. The state eviction moratorium law lapsed in January 2022, and the ERAP law and its limited eviction moratorium protection is nearing its end. The number of residential eviction filings have increased during the last two years, as each of these eviction

¹² Cassidy, Michael T. and Janet Curre. The Effects of Legal Representation on Tenant Outcomes in Housing Court: Evidence from New York City's Universal Access Program. NBER Working Paper March 2022 (revised July 2022). Page 9. https://www.nber.org/system/files/working_papers/w29836/w29836.pdf (accessed 3/23/2023).

¹³ Braudy, Erica and Kim Hawkins. "Power and Possibility in the Era of Right to Counsel, Robust Rent Laws & COVID-19." *Georgetown Journal on Poverty Law and Policy* 28: 134-141.

moratoria lapsed.¹⁴ The increased number of eviction filings inevitably led to increased demand for RTC legal services Citywide, especially for low-income tenants. However, RTC providers have not had sufficient funding and resources in the face of this increased need for representation in eviction proceedings.

II. FUNDING LEVELS MUST REFLECT THE TRUE COST OF PROVIDING HIGH QUALITY, HOLISTIC LEGAL SERVICES

As we are anticipating a Request for Proposal/RFX to be released shortly that will provide right to counsel funding for the next 3 years, starting in Fiscal Year 2025, it is crucial that this RFX provide funding at a level sufficient for Legal Services Providers to provide high quality, holistic services. There has to be sufficient funding to meet the demand for representation in the new cases being filed and the backlog of eviction defense cases pending without representation.

Finally, the City should also work with providers to ensure we have programs that recruit, train and retain the necessary staff across the program.

(a) Funding to match the true cost to providers

Our current funding is substantially and harmfully less than the cost of administering the Right to Counsel program. Providers report that the funding currently covers only 60-70% of the full costs of their provider contracts. While the funding has always been challenging, the gap in the amount of funding versus the cost to providers has grown exponentially as providers have seen a 24% increase in how many hours it takes to resolve a case since 2018, while increased administrative and training burdens mean that staff have fewer hours available to do casework. At the same time, providers are grappling with growing expenses including rent increases on our existing spaces and rising healthcare, salary, and pension costs.

Without additional funding, the provider community has been forced to manage these increased costs by delaying hiring after staff departures, forgoing necessary support staffing such as social workers, paralegals, process servers or administrative support, and forgoing investment necessary to create and manage a fully implemented Right to Counsel program. To mitigate shortfalls, providers have subsidized the program with other funding. Consequently, other legal needs of low-income New Yorkers are not being met because of the RTC funding gap. This is neither sustainable nor fair. We cannot expand and build out our physical spaces or fund adequate wraparound operational support including human resources, finance, grant management and IT until the provider community is funded to cover the full costs of administering the Right to Counsel program.

¹⁴ Brand, David. "NYC Eviction Rate Continues to Rise Since Ban was Lifted, as Homelessness Surges." Gothamist. January 18, 2023.
<https://gothamist.com/news/nyc-eviction-rate-continues-to-rise-since-ban-was-lifted-as-homelessness-surges> (accessed 3/23/2023).

(b) Funding to match the actual demand for services

While the case rate needs to be increased, we also need to ensure that there is enough funding to provide full legal representation to all tenants facing eviction proceedings. This means not only matching the anticipated number of new filings, but also ensuring there is funding to cover the backlog of cases that are pending where tenants do not have attorneys. Currently, the overall RTC program is based on a number of units of service that falls significantly short of this need. Continuing to underfund these needs undermines RTC and leaves people facing eviction without counsel.

(c) Funding to provide sufficient staffing and comprehensive legal and social services

i. Sufficient staffing

The funding must allow providers to hire and retain sufficient numbers of attorneys such that attorney caseloads can be maintained at a level where attorneys are not overburdened and where tenants can receive the best possible legal representation. Particularly because our practices rely on a regular influx of inexperienced attorneys to fill openings in a complex and rapidly changing area of law, these numbers also need to take into account the reduced caseloads that new attorneys are able to handle in their first year of practice.

Funding also needs to allow providers to hire enough attorneys to address the challenges that arise in our practice from the unprecedented rates of attrition and leaves. When existing staff take extended parental, medical or other leave, routinely lasting six months or more, their caseloads must be absorbed by the existing staff who are already operating at capacity. The same is true for the caseloads of staff who leave the organization. The funding should grow to allow providers to have more staff on hand to absorb these cases.

Further, legal service providers lack sufficient funding to provide salaries that will continue to attract and retain Right to Counsel attorneys.

ii. Funding for paralegal, social work and other support staff

The funding provided must take into account not just the cost of attorneys, but also the necessary staffing to provide holistic and high-quality services. Paralegals are crucial to engaging in public benefits advocacy and this need is growing as providers experience enormous hurdles and delays in trying to obtain FHEPS or other HRA benefits for our client. Because our clients come to us in crisis and may have underlying mental health, economic, social or age-related challenges, having social workers on staff is crucial to adequately serve our clients and support our attorneys in handling the enormous stress of clients facing eviction or other challenges. In the absence of paralegals, attorneys who are already overburdened are tasked with assisting clients in need with their public benefits advocacy, and, in the absence of licensed social workers, the same attorneys are also tasked with managing clients in crisis without necessary support or training in crisis

management. Moreover, working in an office where an attorney does not have other support needed to do the work such as investigators, process servers and administrative help increases the burden and stress on our attorneys, and does not allow them the time necessary to do the legal work on their cases.

iii. Sufficient funding to attract and retain experienced supervisors

The majority of attorneys entering the Right to Counsel practice are recent law graduates. Unlike private law firms where new attorneys may not work directly with a client or enter a courtroom for years, new Right to Counsel attorneys must immediately dive into all aspects of litigation including directly working with clients, researching and drafting legal papers, negotiating with opposing counsel, and handling all court appearances up to and including trials. This requires extensive supervision at every level to ensure high quality legal work on behalf of tenants.

However, attracting and retaining experienced supervisors remains a challenge across Right to Counsel legal service providers. Legal service providers lack sufficient funding to ensure appropriate supervisor to attorney ratios or provide competitive salaries, in some cases trailing experienced Law Department attorneys by more than twenty thousand dollars annually.

iv. Funding that takes into account staff training needs

High quality legal services require robust initial and ongoing training for all staff.

Landlord-tenant law in New York City implicates complicated federal, state, and local laws and regulations. New attorneys must learn how to identify the type of rental housing at issue, the way the rent is set, and whether a tenant uses a subsidy to pay the rent to determine the respective rights and responsibilities of the parties. Resolving cases is also frequently dependent on an advocate's knowledge of numerous rent arrears and rent subsidy programs. Adequate training programs covering this material takes several weeks and must be offered repeatedly. Funding and caseload expectations for newly hired attorneys must take this into account.

Further, all staff must regularly attend updated training and other learning opportunities to keep pace with the rapidly changing legal landscape that is both the result of the Right to Counsel program itself and watershed changes in the law like the Housing Stability and Tenant Protection Act of 2019. Finally, most attorneys are never formally trained to be managers. When experienced attorneys are making the transition to supervisors, legal service providers must be able to provide them with development opportunities to ensure our on the ground staff receive appropriate supervision at all levels.

v. Funding to allow for affirmative litigation and community lawyering

Affirmative litigation and community lawyering are crucial tools that should be permitted and funded in an RTC practice. There are many contexts in which affirmative litigation is critical to preventing a tenant's eviction such as where a tenant is subject to housing discrimination by a landlord who won't accept their Section 8 voucher, making the apartment unaffordable, or where a tenant is subjected to deplorable housing conditions that results in a constructive eviction

because the tenant cannot occupy the apartment safely. While the Fiscal Year 2024 HPLP renewal contract, at an acute moment for preserving capacity for eviction defense representation, removed the ability of providers to take on this work unless the tenant is already subject to an eviction proceeding, the ability to address this need should be reinstated in the next contract.

Moreover, community lawyering – a collaborative approach employed by RTC Providers, clients, and community members to address and resolve collective concerns and empower community members to assert their legal rights – is an essential tool. Strong working relationships with key stakeholders in the communities that RTC Providers serve is imperative for the provision of holistic as well as integrated legal and social services. Inherent in fostering relationships within our clients' communities is the idea that community members possess intimate knowledge of the issues impacting their neighborhoods. RTC Providers should be adequately funded so that they are able to have attorneys meet members of the community at neighborhood clinics, workshops, and similar settings. While in-court intake is an essential piece of the RTC law, the context is very different from meeting community members near their homes to hear and better understand the root causes of—and potential solutions to—housing instability. An absence of community lawyering ignores the unique needs of the populations served by RTC providers.

III. LEGAL SERVICES PROVIDERS NEED DEDICATED ADDITIONAL RESOURCES TO ENHANCE THE RIGHT TO COUNSEL ATTORNEY PIPELINE AND NEW-ATTORNEY TRAINING, WHICH WILL EXPAND PROVIDER CAPACITY

With the lifting of pandemic-related stays and NYC's tremendous housing affordability crisis, the demand for eviction defense legal services far outstrips the capacity of the attorneys currently working at legal services providers. Without additional support and intervention, providers are left in an untenable position wherein staff are overworked and overwhelmed, leading to high attorney attrition rates. And tenants, in need of representation to protect their fundamental rights, are left without the high-quality legal services Right to Counsel envisioned. A sustainable Right to Counsel program will expand the capacity of legal services providers to meet the need for representation, will incorporate practices to train and mentor advocates who are engaging in this work, and will include regular conversations with legal services providers and stakeholders to respond to new and emerging issues that may be impacting the provision of services as envisioned by Right to Counsel.

(a) The City should partner with stakeholders to address the crisis of tenants with eviction cases not being provided with right to counsel and regularly convene stakeholders to discuss emerging issues.

We know that the community's needs shift and change over time. A pressing community need is that tenants facing eviction are not all being provided with lawyers to represent them. The

challenges in provider capacity caused by the rapid expansion of the program to all zip codes are further exacerbated by Office of Court Administration's (OCA) refusal to slow down the calendaring of new eviction cases to match the providers' capacity to represent vulnerable tenants in housing cases.¹⁵ There were thousands of active eviction cases pending in Housing Court as of March 16, 2020 when OCA suspended evictions statewide (the statewide Covid eviction moratorium). With the end of the moratorium, thousands of low-income unrepresented tenants and occupants were served with notices of eviction and as a result started appearing in Housing Courts to stop their evictions. The number of residential evictions has risen each month since the end of the moratorium.¹⁶ According to the most recent reports, once the various eviction moratoria ended on January 15, 2022, the Housing court returned to business as usual. As landlords filed new eviction proceedings, and old proceedings were re-calendared, the Right to Counsel law assumed an even greater importance for low-income New Yorkers. Elected officials, legal services providers, and more importantly the tenants in need of these services have called on OCA to decrease the calendars during this time.¹⁷ These requests have been ignored by OCA and new cases are proceeding at breakneck speed with tenants going unrepresented. We call on OCJ and the City to partner with providers to ask OCA to slow down calendaring cases to match providers capacity and to adjourn cases to allow tenants to connect with counsel.

We hope that the City and OCJ convenes stakeholders regularly to discuss emerging issues and develop and implement responses that align with community needs and provider capacity. OCJ, agencies, courts, and providers, all must work together to ensure the success of Right to Counsel. Working together will lead to better outcomes for our communities, and for the long-term success of the Right to Counsel program.

(b) The City should commit additional resources to create a systematic pipeline to recruit new advocates to become Right to Counsel practitioners

In addition to providing funding and ensuring adequate time for training, the City should provide resources so that it can work with legal services providers to create an effective pipeline to harness the passion of new advocates of all backgrounds about the importance, promise, and career opportunities within Right to Counsel. With these additional resources, OCJ should incorporate into Right to Counsel programming the funding and time to enable providers collectively to recruit and train advocates dedicated to engaging in this work. Developing a

¹⁵ See, NYC Led The Way On Right To Counsel For People Facing Eviction. Now Its Program is Struggling by Roshan Abraham November 20, 2022 Next City available at: NYC Led The Way On Right To Counsel For People Facing Eviction. Now Its Program Is Struggling. (nextcity.org) (accessed on 2/24/2023).

¹⁶ See, NYC Eviction Rate Continues to Rise Since Ban was Lifted, as Homelessness Surges by David Brand January 18, 2023 Gothamist available at: NYC eviction rate continues to rise since ban was lifted, as homelessness surges - Gothamist (accessed 2/24/2023).

¹⁷ See, Courts and Other Officials Must Act Now to Protect Right to Counsel in Eviction Proceedings by Shaun Abreu & Diana Ayala, March 27, 2022 Gotham Gazette available at: Courts and Other Officials Must Act Now to Protect Right to Counsel in Eviction Proceedings (gothamgazette.com) (accessed 1/25/2023).

pipeline will expand program capacity and ensure ongoing services as Right to Counsel continues to grow to meet its full potential. At some point, this pipeline may start as early as high school, but there is a lot more that OCJ in partnership with legal services providers could be doing now to foster more interest in Right to Counsel among current law students. For example, multi-provider panels could present to law schools students nationally and locally on what it's like to be a Right to Counsel attorney. There could be presentations to law school public interest student groups, CLE programming, and job fairs. Law schools can be encouraged to create more housing clinics. There are a number of touchpoints to engage law students in New York City and beyond at every stage of their law school career, so they are eager to become Right to Counsel attorneys upon graduation. In the future, programming could be geared to college and even high school students, which could involve volunteer opportunities at legal services providers that could also expand provider capacity. A strong focus on law school pipeline efforts now would mean that whenever there was a vacancy at a Right to Counsel legal services provider, there would be a solid number of law graduates or soon-to-graduate 3Ls who were already primed to apply and ready to commit themselves to the important work of Right to Counsel.

(c) The City should commit resources so that OCJ can provide new Right to Counsel advocates with a comprehensive training institute leveraging the knowledge and expertise of the legal services provider community

Staffing alone isn't enough. We also need focused strategies to train up attorneys joining in this practice. New attorneys are critical to the continued success of Right to Counsel, but the City must commit additional resources to OCJ to ensure these new attorneys have an efficient introduction to the practice of housing law so that they can rapidly become powerful advocates in the fight for housing justice. With these additional resources OCJ would work with and provide additional resources to the legal services provider community to create a comprehensive training program for newly hired Right to Counsel practitioners. Incorporating training as an essential part of the Right to Counsel program must, at the same time, recognize that caseload standards cannot and should not be the same for new attorneys to this practice who are going through this training period.

Working collectively through OCJ's convening, the legal services provider community, which is replete with numerous Housing Court practitioners who are genuine experts in every domain of housing law, could efficiently create a comprehensive training institute that would take new attorneys and law graduates from inexperienced to practice-ready. The Housing Justice Leadership Institute, which started in 2019 as a partnership between the Sargent Shriver Center for Poverty Law and New York Law School, has successfully trained multiple cohorts of new and experienced supervising attorneys in both the hard and soft skills of being an effective Right to Counsel supervisor. There is tremendous promise that a similar program could be created for the newest Right to Counsel attorneys.

All the legal services providers currently commit a substantial amount of time and effort each creating its own training programs for new staff members, but these trainings take place contemporaneously with new staff members being expected to attend intake and take on complicated cases for representation. The long-term impact of failing to adjust caseload and intake expectations for newer staff means that it takes even longer to equip staff with the tools necessary to take on complex matters and is a contributing factor to ongoing attrition. Prioritizing training would redound to the benefit of all: (1) legal services providers would be able to handle more cases more efficiently; (2) clients would be better served and obtain improved outcomes in their cases; (3) new attorneys would feel more confident, effective, and fulfilled in their work, fostering improved retention; (4) the experts in each domain of housing law in the provider community would be able to share their expertise broadly and prepare new attorneys for the complex and novel legal issues that will arise in their cases, (5) new attorneys would be primed to engage in successful motion practice resulting in judges issuing a range of new decisions that would advance the jurisprudence in a manner aligned with housing justice principles.

IV. OFFICE OF CIVIL REPRESENTATION SHOULD PARTNER WITH PROVIDERS TO CREATE A PROGRAM THAT MINIMIZES AND ADDRESSES ATTORNEY ATTRITION

For any program providing legal services in eviction proceedings to be successful and sustainable, including both New York City's existing program and efforts being considered at the state level through A.1493/S.2721, there must be an understanding of the current growing issue of attorney attrition. Legal Services providers are currently scrambling to fill vacancies and to attract dedicated and qualified attorneys to the practice. Attracting qualified candidates requires a housing practice that pays a living wage, provides training, mentorship, and support for staff, avoids burnout, and allows for a meaningful work-life balance for practitioners. The mass exodus of public defenders due to low pay and burnout over the last year was chronicled by the New York Times in an article published in June 2022.¹⁸ According to the article, public defenders, including housing attorneys, are often overworked and under compensated with their salaries well below the salaries of City lawyers and prosecutors.

Acknowledging and responding to the unprecedented attrition that all Right to Counsel providers have experienced is necessary to ensure the sustainability and success of the city's program and to guarantee the sustainability of any program implemented at the state level. Providers are experiencing inordinately high attrition rates and are competing against one another to hire from a very small pool of applicants.

¹⁸ See, *Hundreds Have Left N.Y. Public Defender Offices Over Low Pay* by Jonah E. Bromwich New York Times, June 9, 2022 available at: [Hundreds Have Left N.Y. Public Defender Offices Over Low Pay - The New York Times \(nytimes.com\)](https://www.nytimes.com/2022/06/09/nyregion/public-defender-offices-low-pay.html) (accessed 2/24/2023)

This increase in attrition is in line with that felt across the legal service field throughout this pandemic period, but is further exacerbated by the lack of funding and structural support afforded to advocates tasked with implementing the city's new and groundbreaking program, and will be even more significant in the event of an expanded statewide program. Staffing structures must enable providers to hire sufficient staff to provide adequate time for training, supervision, and client engagement outside of court: so that staff who join this program are able to sustain this practice.

High attrition rates impact remaining staff's sustainability as well. When a staff attorney with an active full caseload resigns, the capacity of the remaining staff shrinks because the departing attorneys' have a full caseload of ongoing and active cases, which must be redistributed among staff who are already at or near capacity. Remaining staff are then forced to familiarize themselves with the factual background and procedural history of the reassigned cases, leaching time and capacity to take on new client matters, and causing additional strain for staff that contributes to further attrition.

The most direct way to mitigate the risk of attrition for the statewide program is to fund that expansion sufficiently to enable providers to hire enough staff attorneys and to structure the program in a manner that ensures manageable caseloads for attorneys with varying levels of housing experience.

V. CONCLUSION

As we move through the many stages of this housing and health crisis, we remain on the frontline of efforts to ensure that the needs of New York's marginalized communities are met. We will continue to make the case for justice and equity. As our clients undergo this unparalleled crisis, we stand right there beside them. On behalf of Brooklyn Legal Services Corporation A, New York Legal Assistance Group, Legal Services NYC, The Legal Aid Society, and Mobilization for Justice, we thank you for your continued support, and for allowing us to testify today.

If you want to learn more about RTC and the issues discussed in the testimony, we invite you to read the RTC Concept Paper authored by the Legal Services Providers which can be found at <https://docs.google.com/document/d/14Vtdi7vfdw67YbnlUtYq9OkXP9WE55sAx24ZTjbVv38/edit?usp=sharing> and is attached to the version of this testimony submitted on-line.

Civil Legal Service Providers of New York City
Concept Paper:
Right to Counsel in Eviction Proceedings

March 15, 2023

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I. Introduction

In August 2017, New York City became the first jurisdiction in the nation to pass groundbreaking legislation ensuring tenants a right to counsel in eviction proceedings.¹ Local Law 136 of 2017, commonly referred to as the Right to Counsel (RTC) Law, or Universal Access (UA), applies to low-income tenants and occupants in eviction proceedings.² New York City's Office of Civil Justice (OCJ) administers the program and partners with RTC Providers to provide critical legal and social services to eligible tenants across the city.

RTC has been an invaluable tool to balance the scales of justice in eviction proceedings. Through RTC, New York City and the RTC Providers have fought for New York City neighborhoods, protected our neediest residents, and promoted access to safe and affordable housing.³ Our successes have inspired other cities and states to adopt similar models.

Despite these promising victories, the RTC program has faced numerous challenges including rapid expansion in client eligibility outstripping provider capacity, funding shortfalls, and staff attrition, while tenant needs continue to rise and the impact of the Covid pandemic remains acute. The result of these opposing trends in supply and demand led to a swift decline in the ratio of available attorneys to the number of clients seeking representation. Current data shows that the percentage of tenants represented by attorneys has steadily declined since January 2022.⁴ The percentage was as low as 3.2% during one week in October 2022, a far cry from the high rates of representation seen during the first two years of the RTC program.⁵

At this critical moment for RTC, we must collectively reflect on the lessons learned over the past five years and address the challenges that have arisen to ensure a sustainable RTC program that fully delivers on its ambitious objectives. Moreover, as the first city in the nation to implement RTC for eviction cases, we have a unique opportunity to devise solutions to challenges that other programs may encounter down the line. Drawing on lessons learned during this time, this paper outlines recommendations for a path forward that ensures quality legal services for tenants and a sustainable housing rights practice for the RTC Providers.

A. Purpose

As of March 2023, the current RTC Provider contracts are approaching their end dates and OCJ and DSS/HRA are preparing to release a new UA Request for Proposals (RFP). In anticipation of

¹ "State of the City: Mayor de Blasio and Speaker Mark-Viverito Rally Around Universal Access to Free Legal Services for Tenants Facing Eviction in Housing Court." *Office of the Mayor*. February 12, 2017. <https://www.nyc.gov/office-of-the-mayor/news/079-17/state-the-city-mayor-de-blasio-speaker-mark-viverito-rally-universal-access-free> (accessed 3/6/2023).

² Intro. 214-B/Local Law 136 of 2017. *New York City Council Legislation*. <https://intro.nyc/local-laws/2017> (accessed 3/6/2023).

³ Roumiantseva, Maria. "A Nationwide Movement: The Right to Counsel for Tenants Facing Eviction Proceedings." *Seton Hall Law Review* 52: 1351-1398. <https://scholarship.shu.edu/cgi/viewcontent.cgi?article=1843&context=shlr>

⁴ Id.

⁵ Abraham, Roshan. "NYC Led The Way On Right To Counsel For People Facing Eviction. Now Its Program Is Struggling." *Next City*. November 30, 2022. <https://nextcity.org/urbanist-news/nyc-right-to-counsel-for-people-facing-eviction-program-struggling-new-york>

the upcoming RFP, Providers offer this joint concept paper to highlight current challenges and offer recommendations for a robust and fully implemented RTC program. This paper is informed by our five years of experience representing the tenants of New York City as part of the RTC program as well as our previous decades of experience in tenant representation and eviction defense work. We hope to renew our partnership with OCJ, OCA, and DSS/HRA and work together to identify and implement solutions to the challenges highlighted in this paper.

B. Background and Pre-Covid Progress

Over the past five years, RTC has proven to be a critical tool to defend low-income New Yorkers at risk of eviction and keep them in their homes. In New York City, 68.1% of households are renters.⁶ The negative consequences of evictions on poor people is well documented.⁷ Evictions compound financial difficulties, contribute to poor health, disrupt families, and increase the risk of homelessness.⁸ Low-income people and people of color, particularly Black women, are disproportionately affected.⁹ Tenants who have an attorney in an eviction proceeding are less likely to be subject to a possessory judgment, the money judgments in these cases are less than in cases where the tenant is unrepresented, and these tenants are less likely to have a warrant of eviction issued against them.¹⁰ Additionally, tenants who are represented by attorneys are almost guaranteed to remain housed.¹¹ Prior to the RTC, 1% of tenants facing eviction had a lawyer compared to the more than 95% of landlords who were represented in eviction proceedings.¹²

II. Recent Challenges in the Implementation of RTC

Starting in 2019, the Covid pandemic and its devastating collateral impacts led to widespread economic precarity and housing instability. To meet rapidly escalating needs, New York City and the RTC Providers sought to scale up the program much sooner than planned. Despite these efforts, we have faced significant challenges that have left large percentages of tenants across the city without representation in their eviction proceedings. This is discouraging given the substantial progress seen during the first two years of the RTC program.

To deliver on the objectives of RTC and ensure its sustainability, we must analyze and address the challenges that RTC Providers and clients are facing. These challenges include:

- Expansion of the scale and scope of the program without additional funding to increase provider capacity;

⁶ Id at 5.

⁷ Id at 3.

⁸ Id

⁹ Braudy, Erica and Kim Hawkins. "Power and Possibility in the Era of Right to Counsel, Robust Rent Laws & COVID-19." *Georgetown Journal on Poverty Law and Policy* 28: 121.

¹⁰ Id.

¹¹ *Universal Access to Legal Services: A Report on Year One of Implementation in New York City*. Office of Civil Justice. Fall 2018. Page 27.

¹² <https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ-UA-2018-Report.pdf> (accessed 3/6/2023)

¹² Bieretz, Brian. "A RTC in Eviction: Lessons from New York City." *Housing Matters*. December 31, 2019. <https://housingmatters.urban.org/articles/right-counsel-eviction-lessons-new-york-city> (last accessed 3/6/2023).

- The absence of a case standard that accounts for the current realities of eviction defense work;
- Insufficient funding for comprehensive legal and social services that support and complement the work of attorneys to enable successful outcomes and prevent future evictions;
- Provider attrition and recruitment challenges; and
- Systemic problems that impede our ability to achieve timely, positive outcomes for clients in crisis.

A. Expansion of the Scale and Scope of the Program Without Commensurate Funding

In response to widespread housing instability, New York City accelerated full implementation of the program to ensure the health and welfare of New Yorkers and keep people in their homes. RTC Providers strongly supported these efforts. However, the increased demand for RTC services—resulting from the accelerated expansion of the RTC program and the enshrinement of new protections for tenants—has not been met with commensurate support to enable sustainable scale-up of the program. RTC Providers have periodically been forced to suspend or significantly limit intake due to our lack of capacity to accept new cases.

1. Citywide Expansion

The RTC law originally envisioned a five-year phase-in approach, known as the “zip-code approach,” in which five new zip codes (usually one per borough) would be added to the coverage area each fiscal year.¹³ Prior to the start of the Covid pandemic in 2020, RTC stakeholders were rolling out the program as planned and providing legal services to tenants in just 25 out of the 180 zip codes,¹⁴ gradually increasing the number of tenants served so that the court, providers, and HRA/DSS could absorb the expanded workload; however, the Covid pandemic and resulting housing instability made full expansion of the program even more urgent and necessary such that providers could not hire up and retain staff sufficient to meet the increased need.

2. Housing Stability and Tenant Protection Act (HSTPA) of 2019

The RTC Providers and other members of the tenant movement were at the forefront of advocacy for passage of this legislation, which contained some of the most significant and comprehensive protections for rent-regulated tenants and other tenants in decades. On June 14, 2019, this landmark legislation mandated significant changes and reforms to the principal statutes governing Housing Court proceedings and created additional rights and recourse for tenants at risk of eviction.¹⁵ This

¹³ Cassidy, Michael T. and Janet Curre. *The Effects of Legal Representation on Tenant Outcomes in Housing Court: Evidence from New York City's Universal Access Program*. NBER Working Paper March 2022 (revised July 2022). Page 9. https://www.nber.org/system/files/working_papers/w29836/w29836.pdf (accessed 3/6/2023)

¹⁴Id.

¹⁵ Braudy and Hawkins 134-141.

made eviction defense work more complex and increased the number of motions filed and the amount of time required to resolve each case.

3. End of the Eviction Moratorium, the Backlog and New Filings

OCA suspended evictions statewide on March 16, 2020. Following the end of this moratorium on January 15, 2022, thousands of eviction cases that had been paused for two years resumed. In addition, landlords began filing new cases against their tenants. The number of residential evictions has risen in subsequent months, creating greater demand for tenant representation in Housing Courts.¹⁶ While low-income tenants had an accelerating need for RTC services at this time, RTC Providers dealing with the myriad of challenges outlined in this paper have not had adequate funding to scale up to meet the demand.

4. Expansion of Eligibility to Over-Income Seniors Further Strains the RTC Program

The recent inclusion of RTC coverage for seniors regardless of income in our current contracts further strains the RTC programs that are already struggling to meet the needs of low-income households facing eviction in housing court. We urge OCJ to prioritize funding for the lowest income New Yorkers. Moreover, while we recognize that seniors above 200% of the federal poverty guidelines need support in housing court, most of our organizations are dedicated to supporting low-income New Yorkers and we must use our limited resources to serve those communities. Furthermore, many providers' charitable purposes are explicitly limited to serving low-income communities. Requiring providers to serve non-low-income clients at the potential scale of RTC could pose significant hurdles to continued participation in the program.

B. Need for a Case Standard that Reflects the Current Realities of the Housing Practice

A successful RTC program requires that attorneys handling cases have reasonable and sustainable caseloads that enable them to provide high quality legal services. High caseloads can have a negative impact on case outcomes and impact an attorney's ability to comply with their ethical and professional responsibilities. High caseloads directly correlate to high levels of staff leave and attrition across providers. Caseloads must also adhere to the reasonable restrictions on capacity contained in the collective bargaining agreements that govern many of the RTC Providers.¹⁷

¹⁶ Brand, David. "NYC Eviction Rate Continues to Rise Since Ban was Lifted, as Homelessness Surges." *Gothamist*. January 18, 2023. <https://gothamist.com/news/nyc-eviction-rate-continues-to-rise-since-ban-was-lifted-as-homelessness-surges> (accessed 3/6/2023).

¹⁷ The staff of many providers, representing the majority of attorneys, are unionized, which means that the terms and conditions of their employment are governed by negotiated Collective Bargaining Agreements (CBA). Many of these CBAs have provisions that govern how many cases a staff attorney is expected to handle at a given time. For example, LSNYC's CBA §14.5 provides for reasonable and equitable workloads and considers various factors in determining workloads such as if staff have too much work to be able to regularly complete all work within a 35-hour work week. It provides that if an attorney has more than 40 active cases at one time, the employer has the burden of showing the attorney can handle those cases competently (and includes the reverse burden if there are less than 40 active cases).

In the absence of a uniform case standard for the housing practice, each provider has similar metrics to determine how many cases can be handled by an experienced attorney or a brand-new attorney to the practice. The number represents a range based on experience level and other factors. For example, in 2018 The Legal Aid Society (LAS) conducted a comprehensive, though now dated, study designed to determine how many cases an experienced attorney can handle per year. LAS and STOUT Consulting Partners concluded that, at the time, an experienced attorney could handle an average of **61 cases** per year. That study first identified the discrete tasks required to complete a case and then surveyed staff about how long each of those tasks take to complete as well as the likelihood of needing to complete those tasks. The study concluded that a full representation case required **23.1 hours** to complete.

As discussed throughout this paper, eviction defense work has changed significantly since 2018 when LAS and STOUT Study was conducted. While data is not available across all RTC providers, we have analyzed data available from individual providers to quantify general trends for eviction defense work over time. For example, available timekeeping data from Legal Services NYC's (LSNYC) Legal Server case management database indicates a sharp upward trend from 2018 in the number of hours needed to resolve a full eviction case. For FY 2018, LSNYC's data shows that each full representation eviction case took an average of at least **23.3 hours**, which is in line with the estimate calculated by LAS and STOUT for the same time period. By FY 2022, LSNYC's data shows that each full representation eviction case took **28.6 hours** on average. This represents a **24%** increase since 2018.

We attribute this change over the past five years to the following factors, which are not accounted for in the 2018 case standard:

- **Passage of the HSTPA in 2019**, which substantially increased tenant protections and made housing litigation in New York City, which was already complex, even more so. Certain HSTPA provisions gave rise to additional bases to dismiss Housing Court petitions, which has allowed RTC attorneys to prevail on numerous motions to dismiss cases. Motion practice, especially on novel issues, requires significant time and resources, but advances protections for all New York tenants. The additional tenant protections and changes to the legal landscape mean that providers must increase trainings for staff to stay current with the law.
- **Prevalence of new and less-experienced staff**: Due to high attrition rates as well as program expansion, RTC Providers have a greater number of new and less-experienced staff. New hires will necessarily carry a lower caseload and take longer to resolve cases than more experienced attorneys, reducing the number of new cases the program can accept.
- **Agency delays** during and since the pandemic in processing applications for rental arrears assistance, which have increased the time needed for cases to resolve.

- **Delays resulting from staff turnover** while cases are reassigned, and the new attorney gets up to speed, requiring a greater number of hours to resolve the reassigned cases.
- **Increased training and supervision needs** for newer staff and new supervisors.
- **More frequent engagement in recruitment and onboarding** due to high attrition.
- **Significant administrative requirements** throughout the process, from intake to data reporting.

We note two factors that contributed to reducing the average time per case, but not enough to offset the above factors: the temporary utilization of virtual appearances during the pandemic, which lessened travel time and waiting time in court; and the permanent use of e-filing in housing court. Except for the rarest cases, virtual appearances are no longer used in housing court and all trials are in person with limited exceptions.

Addendum A contains a more detailed overview of the tasks that may be required in atypical RTC case, including the extensive, time-consuming work that RTC Providers do to not only avoid eviction in the immediate term, but also to retain or restore housing subsidies and address issues such as housing conditions, housing discrimination and tenant harassment, which threaten our clients' longer-term housing stability.

OCA Case Standard Committee: OCA formed a committee in approximately fall 2022 to determine a case standard for individual attorney caseloads in the RTC program. While we are awaiting the results of the OCA case standard group to reach a conclusion about an average number of cases that an attorney can handle each year, we note that the LAS/Stout study from 2018 that concluded that attorneys could then handle 61 cases on average was based on attorneys then having 1,408 hours available for work and cases taking 23.1 hours, both inputs of which have undergone significant changes in opposite directions. The hours available for case work have decreased as discussed above due to the increased training needs with newer staff and increased legal complexity with the HSTPA; increased hiring and recruiting needs arising from high attrition; and the increased administrative burden of our work, such as more time spent on intake and OCJ-imposed data reporting. We estimate that the hours per case have increased by almost 24% for the reasons discussed above. Given the substantial impact that the new case standard will have on RTC Providers' budgeting for appropriate staffing, RTC Providers need time for engagement with the committee and OCJ and planning between the release of the case standard and the release of the RTC RFP. We would also urge that the case standard be revisited each year and flexibility be built into the contract to accommodate same, given the evolving dynamics of eviction defense and the volatility of the current context.

C. Insufficient Funding for Comprehensive Legal and Social Services

A central tenet of RTC is that everyone deserves the right to legal representation when their housing stability is at risk. For this access to be meaningful, tenants must have the opportunity to

speak with knowledgeable advocates who can respond to the specific issues in their cases. This requires lawyers and paralegals who have the training, resources, and support necessary to meet the individualized needs of tenants across New York City.

1. Lack of Funding for Current Work

The current funding structure inhibits providers from covering their full actual costs for necessary staffing and facilities. As discussed in Section II(B) above, providers negotiated the original RTC contracts with OCJ based on the outdated case standards. Due to the factors mentioned above, our attorneys are spending more time per case and have less time available to do case work. Attorneys have also taken on cases beyond their capacity, leading to burnout and low morale and imperiling their professional and ethical responsibilities to clients.

As a result, all RTC Providers are currently underfunded, with many providers indicating that the current funding structure only covers 60% to 70% of the costs of administering the program. This underfunding will only worsen as providers' annual costs increase due to regular increases in operating costs, salaries, and fringe, causing further instability and shortcomings in the implementation of RTC.

Without additional funding, the provider community has been forced to manage these increased costs by forgoing necessary support staffing such as social workers, paralegals, process servers, or administrative support; and forgoing attorney hiring and other investment necessary to implement a robust and effective RTC program. To fill gaps, RTC Providers have subsidized the program with other funding. Consequently, other legal needs of low-income New Yorkers are not being met because of the RTC funding shortfall. This is also neither sustainable nor fair to other funders. We cannot expand and build out our physical spaces or fund adequate wraparound operational support including human resources, finance, grant management, and IT without sufficient additional funding.

2. RTC Needs Right-Sizing to Meet Actual Demand

In addition, the overall RTC program is based on a number of units of service that falls significantly short of actual need, as it does not account for backlogged cases and rollovers as well as total new filings. Continuing to underestimate and underfund the scale of need for eviction defense services will undermine the objectives of RTC and leave people facing eviction without legal counsel in contravention of the law. RTC funding needs to specifically address the back log of housing cases as well as new filings.

3. Insufficient Funding for Comprehensive Legal and Social Services

Throughout our decades of experience representing New Yorkers at risk of eviction, RTC Providers have developed a working model for implementing programming within communities and providing high quality legal services. With adequate funding, providers will have a balanced

staffing ratio that will translate to the provision of top-quality legal services for clients. The low budget ceilings force some RTC Providers to prioritize budgeting for attorneys to meet our case goals—even at numbers that are less than what is needed—at the expense of other essential staffing, including social workers and paralegals, who contribute meaningfully to client outcomes and the longer-term sustainability of the program. In the absence of these essential staff, these additional tasks fall on already overburdened attorneys and supervisors.

Supervision: Most attorneys recruited for RTC are recent law graduates. Unlike at private law firms, where new attorneys may not work directly with a client or enter a courtroom for years, new RTC attorneys immediately handle all aspects of litigation, including directly working with clients; researching and drafting legal papers; negotiating with opposing counsel; and handling all court appearances up to and including trials. This requires extensive supervision at every level to ensure high-quality legal work on behalf of tenants. However, attracting and retaining experienced supervisors remains a challenge across RTC Providers. Legal service providers lack sufficient funding to ensure appropriate supervisor-to-attorney ratios.

Social workers: In addition to facing the traumatic situation of potentially losing their homes, our clients have often experienced past trauma or mental health issues that impact their ability to participate in their legal cases. They can become agitated or non-responsive, particularly when an eviction is looming. Social workers play a critical role in ensuring that our most vulnerable clients have meaningful access to justice. In addition to assisting attorneys on best practices for working with clients who have experienced trauma or mental health issues, social workers also directly support clients through the stress and emotional impact of a housing court case and can address their other interrelated needs (such as access to benefits). Their assistance to clients to retain or restore housing subsidies directly contributes to preventing eviction in the longer term. Other RTC models, including those in criminal and family court, incorporate social workers to best meet client needs. The RTC program should adopt this best practice.

Paralegals: Paralegals are crucial to engaging in public benefits advocacy and this need is growing as providers experience enormous hurdles and delays in trying to obtain FHEPS or other HRA benefits for our clients. Paralegals also assist attorneys in legal drafting, research, case management and other tasks needed for robust client representation. In the absence of paralegals, already-overburdened attorneys are tasked with handling all aspects of the case, including necessary public benefits advocacy. Moreover, working in an office where an attorney does not have other support needed to do the work such as investigators, process servers and administrative help, increases the burden and stress on our attorneys, and does not allow them the time necessary to do the legal work on their cases.

Community lawyering: Community lawyering – a collaborative approach employed by RTC Providers, clients, and community members to address and resolve collective concerns and

empower community members to assert their legal rights – is an essential tool that should be incorporated into future RTC work. Strong working relationships with key stakeholders in the communities that RTC Providers serve is imperative for the provision of holistic as well as integrated legal and social services. Inherent in fostering relationships within our clients' communities is the idea that community members possess intimate knowledge of the issues impacting their neighborhoods.

There must be adequate funding to allow RTC Providers to have attorneys meet members of the communities they serve at neighborhood clinics, workshops, and similar settings. While in-court intake is an essential piece of the RTC law, the context is very different from meeting community members near their homes to hear and better understand the root causes of—and potential solutions to—housing instability. An absence of community lawyering ignores the unique needs of the populations served by RTC providers. It is worth noting that the RTC law contains provisions for community engagement and awareness-raising about the program.

D. Attrition and Recruitment Challenges

RTC Providers have faced unprecedented levels of staff attrition (estimates range from 20% up to 55%) since FY21. Due to attrition, leaves and other challenges, providers are scrambling to fill vacancies. One provider saw six of the thirteen law graduates (46%) hired for the RTC program resign within the first year. In years prior, this provider had an attrition rate below 5%. The increased attrition rate is not unique to the RTC program and has affected legal service programs more broadly; however, for RTC attorneys specifically, the common challenges faced by all legal services attorneys have been exacerbated by the lack of funding and structural support for the program.

1. Lack of Adequate Pay

Salary levels for legal service providers are not competitive with their public- and private-sector peers. As *The New York Times* reported in June 2022 in their coverage of the mass exodus of public defenders over the last year, the annual salaries of public defenders lag behind those of their City counterparts by \$10,000 or more.¹⁸ The wage gap between our staff and the private sector is even more substantial. For supervisors, who are critical to ensuring high-quality service provision, the gap is even greater. Moreover, the basic living costs faced by our staff, including rent, healthcare, caregiving, and student loans, continue to rise, making staying at our organizations and providing this critical work impossible for many attorneys, particularly in light of ongoing Covid-related economic hardships, high inflation, and the looming recession. Though the City took small steps toward increasing pay in 2019, the issue remains largely unaddressed. See [Defenders and Legal Services Organizations Press Release on Parity for FY23](#).

¹⁸ Id.

While this issue goes beyond the RTC program and affects all non-profit legal services providers in New York City, it is nonetheless a driving factor in RTC program staff attrition. If the RTC program is to be sustainable into the future, we need to be able to offer competitive salaries and benefits to our staff.

2. Burnout from Mounting Workloads

With the rapid expansion of RTC coverage, the demand for representation quickly outpaced the RTC Providers' capacity.¹⁹ Following the citywide expansion of the program without an equivalent increase in funding (as described in Section II(A)), many providers had to handle more cases with the same number of staff, causing frustration, low morale and work-life imbalance. Moreover, high rates of staff attrition contribute to a vicious cycle by further straining remaining staff. When a staff attorney with an active caseload of 35–40 or more cases resigns, those cases must be redistributed among remaining staff who are already at or near capacity. These staff must then meet the client and familiarize themselves with the factual background and procedural history of the reassigned cases, which reduces their capacity to take on new client matters and further overwhelms those staff, driving more attrition. Such reassignments also erode attorney-client trust and cause delays, negatively affecting the quality of service that the client receives.

3. Vicarious Trauma

The devastating impact of evictions on individuals and families cannot be overstated. Evictions destabilize families, and housing instability can have a snowball effect on all aspects of an individual's life from poor health outcomes to employment. Eviction defense work is also emotionally taxing for our frontline staff, who work with vulnerable low-income clients as they endure the trauma of potentially becoming homeless. As described in Section II(C), many of our clients also have previous traumatic experiences or mental health issues. Our staff are committed to their clients and personally invested in obtaining the best possible outcomes for them. Many experience vicarious trauma as a result of working closely with clients living in profoundly difficult circumstances. While the emotional toll of eviction defense work is unavoidable given the high stakes, it must be taken into account when considering capacity to handle new eviction matters, and the resources and support that clients and client-facing staff need to deliver the program.

4. Recruitment Challenges

For the reasons described above, recruiting new attorneys—particularly recent law school graduates—has become increasingly challenging, with numerous providers competing to recruit and retain a small pool of candidates. Recruitment challenges also stem from age old law school practices that may prioritize marketing private sector work to students over lower paying non-profit sector work such as RTC attorney work. Overstretched providers are leaning on existing

¹⁹ Rabiya, Sam. "Less Than 10% of Tenants Facing Eviction Actually Got a Lawyer Last Month, Undermining RTC Law." *The City*. October 27, 2022. <https://www.thecity.nyc/2022/10/27/23425792/right-to-counsel-housing-court-tenant-lawyers> (accessed 3/6/2023).

scarce resources to recruit staff. Examples of provider recruitment efforts include participating in housing recruitment efforts hosted by Fordham Law School and New York Law School, organized by former NYC HRA Commissioner Steve Banks; participating in public interest law school fairs and recruitment events; and hosting law interns, pro bono scholars and fellows.

Several RTC Providers are hiring third-year law students who have not yet graduated law school or passed the Bar exam, a strategy that is primarily used by some Criminal Practice firms with a long history of RTC work. Law school graduates must be accompanied by a licensed attorney at every court appearance until they are admitted to the NY Bar. This prolonged close supervision and support further stretches the capacity of RTC supervisors. In addition, bar passage rates have been on the decline, which increases the risk for organizations using this strategy. Attracting qualified candidates requires a housing practice that pays a living wage; provides training, mentorship, and support for staff; avoids burnout; and allows for a meaningful work-life balance for practitioners.

Experience has taught the providers that short-term fixes, such as relying heavily on *pro bono* support or supplementing with for-profit attorneys, will not solve this structural challenge. Pro bono attorneys lack housing experience and require substantial support, training, and management, which consumes staff time and negates the benefits of added capacity. For-profit attorneys have different incentives than non-profit providers, whose mission is to serve low-income people. Non-profit providers as outlined in the addendum provide quality and comprehensive legal services to clients, services that require time, support, and resources to complete.

E. Systemic Inefficiencies Serve as Barriers to Efficient Resolution of Cases

Systemic inefficiencies of HRA/DSS and OCA directly impact how quickly staff attorneys can resolve a case to create capacity to take on a new case. See Addendum B for an example of systemic inefficiencies encountered in obtaining a subsidy for a client. While the below-mentioned issues are outside the control of the RTC Providers, we have included them as they should be considered in setting the revised case standard and future program goals.

1. Pace of Calendaring Exceeds Provider Capacity

The current pace of scheduling new eviction cases beyond the providers' capacity has exacerbated the challenges caused by the rapid expansion of the program and staff attrition.²⁰ As noted in Section II(A), following the end of the statewide eviction moratorium in January 2022, the thousands of eviction cases that had been paused for nearly two years resumed while at the same

²⁰ Abraham, Roshan. "NYC Led The Way On RTC For People Facing Eviction, Now Its Program is Struggling." *Next City*. November 20, 2022. <https://nextcity.org/urbanist-news/nyc-right-to-counsel-for-people-facing-eviction-program-struggling-new-york> (accessed 3/6/2023).

time landlords began filing new cases. The number of residential evictions has risen in subsequent months.²¹

Even before the end of the moratorium, in late 2021, RTC Providers sought relief from OCA as capacity and attrition issues mounted. RTC Providers, elected officials, and tenants called on OCA to moderate the pace of calendaring to match the on-duty Provider's capacity so they would be able to continue to offer full legal representation to all qualified tenants.²² There is precedent for this request: OCA recently moderated the volume of intake cases to match OCJ's capacity in the new Brooklyn Administrative Part pilot. However, this relief still has not been afforded to RTC Providers. We further note that moderating the calendaring of cases will also alleviate some of the challenges that the courts are facing, including lack of staffing and the longer time needed to resolve more complex cases.

2. Lack of Specific Times (Times-Certain) for Court Appearances

Since hearings are not scheduled at specific times, clients and RTC attorneys spend hours waiting in court for cases to be heard. An in-court appearance, even for a simple adjournment of a case, routinely takes anywhere from one to three hours, sometimes even the entire day. As a result, our clients must often miss a day of work and wages and must arrange for child-care. Moreover, attorneys must spend half or full days in court, unable to do all other client work until the evening. This directly contributes to burnout and limits our capacity to handle new cases.²³

3. Loss of Dedicated Provider Spaces in Court Houses

For years and even decades, many legal services providers had dedicated courthouse offices. These offices served as additional workspaces and provided spaces for providers to meet with and immediately assist the neediest clients, primarily people referred by the court who had already been evicted. Over the last two years, in almost every borough, providers have been removed from these spaces. Instead, providers are connected with clients in crisis on RTC intake days in cramped courthouse spaces that are often shared and do not afford privacy for clients, contributing to an atmosphere of disrespect. The loss of these spaces further compounds many of the challenges discussed in this paper.

4. Underfunding of HRA/DSS and HomeBase

HRA/DSS and HomeBase are chronically underfunded and understaffed, which directly impacts the time within which cases might be resolved. While these delays are outside of the control of

²¹ Brand.

²² Abreu, Shaun and Diana Ayala. "Op-Ed: Courts and Other Officials Must Act Now to Protect RTC in Eviction Proceedings." *Gotham Gazette*. March 27, 2022. <https://www.gothamgazette.com/130-opinion/11194-courts-protect-right-to-counsel-nyc-evictions-housing> (accessed 3/6/2023).

²³ The use of times-certain may also help move proceedings forward, as counsels will be less likely to be "double-booked." One major contributing factor to the hours RTC providers spend waiting in court is that their Opposing Counsels have multiple matters scheduled before multiple parts, and don't appear timely. Times-certain will help set expectations of when a case will be heard, incentivize counsel's appearance, and increase judicial efficiency.

Providers, stakeholders should take them into account when estimating how many hours outside of court each case requires, and the lifespan of every case. Addendum B contains two examples of the level of engagement required for this portion of Provider work.

III. Recommendations

To ensure that tenants receive the effective representation to which they are entitled under the law, we must learn from the initial years of implementing the RTC. The solutions presented and discussed below present a roadmap outlining requirements for the successful implementation of the program going forward, including structural support for comprehensive legal and social services; programmatic sustainability; a reasonable case standard; and adequate funding.

1. Increase funding level to meet actual need at full cost of services

Funding allocated to the RTC contracts must be sufficient to cover not only costs with current levels of staffing, but the costs associated with the expansion necessary to adequately represent all cases required by the RTC law. As discussed throughout this paper, the funding must consider:

- the increased amount of time and effort per case;
- the need for annual increases in wages and cost of living;
- sufficient funding to include adequate and holistic staff, including social workers and paralegals;
- actual units of service (consider backlogs, rollovers, and new filings);
- additional staffing to buffer against attrition and case reassignment; and
- staffing structures that ensure adequate time and resources for training, supervision, and client engagement outside of court.

The size of the RTC program (total funding, case rate, etc.) should further account for the factors below and incorporate feedback and data from OCA, OCJ, and the Providers:

- Expected number of total cases that are eligible for full representation and brief advice, including rollovers and the backlog caused by the pandemic and eviction moratorium
- Average numbers of tenants represented (annually) per attorney for both full representation and brief advice
- Number of staff attorneys required (taking into consideration the case cap standard)
- Number of supervisors required to support staff development and ensure high quality representation
- Number of paralegals, social workers, and other support staffing necessary to provide holistic and high-quality services
- Total personnel costs

- Total additional other-than-personnel costs (training, facilities, administration, start-up, etc.)
- Other indirect costs
- Total estimated annual cost of representation for eligible tenants in each year
- Average estimated cost per case
- Minimum adequate staffing ratios to ensure appropriate supervision and support (for example, Staff Attorney to Supervising Attorney; Staff Attorney to Paralegal; Paralegal to Paralegal Supervisor; Attorney to Social Worker; etc.)
- Compensation for providing brief advice to all clients who are entitled to it (i.e., over-income tenants)

2. Fund Equitable Wages for Legal Service Providers, Including RTC Staff

It is a matter of fairness and equity that the City's funding allows Providers to pay their staff attorneys, at a minimum, at parity with City in the Law Department and Assistant District Attorneys at all salary steps (and similar respective salaries for all non-attorney positions). Offering competitive salaries is essential to reducing RTC staff attrition and recruiting qualified law graduates.

3. Allow RTC Providers to budget for and hire additional attorneys to offset attrition in the immediate term

In the immediate term, RTC Providers need to recruit additional staff to counteract staff departures until the attrition rate stabilizes. Although this may appear to give Providers excess capacity on paper, it actually gives Providers an opportunity to hire the correct number of staff attorneys for this Project to remain sustainable and able to continue to serve new clients. Funding for law school recruitment, internship program coordination, and pro bono engagement, all of which help providers to increase capacity and create a stronger pipeline of attorneys to the work, should also be included, as should direct funding for law school fellowships or scholarships to encourage law students entry into RTC housing practice

4. Engage Exclusively with Not-For-Profit Organizations to Implement RTC

As indicated above, RTC work should be delivered by not-for-profit providers whose mission is to serve low and no-income populations and who have deep experience in providing high-quality representation for tenants in housing court. The legal requirement that RTC be provided by non-profit legal services organizations is a key component of the RTC statute fought for successfully by NYC tenants. The practices and standards of for-profit attorneys are obviously shaped by their motivation to maximize the profits generated by their work. This results in a model of legal practice that is inconsistent with the vision of right to counsel as a tool to empower tenants and comprehensively uphold their rights. For-profit attorneys are incentivized to refrain from fully litigating cases, to quickly settle with landlords, and to avoid holistic services where possible. This

is the antithesis of what NYC tenants are entitled to under the right to counsel statute and certainly does not honor the vision NYC tenants, advocates, organizers, and legislators had when they successfully established RTC under the law. Similarly, RTC services should not be provided by landlord attorneys and firms, whose loyalties have historically been to advance the interests of NYC landlords and whose practices are generally rooted in the quest to ensure landlords maximize their profits, including through housing court cases. The NYC legal services community has a long history of excellent legal representation for tenants, deep expertise in landlord-tenant law, and strong ties to tenant organizing groups and tenant communities. As such, RTC work should only be conducted by non-profit organizations who can demonstrate they meet these standards and whose only incentive is to zealously represent the tenants of New York City.

5. Right-Size RTC to Meet Actual Current Demand (Including Rollovers, Backlogged Cases, and New Filings)

OCJ needs to ensure that it is contracting for enough cases to provide full legal representation to all tenants facing eviction proceedings as required by the RTC law. This means not only matching the anticipated number of new filings, but also ensuring there is funding to cover the cases that are pending where tenants do not yet have attorneys. Cases in the backlog often represent clients closest to eviction who require urgent legal assistance. Additionally, as discussed above, as housing cases are taking longer to resolve, many cases often need to be rolled over into the next fiscal year.

6. Provide Compensation for 100% of Rollovers

Rollovers—cases that are not resolved by the end of the program year—are a substantial driver of the disconnect between need and capacity. As the amount of time needed to resolve a case has grown significantly since 2018, an increasing number of cases remain unresolved at the end of the year. The current RTC Provider contracts do not allow for all rollover cases to be counted again the following year. In previous years, OCJ has provided a memo near the end of each contract year allowing a very limited percentage of rollovers. Given the realities of eviction defense, as discussed in Section II(A), this restriction on rollovers no longer reflects the realities of our practice; negatively impacts planning and capacity; and compromises our ethical obligations to our clients. Therefore, we seek to be able to count cases each year until the cases are complete.

7. Consider Strategic Long-Term Investment in a Robust Pipeline of Law Students and Graduates for RTC

OCJ should work with legal services providers to create an effective pipeline to harness the passion of new advocates of all backgrounds about the importance, promise, and career opportunities within the RTC program. Similar to our training recommendation, OCJ should incorporate funding into RTC that enables Providers collectively to recruit and train advocates dedicated to engaging in this work. Developing a pipeline will expand program capacity and ensure ongoing services as RTC continues to grow to meet its full potential. At some point, this pipeline could start as early

as high school; however, there are many opportunities for OCJ, in partnership with legal services providers, to foster more interest in RTC among current law students. These include presentations to law school public interest student groups; CLE programming; job fairs; and partnerships with law schools to create additional housing clinics. There are multiple touchpoints at which to engage law students in New York City and beyond at every stage of their law school career, so that they are eager to become RTC attorneys upon graduation.

8. Consider RTC Provider Feedback in Determining the New RTC Case Standard

As described in Section II(B), a committee convened by OCA is currently creating a RTC case standard. RTC Providers urge the committee to meaningfully engage with us in the case standard process so that the standard can benefit from our years of experience delivering RTC services and our in-depth knowledge of the challenges that attorneys face. Once the case standard is completed, RTC providers request time to review the case standard and engage with OCA and OCJ prior to the release of the RTC RFP.

IV. Conclusion

Any RFP/RFX should include more funding for the successful operation of the program as outlined above. Funding should cover the full cost of the program including the cost for essential staff beyond attorneys. It should also ensure that providers have the flexibility to prioritize representing low-income tenants in line with each organization's core values and charitable purposes.

This Paper is collectively submitted for consideration by the following Legal Services providers:

Brooklyn Legal Services Corporation A
CAMBA Legal Services
Housing Conservation Coordinators
Legal Services NYC
Mobilization for Justice
Neighborhood Association for Inter-Cultural
Affairs, Inc.

Neighborhood Defender Service
New York Legal Assistance Group
Northern Manhattan Improvement Corporation
The Bronx Defenders
The Legal Aid Society
Urban Justice Center – Safety Net Project

V. Addendum A: Current Workflow Employed by RTC Providers

Assessment: Most families and individuals are connected with and introduced to a Legal Services Provider in court, on the Provider's assigned RTC intake day. The family or individual is able to meet with an attorney, paralegal, or designated support staff member from the Provider's organization who will determine or confirm eligibility for representation, conduct an organization-specific pre-screening interview, and gather relevant documents for review.

Initial Interviews: Each UA Provider conducts an organization-specific interview known as the intake process. The purpose of the intake is to allow the Legal Services Provider to understand the facts of the case and assess potential defenses. If the Provider determines that the individual is eligible and that its staff has sufficient capacity to, the Provider will enter into a retainer agreement with the new client. If there is a conflict that prevents representation, the Provider will re-refer the family or individual to another Provider for representation. Subsequently, an attorney is assigned to represent the tenant in the "covered" housing eviction proceeding and a Notice of Appearance is entered on the client's behalf. Representation includes, but is not limited to: a) conducting factual interviews; b) performing legal research; c) preparing motions; d) writing briefs; e) preparing for trial; and f) engaging in benefits advocacy.

Factual Interviews: The UA Provider/assigned attorney conducts interviews with the client to seek details, facts, and prior housing and other collateral cases related to the eviction proceeding to obtain pertinent details to the client's rights, claims, and defenses allowing the Provider to zealously, strategically, and creatively achieve the client's desired outcomes, and connect the client with necessary supplemental services or resources. During the factual interview, the assigned attorney evaluates whether the tenant's rent level is correct, whether there are conditions that require repair, and whether these might constitute defenses to the proceeding.

Assistance with housing discrimination and/or tenant harassment claims: If after the factual interview an attorney determines housing discrimination and/or harassment exists, the advocate may engage in affirmative litigation or file a motion raising a counterclaim to assist a tenant in raising these claims.

Institution of all appropriate remedial actions to retain or restore a housing subsidy: Frequently, our clients are facing a housing crisis because of economic instability. Fortunately, many of these individuals are eligible for subsidies that will help ensure their rent remains affordable. Examples of such subsidies include Section 8, FHEPS, and CityFHEPS. Thus, Providers frequently approach eviction cases with a dual-track mentality. They defensively attempt to prevent eviction, while at the same time working affirmatively with government agencies, such as HPD, NYCHA, and HRA to ensure that, once the eviction case is over, clients have a long-term housing stability plan in

place. These affirmative efforts can range from informal advocacy all the way to the commencement of Article 78 proceedings to challenge wrongful denials.

Ongoing client contact, including follow-up interviews, and consultations: Attorneys must maintain communication with clients to obtain documents and/or information to assist in ongoing efforts to relocate tenants, help with the payment of arrears, and present defenses and/or counterclaims to the court. It is important to note that many clients are experiencing trauma by the time they reach Housing Court, and this can, at times, cause the standard channels of communication to deteriorate and require extra or special efforts.

Legal Research: The Court of Appeals called housing law in New York City an “impenetrable thicket.” Each case presents interesting legal issues involving some variety of local, state, and federal law. Accordingly, Providers must conduct legal research to ensure that tenants are aware of and presenting all legal defenses to their eviction case. Additionally, because the applicable laws will vary depending upon the type of housing, Providers conduct property specific research, such as rent histories from DHCR, property ownership on ACRIS, violations with HPD and DOB, etc. The assigned attorney conducts research and analysis to find support for the specific legal or practice-oriented issue presented, which includes researching statutes, regulations, legal codes, and common law court decisions to back up the legal argument being made in a motion or brief filed with the court.

Preparation of Motions and Briefs: Representative Attorneys/Counsel use legal research to identify the relevant legal problems and provide clients with accurate legal guidance. Providers frequently file motions, including motions to dismiss, for discovery, and for summary judgment. Briefs and motions may also be filed to request relief, for example to afford tenants the opportunity to safely relocate in holdover proceedings or obtain emergency rental arrears assistance awards in nonpayment cases for example, and where appropriate, can also assist in the obtention of settlements that better incorporate their interests. Written advocacy enables counsel to seek immediate Court intervention to protect tenants’ interests and rights.

Preparation and filing agency and court papers: Upon completion of motions, briefs, and other legal instruments, attorneys serve documents on opposing counsels, and file these documents online via the New York State Electronic Filing Systems, NYSCEF, where appropriate, or in person if a case has yet to be converted or filed to the electronic NYSCEF platform.

Preparation for hearings and trials: Attorneys prepare clients and cases for presentation of evidence to the appropriate judicial body by gathering and preparing admissible evidence, engaging in witness identification and preparation in defense or prosecution of the client’s case. Preparation can include obtaining and serving subpoenaed documents and/or testimony, etc.

Representation at all types of judicial hearings, trials, appeals, and other such forums as required, including settling and/or litigating cases through trial: Housing litigation is an all-encompassing term. Some cases involve a quick settlement or discontinuance. Others involve years of protracted litigation comprising motion practice, trial, and appeal, and may necessitate litigating claims in multiple forums at once (e.g., Supreme Court and Federal Court). The administration of RTC must take into account the fact that litigation is inherently unpredictable and that not all cases can be handled the same.

Appeals

Social Workers: Other RTC models including those in criminal and family court, regularly incorporate social workers to best meet the needs of those being represented by public defenders. This best practice should be duplicated in the UA RTC program. The trauma of being at risk of losing your home is often compounded by other experiences of trauma or mental health symptoms that an individual may experience or have experienced over their lives. This impacts their ability to participate in their legal cases. They can become escalated, agitated, and non-responsive when faced with the realities of their housing case particularly when an eviction is looming. Social workers can provide support to attorneys in understanding trauma and/or mental health symptoms and give guidance regarding the best way to engage with clients. Social workers are further able to directly support clients through the stress and emotional impact of a housing court case and work collaboratively with the attorneys to ensure that the clients are able to meaningfully engage with counsel and the system throughout their case.

VI. Addendum B: Case Examples of Out of Court Advocacy Impacting Provider Capacity and Programmatic Sustainability

A. Securing CityFHEPS through Homebase

The following timeline of a recent CityFHEPS voucher application process, which took a full six months, demonstrates the extensive level of engagement required to advocate for our clients. The Legal Services Provider (LSP) advised the client to begin working with Homebase in July 2022, which he did. The parties entered into the stipulation on August 23, 2022 that set an October 31, 2022 pay-by date. The following timeline here can be corroborated with emails and/or contemporaneous notes in the LSP's case management system.

July 25, 2022: Client went to Homebase for assistance with CityFHEPS and was assigned a caseworker. LSP reached out to Homebase caseworker via email that same day.

July 26, 2022: LSP left a voicemail message for Homebase caseworker.

July 28, 2022: LSP left another voicemail message for Homebase caseworker, as there was no response to either the voicemail or email.

August 3, 2022: LSP sent an email to other Homebase contacts at the same location, including the Executive Director.

August 10, 2022: LSP left a voicemail for Homebase Executive Director.

August 23, 2022: Client called LSP while at Homebase to notify LSP that Homebase had lost/misplaced all documents he had already provided to Homebase. While the client was at Homebase, LSP called Homebase caseworker to discuss the client's application. The caseworker stated that he would send a list of required documents, which he did.

September 15, 2022: LSP sent all available documents to Homebase caseworker via email.

September 19, 2022: LSP sent further documents to Homebase caseworker via email.

September 26, 2022: LSP reached out to Homebase caseworker to inquire about the CityFHEPS application status. Homebase caseworker responded stating additional documents were needed.

September 29, 2022: LSP provided requested documentation via email. Homebase caseworker responded and stated the documentation was legally insufficient (NOTE: LSP attorney *strongly* disagrees with caseworker's determination of legal sufficiency), so LSP took immediate steps to ensure the paperwork met the caseworker's specifications.

October 13, 2022: LSP sent the requested paperwork to Homebase caseworker via email.

October 28, 2022: LSP sent an email to Homebase caseworker asking for a status update and reminding the caseworker that the landlord could move forward with an eviction on November 1, 2022 if monies were not paid. Homebase caseworker responded the same day, stating that client had not kept appointments, so no application had been submitted. LSP immediately called client, who was shocked to learn that there were appointments he had allegedly missed. The client immediately went to Homebase to clarify what was needed. While at Homebase, caseworker told client he needed a "budget letter" with no further explanation, thereby prompting client to obtain a new Social Security budget letter.

November 1, 2022: Client brought Social Security budget letter to Homebase caseworker, only to be told he needed a new HRA budget letter.

November 3, 2022: Client re-applied for Single Issue Cash Assistance, per Homebase caseworker's instructions.

November 7, 2022: LSP emailed Homebase caseworker again to inquire about what was needed to facilitate submission of the application. Homebase caseworker responded that client had not completed the "requested task" and refused to clarify what that task was or what exactly was required.

November 9, 2022: LSP reached out to the Homebase Executive Director to clarify what documents/tasks may be needed. ED responded the same day and clarified what action was needed. LSP worked with client to ensure compliance.

November 30, 2022: LSP reached out to Homebase to notify caseworker that the client's HRA benefits were open as required for purposes of obtaining funding.

December 1, 2022: Homebase caseworker informed LSP that CityFHEPS application had been submitted on November 16, 2022.

December 13, 2022: LSP emailed Homebase caseworker to inquire about status of application. Homebase caseworker responded the same day stating that there were no updates.

December 20, 2022: LSP contacted Homebase caseworker for an update. Homebase caseworker replied the same day and stated that additional documents were required, despite indicating seven days earlier that no further documents were needed. The client states that he did not receive any communication from Homebase between December 13–20. It is also unclear why so many basic documents were required if the application had been submitted on November 16. Nonetheless, LSP took immediate steps to comply with the new document requests.

December 21, 2022: LSP provided all requested documents within one day of the request.

December 22, 2022: Homebase caseworker emailed LSP to state that Client must re-apply for Single Issue Cash Assistance. This is typically the first step in a CityFHEPS application. LSP immediately contacted client, who went to HRA to re-apply to put his case on "SI Status."

December 27, 2022: LSP emailed Homebase caseworker with client's new HRA application confirmation number and requested clarification on the status of the CityFHEPS application that was allegedly submitted on November 16, 2022. Homebase caseworker stated that all delays were attributed to Client's delays in complying with requests. LSP also contacted HRA on this date to ensure that client's application was put into "SI Status."

December 28, 2022: HRA confirmed via email to LSP that Client's HRA application was in "SI Status." LSP informed Homebase caseworker of this information via email. Homebase caseworker responded that he refused to move forward with the application until he received the notice that the case had been put into "SI status" and also advised he would only update LSP on the case status once it had been approved. LSP then forwarded an email from HRA stating the case was in "SI Status;" Homebase again responded that it would not move forward until it received formal notice. LSP emailed a formal request that Homebase update LSP on all elements of the application process as LSP is an agent for the client.

December 30, 2022: Landlord served a Notice of Eviction on Client. LSP immediately emailed Homebase to update them about the Notice of Eviction and to implore Homebase to clarify the status of the application that had allegedly been filed/the application to be filed. LSP also implored Homebase to file the application as soon as possible. Homebase never responded to LSP's December 30, 2022 email.

January 5, 2023: Homebase ED emailed LSP stating that Client's CityFHEPS had been approved.

January 6, 2023: LSP filed an Order to Show Cause to stay the Notice of Eviction.

January 9, 2023: The Court signed the OSC and scheduled the matter for a January 26, 2023 court appearance.

January 18, 2023: LSP inquired about the status of the checks. Homebase ED responded stating that there were system issues which were delaying the checks.

January 24, 2023: LSP inquired again about the checks. Homebase ED and Caseworker responded stating the checks were available. LSP arranged to pick up the checks at 2:15 on January 26, 2023, and explained that client's return date on the Order to Show Cause LSP had filed was at 3:00 that afternoon

January 26, 2023: LSP went to Homebase to pick up checks. Security informed LSP that he had not seen Homebase caseworker Checks were eventually tendered at 2:50 p.m. after waiting

approximately 35 minutes. The underlying nonpayment proceedings was discontinued with prejudice.

B. Engaging with HRA to Obtain a One-Shot Deal

June 2022: HRA responded to LSP's advocate inquiry and stated that HRA was issuing CA/SNAP benefits immediately and was reviewing client's FHEPS application. LSP requested an update from HRA when it had resolved the FHEPS issue and followed up approximately two weeks later, but HRA did not respond to either email.

July 2022: LSP contacted HRA to request an update on the FHEPS case. HRA told LSP advocate that HRA reinstated client's FHEPS benefits.

September 21, 2022: Client retained LSP in the nonpayment proceeding pending against her.

October 2022: LSP requested information from HRA as to whether client's case was still open.

November 2, 2022: LSP's first court appearance as attorney for client.

November 5, 2022: HRA advised LSP advocate that FHEPS was covering client's total rent and that HRA had issued retroactive FHEPS from August 2021 through June 2022.

November 8, 2022: Client informed LSP that her SNAP benefits had stopped. LSP submitted advocate inquiry, and HRA responded that client did not recertify. LSP advocate asked HRA if LSP could provide the necessary documents or if a new application was necessary. LSP did not receive a response.

November 14, 2022: Client and LSP fully submitted to HRA a One-Shot Deal (OSD) application; LSP sent an advocacy letter with supporting documents.

November 15, 2022: Client went to HRA Benefits Access Center to get benefits reinstated. Client advised LSP that her benefits had resumed, but SNAP payment was lower than it had been.

November 18, 2022: Parties appeared in court and confirmed the settlement stipulation filed the previous day that established a pay-by date of January 6, 2023.

November 22, 2022: HRA's Rental Assistance Unit (RAU) requested documentation that had already been submitted in LSP's November 14, 2022, advocacy email. LSP sent an explanation and attached the documents again. LSP also included new stipulation of settlement stating the January 6, 2023, deadline by which client must pay rental arrears to avoid eviction.

December 5, 2022: LSP emailed RAU requesting an update. On December 9, 2022, RAU advised there was no update.

December 14, 2022: LSP emailed RAU to explain that if anything further was needed for client's application, LSP would provide it.

December 21, 2022: LSP emailed RAU again about OSD application status and reminded RAU of the payment deadline to avoid eviction. Client reported to LSP that her benefits had stopped again. LSP submitted an advocate inquiry, to which HRA responded that the client had not completed her recertification. LSP responded explaining the client's efforts to recertify. Client returned to HRA Benefits Access Center to reapply, again.

December 27, 2022: HRA's Advocate Inquiry service advised that if client did go to the center, the processing party will instruct her on next steps and that "participant must keep in touch with Benefits Access Center." LSP responded that client was told that HRA would call her, but she never received the call and was hoping to reinstate her benefits as soon as possible. Advocate Inquiry responded and said, "participant must keep in touch with Benefits Access Center."

December 28, 2022: HRA told client to return, again, to the HRA Benefits Access Center, where HRA told client she would receive a telephone call for an interview. Client never received a telephone call from HRA. LSP emailed Benefits Advocate Center explaining client's efforts to reinstate her benefits.

January 3, 2023: LSP emailed RAU to request information on the status of the OSD application and reminded RAU of the January 6, 2023, payment deadline. LSP advocate emailed HRA's Benefits Access Center to follow up regarding client's benefits/interview issues.

January 4, 2023: LSP emailed HRA to advise of a change in client's household, and to try to coordinate a telephone interview.

January 4, 2023: HRA's RAU reported that it had no record of the client's OSD application. LSP emailed RAU to explain again that the client had applied for a OSD in November 2022 and to reiterate the payment deadline. LSP attached advocacy documents again.

January 6, 2023: LSP filed an OSC seeking more time to get client's benefit issues untangled and set straight so that the arrears amount to be paid as agreed to on November 16, 2022, by the parties to the eviction proceeding could be satisfied.

January 7, 2023: On Saturday, RAU stated that the HRA Benefits Access Center needed to register the application.

January 9, 2023: The next business day (Monday), LSP advocate emailed HRA's Benefits Access Center, explaining the client's pressing need for a OSD and for benefits to demonstrate an ongoing ability to pay rent. LSP did not receive a response. LSP advocate spoke with the client about reapplying and reminded her that benefits would need to be in place so that a OSD could be

approved. LSP emailed RAU to advise of outreach to Benefits Access Center and requested that RAU advise if it registered the OSD application.

January 11, 2023: LSP emailed HRA with an explanation and documentation of client's ongoing efforts to reinstate her benefits and to complete the OSD application.

January 12, 2023: LSP advocate emailed FHEPS unit to ask for information on the status of client's benefits and followed up on January 23, 2023. LSP did not receive a response.

January 17, 2023: On the return date of the OSC that LSP filed on January 6, 2023, the parties settled the OSC with a judgment, execution of the warrant stayed through and including March 3, 2023, for the client to resolve the benefits issue and satisfy the judgment. Client reapplied for benefits at HRA Benefits Access Center that same date.

January 19, 2023: Client reported to LSP advocate that client had participated in HRA's application interview by telephone and provided all the documents requested by HRA. Client began receiving SNAP benefits but was not sure if her Cash Assistance benefits had resumed because she had not received a payment yet.

January 25, 2023: LSP emailed HRA to request confirmation that all client's benefits would resume. Client said she was sending documents again to HRA. LSP faxed documents to Benefits Access Center including identification/proof of relationship for household members, stipulation delaying warrant of eviction to March 3, 2023, ConEdison bill, school enrolment documentation, lease.

January 27, 2023: Client and LSP reapplied for a One-Shot Deal. LSP emailed advocacy letter and supporting documents (including an updated stipulation extending the deadline to execute warrant) to RAU, FHEPS unit, and Benefits Access Center representatives.

The outcome of this case is still pending.



**Right to Counsel NYC Coalition Testimony
City Council Committee on General Welfare Oversight Hearing on Tenants' Right to
Counsel
March 27, 2023**

Right to Counsel is one of the city's best, most powerful and most effective tools to stop displacement, reduce homelessness and expand and uphold tenants' rights. But today, after years of success, that Right is being violated. We are writing to urge the City to do everything in its power to uphold, defend and strengthen Right to Counsel.

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.

NYC is the first city in the nation to establish RTC. On the heels of our success, 15 other cities and 3 states have passed RTC and it has sparked a national movement. The law has 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.

Yet, in the last year, [more than 17,000 tenants are being denied Right to Counsel](#). This means that folks are moving out when they get sued who shouldn't, folks are signing papers they shouldn't sign, folks aren't getting the repairs they deserve and this means that THOUSANDS of families are being evicted who wouldn't be evicted if they had RTC! This is absolutely outrageous. Denying tenants RTC impacts poor tenants of color the most.

We are all well aware of the capacity challenges the legal services organizations face, the backlog of cases due to COVID that the court started moving forward last year and the pressure from the landlords to move cases forward. However we don't accept the logic that cases have to move forward at a rate that outpaces justice for tenants and denies them their rights under NYC law.

We are calling on you to support and uplift our demands to the court, specifically that the courts:

- Issue an administrative order to mandate that all eviction cases where a tenant is eligible for RTC shall be administratively stayed until the tenant has had an opportunity to meaningfully meet with and retain a right to counsel attorney.
- Calendar new eviction cases *only after* all eligible tenants with currently pending cases have retained counsel for full representation.
- Reduce the volume of eviction cases on court calendars so that the number of new cases each day matches legal service provider capacity to provide full representation to all eligible tenants.
- Provide sufficient time between court dates to allow time for lawyers to complete essential work on each case, keeping in mind the current staffing shortages and work overload.

[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. It's critical that OCJ and the city administration as a whole commit to upholding the law as it is versus any attempts to water it down. Doing so would accept the court's logic that cases have to move fast at all costs--COVID showed us that is not true--and permanently weaken a powerful law in the face of a temporary challenge.

In addition, the pace of cases cannot be separated from the current labor shortage---moving cases at a pace that forces RTC lawyers to make choices where they can't represent tenants to their best ability is deeply demoralizing. Implementing the above changes would go a long way towards retaining a talented, experienced and passionate tenant bar.

Senator Holyman and Assemblymember Rosenthal have introduced legislation ([S3254 / A4993](#)) that would mandate judges provide the necessary adjournments tenants need to get RTC. Right now there is language about adjournments in eviction cases in the Assembly on house budget *but it does not cover NYC tenants*. **We are calling on you to pass [Resolution 499](#) in support of this critical legislation, sending a strong message to your colleagues in the senate and assembly to include this critical legislation in the budget.**

The City Must Fund RTC In Two Critical Ways:

First, in May of 2021 the city passed **Local Law 53**, which ties tenant organizing to Right to Counsel. The intent of Local Law 53 is clear - to fund trusted tenant organizing groups working in low-income communities of color to lead outreach and education efforts through community meetings, workshops, Tenant Association meetings, and more. This is the vital work of tenant organizers, and ensuring that tenants are informed of Right to Counsel and supported prior to an eviction case being filed. Tenants know about their rights and exercising them is a preventative and proactive measure.

We understand that HRA allocated \$3.6 million towards this bill, had drafted the Request for Proposal (RFP) and was going to release it in November of 2021 but it was never released. We understand that OCJ plans to release an RFP on this for FY 2024 for \$3.57 million. We are urging you to ask OCJ/HRA to release this RFP NOW in order for **tenant organizing groups to do their work to educate and organize tenants across NYC about their rights.**

Second, Local Law 136 as it stands is not fully funded. While the city allocated \$166 million it simply isn't enough to cover the full cost of the work. The retention rates at the legal services organizations are proof of this. According to the provider community, RTC is currently funded at

about 60-70% of its current cost, and that's not even accounting for what it would cost if we were to implement best practices with all of the support roles tenants need, fair salaries for legal services workers, and caseloads that ensure all tenants receive the best possible representation. **This means that the city needs to increase the budget for RTC by at least \$70 million dollars to fund the law as it is now, while also looking to further increase the funding to achieve best practices and its full potential for tenants.** In addition the city needs to set up a mechanism to monitor the cost---if cases go up the cost goes up and the city needs to proactively plan for this.

Oversight of the Office of Civil Justice

The Office of Civil Justice was created to implement Right to Counsel and is responsible for upholding it. OCJ is not fulfilling that responsibility. By law, the Office of Civil Justice is supposed to hold annual hearings on RTC and release annual reports. They did neither in 2022.

We understand that ultimately, the State courts must implement our City law, and are not legally compelled to do so without legislation at the State level. However, OCJ has a history of pushing the courts to make changes that are fully within their power in order to uphold RTC, such as adjusting calendars, posting accurate signage, and having judges make announcements to inform tenants of their rights and options. The implementation of RTC was a collaboration between OCJ and the courts. Now, OCJ is remaining silent and allowing legal service providers to take the blame for a problem that can only be solved by the courts.

In addition, OCJ used to meet regularly with the members of the Right to Counsel Coalition; under this administration they don't. OCJ can't just meet with the organizations they contract to. They must meet with and hear from tenants and tenant groups directly.

The city must ensure that OCJ follows the requirements of the law, advocates with the Courts to uphold it and meet regularly with tenant groups to make sure they

Support Statewide Right to Counsel

We need statewide legislation to fix the crisis in NYC. Statewide Right to Counsel (A1493 / S2721) not only expands RTC to all tenants across the state, it also creates rules for the court system to uphold it. Passing Statewide RTC mandates adjournments and essentially legislates what the Chief Judge has so far failed to do. The bill requires that courts notify tenants of their RTC, give them the info they need to reach an attorney, and adjourn cases until they've been able to connect with one. RTC will mandate the courts uphold Right to Counsel and match the pace that cases move forward to attorney capacity. Despite massive protests, the courts have so far refused to solve the crisis. Legislation will mandate that they uphold the law. If the provisions in Statewide RTC had been in place, we would not be having the crisis we have in NYC, period.

It's imperative that this legislation is not only passed this session but also fully funded. With adequate funding, providers will have a greater ability to hire not only attorneys, but social workers and other support staff critical to implementing Right to Counsel. [We are fighting for \\$172 million in FY 24.](#) \$62.5 million of that funding would go to NYC.

It's imperative that city council members support this legislation and that they urge their colleagues in the state legislature to pass and fund it NOW.

In Summary:

Right to Counsel keeps New Yorkers in their homes. It is up to us to ensure its success. We are calling on all members of the City Council to be RTC champions and publicly fight to defend RTC. Specifically we are asking that you:

- Pass City Council [Resolution 499](#) in support of our Statewide Defend RTC Legislation ([S3254](#) / [A4993](#)), which would mandate that tenants have the time they need to get RTC.
- Demand that the courts pause all cases for eligible tenants who don't yet have RTC until there is lawyer capacity
- Ensure that OCJ manage the waitlist of tenants to make sure that all tenants who have been denied RTC get a lawyer
- Ensure that OCJ meets regularly with tenants and organizers to develop solutions and that it will comply with the law to hold annual hearings and release annual reports.
- Fully Fund RTC. As it exists now, the law is not currently fully funded. This is leading to retention challenges at Legal Services Organizations and discouraging zealous representation. We need the City Council to build on and maintain the legacy of RTC and add at least \$70 million dollars to fund Local Law 136.
- Call on HRA to Fund Local Law 53 Immediately; HRA must announce publicly when they will release the Request For Proposals (RFP) for FY 2024 and the \$3.57 million they have allocated.
- Support and advocate for Statewide Right to Counsel to be passed and funded this session.

We urge you to address this crisis with the seriousness it deserves.

For more information, contact Susanna Blankley: susanna@righttocounselnyc.org

www.righttocounselnyc.org www.worstevictorsnyc.org www.evictionfreenyc.org

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Testimony of
Jimmy Meagher, Policy Director
Safe Horizon

Committee on Housing and Buildings
Hon. Pierina Ana Sanchez, Chair

Committee on General Welfare
Hon. Diana Ayala, Chair

New York City Council

On Safe Horizon's Support for Resolutions 345-A and 499-A

3.27.2023

Thank you for the opportunity to submit testimony to the Committee on Housing and Buildings and the Committee on General Welfare. My name is Jimmy Meagher, and I am Policy Director at Safe Horizon, the nation's largest non-profit victim services organization. Safe Horizon has programs in all five boroughs and offers a client-centered, trauma-informed response to 250,000 New Yorkers each year who have experienced violence or abuse. We are increasingly using a lens of racial equity and justice to guide our work with clients, with each other, and in developing the positions we hold.

Safe Horizon supports Res 0345-2022 and Res 0499-2023, which call upon our leaders in Albany to take action and help New Yorkers facing eviction. Res. No. 345-A supports the passage of A.1493/S.2721, sponsored by Assembly Member Latoya Joyner and State Senator Rachel May, which would establish a New York state office of civil representation to provide access to legal services in eviction proceedings. Res. No. 499-A supports the passage of A.4993/S.3254, sponsored by Assembly Member Linda Rosenthal and State Senator Brad Hoylman-Sigal, which would require 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. We are living through a housing and homelessness crisis, and even New Yorkers who currently qualify for free legal counsel in housing court are not being connected to legal representation. These two pieces of legislation will aid New Yorkers and keep more New Yorkers housed.

Safe Horizon has found through a listening tour of clients and advocates that the top two priorities for survivors are permanent housing and financial stability. We see that economic stability, which is foundational to safety, is often disrupted through economic abuse that causes a ripple effect to our clients' housing, job opportunities, and mental health. So many survivors don't have the choice to leave the person causing them harm, even if they want to, due to economic reasons rooted in systemic sexism and racism. In some cases when survivors do choose to leave the abusive relationship, they are left with rent arrears, damage to their apartment and building left by the person causing harm, and mounting debts from the financial abuse. These survivors can then be faced with eviction notices and limited legal resources available to give them the best chance of staying housed.

When survivors reach out to Safe Horizon for support, they are often in crisis. In many cases, survivors share with us that they are homeless as a result of fleeing violence, have thousands of dollars in rent arrears, or are being taken to housing court due to the behavior of the person causing them harm. In many cases, survivors try to retain lawyers early on and cannot find help.

Without swift intervention, the financial burden becomes too large and the financial assistance programs provided by non-profits and government assistance programs such as the Human Resources Administration (HRA) cannot make a dent in the overall amount owed as a result of the abuse. Advocates are left to stitch together assistance from various programs across the city with the hopes of avoiding an eviction but are often not able to find legal representation that is affordable and would give our clients the best chance of remaining housed. Advocates working with survivors are not able to provide the legal advice needed when clients are forced to defend themselves in housing court.

The free legal services that are available now are overburdened with cases that have begun to accumulate after the end of the eviction moratorium. Many New Yorkers, not just survivors of domestic violence, are faced with the threat of homelessness and a lack of legal options. Due to the increased demand, a lack of services, and too few lawyers to go around, survivors and their children fall through the cracks and end up in DHS or HRA DV shelter. Survivors and their families are then forced to move out of their communities and away from social support and children's lives are disrupted. Over time, this instability can add up. Economic abuse and housing instability keep our clients in a cycle of poverty that is incredibly difficult to escape. Survivors of color are often at a larger disadvantage and experience discrimination as a result of evictions and debt arising from the abuse.

In order to heal, survivors first need their basic needs met. To keep survivors housed, they need access to their best chance of remaining safe: abundant, free, easily accessible legal counsel across all areas of New York and the ability to find it before a case is decided.

Safe Horizon supports Res 0345-2022 and Res 0499-2023 because they will keep more survivors and their families safe. We understand that access to legal representation gives our clients and their children a real chance of avoiding homelessness. Domestic violence is the leading driver of family homelessness in New York City, and it is also a repeated trauma that not only impacts the stability and mental health of New Yorkers, but also costs the city each year. Any service that reduces the chances of survivors being unhoused also supports survivors' overall safety and healing.

Safe Horizon respectfully asks our leaders in New York City and Albany to partner with survivors and advocates in moving our city forward and ensuring that we support all New York families in accessing free legal representation in housing court and remaining safely housed.

Thank you, and as always, we are available to answer any questions you may have.

City Council Committee on General Welfare
Oversight Hearing on Tenants' Right to Counsel
March 27, 2023

Testimony by:
Addrana Montgomery
Senior Staff Attorney, TakeRoot Justice

For over 20 years, TakeRoot Justice (formerly the Community Development Project at the Urban Justice Center) has provided legal assistance to and policy reform on behalf of low-income and working-class New Yorkers, on matters ranging from workers' rights and consumer justice to housing and tenants' rights. Having provided trainings, advice and representation to more than 8,000 New Yorkers just last year, as a movement-lawyering organization uniquely centering its work through an anti-oppression and anti-racist lens, TakeRoot Justice knows that social progress is always ignited at the grassroots level. We work closely with and receive policy directives from our community partners to expose structural biases and root out systems that perpetrate power imbalances, including from the employer to workers as well as the landowner to tenants.

I am privileged to be here today in my capacity as a tenants' justice legal practitioner with a background in human rights and over 10 years of experience working with and representing tenant associations throughout New York City. But I am also here in my capacity as a Brooklyn native raised by a single mother of three girls. I have lived in both public and rent stabilized housing throughout my life. I distinctly remember in the 1980s in my early teens accompanying my mother to Housing Court when she had fallen behind on rent from an unexpected medical or school expense or the demands of another emergency that her salary as a secretary couldn't weather. The fear and anxiety she experienced of having to take a day off from work was then magnified sitting in Brooklyn Housing Court, timidly waiting for her case to be heard alongside the other hundreds of mostly Black tenants swarming the hallways and courtrooms. Since we never had a lawyer of our own, we mistook the landlord's attorney's approach to us in the hallway as one of a court official. We were coerced into settlements that were always an unreasonable payment plan on my mother's salary. I distinctly remember the look of my mother feigning to the landlord's attorney that that she had means to make due on the payment plan, knowing good and well that as an average African American family that had migrated from the South in the 1950s, we had no access to generational wealth and didn't have family and friends from which we could borrow a few thousands of dollars – or even a couple hundred - at the drop of a hat. At the mercy of the landlord, I watched how these court appearances sucked the dignity out of my mother while the landlord attorney would walk away with the satisfaction that they got another index number to settle. My tenacious teenage self refused to accept that a system could be SO unfair to Black renters who were trying to live their lives and do their best. I vowed to one day to return to Brooklyn to redress these wrongs.

That's why decades later I was exhilarated to participate in the tenant movement's fight to pass the New York City Right to Counsel law. In 2017, landlord/tenant power dynamics began to shift palpably. In court I began to see more legal services attorneys accompanying tenants and awareness of tenant rights spread. Data began to show the eviction rate plummeting. As my own docket began to fill with eviction cases during the Covid-19 pandemic, I shared with my mother (now retired outside the city), that the pendulum had finally swung: today, tenants threatened with eviction did not have to stand alone the way she did in the 1980s. They now had lawyers to help them assert their rights.

It is with a palpable sense of despair and anger, however, that I am here now to report to you that Right to Counsel is in a deep crisis. Since the Covid eviction moratorium ended in January 2022, TakeRoot Justice, along with the Right to Counsel NYC Coalition, has been calling on the courts to slow down the calendaring of new eviction cases to allow legal services providers time to provide meaningful representation. But the courts have not listened. Instead, they rushed to “clear inventory” (to use the official public wording of the Office of Court Administration), scheduling 60-70 cases per day per courtroom. Even judges know this rush relies on the assumption that most tenants will default or quickly settle without raising defenses or seeing a judge. Indeed, a former supervising judge of the Manhattan Housing Court recently said publicly that the worst part of the pandemic, in her experience, was that remote court appearances forced her to spend at least 15 minutes hearing each case, reducing the number of cases she could schedule each day. “Never again!” she vowed, pounding her fist on the lectern - never again should Housing Courts allow due process to slow down the eviction machine.

And the Housing Courts have obliged her. My colleagues and I have seen a runaway speed-up in our eviction defense caseload. On TakeRoot’s most recent intake day, there were over 100 new cases calendared for our 8-attorney office to assess. As we sat on benches in the hallway talking with desperate tenants, court staff interrupted and told us to speed it up – 8 minutes talking to each tenant was too long! My caseload has quickly become unsustainable. The quality of representation that each and every one of my clients deserves is not compatible with the courts’ demands for speed. I struggle with anger and depression from the workload and pressure. While I continue to slug it out, I am often thinking about my mother’s experiences at Housing Court decades ago, imagining our family’s relief if we had been eligible for a free lawyer, and then the nightmare of finding that we were only one of that lawyer’s dozens of cases.

Nevertheless, Housing Courts continue to deny tenants meaningful representation, and refuse to use their power to schedule eviction cases at a reasonable rate consistent with due process. There is NO REASON to return to pre-pandemic norm of calendaring more cases than the courts can actually hear. Prioritizing speed over justice is the antithesis of the RTC law.

Now on our intake days at Queens Housing Court, I have to tell single Black mothers, young Latino families, elderly South Asian couples, that there are not enough lawyers to represent them. As an African-American woman who decades ago experienced similar lack of counsel, the scene in the courtrooms and hallways is offensive and wrong. The courts overflow with thousands of mostly low-income tenants; judges openly assert their bias against tenants and their legal rights; and a mostly white, male landlord bar refuses to recognize the human lives behind each index number. The Right to Counsel program was meant to counter this disparate racist impact, not facilitate it. Instead, the courts’ insistence on prioritizing speed above all else is taking a toll on court workers, housing lawyers, and, most importantly, the hundreds of thousands of New Yorkers RTC was enacted to serve.

Please listen to our clarion call. We all know how eviction and housing instability directly correlate to poverty markers like homelessness, food insecurity, mental and physical distress, and criminality. You have the power to save the RTC law:

TakeRoot Justice and the Right to Counsel NYC Coalition urge you to support these much-needed actions by the Office of Court Administration:

- 1) **Issue an administrative order** to mandate that all eviction cases where a tenant is eligible for RTC shall be administratively stayed until the tenant has retained a right to counsel attorney.
- 2) **Don't calendar new eviction cases** until the backlog of eviction cases is addressed.
- 3) **Reduce the volume of eviction cases** on court calendars so that the number of new cases each day matches legal service provider capacity to provide full representation to all eligible tenants.
- 4) **Provide sufficient time** between court dates to allow time for lawyers to complete essential work on each case, keeping in mind the current staffing shortages and work overload.

Further, we urge the Council to fully fund Local Law 53, which would pay for community-based tenant organizing groups working in low-income communities of color to conduct outreach and education efforts in support of Right to Counsel. Though Local Law 53 passed in 2021, and HRA allocated \$3.6 million in funding later that year, the planned Request for Proposals was never released.

- Call on OCJ/HRA to release this RFP NOW in order for tenant organizing groups to do their work to educate and organize tenants across NYC about their rights.

We also call on the Council to increase the funding for Right to Counsel to cover legal services providers' actual cost and allow for implementation of best practices with all of the support roles tenants need, fair salaries for legal services workers, and caseloads that ensure all tenants receive the best possible representation.

- Increase funding for Right to Counsel legal services by \$70 million, from the current \$166 million.

Finally, it is imperative that Council Members support the Statewide Right to Counsel (A1493/S2721), and urge their colleagues in the state legislature to pass and fund it NOW. If implemented, the Statewide Right to Counsel will add \$62.5 million to funding for Right to Counsel in New York City, and will prevent Housing Court judges from pushing eviction cases forward before tenants can get legal representation.

Thank you.



NY City Council Hearing
Committee for Housing and Buildings jointly with General Welfare

Oversight: Universal Access to Legal Services Law and Tenant Protection
Written Testimony of The Bronx Defenders
Submitted By: Runa Rajagopal, Managing Director, Civil Action Practice¹

I. INTRODUCTION

The Bronx Defenders (“BxD”)² thanks the New York City Council for holding this critical hearing and providing us with the opportunity to testify.

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, advocacy and services focus, in large part, on defending marginalized tenants, who are disproportionately Black and Brown-identifying, from the threat of eviction and other forms of housing displacement. In the Bronx where the homelessness and affordable housing crisis has reached unprecedented levels, as evidenced by it containing the highest concentration of eviction cases statewide during the COVID-19 pandemic, many Bronx tenants have seen a dimming scope of upward mobility.³ To this effect, it is essential that the continued implementation of the Universal Access to Legal Services Program under the Right to Counsel (“RTC”) law works to prevent future displacement of poor tenants of color in communities like the Bronx where many of them have lived in their communities for decades while providing critical healthcare and

¹ Siya Hegde, Policy Counsel, along with Andrew Ashbrook, Jerome Frierson, Rosa Jaffe contributed to this written testimony.

² 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 informs our innovative initiatives to bring about real and lasting change.

³ See James Barron, *What Has Led to the Exodus of Black Families?* N.Y.T. (Feb. 6, 2023), <https://www.nytimes.com/2023/02/06/nyregion/what-has-led-to-the-exodus-of-black-families.html?searchResultPosition=1>.

social services to the city as essential workers.⁴ 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 to Legal Services Program. Our Housing Right to Counsel team has expanded in size, expertise, and leadership over the past five years, and we are grateful to work in partnership with the City, the Court System and the people we represent to enhance how we address the critical housing needs of the community we serve.

Furthermore, while we respectfully submit these comments to highlight our Bronx-specific experiences as a legal service provider, our messaging and substantive recommendations align with the joint testimony of our partners in the Right to Counsel NYC Coalition and Leap Coalition.⁵

II. SUPPORT & ENHANCE PROVIDER CAPACITY TO MEET THE NEEDS OF TENANTS FACING EVICTION

A. We Need Support from the City to Slow Down the Unprecedented Volume and Increasing Pace of New Filings and Backlogged Cases so Tenants Who are Eligible Receive Representation and Assistance under RTC.

The passage of NYC's Right to Counsel ("RTC") Local Law 136 was not only historic in its ongoing implementation, but it has been a powerful, effective and successful tool to prevent eviction, stop displacement and advance Tenants' Rights. As RTC has expanded, the significance of having a lawyer in Housing Court is undeniable; 84% of tenants who were represented stayed in their homes and evictions were on the decline. However, as we know, in the third of RTC's five-year implementation, the COVID-19 pandemic hit.

Since 2020, stakeholders, including Legal Services Providers like BxD, have navigated the pandemic's irreversible impact on tenants and challenges in addressing the exacerbation of NYC's pre-existing housing crisis. Working and advocating with NYC and NYS Government, the Office of Civil Justice, the Department of Social Services, and the NYS Office of Court Administration, a number of efforts were launched to stave the rising number of tenants at risk of

⁴ See generally N.Y.C. OFF. COMPTROLLER, "New York City's Frontline Workers," (March 2020), <https://comptroller.nyc.gov/reports/new-york-citys-frontline-workers/> (providing detailed, demographic profiles of non-governmental frontline workers in New York City, with 17 percent living in the Bronx and 32 percent of workers from the healthcare industry identifying as Black); see also Winnie Hu & Nate Schweber, *When Rich New Yorkers Fled, These Workers Kept the City Running*, N.Y.T. (June 16, 2020), <https://www.nytimes.com/2020/06/16/nyregion/mount-hope-bronx-coronavirus-essential-workers.html> ("The sheer number of essential workers in Mount Hope [Bronx] who cannot work from home is most likely why it was the only neighborhood in the city where the total number of commuting trips actually increased during the height of the pandemic, when New York came to a virtual standstill.").

⁵ Leap is a membership organization comprised of 18 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 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.

eviction, including, the expedited implementation of RTC citywide, the issuance of various eviction moratoria, directives and executive orders to pause new eviction filings as well as pending cases, the passage of new laws to create emergency and long-term protections, like the Housing Stability Tenant Protection Act (HSTPA) and the Tenant Safe Harbor Act, and the issuance of new and expanded emergency rental funds, funded by the Federal and NYS Government, such as the Emergency Rental Assistance Program (“ERAP”).

Despite the above strategies and legal mechanisms, we are only beginning to understand the magnitude of impact the pandemic had on NYC’s most vulnerable communities’ ability to afford, maintain and access quality, safe and long term housing. Now, three years after the onset of the pandemic and into the current stage of pandemic recovery, along with the impact of the expiration of various eviction moratoria, the publicly available data on eviction filings speaks volumes about the scale of our city and state’s housing crisis. Since 2020, there have been approximately 240,000 eviction cases pending statewide,⁶ with 110,000 filed citywide last year alone.⁷ This is in addition to the approximate 80,000 backlogged pending proceedings, if not more. The Bronx currently holds the highest number of eviction filings out of any county in NYS, with over 40,000 cases filed in 2022,⁸ and its tenants have experienced a growing number of evictions: between 2021 when the NYS eviction moratorium was in effect and 2022 when it was lifted, the number of eviction warrants that were issued against Bronx tenants sharply increased from 204 to 3,543.⁹ Additionally, since January 2022 when the moratorium was lifted, over 4,000 residential evictions have taken place citywide, a figure reported by NYC Marshals.¹⁰ In 2022, the Bronx in particular had the highest rate of households that experienced eviction filings, at 8.39% compared to 3.35% in Brooklyn, 2.73% in Manhattan, and 2.58% in Queens.¹¹

In addition to the growing number of people at risk of eviction, the Courts are calendaring cases and moving them forward at volume and pace that not only goes beyond what Legal Services providers have the capacity to handle, but also goes beyond what we are contracted to take on. Citywide, there have been at least 19,500 eviction cases that have moved

⁶ See *NYS Eviction Crisis Monitor*, Right to Counsel NYC Coalition (Accessed on March 27, 2023), <https://www.righttocounselnyc.org/evictioncrisismonitor>.

⁷ See David Brand, “NYC eviction rate continues to rise since ban was lifted, as homelessness surges,” *Gothamist* (Jan. 18, 2023), <https://gothamist.com/news/nyc-eviction-rate-continues-to-rise-since-ban-was-lifted-as-homelessness-surges> (“Last year, New York City landlords filed roughly 110,000 eviction notices, according to court system records.”) (citing *Statewide Landlord Tenant Eviction Dashboard*, NYS Unified Court System (2023), <https://app.powerbigov.us/view?r=eyJrIjoieGZGE3NzljYmItYTBMZC00OGI2LTliYTgtYzY5ZjI0N2U0MWYxIiwidCI6IjM0NTZmZTkjLWNiZDEtNDA2ZC1iNWZLTUzNjRiZWwYTgzMyJ9> (“Year by Year Eviction Filings by County”)).

⁸ See *Statewide Landlord Tenant Eviction Dashboard*, NYS Unified Court System (2023), <https://app.powerbigov.us/view?r=eyJrIjoieGZGE3NzljYmItYTBMZC00OGI2LTliYTgtYzY5ZjI0N2U0MWYxIiwidCI6IjM0NTZmZTkjLWNiZDEtNDA2ZC1iNWZLTUzNjRiZWwYTgzMyJ9> (“Year by Year Eviction Filings by County”).

⁹ See *id.* (“City and District Court Warrants of Eviction Issued”).

¹⁰ Brand, David, *NYC eviction rate continues to rise since ban was lifted, as homelessness surges*, *Gothamist* (Jan. 18, 2023), <https://gothamist.com/news/nyc-eviction-rate-continues-to-rise-since-ban-was-lifted-as-homelessness-surges>

¹¹ See *Statewide Landlord Tenant Eviction Dashboard*, *supra* note 8 (“Eviction Filings as a Percentage of Households in County”).

forward without legal representation since the lifting the eviction moratorium in January 2022.¹² This has led to tens of thousands of tenants and their families who qualify for RTC to fall through the cracks and face eviction.

In the Bronx, for example, where there are the largest Intake Calendars in the City, legal service providers like ours have seen 100 to 110 cases calendared per day for our intake. On average, 70 to 80 people appear on their first court date and request an attorney; the majority of those Tenants are eligible for one. However, on average, we are only able to represent approximately 30 to 40 percent of eligible tenants due to the small size of our team, attorney vacancies and attrition challenges, the team's experience level and their capacity based on current caseload for pending cases, and a confluence of other factors. Even if we had a larger, fully staffed team, we could not take on all the tenants who are eligible for representation, nor are we contracted to meet the current volume that comes through our shift.¹³ While we advise every tenant we connect with despite not being able to represent them, this means that hundreds of tenants face eviction without a lawyer just from our intake shifts alone. And every Legal Services Provider is in a similar position.

We need the Court to slow down these cases and decrease the calendars. We need to create a system in partnership with the Office of Civil Justice in each borough to screen tenants who are eligible for representation, we need to get them connected to emergency and long term services. We also need to divert all cases that should not be in Court. We need to slow the pace and volume of cases to match the capacity of providers and the City, so that the most vulnerable tenants can get the help and representation they desperately need.

B. We Need Increased Support from City Agencies to Provide Emergency and Sustainable Financial Aid-in an Expedited Manner.

The role of attorneys and advocates under the RTC's model is not limited to the systems and procedures of housing courts. Quite to the contrary, its success is contingent in large part on our partnership and advocacy with city agencies and the resources that they are equipped to provide our clients, often only on a one-time basis. CAP's benefits specialists and civil legal advocates frequently interface with the Human Resources Administration ("HRA"), Department of Social Services ("DSS"), Department of Homeless Services ("DHS"), and various community-based Homebase providers to ensure accuracy in our clients' welfare budgeting, eligibility of housing rental subsidies (i.e., CityFHEPS, FHEPS, Cash Assistance, etc.), processing and review of One-Shot Deal applications for emergency rental assistance, and recertification of Section 8 subsidies and Public Assistance cases. Their ongoing contact with these city agencies and their escalation strategies advocating for swift and timely decisions on various applications have supported (and reduced) attorneys' workloads, as well as provided an invaluable skillset and expertise that is distinct and complimentary to the work our attorneys do. They have also contributed to a showing of diligent efforts that have proven valuable in post-

¹² See *NYS Eviction Crisis Monitor*, *supra* note 6 (reporting that 19,519 eviction cases have moved forward citywide without legal representation since the moratorium lifted on January 15, 2022).

¹³ If BxD was able to represent every Tenant that came through our Intake shift, that would be almost double the number of cases we are contracted to take on for representation in a year.

judgment and other litigation processes. This support is especially necessary as tenants have higher arrears and city agencies are under increase stress and staff shortages.

However, these and other City agencies have faced critical vacancies that have had a direct and consequential impact legal service providers' capacity to deliver advocacy services under the RTC law in the time frame required. A recently released report by the Office of the Comptroller revealed that twenty-six (26) out of thirty-five (35) agencies have vacancy rates that exceed 10 percent, with DSS ranked the eighth-highest at 20 percent.¹⁴ In the case of DSS, staffing shortages and vacancies have caused enormous delays in voucher and subsidy processing for our clients who await time-sensitive decisions on their Cash Assistance and One-Shot Deal applications. For many applicants, these delays have required attorneys and advocates to frequently follow-up with staff in DSS' Rental Assistance Unit, and, in some cases, required multiple attempts to re-submit documentation and applications.

Amidst the Bronx's affordable housing and eviction crises, our particular client demographic at BxD has seen significantly higher averages of amounts owed at the start of the pandemic.¹⁵ Tens of thousands of unemployed Bronx residents have still been unable to pay rent, with heavy reliance on the state's ERAP, which has experienced major delays in application processing and funding disbursement. A large number of our clients who are also Section 8 recipients and/or live as public residents of the New York City Housing Authority ("NYCHA") have remained de-prioritized and not received any ERAP funds thus far. And effective January 20, 2023, the Office of Temporary Disability Assistance ("OTDA") closed the ERAP application portal altogether such that no additional ERAP applications would be considered due to funding depletion. Although OTDA has still not made any indication of additional funds that could be made available to re-open the portal, many of our clients who have benefitted from the statutory stay on their eviction cases are nevertheless in limbo awaiting an eligibility determination. Despite \$2.7 Billion ERAP funds paid to Landlords in NYS, there are still, at least, 180,000 applications still outstanding, waiting for relief.¹⁶

The evolving function of Bronx Housing Court as a "stipulation mill" where the vast majority of our clients enter into final judgment stipulations for excessively high rental arrears has increased our reliance on community-based organizations as well as DSS agencies to process subsidy and emergency rental assistance applications at a much higher rate. Despite the large

¹⁴ See N.Y.C. OFF. COMPTROLLER, "Title Vacant: Addressing Critical Vacancies in NYC Government Agencies," 1, 4 (Dec. 2022), <https://comptroller.nyc.gov/wp-content/uploads/documents/Title-Vacant-Addressing-Critical-Vacancies-in-NYC-Government-Agencies.pdf>.

¹⁵ See Press Release, NYU Furman Center, More of New York City's Low-Income Renters Facing "Extreme" Arrears Over \$10,000 (May 26, 2021), <https://furmancenter.org/news/press-release/more-of-new-york-citys-low-income-renters-facing-extreme-arrears-over-10000> (sharing that from 2019 to 2020, the "share of low-income households facing any rent arrears increased by about 5 percentage points, and the average amount owed by a household in arrears also spiked from \$2,073 to \$3,435, a 66 percent increase); see also CHIP, "Survey: Rent-Regulated Tenants Owe \$1.1 Billion In Arrears," (Accessed Feb. 22, 2023), <https://furmancenter.org/news/press-release/more-of-new-york-citys-low-income-renters-facing-extreme-arrears-over-10000> ("The average renter in arrears owes about \$6,173.21 according to CHIP's survey.").

¹⁶ Brand, David, *NYC eviction rate continues to rise since ban was lifted, as homelessness surges*, Gothamist (Jan. 18, 2023), <https://gothamist.com/news/nyc-eviction-rate-continues-to-rise-since-ban-was-lifted-as-homelessness-surges>

number of New Yorkers who are facing homelessness, the uncertainty of obtaining sufficient rental assistance from the state due to the depleted status of ERAP and the fast pace of eviction proceedings that demand a more robust legal and social services infrastructure are demonstrable of how working tenants are ineligible for our services and fall through the cracks because of the lack of capacity to support the RTC program.

As such, for the RTC law to be robustly implemented, we need the City to help agencies—including those under DSS—prioritize their staffing operations, in addition to supporting the work of various community-based organizations, that legal service providers and our clients at risk of eviction continue to heavily rely on. Instead, the Mayor’s preliminary budget has placed rental assistance and public assistance on the “chopping block”—the public assistance budget for DSS is slated to decrease from \$2.7 to \$2.3 billion, with an additional \$20 million projected to be cut from rental assistance programs administered by the Department of Housing Preservation and Development (“HPD”).¹⁷ These proposed measures, if enacted, would further undermine the efficacy of the RTC law and place an even higher strain on Department of Homeless Services (“DHS”) capacity. As is, the city’s shelter system has recurrently tallied a record-high number of homeless adults.¹⁸

III. ENHANCING SUPPORT FOR COMMUNITY SERVICES AND OPPORTUNITIES FOR EARLY INTERVENTION

The implementation of RTC, using a court-based model, means that tenants must wait until they face eviction and are in Housing Court to get a lawyer, notwithstanding the current limitations of legal service providers and the City to assist the volume of people in need. However, every day we get calls to our reception, community intake and community hotline and unfortunately turn away hundreds of tenants who contact us directly for representation, as we lack operational capacity to represent tenants who are not assigned on our intake day or who do not come through our model. Every month, we are turning away no less than 200 tenants because we cannot provide services beyond advice.

Where we cannot represent tenants, we partner with community organizers so that tenants who become housing court litigants can be better informed of their legal rights in pending eviction actions, to seek immediate recourse in housing court for emergency repair actions and illegal lockouts, and to remain connected to attorneys and tenant organizers for eviction prevention strategies and long-term housing assistance.

As a member organization of the RTC NYC Coalition and a partner in the Bronx Leadership and Organizing Center (BLOC), BxD has continued to cultivate strong relationships with tenant leaders and organizers in support of its community engagement, policy and organizing efforts. Collaborating with Bronx-based tenant organizers like CASA, Northwest Bronx Community Clergy Coalition and Banana Kelly on Know Your Rights workshops and

¹⁷ See Manon Vergerio & Jessica Valencia, *Opinion: Mayor’s Budget Slashes Vital Funding in the Face of Humanitarian Crisis*, CITY LIMITS (Feb. 8, 2023), <https://citylimits.org/2023/02/08/opinion-mayors-budget-slashes-vital-funding-in-the-face-of-humanitarian-crisis/>.

¹⁸ See Chau Lam, *Number of homeless adults in NYC shelters sets new record by the day*, GOTHAMIST (Oct. 6, 2022), <https://gothamist.com/news/number-of-homeless-adults-in-nyc-shelters-sets-new-record-by-the-day>.

clinics, public education outreach, press content, and various actions demanding the enforcement of the RTC law has reinforced law's far-reaching impact. Just last Thursday, we partnered with BLOC and 6 other organizers and legal services organizations to hold a housing forum in the Bronx to help over a hundred community members be made aware of their rights.

One concrete solution for supporting tenants who are falling through the cracks is to increase funding to tenant organizers by implementing Local Law 53—a law that was passed by the City Council in May of 2021. This would embolden tenants to have agency over their housing cases, and demand essential services from their landlords (i.e., repairs, rent abatements, etc.) to which they are legally entitled prior to and/or irrespective of a new eviction filing. Tenants are often unable to obtain these services without relationships to tenant organizers, mutual aid organizations, or other community resources advocating for their right to adequate housing.

Another solution is to fund Legal Services Providers at a level that would allow them to connect with Tenants early and outside of Court. Part of this, as we envision it through a holistic defender lens, is to enhance the support of civil defenders and by recognizing the enmeshed civil consequences that tenants experience across multiple legal systems that cause them to be in eviction proceedings. Accordingly, the Council should also increase funding and capacity for holistic representation of tenants in housing courts and other administrative entities, considering the expertise of social workers, public benefits specialists, legal advocates, paralegals, policy counsel and advocates, and other civil legal service providers. The City must recognize the collective benefit of legal as well as non-legal services that offices like ours provide in-house, taking into account the merits of holistic implementation of the Universal Access Program that address causes and long-term consequences of housing court involvement.

The advocacy made possible by the RTC law's expansion allows us to make referrals to tenant organizers, community-based housing providers, and other external resources so that our clients are more proactively engaged. The provision of these services, ideally, should work constructively to prevent residents from facing future eviction proceedings and their traumatic aftermath.

Accordingly, the City must fully fund tenant and community organizations' outreach and public awareness efforts in order to encourage tenants' participation in the RTC movement immediately and allow for early intervention.

IV. RECOGNIZING & FUNDING THE HOLISTIC EXPERTISE OF CIVIL DEFENDERS IN THE UNIVERSAL ACCESS TO LEGAL SERVICES PROGRAM SO AS TO REFLECT THE TRUE COST OF HIGH QUALITY, ROBUST LEGAL SERVICES

A. We need robust funding that covers the full cost of providing Universal Access, including for holistic services

Through the NYC RTC program, called Universal Access to Counsel in Housing Court, the City has established itself as a national leader with the program serving as a model that has

been replicated by other cities across the country. We need to increase funding for this contract to cover the full cost of the current program and increase providers' capacity to represent all eligible people who come through New York City Housing Court.

The growing contributions of social work into our advocacy model over the past three years has also immensely benefited countless vulnerable clients with mental illnesses. While New York City grapples with how to house homeless individuals with serious mental illnesses, our social work team works to prevent individuals with serious mental illnesses from being evicted. Our social work team advocates for the eviction prevention of clients with mental illnesses by connecting them to supportive housing, collaborating with Adult Protective Services and the Department of Social Services' Disability Affairs Unit, providing clinical expertise in nuisance holdover cases, and putting forward housing reasonable accommodation requests for disabled clients. The pandemic has brought to light how access to safe, quality housing is a public health issue, and how people with mental health disabilities are among those most susceptible to housing displacement, chronic homelessness, and criminalization of their circumstances. During post-pandemic times, where mental health needs throughout the City continue to be present at an elevated rate, social work brings a trauma-informed lens and approach to representation under the Universal Access to Legal Services program.

As of recently, our social work team diligently collaborated with one of our housing attorneys to provide rehousing resources for a client with serious mental health concerns who had no legal defenses in her housing court case. Our social work team was able to connect to the client's clinician and obtain the appropriate clinical documentation to submit for a supportive housing application, which was approved by HRA, and worked to identify supportive housing providers with vacancies. While the waitlists to occupy a supportive housing vacancy were too long for the life of the housing court case, the social work team was able to pivot to enroll the support of Adult Protective Services. Social work prompted Adult Protective Services to open a case for the client, allowing the client who was originally ineligible for CFHEPs to obtain rental assistance and connect to an Adult Protective Service housing specialist to identify market-rate housing for the voucher. Through social work's knowledge of our City's mental health system alongside with their clinical understanding, they were able divert the client from becoming street-homeless and directly connect them to the resources they needed.

Additionally, our growing housing policy advocacy efforts have strengthened partnerships within housing coalition and campaign spaces across the city and state. Upon conducting an in-depth, comprehensive assessment of housing issues our clients frequently face, CAP has played a more active and supportive role in legislative spaces while integrating a holistic perspective across our public testimony, press content, bill agendas, public education efforts, and briefing platforms across City Council and our state Assembly and Senate bodies. In the past year alone, CAP has been consulted by the RTC NYC Coalition, as just one example, in memorandums of support for bill sponsors in its Statewide RTC campaign, proposed bill amendments in its Clean Hands campaign, conducted legal research relating to the eviction moratorium and policy solutions to address the eviction crisis, and participated in town hall and lobbying collaborations, amongst various other movement building, systemic advocacy initiatives that amplify our clients' experiences in housing court and other administrative fora.

Our work's intersectional, holistic value is reinforced by our collaborations with our colleagues who represent Bronx clients across criminal, family, and immigration court systems and legal processes. The breadth and depth of this multidisciplinary organizational expertise allows us to support and inform tenants seamlessly beyond just their eviction matters--this includes advocacy relating to those who may have criminal legal system involvement, those whose children may have been removed by the Administration for Children's Services ("ACS"), or, among other case scenarios, those who face deportation proceedings on the basis of being non-citizens. Our clients who are threatened with eviction have in fact benefitted from this cross-practice expertise. In some instances, we have intervened in drug or nuisance holdover proceedings resulting from arrests. In other instances, we have advocated for parents in family court and housing court when their children are removed from their care and custody based on unsafe housing conditions and instability.

Moreover, our civil practice is not the only one that benefits from city funding in recognition of our holistic defense model. In fact, every other major city contract with BxD provides additional revenue for holistic representations across the wider ambit of our organization's work. For example, the Mayor's Office of Criminal Justice ("MOCJ") pays for social workers and other holistic advocates within BxD's family and criminal defense contracts, while the City Council funds social workers and immigration civil legal advocates on BxD's New York Immigrant Family Unit Project ("NYIFUP") contract. We are not required to cut back on our attorney staff in each of those practices in order for holistic lawyers and advocates to remain compensated. OCJ is an outlier amongst our city agencies in not providing this additional revenue for holistic services.

Though we are fortunate to receive some funding support from other sources to make this holistic civil defender advocacy possible, the needs of our clients outweigh the capacity we have to serve. The diversity of CAP's staff roles and expertise has been instrumental in shaping our collective advocacy and litigation efforts for marginalized Bronx residents in housing court and other administrative fora. Our advocacy and litigation on behalf of clients fighting evictions has demonstrated that full and adequate representation requires the recognition and support of services that are not solely legal in nature.

B. OCJ should minimize attorney attrition by funding and building a sustainable program to effectuate RTC.

The Bronx has remained one of the hardest hit regions of the city and state of New York in terms of COVID-19 death rates and its number of residents threatened with eviction. Since the start of the pandemic, city landlords have commenced an estimated total of 60,720 residential eviction filings, of which Bronx landlords are responsible for nearly 35 percent—the highest proportion of active pandemic eviction cases out of any city borough.⁶ Many more pending cases were filed before the pandemic. In addition to this, it is increasingly difficult to attract talent to our offices given the high cost of living in the City, rising rates of inflation, and the lack of a competitive salary. Considering this staggering data and confluence of factors, RTC contracts must be structured to create a sustainable program that compensates for the training and retention of talented, and dedicated staff and supervisors to defend the rights of not only low-income tenants in the Bronx but throughout New York City.

During the pandemic, OCJ has rightfully led the expansion of the RTC in housing court to all zip codes across the Bronx and New York City, as required by law. As RTC advocates, we supported this expansion. However, rapid expansion without building a sustainable program with sufficient funding has led to legal services organizations not being able to retain staff we currently have nor fully staff our offices in order to represent the increased number of *pro se* litigants seeking assistance. Our organizations have become increasingly unable to sustain the Universal Access to Legal Services program with the level of resources that are currently allocated to us, as the funding received is not enough to finance the true cost of RTC's implementation. Without adequate funding, we are not able to hire or retain enough attorneys with supervisory expertise or experienced attorneys, and cannot afford to hire the requisite social workers, paralegals, and professional staff who are crucial to providing holistic services to our clients. Without this support, our attorneys—who, on average, have substantially less experience than our colleagues representing clients in criminal cases—will struggle to provide the quality of representation that our clients deserve.

BxD firmly believes that every client is entitled to as much strategic litigation as their case demands. Our litigation teams, which include attorneys, legal advocates, benefits specialists, social workers, and other professional staff will not compromise on delivering the highest quality of legal services to our clients. Yet, burnout is a trend we have observed across legal services providers. This is due to the ever-changing goal posts of the program, the high volume of calendars and case assignments, the lack of case standards and inadequate pay to name a few. This has depressed the number of participating attorneys. For these reasons, we are seeing high rates of attrition and difficulty filling open positions for this demanding work. Many RTC attorneys are overburdened with high caseloads, and a high turnover rate because of those caseloads. This disrupts the overall volume of cases we can handle individually. Instead of tackling new cases, we must often reassign older cases to colleagues, and spend our already limited resources on recruiting and training new advocates. To address this, we need to ensure a sustainable foundation for newer attorneys and law graduates handling Housing Court cases, so that they remain at legal services agencies longer than it takes to train them. Relatedly, we need to create better support systems and ensure the retention of more senior staff attorneys and those with supervisory expertise.

It is abundantly clear that the RTC program has played a significant role in leveling the playing field for low-income tenants who are able to retain attorneys. Tenants that have the benefit of a fully staffed office create better outcomes and prevent future evictions, thereby saving the city money and ensuring stability for thousands of families. At this critical inflection point in the history of the RTC program, the City must take action.

CONCLUSION

To sustain this important work and ensure the highest quality representation, we need the City's support to not only ensure adequate funding for the RTC legal services providers like ours so that there are enough trained attorneys, supervisors, social workers, support and other staff to meet the need and to support a pipeline to sustain this right, but also to strongly advocate for OCA and OCJ to structure the work in a volume that matches the capacity of RTC legal services, the Court System and other city services. The growing number of vulnerable tenants at risk of

eviction who require zealous, robust representation has contributed to higher-than-average caseloads and high attrition rates across legal service practices like ours. Furthermore, the City must demonstrate an investment in the city's social service agencies so that they can deliver prompt services and avoid future staffing challenges and proposed budgetary cuts. Last, we need funding for community services and early intervention to help divert people from Housing Court.

Thank you again for giving BxD the opportunity to testify and submit additional written comments for this hearing.

Respectfully Submitted,

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**Testimony of Win (Formerly Women in Need) for the New York City Council Committee
on General Welfare on Access to Legal Representation in Housing Court
March 27, 2023**

Introduction

Thank you to Chair Ayala and to the esteemed members of the Committee on General Welfare for the opportunity to submit testimony. Currently, Win is the nation's largest provider of shelter and services to families with children experiencing homelessness. We operate 14 shelters and nearly 500 supportive housing units across the five boroughs. Each night, more than 6,500 people call Win "home", including 3,600 children — in total, we house over 14 percent of homeless families with children in New York City.

In New York state there are 150,000+ households at risk of eviction and 90,000+ individuals living in homelessness.¹² This already unfathomable number is only rising—during the first four months of FY23, the average number of individuals in shelter per day increased by 21 percent compared to the same period in FY22.³ The shortage of shelter beds has forced the city and state to push for emergency spending worth over \$2 billion dollars, while warehousing families experiencing homelessness in hotels without the critical resources they need.^{4 5} Currently, across our shelters, Win has a less than a one percent vacancy rate. Across the whole city, shelters for families with children have a vacancy rate of less than .5 percent.⁶

Eviction, while symptomatic of many factors, is a direct and leading cause of our homelessness crisis.⁷ Around half of eviction court cases result in an eviction, an outcome that causes spikes in homelessness and decreases in earnings and credit scores, with particularly severe consequences for black and female tenants.⁸ Eviction proceedings in courts can be costly and traumatizing, regardless of the outcome. For those who are issued a possessory judgement, or warrant of

¹ Tanya de Sousa, Alyssa Andrichik, Marissa Cuellar, Jhenelle Marson, Ed Prester, and Katherine Rush, Abt Associates, "The 2022 Annual Homelessness Assessment Report (AHAR) to Congress, Part 1: Point-in-time Estimates of Homelessness," *The U.S. Department of Housing and Urban Development*, <https://www.huduser.gov/portal/sites/default/files/pdf/2022-AHAR-Part-1.pdf>

² "NYS Eviction Crisis Monitor," *Right to Counsel: NYC Coalition*, March 19, 2023. <https://www.righttocounselnyc.org/evictioncrisismonitor>

³ The City of New York: Mayor Eric L. Adams. *Preliminary Mayor's Management Report*. (2023). https://www.nyc.gov/assets/operations/downloads/pdf/pmmr2023/2023_pmmr.pdf.

⁴ New York City Comptroller: Brad Lander. *The State of the City's Economy and Finances*. (2022). <https://comptroller.nyc.gov/reports/annual-state-of-the-citys-economy-and-finance/>

⁵ Joe Anuta, "New York Mayor: Cost of asylum seekers could hit \$2B as shelters reach capacity," *Politico*, Jan 13, 2023. <https://www.politico.com/news/2023/01/13/nyc-cost-asylum-seekers-2b-00077885>

⁶ "Daily Report," The New York City Department of Homeless Services, March 27, 2023. <https://www.nyc.gov/assets/dhs/downloads/pdf/dailyreport.pdf>

⁷ "Protect Tenants, Prevent Homelessness," *National Law Center on Homelessness & Poverty*, 2018. <https://homelesslaw.org/wp-content/uploads/2018/10/ProtectTenants2018.pdf>

⁸ Robert Collinson, John Eric Humphries, Nicholas S. Mader, Davin K. Reed, Daniel I. Tannenbaum, and Winnie van Dijk, "Eviction and Poverty in American Cities," *National Bureau of Economic Research*, Working Paper No. 30382, August 2022.



eviction, the verdict can uproot a family, result in a school transfer for the children, and force them into homelessness.

Right to Counsel

Fortunately, in 2017, New York City became the first city to establish a right to counsel for low income tenants facing eviction proceedings. This program, as established by the City Council with Intro 214A, provides free legal representation in housing court to tenants with income at or below 200 percent of the federal poverty guideline. Before the right to counsel was established, the representation rate for eviction cases was less than one percent. Now, 74 percent of tenants facing eviction cases were represented by a lawyer. The program is proven to work, and tenants with representation tend to face smaller monetary judgments and are less likely to be evicted.⁹ Since the right to counsel was implemented, 84 percent of tenants who receive representation during their housing court cases are able to stay in their homes rather than moving out and entering emergency shelter, and the probability of ultimately being evicted has decreased by between 44.8 and 77.8 percent.¹⁰¹¹ Legal counsel is thus an invaluable and proven tool in combatting the homelessness crisis. A housing court case is often the final intervention before a family enters the homeless services system, and an investment in the right to counsel will be reflected in a reduction of the overall homeless population across the state.

Right to counsel is proven to work in New York City and should be implemented at the state level. In the legislature, A. 7570C, introduced by Assembly Member Joyner and pending in the New York State Assembly, and companion bill S.6678C, introduced by State Senator May and pending in the New York State Senate, would create a New York State office of civil representation to provide access to legal services in eviction proceedings and require eligible individuals to be given notice of their ability to obtain legal representation or consultation. This resolution, which would call on the state to pass legislation to support access to representation for individuals at or below 80 percent of the area median income, is also much more inclusive for New York City residents. There are many lower-class families still at risk of eviction who do not qualify for representation per the city's current cut off (up to 200 percent of the federal poverty line). These bills would have the same positive impact as Intro 214A but would go even further in awarding pro bono representation to the lower-to-middle class households for whom a court case and its associated legal fees could squander life savings. Now, families will be able to access legal services and avoid shelter entry.

Of course, guaranteed access to representation is only effective for as long as there is available counsel. In the city's Right to Counsel Progress Report for Fiscal Year 2021, 100 percent of

⁹ Michael T. Cassidy and Janet Currie, "The Effects of Legal Representation on Tenant Outcomes in Housing Court: Evidence from New York City's Universal Access Program," *National Bureau of Economic Research*, Working Paper No. 29836 March 2022, Revised July 2022.

¹⁰ "Universal Access to Legal Services: A Report on Year Four of Implementation in New York City," *Office of Civil Justice New York City Human Resources Administration*, 2021.

https://www.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ_UA_Annual_Report_2021.pdf

¹¹ Ibid.



tenants with calendared eviction cases had access to legal services and 71 percent of tenants who appeared in Housing Court had full representation by attorneys. However, recently, due to factors like the ending of the eviction moratorium and public defender staffing shortages, thousands of tenants have appeared in court without representation because there are not enough attorneys to meet the demand.¹² This reality puts defendants in eviction court proceedings at a legal disadvantage, as self-represented litigants tend to lack the insight and experience to craft a defense to fully support their cases. They are at a further disadvantage in housing courts, where overwhelmed dockets may cause judges to rush the cases of pro se litigants.¹³ Thus, we support Resolution 499 that calls on the State Legislature to require courts to pause any eviction case in which a tenant can't secure representation. Thank you to the resolution's sponsor, Council Member Shaun Abreu, for introducing this legislation, and we hope to see the Administration and State Legislature sign on.

The underlying attorney staffing issue must also be addressed, and we urge the city to invest the requested \$425 million in funding for the six major public defender groups—Legal Aid Society, New York County Defender Services, Brooklyn Defender Services, Queens Defenders, Bronx Defender Services and Neighborhood Defender Services of Harlem—so that they can continue to provide life-saving services to low-income New Yorkers in criminal and civil matters. Public defenders already make significant sacrifices with regards to their salaries, and the city must relieve their caseload and compensate them properly for their invaluable work.

Cost Savings and Impact

Additionally, guaranteeing universal access to representation is the most cost-effective option. When Intro 214A, the city's Right to Counsel, was signed into law, a financial advisory firm conducted a cost/benefit analysis. They concluded that providing counsel would produce net cost savings to the city of \$320 million annually, with \$251 million saved in estimated shelter saving costs. The firm also estimated \$9 million in annual savings from costs associated with homelessness, such as medical and law enforcement.¹⁴ More lasting than the financial savings, however, is the potential that legal representation has to save families statewide from the trauma of homelessness.

Homelessness and its resulting trauma can exacerbate the severity of preexisting mental illness or trigger additional disorders. Housing instability and homelessness may contribute to psychosocial vulnerability to negative health outcomes, including higher levels of psychiatric

¹² Chris Sommerfeldt, "NYC Council infuriated by Adams admin's refusal to back housing court slowdown amid 'Right to Counsel' crisis," *Daily News*, March 27, 2023. <https://www.nydailynews.com/news/politics/new-york-elections-government/ny-council-infuriated-by-adams-refusal-to-back-housing-court-slowdown-20230327-x3blcuwhwbesvpx446quqhxh4-story.html>

¹³ Ellen, IG, O'Regan, K, House, S & Brenner, R 2021, 'Do Lawyers Matter? Early Evidence on Eviction Patterns After the Rollout of Universal Access to Counsel in New York City', *Housing Policy Debate*, vol. 31, no. 3-5, pp. 540-561. <https://doi.org/10.1080/10511482.2020.1825009>

¹⁴ Stout Risius Ross, Inc., "The Financial Cost and Benefits of Establishing a Right to Counsel in Eviction Proceedings Under Intro 214-A," Mar. 16, 2016, available at http://www2.nycbar.org/pdf/report/uploads/SRR_Report_Financial_Cost_and_Benefits_of_Establishing_a_Right_to_Counsel_in_Eviction_Proceedings.pdf.



distress and reported alcohol use, and lower perceived levels of recovery from serious mental illness.⁵ The toll that homelessness has on children is particularly severe, leading to developmental delays, cognitive impairment, and increased mental health problems.⁶ With these implications, eviction prevention is also mental and physical healthcare.

Conclusion

Of course, access to representation does not address the underlying problems that lead a family to arrive in housing court. We also look to the city and state to expand access to affordable housing through allowing office conversions to residential units, lifting the residential floor area ratio cap, and awarding a tax incentive to encourage converted buildings to include permanently affordable apartments. For families who rely on housing subsidies to stay in their homes, we demand faster payments to tenants and an electronic transfer option, as outlined in Intro. 704.

Ultimately, access to representation can be the difference between housing and homelessness. An attorney can save a family from the trauma of upending their lives and moving into shelter. Implementing the right to counsel across New York state will not only decrease evictions, but also has the potential to impact medical visits, mental illness, absenteeism, and all the other repercussions that come with a family being forced out of their home. We therefore support Resolutions 345 and 499 to create the right to counsel and to preserve the right's integrity through paused legal proceedings until representation is secured. In tandem, these resolutions are key to combatting homelessness in New York City and across the state.

NAME IS(ALICE), AND I WANT TO SHARE TESTIMONY. OF A PERSON WHO HAVE GOTTEN IN TOUCH WITH MY ORGANIZATION WHICH IS POWER OF THREE, AND HE ASKED ME TO RELATE A STORY BECAUSE HE DID NOT WANT TO TESTIFY HIMSELF. I WILL NOT DISCLOSE HIS NAME. OR APARTMENT NUMBER OR ADDRESS, BUT I KNOW HE LIVED IN NEW YORK CITY HOUSING AUTHORITY. AND IT'S IN BROOKLYN. AND WALT WHITMAN HOUSES UNDER NEW YORK CITY HOUSING AUTHORITY WHEN HE CAME TO ME WITH THIS STORY AFTER BEING DISPLACED. IT WAS UNBELIEVABLE., YET BELIEVABLE. I DIDN'T KNOW THAT NEW YORK CITY HOUSING AUTHORITY WAS BECOMING A LANDLORD THAT DISPLACED PEOPLE IN ORDER TO REPLACE PEOPLE. THIS TENANT HAD GOTTEN OF NOTICE TO VACATE HIS PREMISES DUE TO FALSE ALLEGATIONS AND CHARGES. THAT HAD NOTHING TO DO WITH HIM. THE FBI HAD RATED THE PREMISES. WHICH WAS FOUND OUT LATER. THAT IT WAS NOT THE CORRECT APARTMENT. YET HOUSING. STILL ASKED THE TENANT TO VACATE THE PREMISES. THIS SAID CLIENT THEN ASKS FOR HEARING. TO EXPLAIN HIMSELF AND TO SHOW PROOF THAT THE RAID WAS NOT INTENDED FOR THAT APARTMENT, YET. NYCHA DECIDED THAT BECAUSE HE WAS DEEMED AS AN UNDESIRABLE TENANT DUE TO NUMEROUS COMPLAINTS FROM HIM, I BELIEVE BECAUSE OF THE CONDITIONS OF HIS APARTMENT. AS HE RELAYED IT TO ME. THE TENANT WAS SENT A HEARING PACKET TWO MONTHS LATER WITH THE SAID CHARGES OF HIS APARTMENT BEING RAIDED BY THE FBI NOTHING. ABOUT THE LIVING CONDITIONS OF HIS APARTMENT IN WHICH HE FILED A GRIEVANCES ON. THE SAID TENANT ASKED THEM WHEN HE ATTENDS THE HEARING, ARE THEY GOING TO PROVIDE SOME KIND OF LEGAL COUNSEL FOR HIM. THEY TOLD THE TENANT TO LOOK IN THE PACKET THAT WAS SENT TO HIM IN ORDER TO SEEK LEGAL COUNSEL MY GROUP POWER OF 3 (WHICH WAS IN BROOKLYN AT THE TIME AND WAS A PART OF THE NYCHA TENANTS ASSOCIATION) WENT OVER THE PACKET AND DID NOT SEE ANY NOTIFICATION OF HOW TO SEEK COUNSEL. THE SAID TENANT WAS PART OF THEIR PILOT PROGRAM AT THAT TIME FOR PEOPLE WHO ARE MIDDLE INCOME SEEKING TO MOVE INTO NYCHA AS A MIXED BLEND OF INCOME HOUSING AND HE APPLIED HE DID AND GOT THE APARTMENT A YEAR LATER. THE GOOD TENANT WHO WAS FULLY EMPLOYED AT THE TIME COULD NOT AFFORD ANY ATTORNEY FEES. AS HE LOOKED FRANTICALLY FOR ONE, HE ASKED. BROOKLYN LAW SCHOOL TO DO PRO-BONO, LEGAL AID, BUT BECAUSE OF HIS WAS INCOME TOO HIGH THEY COULD NOT ASSIST, SO THE TENANT WENT TO THE HEARING ALONE. THE HEARING WAS VERY DISASTROUS FOR HIM. BECAUSE HE DIDN'T HAVE COUNSEL AND THEY WERE NOT LOOKING AT THE EVIDENCE THAT HE BROUGHT WITH HIM AND THEY DID NOT GIVE HIM THE OPPORTUNITY TO SPEAK ON HIS BEHALF. AS PER TENANT IN WHICH I BELIEVED HIS STORY, BECAUSE I HAD AN EXPERIENCE OF MY OWN. NOT TO GO INTO ANY DETAIL BUT I DID HAVE TO FACE HOUSING AT ONE TIME. IN A HEARING DUE TO LACK OF EVIDENCE ALSO ALONE AT FIRST I FELT I WAS IN A CRIMINAL TRIAL. AND THEN MY LAWYER SHOWED UP LATE THEY REALLY DID NOT WANT HIM TO PARTICIPATE AND TRIED TO END THE HEARING, MY LAWYER CITED SOME KIND OF LAW AND THE JUDGE AGREED THAT I COULD COUNTINUE WITH HIM.. THEY TRIED TO TERMINATE MY LEASE. UNDER FALSE PRETENSE SO I KNOW THIS COULD HAPPEN AND I THAT'S WHY I RELATABLE TO HIS STORY, { I TOLD HIM mines so he asked me to tell his story also he did not want to speak in fear of his current job conflict of interest}. OF THE TENANTS STATEMENT TO

ME IN REFERENCE TO HOW HE WAS TREATED. BUT MY OUTCOME BECAME BETTER. BECAUSE I HAD LEGAL REPRESENTATION AND HOUSING WAS FOUND TO BE IN VIOLATION. AND I BELIEVE IF THIS TENANT HAD A RIGHT TO COUNSEL, HE WOULD NOT HAD BEEN REMOVED FROM HIS HOME. TO MAKE A LONG STORY SHORT I BELIEVE A RIGHT TO COUNSEL IS IN ORDER FOR ANYONE WHETHER THEY LIVE IN NEW YORK CITY HOUSING AUTHORITY OR ANY FORM OF HOUSING. BECAUSE THE ADMINISTRATIVE JUDGES AND CITY APPOINTED LAWYERS ARE TOO PERSONAL, TOO FRIENDLY AND THEY DO NOT HAVE THE BEST INTEREST OF THE ACCUSED. IN CLOSING I WOULD LIKE TO SAY. THAT THERE NEEDS TO BE A CHANGE AND A STRONG CHANGE IN THE HOUSING COURTS AND THAT THE TENANTS SHOULD HAVE THE RIGHT TO COUNSEL. SO, THEY CAN GET A FAIR AND DESERVE TRIAL, REPRESENT THE CASE AND TO BE HEARD IN A JUST MANNER, AND IF ANYONE SHOULD LISTEN TO THEM MOST OF THE TIME THEY ARE IN THE RIGHT AND EVEN IF THEY ARE IN THE WRONG THERE IS STILL. SOME PRECAUTIONS THAT THEY CAN TAKE IN ORDER TO RIGHT A WRONG. THESE LANDLORDS INCLUDING NEW YORK CITY HOUSING AUTHORITY HAVE THEIR LAWYERS PRESENTING THEIR SIDE AND I FEEL THAT THE TENANTS SHOULD HAVE A UNBIAS LAWYER TO PRESENT THEIR SIDE OF THEIR STORY, DEFEND THEMSELVES AND TELL THEIR TRUTH/STORY. SO THAT A FAIR AND EQUAL OPPORTUNITY AND JUSTICE IS SERVED FOR BOTH SIDES UNDER A FAIR LAW. THE ONLY WAY THE TENANTS WILL GET AN HONEST AND FAIR HEARING IS IF THEY HAVE A RIGHT TO COUNSEL PREFERABLY ONE OF THEIR CHOOSING. THANK YOU FOR LETTING ME HAVE THE OPPORTUNITY. TO REPRESENT THE STORY TO ALL PARTIES THAT ARE LISTENING.

To: The NYC Council's Committee on General Welfare

Date of hybrid hearing: Friday, March 3, 2023

This is a 2-page testimony submitted by: Hui Cheng email: WSNAinfo@HCC-nyc.org

Date of this testimony: Thursday, February 16, 2023

It's outrageous that the City has failed to uphold and protect one of its most effective and wonderful tools to stop displacement, reduce homelessness and expand and uphold tenants' rights: Local Law 54, also known as the Right To Counsel NYC. (Formerly known as LL 136/2017) In the midst of a housing crisis, the City has allowed its own powerful law to be violated.

It's with great pride that I remind you that NYC was the *first* city in the nation to establish RTC after 3 years of fighting. On the heels of our success, 15 other cities and 3 states have passed RTC: yes, New York City again inspires the rest of America. Here, RTC had wonderful impact in its first few years: 84% percent of tenants who had an RTC lawyer won their case and stayed in their homes. Also, we saw landlords suing with less frequency, and even today, various NYC community groups are actively using RTC as a powerful tool to protect and advance tenants' rights. RTC has created other positives as you'd expect: for example: It has helped build a body of caselaw, it has sometimes even helped in lowering tenants' rents and re-Stabilize apartments, and has forced landlords to make repairs.

Yet, in the last year, more than 16,000 New York City tenants were *denied* Right To Counsel, *even if they qualified!* Specifically on this, what we're outraged about is the backwards "logic" that housing cases "**must**" move forward at a fast rate with minimal adjournments. The end result? Tenants in the 5 boros, even RTC-eligible ones, are denied their legal right to a lawyer, and justice isn't served. A landlord could be simply inconvenienced by the schedules Housing Courts create, but for tenants, quick calendaring (and judges denying adjournments because they lack respect for RTC) often leads to unfair eviction. Housing insecurity has a disproportionate impact on people of color, especially women and children of color. Evictions and housing instability have ramifications not just on people's housing, but on people's education, employment, family relationships, physical and mental health, etc. NYC's Right to Counsel moves us closer towards achieving economic, gender, and racial justice.

We understand one of the challenges you face is that housing court judges aren't currently required to respect a City law. Today, housing court judges individually have the power to grant or not grant adjournments for tenants; and while OCA *could've* written rules for the judges to align with the spirit of RTC/Local Law 54, OCA simply chose not to.

Even now, when we try to interact with OCA, our logic continues to fall on their deaf ears. It is worth noting: For a few years pre-COVID-19, courts were adjusting calendars and respecting RTC, including things like signage, additions to court papers, and judges making announcements. This was done in close collaboration with HRA's Office of Civil Justice (OCJ). So as you can see, there *was* a time when OCJ cooperated with us, listened, put strategic pressures on OCA, etc., and we saw positive effects. Sadly, OCJ under Mayor Eric Adams's administration hasn't yet shown the same political will (compared to past years) to persuade OCA to respect Local Law 54.

The bullets below are what we at the Right to Counsel NYC Coalition are calling on New York's court system to do. In the spirit of justice, we ask that you fight with us.

- Calendar new eviction cases only after all eligible tenants with currently pending cases have retained counsel for full representation.
- Reduce the volume of eviction cases on court calendars so that the number of new cases each day matches legal service providers' capacity to provide full representation to all eligible tenants.
- Provide sufficient time between court dates to allow time for lawyers to complete essential work on each case, keeping in mind the current staffing shortages and work overload.
- Administrative orders must be written mandating that all eviction cases where a tenant is eligible for RTC be administratively stayed until the tenant has had an opportunity to meaningfully meet with and retain an RTC attorney.

If you believe in due process, if you believe in RTC's vision of justice, then our focus on adjournments is easily understood. Both OCJ and the city administration should commit to upholding RTC/Local Law 54; this includes recognizing any attempts to water it down! With that said, please do not accept OCA's insane "logic" that cases must move at lightning speed. For thousands of folks, this flawed "logic" has practically erased a powerful law and they were denied their rights.

Kind regards, Hui Cheng

Tenant and constituent of City Council District 3

Bonus reading: My personal story with Housing Court and retaining a lawyer/Why RTC is crucial:

docs.google.com/presentation/d/1ROhZKaiwpctLxITVs3JRIMGmO6jiR1Aj-291qVt5vaM/edit?usp=drivesdk

From: Jeanetta Freeman <freemanjeanetta@gmail.com>
Sent: Saturday, March 25, 2023 12:40 PM
To: Testimony
Subject: [EXTERNAL] Right to Counsel Testimony

To whom it may concern,

I thank the Lord everyday for the men and women of Right to Counsel who helped me to stay in my home for which I have lived for twenty-three years.

Without Right to Counsel I would be homeless.

I live on the Upper West Side on West 74th Street between Broadway and West end Avenue in one of the last women's residences in New York City. I live a minimalist lifestyle in a lovely room with my own private bathroom in one hundred twenty-three square feet.

A few years ago my landlord hired a new management firm and gave them instructions to clear out my neighbors and I. Many of my neighbors had been living here for over forty years, and they wanted us gone so that they could increase the rents to the present market value and make the residence transient..

Right to Counsel represented me pro bono as I did not have the means to hire an attorney. Right to Counsel fought for me and guided me through a legal battle, which should have been a terrifying experience, but was not because of their caring and unflinching professionalism.

Right to Counsel let me know I had rights as a tenant and that I was not helpless in the sight of tenant/landlord law.

Right to Counsel made sure that my day in court was a day of justice and equity and because of them I am not homeless and I am not a burden to the system.

I thank Right to Counsel and the Goddard Riverside Law Project for all their assistance in my time of need and their continued efforts to help others.

Please, I ask that the City Council vote to fully fund Right to Counsel and make Right to Counsel available statewide.

Sincerely,
Jeanetta Freeman

From: Jeff Courter <rev.jeffrey.courter@gmail.com>
Sent: Monday, March 27, 2023 11:59 AM
To: Testimony
Subject: [EXTERNAL] Right to Counsel for persons facing eviction

Dear Public Servants -

First, thank you for serving our city. You are part of what makes New York a great place to live! I appreciate how difficult your jobs may be at times, but we rely on you to help us who live here.

I am writing to support the rights of those who live here who are facing eviction. Right now, over 17,000 New Yorkers are facing eviction. They deserve the right to have counsel to help them work with their landlord. Most who face eviction have limited financial resources, so any public assistance they can get will help them. Ultimately, landlords would rather keep their renting tenants, but some landlords use evictions to raise rents, which can be unfair. The right to counsel should be funded to make things fair for all parties.

Thank you for considering my comments.

Sincerely,

Rev. Jeffrey Courter
First Presbyterian Church of Forest Hills (Queens)
(718) 268-4036
www.PresbyFH.org

NYCCouncil testimony General Welfare with Housing and Buildings
27th of March, 2023 10 AM

Greetings my/our honorable (110th) NYCCouncil
My name is Mx. Joe-Anthony Sierra & reside at
St Mark's Pl, St. George,
Staten Island, NY, 10301-1657 Richmond County
NYC Council District 49

I above-named testify before your honors under penalty of perjury.

The above-mentioned address has been my residence for sixteen years
July 2023.

It is a Mitchell-Lama HPD supervised post Asset management have
erroneously miscited law regarding renewal of leases on existing tenants
post renovation in court ordered preservation.

The US Senator of NY requested that they on order to seek the
displacement of all individuals after they had a change of mind in renewing
the mortgage as agreed with US dept of HUD, for them to get the clearance
from the Secretary. Ultimately denied property owners/aka management
sued HUD and their response for the US agency to mind their business in
REBNY accustomed market standards, the judge agreed with HUD that
there wasn't any affordable housing in the area, therefore to be preserved.

- I won in conference with my defense that my original lease withstood
moreover transfer of ownership as HPD & the petitioner cited 'new
owners'.
- I thank you & implore you to make RTC Right To Council stronger in
perpetuity. I lobbied 109th previous NYCCouncil for RTC.
- I never would've sacrificed myself as a Tenant Advocate facing the
potential of eviction, the scariest thing after a natural
disaster/crash/tragedy if it wasn't for the Right To Council.
- The property owner has violated the terms of their financing & HPD
does not care has shown favoritism. I won't go as far to speculate

that it is an intimate one but demonstratively a favorable thus in my case biased relationship nonetheless.

- I have done pretty well not being represented by counsel.
- I waited three and half years to get a decision. Hearing July 2018 received Jan 2023 & I had to demand it. In the interim suffered at the hands of landlord agents. That was enough time to shop for a judge.
- I cite illegal eviction because in the Mitchell-Lama law NY consolidated Private Housing Finance Article II Limited Profit Housing Companies they cited renewal of leases-I responded after demanding they show it that it does apply to me as it specifically applies to new or transfer tenants, I am neither.
- In absence of it shouldn't be covered by Congressional consolidation of HUD anti-displacement, I cite half the building of 434 units. HPD never cared about my alleged Finance violations of the petitioner.
- I lost hearing and was expected as I said the truth of which none of my defenses were mentioned only that of the petitioner I object as hearsay it is their way of doing business as if it were a legal HUD rules and regulations standards when it isn't.
- We are Section 8 as in reaching out to the NYC 109th Mayor it was granted as a solution to keep housed as possible. Yet there was still a massive displacement in forcing in unit tenants to renew leases under duress with threats of immediate eviction. I became a tenant advocate and sacrificed myself to tell the wrongdoing.
- Autonomy of HPD is scary. I pray the NYC Council Committee will fix that. In the Hearing decision ordering me to renew a lease even after I challenged their defense not in the law, "new owners reason that I must renew a lease."
- Section 8 tenants never sign leases as applicant or in lease renewals pursuant to HUD required contract is signed by project/landlord agents before Section 8 HUD local agent gives clearance to tenant to sign a new lease or renew which usually means agreed to rental increase. Hypothetically the choice remains that of the tenant.
- HPD cited the City Charter to be able to tell me that I must sign a lease I can not afford, moreover as a Section 8 recipient.

- The petitioner's violation was to demand that existing tenants renew leases before the Section 8 applications determinations were finalized. Many were not accepted thus causing displacement in which law says should've been reimbursed for the hardship. It is not only for renovation purposes they were deceived of their rights and HPD let it happen scary that they cite NYC City Charter as the right to do so.
- Moreover HPD deceived me by telling me from the very start of conferences held every month for many months until I requested a hearing that I was unable to appeal the administrative judge aka asset manager/lawyer' decision. Recorded as I brought it up at hearing.
- In the Hearing decision I missed the one sentence regarding my/the 'right to an appeal~Article 78. In a hearing last month I brought this egregious issue up that I was denied the right to an appeal from day one to the 1st conference except in hearing. It was recorded on audio tape.
- The property owner is HUD multi financed and has violated the terms of the financing with as I claim mass displacements HPD doesn't care & both may have defamed me to HUD therefore may have prevented an inquiry.
- Moreover property owners are in violation of financing thus HUD contract systemic accounting irregularities I have documented three years of it personally was HPD notified & supervision dismissed health violations complaints denial if building wide services as the matter was under litigation.
- Moreover HPD ignored how property owners also violated financing HUD contract with landlord harassment (partial in/of existing tenant units) renovation no one was afforded the right to temporary accommodations as per anti-displacement Congress codified HUD rule on the bottom signature line of contract.
- As tenant advocate I had to contact NYC EPA regarding the renovation harassment after seeing many tenants were dying weekly; those that did die had suffered from lung diseases-a stop order was

issued of the two buildings simultaneous renovation, what felt to many as a freight train derailed into our homes/units.

- I pray to NYC Council to demand HPD (Frances Lipa) stop deceiving tenants. How many that came before were told from the beginning of (illegal) certificate of eviction conferences that they couldn't appeal an intent to mislead except after hearing corrected therefore disclosed & potentially missed by inhabitant as was my case.
- The NYC Charter is under the US constitution and does give HPD autonomy moreover the power to deny constituents/inhabitants rights.
- I have a hearing in the above matter whether a certificate of eviction will be granted because I won't be strong armed under duress to illegally renew a lease as Section 8 client pursuant to addendum landlord agents sign before applicant is granted permission to sign a lease, same applies to renewal of leases.
- HPD did not care about their failure and that of HPD Section 8 to miss (financing=blueprints sign off) that the building was (a grandfathered mistake) inadequately ventilated as per (NYC/HPD) building codes/requirement of gas stove/heating elements in kitchens without a window to have egress ventilation. Twelve units on each floor only center (4 total 2 on each side) center 1 bedroom units have them not the corner or elevator bank (2 are 1 bedroom) units have kitchen gas exhaust vents. HPD ignored my advocacy for correction years before COVID 19. It spread like wildfire & how I caught it-I had a face covering from 8th of March 2020 when the state announced to do so with a state of emergency.
- I pray to the NYC Council to make all administrative hearings (HPD) transparent & easier. How does a person with limited education file an Article 78 without counsel, not a denial of rights from the hardship.
- I wish to continue but am limited with a 72 hour expiration. Plan to keep HPD committee abreast of situation as faced with an illegal eviction HUD does not have the power to stay if the landlord wouldn't have LGBTQIA discriminated I never would've been granted an inquiry in the above issues raised. US HUD Fair Housing Equal Opportunity (FHEO) is investigating yet I still face a potential eviction

and not from rent arrears I have over two months of a rent credit (my section 8 portion)

- Thank you please keep RightToCounsel RTC.

From: Siide Gil-Frederick <sweetsiide@icloud.com>
Sent: Monday, March 27, 2023 1:40 PM
To: Testimony
Subject: [EXTERNAL] Committees on general welfare and housing and buildings

RTC is a law that passed 2017. It should be enforced like any law if not then you should be on trial and evicted from your position. We all have a right to be represented by counsel so we're not violated and illegally evicted from our homes. We can barely afford to live in New York because we don't make \$100k or more. The shelters and the streets should never be an alternative. Give us our dignity and help fight to keep us in our homes. Consider the shoe can be on the foot in a blink of an eye ie pandemic. We are still in a pandemic and trying to survive. Banks get a bail out but we can't get a hand out!!!!

Sent from my iPhone

From: Sophie Glickman <sophieglickman@gmail.com>
Sent: Thursday, March 23, 2023 6:51 PM
To: Testimony
Subject: [EXTERNAL] Testimony for the Oversight Hearing on RTC law 53

Dear Council members,

I am writing to testify about my deep concern over the lack of access to counsel for many New Yorkers facing eviction.

A neighbor and friend of mine was in eviction court yesterday (Wednesday March, 22). Although she and I both tried to get representation for her from the moment she learned she was in peril of eviction, no legal counsel was available. As a result, she had an unfair trial, in which the judge rushed her along, barely let her speak and sided with her landlord, giving her just three days to pay arrears or be evicted. This was despite the fact that she has been living in bad conditions, with a leaky bathroom and no gas (violations that have been made against the building) for many months. She had already been using all her social security money to pay the back rent, and I (a teacher in Brooklyn schools) had to step in this week so she and her children would not be on the streets in our already-crowded homeless shelters

Her management company (Concord Management of NY LLC) is making money off the backs of poor New Yorkers. The internet is full of horror stories about the company and tenant after tenant cites them as negligent when it comes to making repairs, but ever-present when it comes to collecting rent. Additionally, they charge their tenants \$20 per electronic payment of rent.

My neighbor and so many other New Yorkers are at the whim of judges in the courts as they go up against powerful and huge real-estate companies. Being unable to keep up with rent is hard enough on a person's dignity, they should not have to face court without counsel. This dire situation must be rectified. Tenants need a genuine right to representation.

Please do your part to keep this city livable and humane.

Sincerely,
Sophie Glickman

From: Sweetsiide <sweetsiide10@gmail.com>
Sent: Monday, February 13, 2023 7:13 PM
To: Testimony
Subject: [EXTERNAL] RTC testimony

Good evening,

I am single working mother whom can't afford an attorney nor rent for possible eviction during and current pandemic. I have been diagnosed with cancer in addition to having asthma (immunocompromised). My daughter has asthma and found lead in her blood as well. I am in constant fear of losing my apartment because I have no tenant protections.

Concerned Parent

Sent from my iPhone

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Pam Ashwood

Address: 1001 WARDY (RST)

I represent: CASA

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Gordon Lee

Address: 1 Saint Pauls Court Brooklyn 11226

I represent: All Groups

Address: 1 Saint Pauls Ct.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Claristine Gardner

Address: 1064 CUNY HILL

I represent: CASA

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: KAREN ADAMS

Address: DISPLACED FROM BRONX APARTMENT

I represent: CASA

Address: BRONX NY

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: WILLIAM BERSHADSKY

Address: E 8 ST

I represent: FLATBUSH TENANT COALITION

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 345,499

☒ in favor ☐ in opposition

Date: 03/27/2023

(PLEASE PRINT)

Name: Sylvia Sanchez

Address: Coster St. Bx 10474

I represent: CASA

Address: BRONX

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: 3/27/23

(PLEASE PRINT)

Name: CRISTINA K. BLATTMAN - COUNCIL

Address: 70 W 11th St, NY NY

I represent: Strategic Services Project

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: 3-27-2023

(PLEASE PRINT)

Name: Leslie Thorpe

Address: _____

I represent: Housing Conservation Coordinators

Address: 777 10th Ave NYC

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: 3/27/23

(PLEASE PRINT)

Name: TOM GOGAN

Address: 5th St Brooklyn 11215

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: 3/26/23

(PLEASE PRINT)

Name: Jonathan Fox

Address: 100 Pearl St

I represent: NYLAG

Address: 100 Pearl St, 19th Fl, New York, NY

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 3415-2022

☒ in favor ☐ in opposition

Date: 3/27/23

(PLEASE PRINT)

Name: Jeffrey Austin

Address: 11th St, Brooklyn NY 11215

I represent: CAMBA Legal Services

Address: 241 37th St, Brooklyn 11232

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: 3/27/23

(PLEASE PRINT)

Name: Lauren Price

Address: 177 Livingston St, 7th Fl, Brooklyn, NY 11201

I represent: Brooklyn Defender Services

Address: 177 Livingston St, 7th Fl, Brooklyn, NY 11201

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

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

☐ in favor ☐ in opposition

Date: 3-27-23

(PLEASE PRINT)

Name: Lauren Price - Brooklyn Defense Services

Address: 177 Livingston St

I represent: Brooklyn Defense Services

Address: "

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

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

☐ in favor ☐ in opposition

Date: 3/27/2023

(PLEASE PRINT)

Name: Nakeeb Siddique

Address: Hendrix Street, Brooklyn, New York 11207

I represent: The Legal Aid Society

Address: 199 Water Street, New York, New York 10038

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

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

☒ in favor ☐ in opposition

Date: 3/27/23

(PLEASE PRINT)

Name: OMARAX ROSA

Address: Elkapi Brooklyn 10475

I represent: Harlem Community Justice Center

Address: 170 E 121ST ST NY NY 10035

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: March 27, 2023

(PLEASE PRINT)

Name: NYDIA LEAF

Address: 46 West 95 St #3B NYC 10025

I represent: Gaanny Peace Brigade

Address: SAME

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Marricka Scott-McFadden

Address: 4 WTC

I represent: Dept of Social Service

Address: DSS/HRA 13HS

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: 3/27/23

(PLEASE PRINT)

Name: BRUCE JORDAN

Address: 4 WTC

I represent: DSS-HRA

Address: 4 WTC

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: 3/27/23

(PLEASE PRINT)

Name: Raniece Medley

Address: 150 Greenwich St, 38th Fl, NY, NY 10007

I represent: Department of Social Services (DSS) off road Civil Justice

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: 3/27/23

(PLEASE PRINT)

Name: Chris Helwig

Address: 317 Lenox Ave. 10th Fl. NY 10027

I represent: Neighborhood Defender Service

Address: same

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: 3/27/23

(PLEASE PRINT)

Name: Runia Rajagopal (The Bronx Defenders)

Address: 360 East 161st St By NY 1051

I represent: Legal Service Providers / Leap /

Address: Tenants

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☒ in favor ☐ in opposition

Date: 3/27/2023

(PLEASE PRINT)

Name: Addiana Montgomery

Address: TakeRoot Justice

I represent: TakeRoot Justice

Address: 123 William St. 16th Fl. NY, NY 10038

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☒ in favor ☐ in opposition

Date: 3/27/23

(PLEASE PRINT)

Name: Jenny Lavne

Address: 50 Broad St, NYC 10004

I represent: Housing Court Answers

Address: 50 Broad St NYC 10004

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: LOYD SMITH

Address: E. 28th St. BRKlyn

I represent: _____

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Pilar D.

Address: C#9

I represent: East Harlem

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: 3-2-2023

(PLEASE PRINT)

Name: PAULEHE J. J. J.

Address: NYC AVE BKLYN, ZIP 11210

I represent: FLATBUSH TENANT COUNCIL

Address: 1016 NEW YORK

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☒ in favor ☐ in opposition

Date: 3/27/2023

(PLEASE PRINT)

Name: Joanne Grell

Address: Hobart Ave. Bronx NY

I represent: RTC Coalition/CASA

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: KERIANN PAULS

Address: _____

I represent: TAKEROOT JUSTICE

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: JESSICA BELLINDER

Address: _____

I represent: LEGAL AID SOCIETY

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: PRIAM SAYWACK

Address: _____

I represent: LEGAL SERVICES NYC

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Jessica Bellinder

Address: The Legal Aid Society Bronx

I represent: Legal Aid - Tenants

Address: 200 E 161st St. 8th Fl Bx, NY 10451

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☒ in favor ☐ in opposition

Date: 03/27/2023

(PLEASE PRINT)

Name: Yoselyn Gomez

Address: Grand Concourse, Bronx

I represent: CASA

Address: 35 Marcy place

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☒ in favor ☐ in opposition

Date: 03/27/2023

(PLEASE PRINT)

Name: Ana Galvez

Address: E 149 St

I represent: CASA

Address: 35 Marcy place

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: 3/27

(PLEASE PRINT)

Name: Charles Messick

Address: 1750 Sedgwick Ave

I represent: Bronx N.Y. 10453

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☒ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: NICOLAS VARGAS

Address: TAAFFE PL

I represent: Myself

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☒ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: THERESA HIMELSPACH

Address: CLAREMONT AVE,

I represent: MYSELF

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☒ in favor ☐ in opposition

Date: 3/27/23

(PLEASE PRINT)

Name: Esteban Simon

Address: Carroll Street, Brooklyn, NY

I represent: Crown Heights Tenant Union

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: MONICA SCHREIBER

Address: IRVING AVE

I represent: Tenants

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. Local Law 53 Res. No. _____

☐ in favor ☐ in opposition

Date: MARCH 27, 2023

(PLEASE PRINT)

Name: Chaplain, Sandra Mitchell

Address: East 181st Street, Bx NY 10457

I represent: CASA - New Settlement Apt.

Address: 35 Mary Place, Bx NY

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

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

☐ in favor ☐ in opposition

Date: 3/27/23

(PLEASE PRINT)

Name: Bryan Fatino

Address: W 47th St, New York, NY 10036

I represent: _____

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

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

☒ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: ALVARO CORIA

Address: 51 WEST 109TH ST, NYC 10025

I represent: GODDARD RIVERSIDE LAW PROJECT

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

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

☐ in favor ☐ in opposition

Date: 3/27/2023

(PLEASE PRINT)

Name: Nathan Mitchell

Address: WOODYCREST AVE, BX NY 10452

I represent: CASA

Address: 35 MARCY PL, BX NY 10452

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: 3-27-23

(PLEASE PRINT)

Name: Wanda Martinez

Address: 34 Rd Qns NY 11372

I represent: CMS

Address: Qns NY

**THE COUNCIL
THE CITY OF NEW YORK**

*Spanish
Interpretation
needed*

Appearance Card

I intend to appear and speak on Int. No. Local 53 Res. No. 499/345

☒ in favor ☐ in opposition

Date: 3/27/2023

(PLEASE PRINT)

Name: Valentin LOPEZ

Address: _____

I represent: Community Action for Safe Apartments

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. Local 53 Res. No. 499/345

☒ in favor ☐ in opposition

Date: 3/27/2023

(PLEASE PRINT)

Name: Sandra Mitchell

Address: _____

I represent: Community Action for Safe Apartments

Address: _____