

**NYC OFFICE OF CIVIL JUSTICE’S HEARING ON PROGRAMS TO PROVIDE  
UNIVERSAL ACCESS TO LEGAL SERVICES FOR TENANTS FACING EVICTION**

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**JOINT TESTIMONY ON RIGHT TO COUNSEL: A CRITICAL PROGRAM FOR TENANTS  
AND NEW YORK CITY**

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**INTRODUCTION**

New York City made history in 2017 by becoming the first municipality in the nation to pass a Right to Counsel (RTC) law for housing court cases. Heralded as a groundbreaking initiative, the RTC program has proven to be an essential lifeline for tenants with low income, offering them a fighting chance to remain in their homes and avoid the devastating consequences of eviction. The success of this program in preventing homelessness and keeping families housed is not just anecdotal; it is backed by concrete data and real-world outcomes<sup>1</sup>. As of October 2024, 24 jurisdictions across the U.S. have implemented some form of Civil Right to Counsel<sup>2</sup>, with many looking to New York City’s model as a guide. After eight years of implementation, the evidence is clear: the Right to Counsel works.

Providing legal representation to tenants facing eviction is critical. Studies consistently show that tenants with legal representation in eviction proceedings are significantly less likely to be evicted. In New York City, 84% of tenants with an attorney remain in their homes, while eviction

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<sup>1</sup> See, The Effect of Legal Representation on Tenant Outcomes in Housing Court: Evidence from New York City’s Universal Access Program, by Mike Cassidy, Janet Currie. Journal of Public Economics Volume 222, June 2023.

<sup>2</sup> See, National Coalition for a Civil Right to Counsel, [Tenant right to counsel](#) last visited January 20, 2025.

filings and default judgments have dropped by 30%.<sup>3</sup> Furthermore, legal representation results in fewer judgments of possession and lower money judgments. The impact of RTC goes beyond keeping families housed. Evictions have far-reaching consequences, not only affecting housing stability but also impacting employment, physical health, and mental well-being. Even when eviction cannot be avoided, legal representation often buys tenants valuable time to navigate related challenges, such as finding alternative housing or stabilizing their finances<sup>4</sup>.

But the benefits of RTC extend beyond the tenants themselves—it also saves the City money. By reducing the number of people who enter the shelter system, the program helps alleviate one of the most expensive items of the City’s budget. In Fiscal Year 2023, the Department of Homeless Services (DHS) spent over \$2.2 billion on shelter operations, with average stays for individuals lasting more than a year. The funding required to fully implement RTC is a fraction of that amount, making it a cost-effective tool to address the housing crisis, preserve affordable housing, and stabilize vulnerable communities.

Despite its proven success, the RTC program is not without challenges. Eight years into implementation, there remain significant gaps in coverage, particularly with the program’s expansion to all eligible tenants Citywide. Following the end of pandemic-related eviction moratoriums and the increased volume of eviction cases, many tenants—especially in high-need areas—are still underrepresented in Housing Court. In fact, as of the end of Fiscal Year 2023, nearly half of tenants in eviction proceedings were unrepresented, highlighting the critical need for more resources.

The provider community has long advocated for a comprehensive approach to strengthen RTC. In their 2023 [Concept Paper](#), legal services providers outlined a clear path forward, recommending increased funding to meet the program’s actual needs, equitable wages for legal service providers, and an expanded capacity to match demand. Additionally, the [Universal Access to Justice Caseload Working Group’s August 2023 report](#) revealed that an experienced attorney can defend only 48 eviction proceedings annually, underscoring the need for more resources and staff to meet the overwhelming demand.

The City took a step forward in Fiscal Year 2023 by issuing its first Request for Proposals (RFP) for RTC services. The RFP aimed to provide representation for 44,444 households, but the outcome further strained the program, creating a wide disparity in case rates and funding much fewer than 44,444 households. Nonetheless, the provider community remains unwavering in its commitment to ensuring that RTC reaches its full potential—helping prevent homelessness, building tenant power, and ensuring fairness in Housing Court.

As we look toward the future, continued and increased funding for the RTC program is not just a moral imperative; it is a smart, cost-effective investment in the City’s future. By fully supporting RTC, we can ensure that New York City remains a place where all tenants have access to justice and the opportunity to thrive in their homes. With lessons learned from the last eight years, we

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<sup>3</sup> Id.

<sup>4</sup> See, The Effect of Legal Representation on Tenant Outcomes in Housing Court: Evidence from New York City’s Universal Access Program, by Mike Cassidy, Janet Currie. *Journal of Public Economics* Volume 222, June 2023.

are ready to move forward with solutions that meet the need and protect the most vulnerable New Yorkers.

This testimony highlights the critical issues currently facing Right to Counsel (RTC) providers in New York City, beginning with the ongoing delays in payment that threaten our ability to sustain our operations. Despite timely registration of contracts with the Human Resources Administration (HRA), providers have been unable to invoice for services since July, placing immense financial strain on our organizations, particularly smaller ones. This delay, coupled with a proposed 10% penalty on payments and a new policy that reimburses only 90% of invoices, undermines the fiscal viability of our programs and puts at risk the delivery of high-quality legal services. Additionally, the FY25-27 RTC contracts fall far short of addressing the growing need for legal representation in eviction cases, underfunding these services and failing to account for the complexities of eviction defense. The RFX's proposed case rates are insufficient to cover the costs of providing competent, holistic representation, and the elimination of compensation for advice or brief services further limits access to legal support for vulnerable tenants. Reporting requirements imposed by the Office of Civil Justice (OCJ) exacerbate these challenges, diverting resources away from client advocacy. Moreover, the RFX's failure to account for rollover cases or adjust funding to reflect the true scope of eviction defense work risks undermining the effectiveness of the RTC program. We urge the City to take immediate action by providing necessary payment advances and revising the contract terms to ensure the sustainability and integrity of the Right to Counsel program.

The following is an overview of the points we address in detail below:

- I. The City Should Reform its Current Contracting Process
  - a. The City's Current Contracting Process Is Marked by Significant Disorganization
  - b. The Current Delay in Payment Jeopardizes Providers' Ability to Provide Crucial Legal Services to Clients
  
- II. The Providers Have Significant Concerns about the FY25-27 RTC Contract
  - a. The Funding Does Not Meet the Demand for Representation in Eviction Cases
  - b. For Many Providers, the Contracts Do Not Cover the Full Cost of Providing Anti-Eviction Service
    1. Legal Services Agencies Are Not Monolithic and Our Varying Structures, Staffing, Operation Costs and Catchment Areas Served Mean that We All Have Different Cost Structures
    2. 10% Reduction in Compensation Should Be Eliminated or Its Imposition Must be Suspended
    3. Failure to Account for Rollover Cases
    4. Elimination of Compensation for Advice or Brief Services

5. Onerous Reporting Requirements Imposed by OCJ Have Created Significant Challenges
6. OCA Caseload Report Must Be Taken into Account in OCJ's Administration of the RTC Program

III. The Administrative Part Pilot Should be Evaluated and Improved

IV. OCJ Must Partner with Providers to Bolster Recruitment and Training and to Address Attrition

I. The City Should Reform its Current Contracting Process

a. The City's Current Contracting Process Is Marked by Significant Disorganization

Nonprofit organizations face significant disadvantages in comparison to City agencies when it comes to contracting and funding processes. While City agencies begin the fiscal year with their funding already allocated and confirmed, nonprofits are often left waiting for funding confirmation, sometimes for months into the fiscal year. This delay in securing funding allocations and awards creates operational challenges and financial uncertainty for nonprofits, undermining their ability to deliver essential services to New Yorkers who rely on them. Additionally, the registration of the respective contracts can also take months, if not years, which further delays the availability of funds and wreaks havoc on nonprofits' budgets and financial statements.

Furthermore, nonprofits are subjected to a complex, bureaucratic reimbursement process that is characterized by frequent changes in rules, requirements, and deadlines. This lack of clarity and consistency creates inefficiencies and delays, forcing organizations to expend valuable time and resources navigating a convoluted system rather than focusing on their core mission of service delivery.

The City must ensure that nonprofits receive their funding allocations in a timely manner at the beginning of each fiscal year. Delayed funding confirmation forces organizations to operate without financial certainty, placing their operations, staff, and services at risk. By aligning the timing of nonprofit funding with City agencies and ensuring timely contract registration, the City can level the playing field and allow nonprofits to plan and execute their programs without interruption.

In addition to timely funding confirmation, nonprofits require a clear and consistent set of reimbursement guidelines to minimize confusion and ensure that payments are processed quickly and efficiently. The City should provide detailed and stable guidance on reimbursement procedures, clearly outlining the expectations and documentation requirements upfront. Furthermore, the City must avoid sudden changes to reimbursement rules mid-year, which can create operational disruptions and financial challenges for nonprofits.

The City must also streamline the contracting process itself, reducing unnecessary paperwork and bureaucratic hurdles that slow down the approval and payment process. Nonprofits should be

able to enter into contracts and submit invoices without facing excessive delays due to administrative red tape. By making the contracting process more efficient and user-friendly, the City will allow nonprofits to focus more on their mission of service delivery, rather than spending valuable resources navigating a complicated system.

Finally, to address cash flow challenges, the City should consider implementing pre-approved advances or interim payments based on established milestones. This approach would help nonprofits cover operating expenses and ensure that they can continue to serve their communities while waiting for full reimbursement. Advances should be issued promptly and proportionally, reflecting the work being done, so that nonprofits have the necessary financial flexibility to maintain their operations.

By implementing these reforms, the City can reduce the operational burdens placed on nonprofit organizations, enabling them to better serve New Yorkers in need. Streamlining the contracting and funding processes will lead to more effective service delivery, reduced administrative costs, and a more sustainable nonprofit sector that is better equipped to fulfill its vital role in the community.

**b. The Current Delay in Payment Jeopardizes Providers' Ability to Provide Crucial Legal Services to Clients**

The most urgent issue facing Right to Counsel (RTC) providers is the ongoing delay in receiving payment on contracts with the Human Resources Administration (HRA), which includes critical funding for RTC and the Anti-Harassment Tenant Protection Program (AHTP). While these contracts were registered on time, none of the nonprofit legal service providers that offer essential housing legal work for low-income and vulnerable tenants have been able to submit invoices for payment due to the City's failure to approve our FY25 budgets. As a result, RTC providers have now gone six months without being able to invoice, except for limited advances that fail to cover providers' full costs. These outstanding amounts are on top of the significant amounts owed providers for FY24 contracts. These payment delays are threatening the viability of our organizations, especially for smaller nonprofits, and jeopardize our provision of legal services to those facing eviction or housing instability. These delays not only jeopardize our capacity to meet payroll but also undermine our ability to fulfill our mission of providing high-quality, timely legal representation to those most in need, many of whom are facing imminent eviction.

While the advance on baseline City contracts this year was an appreciable improvement, we are now beyond the period these advances cover, and we have no way to receive additional payment on these contracts beyond these advances. Even though HRA has been working to resolve this issue, providers are still not able to submit invoices. Nonprofit RTC providers need to be able to invoice monthly to ensure they have enough cash to make payroll, and to continue providing much needed services. RTC providers cannot rely on the uncertainty of advances that may not come in time. Some organizations are already relying on or about to exhaust lines of credit. Nonprofits cannot continue to operate this way.

This threat is further compounded by HRA's position that when it does begin making payments on the RTC contracts, it will pay the nonprofit providers only 90% of their invoices, whether

they are meeting performance milestones or not. This plan, only shared with providers in mid-October 2024 after contracts were bid and issued (and not referenced in any contractual document) is disastrous for nonprofit RTC providers and is an extremely damaging way to implement a new performance-based payment provision. This scheme unnecessarily undermines the effort to expand and improve this program for New Yorkers in need.

## **Recommendation**

As the City continues to disentangle the bureaucratic morass that has utterly upended the orderly registration of contracts and payment of invoices, to ensure that RTC providers have sufficient cash to operate, the City must (1) follow through on its commitment to allocate an additional 20% advance immediately and (2) commit to additional monthly advances until it is current in the payment of invoices submitted by RTC providers.

Additionally, the City should pay the full 100% on invoices for the reasons stated herein and below.

## **II. The Providers Have Significant Concerns about the FY25-27 RTC Contract**

### **a. The Funding Does Not Meet the Demand for Representation in Eviction Cases.**

On August 3, 2023, the City published the Anti-Eviction Full Legal Representation RFX with anticipated funding of \$408,520,077 for fiscal years 2025 through 2027.<sup>5</sup> This funding was originally to provide full legal representation for 44,444 eviction cases each year.

According to the New York state Unified Court System's Statewide Eviction information, eviction filings in 2023 in New York city totaled 138,746.<sup>6</sup> Based on filing numbers, we anticipate that there will be 71,000 cases per year eligible for full legal representation. Providing funding for full legal representation for only 62% of eligible tenants is the antithesis of the intent of the RTC law, which was enacted to ensure that ALL eligible tenants have access to counsel in eviction proceedings.

Furthermore, while the RFX was originally planning to fund 44,444 cases at \$3,063 per case, once providers were able to set their own case rate, the rate increased and the number of cases covered went down significantly to approximately 33,000 cases per year or 47% of all eligible cases (assuming an average cost of \$4,100 per case).

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<sup>5</sup> The RFX has many shortcomings, most of which are outlined here and were outlined by RTC providers in their various protest letters. See, e.g., LAS's Protest letter at <https://www.scribd.com/document/664436607/The-Legal-Aid-Society-Protest-Letter-to-HRA-8-10-23>

<sup>6</sup> New York State Unified Court System Statewide Eviction Information available at: <https://app.powerbigov.us/view?r=eyJrIjojZGE3NzljYmItYTBMZC00OGI2LTliYTgtYzY5ZjI0N2U0MwYxIiwidCI6IjI0M0NTZmZTkxLWVhZDEtNDA2ZC1iNWVzLTUzNjRiZWMwYTgzMyJ9>. Last visited 12/6/2024

The City is severely under-funding a program that is objectively successful. This program boasts an extremely high success rate in preventing evictions and other collateral consequences, which simultaneously creates a huge savings to the City in avoiding shelter costs.

**b. For Many Providers, the Contracts Do Not Cover the Full Cost of Providing Anti-Eviction Services**

Eviction defense proceedings are complex and require significant time to resolve. New York City has some of the most robust and complicated housing laws in the country. Important laws, such as the Housing Stability and Tenant Protection Act of 2019 and the Good Cause Eviction Law passed in 2024, have increased critical tenant protections while also adding to the complexities of tenant defense. As a result, providers must increase staff training to stay current with the law and attorneys must dedicate more time per case. Notably, these changes have all occurred in the last few years and are being seen in the increasing amount of time cases are taking to resolve. The RFX failed to account for these changes and the realities of the cost of this work by including a very low suggested case rate in the solicitation, strong-arming bidders to agree to the suggested rate or not be awarded the contract. Full representation cases at such a low case rate means that attorneys may not have the time and resources needed to properly litigate these complex matters and that fewer tenants than anticipated will be represented as providers may not force staff to handle more cases than permitted by legal ethics or by practical considerations such as retention.

The funding also failed to consider the full breadth of staffing and support needed to provide holistic, quality legal representation. To meet client needs, provider organizations must staff programs not just with attorneys, but also with paralegals, social workers, administrative staff, and infrastructure supports such as finance and IT, in addition to housing attorneys. The low case rates do not account for these substantial and necessary costs. While attorney representation stops evictions in the immediate moment, restabilizing a family's housing often requires social workers and benefits advocates. The underfunding has and will continue to hamper our ability to solve the totality of our clients' housing problems and will lead to tenants being sued in Housing Court year after year as, for example, their unresolved underlying government housing benefits issues will impede their ability to satisfy their rent obligations.

The Housing Courts in the various boroughs are "calendarizing" (scheduling) cases at the same or similar pace as before the pandemic, despite providers' early and frequent warnings about lack of capacity, leaving low-income tenants unrepresented. Continuing to underfund this critical program will leave even more tenants without legal representation at this critical time.

**(1) Legal Services Agencies Are Not Monolithic and Our Varying Structures, Staffing, Operation Costs and Catchment Areas Served Mean that We all Have Different Cost Structures**

Before the RFX process, providers collected data that demonstrated that the then cost of the average Provider to holistically and properly defend an eviction case and provide fair salaries for staff was approximately \$7,500 per case. These costs have only increased since cases are taking longer to resolve, in part due to important tenant protections like

the 2024 Good Cause Eviction Law, as well as the rising costs of operations and borrowing to cover the lack of payments under these contracts.

The City's willingness to allow providers to set their own case rate and not have to accept the \$3,063 rate originally proposed in the RFX was helpful, in principle. However, the promise of that proposal was both impractical for many providers who could not afford to risk losing the substantial funding that keeps their programs operating by bidding their true cost, and was also lost during the RFX process due to OCJ's negotiation tactics.

During the negotiation process OCJ asked to meet with Providers. They told some that their initial bid was far too high to be considered and asked them to present new, lower proposals as close as possible to \$3,500 per reportable case. OCJ told at least one provider that the average case rate was \$4,100 and asked them to lower their case rate to that average. OCJ strongly implied in these negotiations that if the providers failed to lower their case rates, their bids would be rejected. Providers were also told at this stage that no modifications to the proposed number of units of service would be allowed. The process for negotiating the bids was entirely incompatible with the City's stated intention of allowing providers to identify their own costs and with partnering to build an effective program still in its early, growth stage.

The outcomes of this process were entirely predictable. Some organizations were forced to accept case rates well below the cost of providing services. Thus, many RTC providers are now operating under a contract that provides for thousands of dollars per case less than the \$7,500 necessary to have a robust program with fairly paid staff and well below the actual cost of providing services to new and existing clients. The individual bid negotiations created a wide disparity in payment for the provision of near identical services. This disparity has far more to do with an organization's ability to weather the pressure to reduce case rates, such as their willingness to take on the risk of losing funding or their ability to subsidize the work, than it does with providers' actual operating costs. This disparity resulted in some of the smaller community-based providers, who are relatively more reliant on RTC funding, being compensated at the lowest rates. OCJ must rectify these disparities by increasing the rate for all providers up to the \$7,500 case rate or at least bringing all providers up to the highest RTC case rate for which OCJ has currently contracted.

**(2) The 10% Reduction in Compensation Should Be Eliminated or at Least Suspended**

The recently implemented contractual penalty for nonprofit legal services providers—imposing a 10% reduction in funding for failing to meet metrics on a new performance scorecard as well as 100% of deliverables—is a measure that not only exacerbates the existing challenges faced by providers but also undermines the fundamental goals of the RTC program. Compounding this issue, OCJ has adopted a practice of withholding 10% of every invoice regardless of whether providers meet performance standards, effectively instituting a second layer of financial uncertainty beyond the contract's provisions and beyond the delays in payment. When combined with



the retainage plan, which delays the disbursement of funds, the 10% penalty provision creates an untenable financial environment that threatens the program's sustainability and effectiveness. While the penalty provision was agreed to in good faith, OCJ did not announce its adoption of the 10% retainage plan until after contracts were awarded. This plan will have consequences that OCJ apparently did not anticipate since it fundamentally undermines the feasibility of RTC contracts.

The penalty provision conflicts with the intent of New York City's Right to Counsel law (Local Law 136 of 2017), which was designed to ensure tenants facing eviction have access to high-quality, sustainable legal advocacy. Penalizing providers for failing to meet agency benchmarks disregards the structural limitations inherent in delivering these services and disproportionately penalizes nonprofits for factors often beyond their control. Providers are frequently at the mercy of systemic delays, including backlogs in Housing Courts, clogged court calendars, inefficient court administration or operations, backlogs in obtaining public benefits assistance, unresponsive opposing counsel, and evolving legal standards that impact a provider's ability to meet deliverables. Imposing a 10% funding penalty ignores these externalities and unduly harms providers.

The penalty creates perverse incentives for nonprofits to prioritize quantitative metrics over qualitative outcomes. In an effort to meet contractual benchmarks, organizations may feel compelled to take on more cases than their staff can handle, leading to compromised representation. For example, attorneys overwhelmed by excessive caseloads may have less time to develop comprehensive litigation strategies, maintain proactive communication with clients, or pursue time-intensive remedies such as appeals. This dynamic undermines the core mission of RTC, which is to provide robust, high-quality defense to tenants facing eviction.

An alternative approach would be for a provider to propose a units-of-service target it knows it cannot reach, but which would allow it to meet its operating costs *assuming* only 90% of the total budget. A contract that incentivizes subterfuge is simply not a well-designed contract.

Adding to these concerns is the reality of workforce challenges that nonprofits face. Recruitment and retention issues remain significant barriers to meeting client needs, particularly as salaries in the nonprofit sector lag behind those in government and private practice. Studies have long documented high rates of burnout among public interest attorneys, further complicating hiring and retention. Imposing penalties tied to deliverables intensifies these challenges by introducing uncertainty into organizations' ability to offer competitive salaries and benefits, perpetuating a cycle of attrition and understaffing.

This penalty compounds financial instability. Under the retainage plan, a portion of funding is withheld until specific milestones are met, delaying essential cash flow for providers. Adding a 10% penalty creates a double jeopardy scenario in which organizations must operate with even greater financial uncertainty. This structure is

particularly untenable for small or mid-sized nonprofits with limited reserves, further entrenching inequities in the system by favoring larger providers that can absorb these risks. Unlike larger organizations, smaller nonprofits often lack financial reserves to absorb funding losses or the administrative capacity to meet stringent reporting requirements. As a result, the penalty risks entrenching inequities within the RTC program by favoring larger, well-resourced providers while leaving smaller organizations—and the underserved communities they represent—vulnerable. This outcome runs counter to the City’s equity goals and diminishes the program’s overall effectiveness.

Beyond these immediate concerns, the penalty provision has significant downstream implications for the City itself. Weakening the RTC program through financial penalties increases the likelihood of evictions, which impose substantial costs on municipal services, including emergency shelter, public assistance, and healthcare. From a cost-benefit perspective, adequately funding and supporting RTC providers is far more fiscally prudent than penalizing them in an already underfunded system.

*The imposition of the penalty should at minimum be suspended for the first evaluation period.* Despite repeated assurances from OCJ that there would be no surprises in how provider performance would be measured and despite providers’ repeated requests for clarification, OCJ failed to provide any written explanation of how the metrics are being calculated or what the categories require. In fact, at a meeting on December 13, 2024, OCJ informed the providers that it would be scheduling a meeting with the providers to explain the metrics prior to any evaluation being issued and to clarify the questions raised by the providers at this meeting concerning the metrics. The providers were surprised to be issued performance scorecards in the last week with unexplained and often erroneous conclusions about our performance. We were not given sufficient information about how we would be evaluated before the first evaluation period ended in December 2024. For example, one metric on the scorecard is whether a provider has adhered to its budgeted staffing/caseload model – an inherently confusing metric. It is not until providers are meeting with OCJ that we are being told how this is measured through a very complicated and nuanced formula. This is also true for other metrics. To date not all providers have met with OCJ, instead providers have been relying on communications from other providers about what these metrics may mean. Having money withheld and being forced to create corrective action plans are serious consequences. It defies logic to hold providers to metrics with serious consequences that we did not know about.

In addition, the tens of millions of dollars owed to providers during the evaluation period combined with the related hundreds of thousands of dollars of borrowing costs incurred because of these payment failures means that providers were inhibited from meeting the performance scorecard metrics due to the City’s failures to make payment. For both of these reasons, any penalties should be suspended for the first evaluation period.

A better approach would be to collaborate with providers to address systemic barriers to service delivery. Options such as phased benchmarks, grace periods for new providers, or adjustments tied to external factors like court and agency delays or hiring challenges

could achieve better outcomes. By revisiting the 10% penalty provision, the City has an opportunity to align its policies with the goals of equity, sustainability, and quality in tenant advocacy. Providers stand ready to work with the City to develop solutions that enhance the effectiveness and resilience of the RTC program without resorting to punitive measures.

### **(3) Failure to Account for Rollover Cases**

In sharp contrast to the first eight years of the RTC program, the contract stemming from the RFX ignores that eviction cases often last for more than a year and even more frequently begin in one fiscal year and end in another. Previously, RTC providers reported as part of their deliverables a certain percentage of those cases that stretched from one fiscal year into the next. The current contract ignores this reality and permits reporting only of cases opened in a particular fiscal year, despite the fact that the majority of RTC attorneys will spend a great deal of time in Year One working to preserve the tenancies in cases opened the previous year or the year before that, impacting their capacity to take on new cases and without compensating providers for that continued effort. Likewise, in Year Two of the contract, the majority of RTC attorneys will expend time and effort resolving Year One or older cases. The refusal of the City to compensate for this reality imperils the success of the program in its current iteration.

Disallowing reporting a certain percentage of rollover cases as part of a provider's deliverables creates a perverse incentive for providers to prioritize "easy" cases and to de-prioritize representing tenants with complex and time intensive cases. For example, tenants with disabilities, tenants who require coordination of social services, or tenants with complex or novel legal arguments have a much harder time maintaining their homes without the benefit of an attorney. However, these cases are much more time consuming and require a much higher commitment of resources by legal service providers. They are also the cases in which legal counsel can make the greatest difference. As OCJ has recently acknowledged, more cases are coming through intake than providers are contractually required to take. Any incentivization of one case or another caused by contract terms is fundamentally repugnant to the letter and spirit of the Right to Counsel law and to our missions as legal service providers. These antithetical incentives undermine this essential program.

### **(4) Elimination of Compensation for Advice or Brief Services**

In a world where not every eligible tenant will obtain legal representation, legal services providers' ability to be compensated for brief legal assistance is an invaluable part of preventing homelessness. For community-based legal service providers, providing brief legal assistance to their neighborhoods is a fundamental part of their mission. In contrast, the new contract's elimination of partial payment for these cases means that every neighborhood referral forces the community provider to choose between providing services for "free" with limited resources and operating contrary to its mission by turning away the vulnerable tenants.

OCJ requires RTC providers to conduct intake of every tenant the court system places into the Intake Part. This requirement frequently results in a provider having to devote significant resources to conducting intake for tenants to whom a provider cannot offer full legal representation due to the capacity limitations of the provider's staff. Yet during the course of the intake process, the provider will have expended time and effort giving legal guidance and support to the tenants they are unable to represent. Allowing providers to report these advice cases would reflect the reality that providers are daily performing work the City refuses to compensate them for.

We urge OCJ to allow a percentage of deliverables to be satisfied through brief legal assistance at the same 3:1 ratio as under previous contracts. This change would allow providers to triage cases at intake and to provide legal advice to the community in accordance with our missions.

#### **(5) Onerous Reporting Requirements Imposed by OCJ Have Created Significant Challenges**

OCJ's increasingly strict reporting requirements often obstruct the goal of obtaining data that accurately reflects the work of providers. By prioritizing strict adherence to reporting protocols over the realities of case management, OCJ does not obtain a complete picture of the providers' work. The resulting obligation to devote increasing resources to reporting data risks undermining the program's overall effectiveness.

OCJ's rigid reporting standards reject cases that do not perfectly match predefined data fields, leading to unnecessary delays and administrative burdens, diverting the attention of program staff from the clients we serve. In particular, the requirement to immediately report Notice of Appearance dates and attorney casehandler assignments leads to delays in reporting, as it ignores the realities of the multiple steps from intake to the filing of a Notice of Appearance. However, OCJ's system does not account for these nuances, resulting in an incomplete accounting of cases and obstructing timely case reporting.

Adding to these challenges are frequent and unclear changes to reporting protocols. In response to reporting delays due to unfiled Notices of Appearance, OCJ sought to obtain this information in other manners—initially asking for incomplete case reporting, then mandating additional data submission via Microsoft Forms, then spreadsheets, and now another new yet undefined system. These changes have not been adequately communicated, leaving providers scrambling to comply without clear guidance.

A lack of consistent reporting mechanisms hampers OCJ's ability to accurately gauge provider capacity. Providers are often unaware of how OCJ estimates the number of cases they are handling, yet these estimates directly influence mandatory referrals under the Scope of Work. Oftentimes, OCJ's understanding of capacity is not tied in any way to a provider's actual contractual obligation. Despite repeated inquiries, OCJ has not clarified its methodology, further compounding the disconnect between reported and actual case numbers. This dynamic results in mandatory referrals that may exceed provider capacity, ultimately jeopardizing service quality.

The monthly reporting deadline—set for the 15th business day of the following month—can be burdensome, especially for organizations with subcontractors who face accelerated timelines to submit and reconcile data. OCJ has indicated that asking for extensions in data reporting may be assessed towards the earlier discussed 10% penalty. This relatively quick turnaround may result in increased expungement requests, which must be submitted individually, adding another layer of administrative complexity.

These reporting challenges hinder providers' ability to deliver high-quality legal representation by diverting time and resources to remedy these data issues. When providers cannot accurately report ongoing cases or fully represent the volume of cases they handle, OCJ risks making policy decisions based on incomplete data. The limited reporting options for Services Rendered and case closures exacerbate this issue, as providers are forced to fit complex legal work into narrow and confusing reporting categories.

Inaccurate or delayed data not only obscures the true scope of providers' work but also undermines the program's accountability and strategic planning. When providers are forced to divert time and resources toward meeting burdensome reporting requirements, they have less capacity to focus on their clients' urgent legal needs. OCJ must adopt more flexible and transparent reporting practices that align with the operational realities of nonprofit legal service providers.

**(6) OCA Caseload Report Must Be Taken into Account in OCJ's Administration of the RTC Program**

The Universal Access Caseload Working Group was convened at the request of OCJ to devise a uniform caseload standard. Yet, the contracts' funding structure assumes that an eviction proceeding is simply a routine matter that can be resolved quickly. This completely ignored that the Universal Access to Justice Caseload Working Group Report and Recommendations of the New York State Office of Court Administration dated August 31, 2023 ("OCA Caseload Report") concluded that, given the complexity and pace of eviction proceedings, a full time, experienced UA/RTC attorney can provide representation on approximately 48 full legal representation cases per year if 100% of their time were dedicated to cases (some time needs to be dedicated to administrative work, supervision, professional development and more). The RFX was not based on this guideline and required a UA attorney to do almost double the number of cases to meet the \$3,063 case rate, which would not provide for quality representation and would lead to even more burnout and attrition of staff as well as other professional and ethical challenges.

**(c) Conclusion**

While City agencies start the year with their baseline funding and receive additional allocations to address new collective bargaining salaries, healthcare cost increases, and utility and space cost increases, nonprofits do not have the luxury of "additional allocations." We are constantly

waiting for our funding to be confirmed or for reimbursement following an onerous, detailed, line-item review with constantly changing rules and requirements. And then, when we cannot spend the money because it was never confirmed for us in the first place, or we did not receive it in time, the City takes it back, effectively cutting our funding even further.

The City must take immediate action to ensure that nonprofit RTC providers can continue to operate and implement Right to Counsel for the New Yorkers who need us. Without these critical eviction-defense legal services, shelter entries will skyrocket, and the costs of the exacerbated homelessness crisis will balloon far beyond any small savings the City gains by not paying nonprofit RTC providers promptly what they are owed.

### **Recommendations**

Funding should match the true cost to providers, which 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. In response to the questions we have received about the cost of this program, to fully implement Right to Counsel, providers estimated last year that an additional \$351 million in funding was needed. While the City allocated an additional \$20 million to the program, the estimated costs associated with the additional eligibility of all seniors and the general increase in cost of living exceed that additional funding, taking into consideration the total 71,400 eligible eviction cases.

#### **(1) Adequate Funding for the Number of Cases Eligible for UA/RTC**

The City should increase funding for Universal Access/Right to Counsel to a level sufficient for legal services providers to provide high quality, holistic services to all 71,000 eligible cases. 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. It should also sufficiently fund the brief legal services that are required under the law.

#### **(2) RTC Contracts Must Cover the Cost of Providing Anti-Eviction Services**

A uniform case rate as determined by the providers must be applicable to all providers providing the same anti-eviction legal services that covers the cost of those services. Providers recently examined their collective data and determined that the current case rate for the average provider is cost to be \$7,500 per case, although providers' operating costs have only increased since the time that cost was calculated. At a minimum, all RTC providers should receive the highest case rate being paid under the current RTC contracts issued pursuant to the RFX.

### **(3) The 10% Penalty Should Be Discarded or at Least Suspended**

The 10% penalty for failure to perform 100% of contract deliverables should be wholly discarded. The provider community is working in partnership with the City to meet a common goal – to provide effective high-quality legal representation for low-income New Yorkers facing eviction. Any insufficiencies in contract deliverables should be viewed in the context of the challenges faced by providers, including the lingering effects of COVID-19 in the performance of the Court and implicated City agencies, the difficulties recruiting and hiring, and high staff attrition. The City should work with providers to address these challenges and ensure any mechanism for accountability does not further inhibit providers' ability to meet our common goal. Legal services providers are not in a position to have varied funding on a yearly basis. They need stable funding, and predictable budgets to have sufficient staff to meet the deliverables of the program and to provide high quality legal services. Any variance in that funding has a huge impact on maintaining a sustainable program. Providers, unlike the City, rely on consistent funding of programs so that budgets can be made and projected over a period of time and cannot fill funding gaps that could occur with this type of penalty. Consistent and continued funding of the program is paramount to the provider community. If the 10% penalty is not discarded, it should not be applied as a “retainage” where 10% of each invoice is not paid because providers do not have the resources to lay out undisbursed money.

In addition, the 10% penalty should be suspended for the first evaluation period. Despite repeated assurances from OCJ that there would be no surprises in how our performance would be measured, the providers were not given sufficient information about how they would be evaluated before the first evaluation period ended. We should not be held to metrics that we did not know about. In addition, the tens of millions of dollars owed to providers during the evaluation period combined with the related hundreds of thousands of dollars of borrowing costs incurred because of these payment failures means that providers were inhibited from meeting the performance scorecard metrics due to the City's failures to make payment. For both of these reasons, any penalties should be suspended for the first evaluation period.

### **(4) Rollover Cases**

The City must allow providers to report toward their deliverables all active and litigated cases that take a year or more to resolve or the duration of which stretch from one fiscal year into the next. To do otherwise ignores the lived reality of anti-eviction RTC work.

### **(5) Advice and Brief Service Cases**

To reflect the realities of RTC practice on the ground, particularly for community-based RTC providers, OCJ must allow a percentage of deliverables to be satisfied through advice and or brief services.

## **(6) Reporting Requirements**

OCJ must adopt more flexible and transparent reporting practices that align with the operational realities of nonprofit legal services providers, who expend excessive resources attempting to comply with OCJ's changeable yet rigid reporting requirements.

### **III. The Administrative Part Pilot Project Should be Evaluated and Improved**

In Spring 2023, the New York State Office of Court Administration (OCA), in partnership with the New York City Department of Social Services' Office of Civil Justice (OCJ), launched an Administrative Part Pilot in Brooklyn Housing Court. The goal of the pilot was to optimize providers' ability to connect with tenants eligible for the right to counsel in housing court. While the pilot helped streamline intake, issues have arisen throughout the 2-year "roll-out" that have hindered its progress. We ask OCJ to work with HRA, the Court and Providers to improve the program before rolling it out to other boroughs.

Before the pilot program, in Brooklyn, intake was handled within each assigned court part. Legal service providers met individually with tenants to assess eligibility for representation. For those who didn't qualify for full representation, providers offered brief legal advice on the spot. This approach ensured that all tenants were engaged, appropriate adjournments were requested, and case timelines were managed based on negotiations with petitioners' counsel or judges' calendars.

The pilot introduced significant changes. Now, at their first appearance, tenants with cases in the designated court parts are directed to OCJ representatives to evaluate eligibility for legal representation, screen for potential rental assistance programs, and begin the rental arrears application process, where appropriate. Only after this are eligible tenants referred to legal service providers, who staff a designated intake area. Furthermore, these first-time cases are automatically adjourned for 45 days.

This process has introduced several important improvements:

1. The automatic 45-day adjournments for all cases give sufficient time to prepare their best defenses, strategize rental assistance paths or plan for relocation.
2. With the income eligibility determinations now handled by OCJ and on-site applications assisted at kiosks by HRA, providers can conduct more intakes and dedicate more time to substantive legal issues, and tenants can get a head-start on addressing rental arrears.
3. The uniform 45-day adjournments help attorneys manage their own calendars more efficiently and spare both them and court personnel the time that was previously lost to haggling with landlord attorneys over adjournment requests and scheduling issues.

Despite these advantages, the pilot also presents significant challenges:

1. **Lack of clarity across the stakeholders as to eligibility when making in-court referrals:** Under this program, the only tenants who are eligible for representation are



those with “New Part” cases- that is, those with their first appearance in their case being within a designated court part. However, the providers often find that court personnel will refer any tenants that approach them with questions to the intake area, telling them that they can speak with a lawyer there. The intake providers invariably must then either add in the extra intakes or explain to confused and frustrated tenants that they are not eligible for the program and will therefore not be able to speak with an attorney. This also creates a time-loss for the providers and corresponding increases in wait times for eligible tenants.

2. **Compliance with Notice of Appearance requirements:** The 10-day window that OCJ has given providers to file a Notice of Appearance after intake is unnecessarily administratively burdensome and inappropriately rigid. Providers should be relied upon to uphold their professional responsibility to their clients and make procedural decisions about cases based on their expertise. The priority should be zealous representation of tenants, not unnecessarily tight administrative timelines without regard to the needs of the case.
3. **Insufficient documentation:** Landlords or their counsel frequently fail to provide rent breakdowns to tenants during the first appearance, complicating the application process for rental arrears assistance, necessitating further adjournments, and sometimes allowing cases to proceed even where they might have otherwise been resolved promptly had landlords complied with their requirement to provide a clear accounting of tenants’ arrears.
4. **Lack of capacity:** While the pilot program streamlines the intake process, it does not address that there are simply not enough attorneys and advocates to meaningfully represent all those eligible for the Right to Counsel program. Improving efficiency at the margins is worthwhile and further efforts to do so are appreciated, but the fundamental constraint in access to counsel is simple math- even with providers operating at a high level of efficiency, there are many more tenants eligible for RTC representation than there are attorneys who can provide it.
5. **Administrative challenges with HRA appointments in the court house:** At their first court appearance, tenants have the opportunity to meet with HRA and begin the process of applying for a One Shot Deal and/or housing subsidy to help facilitate a resolution to their arrears issues. While this is a real opportunity to set the tenant up to move their case toward resolution, issues often arise that keep this system from working efficiently. One of the biggest challenges is that there seems to be a disconnect between the application filed in the courthouse and the Center. If the case does get successfully opened, many times it’s closed 30 days later because the application is “incomplete”. Additionally, the arrears are often still in dispute, making for inaccurate processing of arrears.

As OCJ considers expanding the pilot, we urge the agency to collaborate with legal service providers and the Court to address these issues. Through open dialogue and thoughtful adjustments, the Administrative Part Pilot can be an important tool for increasing provider reach and ensuring more equitable outcomes for tenants.

## **Recommendations**

### **(1) Develop clear goals and metrics for the Administrative Part**

Now that the Brooklyn Pilot Part has been operational for more than a year, it's important for OCJ to engage with providers and the Office of Court Administration to work on determining what the future goals for the administrative part are and how success will be measured. A successful administrative part would create conditions where the vast majority of eligible respondents appear in the administrative part, engage with DSS/HRA, and see a legal services provider within a reasonable timeframe so tenants can return to their busy lives. Anecdotally, we believe that since the implementation of the administrative part, fewer tenants are making it to see a legal services provider. Some are being screened out as over income, but we fear that other tenants are falling through the cracks. To ensure the Administrative Pilot Part is achieving its purpose of easing implementation of UA/RTC, OCJ should aim to ensure 100% of income-eligible tenants are able to meet with a provider on their first court appearance

Another metric of success would be how long it takes a nonpayment case to resolve from start to finish. A successful administrative part implementation should result in most nonpayment cases being resolved and discontinued within a reasonable amount of time from the first appearance.

It's also important for OCJ to solicit tenant feedback through a survey or other means about the administrative part and how it and their experience in the courthouse for their first appearance can improve. While we as legal services providers have lots of suggestions and feedback based on our experience as practitioners, we are not a substitute for our clients' voices and our clients have important feedback to offer that will be very helpful in shaping the goals of the administrative part. Developing these goals and metrics will help OCJ, OCA, and the providers better align our mutual and individual objectives, and we look forward to discussing this matter further with OCJ.

### **(2) Enable Court-based HRA/DSS Staff to Process One Shot Deal Applications from Start to Finish**

HRA/DSS should have staff from the Rental Assistance Unit (RAU) deployed to the courthouse to process one shot deal applications along with staff who can complete the Bureau of Eligibility Verification (BEV) interviews required for those applications. We hear from many clients who spend hours on the telephone trying to conduct their BEV interview and are unable to reach anyone. Often clients' one shot deal applications time out because of their inability to connect with anyone from HRA/DSS for their BEV interviews, despite clients' best efforts and our zealous advocacy. In addition, if any documents or parts of the application are missing, the HRA worker should give the tenant a list of any missing documents and precise instructions on how to submit the missing documents.

If HRA/DSS transformed its space in Housing Court to an outpost of a Job Center in this way, it would dramatically increase the speed and efficiency of one shot deal or FHEPS applications and make it possible for many clients to return to their second court date with an approved one shot deal or FHEPS application ready or near-ready to resolve their Housing Court matter. Streamlined one shot deal and FHEPS application processes would make eviction cases resolve much faster with less work for all involved and preserve attorney capacity to handle motion practice and other substantive legal work.

**(3) Require Petitioners to Provide Current Rent Breakdowns to the Administrative Part**

We also strongly recommend that OCJ urge the Office of Court Administration to develop a rule requiring all petitioners in nonpayment cases to provide a current rent breakdown to the administrative part for a tenant's first appearance. Given the time that can elapse between the petition's filing date and the first court date, it's essential for tenants, legal services providers, and HRA/DSS staff to have a current rent breakdown, which will facilitate the prompt resolution of the eviction case. We also strongly encourage OCJ to engage with the Office of Court Administration to put pressure on the landlord's bar to file stipulations of discontinuance for resolved cases prior to the first court date so there is no wasted effort by court staff, HRA/OCJ, or legal services providers.

**(4) Develop Talking Points for OCJ and Court Staff to Engage Tenants about Right to Counsel Legal Services and Have a Fact Sheet in Multiple Languages Given to All Respondents**

A successful right to counsel program requires that people who are eligible for the program are made aware of the program so they can take advantage of the services offered. We suggest that OCJ develop talking points for its own staff and court staff so respondents in Housing Court hear a consistent message about what the right to counsel is, how to engage with a Universal Access/Right to Counsel legal services provider and the benefits of this service. Furthermore, a plainly written fact sheet for respondents available in multiple languages would also be a very helpful resource to make the process more transparent, accessible and efficient.

**(5) Designate Provider Only Spaces in All Courthouses for Legal Services Providers to Meet Privately with Tenants**

Any rollout of the administrative part in other boroughs should contemplate the provision by OCA to providers of private provider only spaces for intake. Historically, housing court has been dubbed a poor people's court, a sentiment perpetuated by the lack of decorum often exhibited by landlord's attorneys and sometimes even court personnel. Further compounding the lack of regard for the litigants, who are often poor black and brown people of color, is that tenants are often forced to discuss their private matters in crowded hallways with legal services attorneys who are doing as best as possible to collect essential information to assist the tenant. In the past, legal services providers each

had private spaces where they could meet with tenants to build rapport and establish attorney client relationships at the outset of the referral. During the pandemic, OCA essentially evicted all the providers from these spaces. We call on OCJ, as a demonstration of its continued partnership with the providers and to ensure that the clients served by this program are treated with dignity and respect, to put pressure on OCA to give back the provider spaces that were taken. Alternatively, OCJ should ask OCA to provide new private provider only spaces for intake in all courthouses.

#### **IV. OCJ Must Partner with Providers to Bolster Recruitment and Training and to Address Attrition**

For RTC to be successful and sustainable, it is crucial to address the ongoing issues of (a) attorney recruitment; (b) training; and (c) attrition. Legal services providers are consistently scrambling to fill vacancies and attract dedicated and qualified attorneys to the practice. We need OCJ to partner with us to create a systemic pipeline to recruit new advocates. The City should provide dedicated funding and resources for providers to engage law students and present at law schools. Providers also need financial support and coordination to train our staff to become skilled RTC practitioners including developing and providing regular substantive and skills-based-training. Additionally, providers need adequate funding and manageable caseloads to increase retention.

##### **a. Attorney Recruitment Requires OCJ Involvement and Substantial Resource Investments from Providers that Should be Funded and Recognized**

At each stage of the recruitment and hiring process, providers face unique challenges. Providers are competing against one another to hire from a very small pool of applicants. This year alone, providers hired roughly 175 new staff attorneys or law graduates citywide, a number that still did not fully staff our Right to Counsel Practice. Law schools have limited curricula and clinics around landlord-tenant law, so candidates are entering the workforce with limited exposure to the housing practice compared to their criminal defense colleagues. This makes it more difficult to explain to students what Right to Counsel practice entails and why it is exciting. The sheer volume of attorneys needed to implement Right to Counsel continues to require substantial expenditures on behalf of legal services providers. And finally, salaries for staff and supervisors at Right to Counsel Programs continue to be substantially lower than those of other public interest and government attorney positions available which makes recruiting extremely challenging.

The provider community, individually and collectively, has been tackling the challenge of recruiting in a myriad of ways. Providers are working on a law-school to practice pipeline, engaging with community-based organizations in the tenants' rights movement, connecting with law schools throughout the country, participating in deeper, broader, and more diverse recruitment programs both on law school campuses and through affinity groups, and creatively increasing salaries and expanding benefits to the extent their budgets enable them to. However, while substantial, these efforts are unfunded, unrecognized and almost completely unsupported by OCJ.

OCJ should work with providers to help build out coordinated and collaborative recruitment programs and should dedicate resources to the herculean effort of hiring qualified Right to Counsel attorneys. They should provide a dedicated funding pool and partner with providers for recruiting efforts such as travel to career fairs, programing at law schools, development of clinics and substantive landlord-tenant curricula and the creation of recruiting materials. In our organizations, hiring is done by supervisors and also the staff who perform the work because we believe everyone has a role in identifying and recruiting talented and diverse candidates. OCJ must recognize the considerable time and effort recruiting and hiring takes across all job functions and account for this time when evaluating provider performance and capacity. While some limited efforts and funding to achieve parity with the Corporation Counsel happened several years ago, OCJ needs to provide funding so that providers can achieve updated and broader parity with the New York State Attorney General salaries so that our recruitment can be successful.

**b. Attorney and Supervisor Training Needs Continue to Grow and Funding, Caseloads, and Staffing Structures Should Appropriately Reflect These Needs**

Once candidates enter RTC practice, providers face additional challenges in ensuring adequate time for training, supervision, and client engagement outside of court, as staffing structures do not provide adequate support so that staff who join this program are able to build dynamic and sustainable practices.

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; it is also constantly developing, with just the past five seeing sweeping changes to the legal landscape with the Housing Stability and Tenant Protection Act of 2019 and the Passage of the Good Cause Eviction Law. In addition to knowing housing law, resolving cases depends on an advocate's knowledge of numerous rent arrears and rent subsidy programs.

As Right to Counsel has been implemented, the need for more managers and supervisors to oversee the practice has also grown. Experienced attorneys who take on supervisor roles need training around supervising and managing a practice, skills that are distinct from those that make effective advocates. Most attorneys are never formally trained to be managers, leading to reluctance from qualified candidates to accept supervisory positions and supervisor burnout. 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.

Rather than having each provider bear the burden of duplicative training programs, OCJ should partner with legal services providers to develop and fund training opportunities for attorneys at all levels in the Right to Counsel Practice across all providers. In addition, caseloads, staffing structures and performance expectations should take into account the substantial time required to stay apprised of landlord-tenant law and to effectively supervise a Right to Counsel Practice.

**c. The Challenge of Attrition Is Sector-wide and Requires a Reassessment of How Right to Counsel Attorneys Are Compensated, Engaged, and Valued**

**(1) Right to Counsel Staff Deserve to Be Compensated on Par with Other Government Agencies**

More than anything, retaining qualified staff requires a housing practice that pays a living wage, provides professional development opportunities, 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.<sup>12</sup> 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.

For years, legal services providers have implemented initiatives to combat attrition in our housing practices. However, the challenge of attrition is sector-wide, affecting all agencies similarly regardless of size or history and this challenge cannot be solved by providers alone. 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.

High attrition compounds, impacting 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 remaining staff, contributing to further attrition.

The most direct way to mitigate the risk of attrition for the citywide program is to fund it sufficiently to ensure Right to Counsel staff are compensated on par with the legal staff at government agencies. Legal Services Providers are tasked with implementing a law. The compensation our staff receive to implement the law should not depend on an individual organization's ability to negotiate with OCJ, history of private fund-raising, or willingness to subsidize a Right to Counsel Practice. OCJ should ensure funding that enables providers across the board to give their staff salaries comparable to other agencies, like the State Attorney General's office.

This challenge in salaries is also present at the supervisory level. Currently, supervisors at legal service providers are paid less than experienced Law Department attorneys by more than \$20,000 annually. This discrepancy remains a huge barrier for legal services providers to retain qualified supervisors.

**(2) The Right to Counsel Program Should Be Structured to Ensure Sustainability**

Salaries are not the only impediment to retention, however. The structure of the program also places an increased burden on Right to Counsel attorneys. To retain staff, providers must receive sufficient funding to structure the program in a manner that ensures manageable caseloads for attorneys with varying levels of housing experience. Funding should allow our organizations to sufficiently staff our programs with attorneys, necessary support roles, and qualified supervisors.

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 as well as the caseloads that must be absorbed by existing staff already operating at capacity as a result of high attrition in the practice.

The funding provided must consider 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 CityFHEPS, 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. Similarly, support roles such as social workers, investigators, process servers and administrative help are essential in providing high-quality legal representation and should be funded accordingly.

**(3) Temporary, Volunteer, or Contract Attorneys Are Not a Feasible Temporary Solution to These Challenges**

While temporary, volunteer, or contract attorneys can be utilized to assist with excess legal work, RTC practice is not the sort of practice that can benefit from such labor.

Landlord-tenant law in New York is immeasurably complicated, with overlapping city, state, and federal regulations. It is also constantly evolving as described above. Even foundational topics, such as nonpayment petitions, have a plethora of defenses and nuances. Any temporary, volunteer, or contract attorney seeking to meaningfully represent tenants in this environment would require substantial training. Legal services providers are already facing challenges training permanent staff; the process of continually training temps would require legal services organizations to have separate infrastructures solely for this purpose.

Even after initial training, the complexity of housing law would require very involved supervision. Legal services supervisors are often intimately involved in all the cases new permanent staff litigate for at least the first year of their practice as they develop the expertise required to effectively issue-spot. While this burden is substantial, supervisors have the benefit of knowing that eventually, they will be able to step back as their staff's knowledge continues to grow. The use of temporary attorneys would not allow this; supervisors would need to be deeply involved in each case, without any light at the end.

Addition to the complexities of the law itself, the housing court environment is unique in a way that would not be favorable to temporary, volunteer, or contract attorneys. Housing court cases are summary proceedings, and there exists an expectation that cases should proceed through the court system expeditiously with limited motion practice or actual litigation. Settlement is widely encouraged wherein a tenant consents to an eviction. This has historically created an aggressive and hostile arena where it is common for landlord advocates to engage in combative and threatening strategies to force settlements. As such, it is imperative that housing rights attorneys possess a strong grasp of the specifics of the law. A solid foundation of knowledge and a nuanced understanding of the law is the only way to truly be effective against the court's interest in immediate settlement and the bullying tactics of landlord advocates. Housing Court is also a place where judges, opposing counsels, court attorneys, and tenant advocates routinely see each other. This proximity builds relationships and understandings that are needed to successfully navigate these summary proceedings. Without this interpersonal background, temporary attorneys will be at a constant disadvantage both in negotiations and in oral arguments.

Temporary, volunteer, or contract attorneys are best utilized for discrete projects with specific state dates, end dates, and clear parameters. The complexities of housing law, the substantial training and continuing learning needed, the speed of litigation, and the environment of the Court make engagement of such attorneys impractical even as a temporary solution.

## **Recommendations**

Legal services providers have continuously shared the challenges they face in recruiting, training, and retaining Right to Counsel practitioners and managers with OCJ. While the substantial efforts employed to mediate these challenges by individual organizations, such as broader recruiting programs, expanded training opportunities, and focused retention initiatives, have helped, they have by no means remedied the problem. As providers continue to grapple with implementing this first-of-its kind Right to Counsel Program in the nation, OCJ should partner with providers to fund all the necessary components of that work, including extensive recruitment efforts, ongoing training programs, and fair program structure and attorney compensation. In the meantime, where such funding does not and has not existed, OCJ should recognize these extraordinary resources providers are investing in addressing these challenges and determine areas for partnership, rather than penalize providers for being unable to solve these sector-wide issues on their own.



## VI. CONCLUSION

As we move through the many stages of NYC's housing 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 Bronx Defenders, Brooklyn Legal Services Corporation A, CAMBA Legal Services, Housing Conservation Coordinators, Legal Services NYC, Mobilization for Justice, Neighborhood Association for Inter-Cultural Affairs, Neighborhood Defender Services, New York Legal Assistance Group, Northern Manhattan Improvement Corporation, and The Legal Aid Society, 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/14Vtdi7vfdw67YbnlUiYq9OkXP9WE55sAx24ZTjbVv38/edit?usp=sharing> and is attached to the version of this testimony submitted on-line.*

## **LEGAL SERVICES PROVIDERS**

### **BRONX DEFENDERS**

The Bronx Defenders (“BxD”) is a public defender nonprofit that is radically transforming how people in the Bronx are represented in the legal system, and, in doing so, is transforming the system itself. Our office’s staff of over 450 includes interdisciplinary teams comprised of civil, criminal, immigration, and family defense attorneys, as well as social workers, benefits specialists, legal advocates, parent advocates, investigators, team administrators, and policy, organizing, and community engagement specialists who collaborate to provide holistic advocacy to address the causes and consequences of legal system involvement and push for systemic reform at the local, state, and national level.

Through this integrated, comprehensive, referral-based structure, we have pioneered a groundbreaking, nationally-recognized model of direct services representation we call “holistic defense” that achieves transformative outcomes for the people we represent. Each year, we defend over 20,000 low-income Bronx residents across civil, criminal, immigration, and family legal systems, and reach thousands more through our community intake, youth mentoring, and outreach programs. We take what we learn from the people we represent and communities that we work with and launch innovative programs designed to bring about real and lasting change.

#### *Our Civil Action Practice*

The Civil Action Practice provides comprehensive civil legal services to clients and their families by integrating civil representation. Our goal is to actualize the civil right to counsel – including for tenants – and minimize the severe and often unforeseen fallout from housing, criminal, family, and immigration court proceedings and facilitate the seamless reintegration of our clients into the community. Our Civil Action Practice attorneys, social workers and benefits & legal advocates represent clients in every forum in New York City – administrative, state, and federal – to address these problems and assist our clients in overcoming civil legal barriers to housing, eviction, employment, and public benefits, as well as addressing instances of police misconduct, criminal record errors, and civil forfeiture.

#### *An Example of Our Work:*

Mr. P’s landlord brought a non-payment eviction case against him in 2022. Mr. P fell behind in rent after his uncle, who helped pay the rent, died during the pandemic. In addition, Mr. P struggled with a range of health issues, including memory problems and seizure disorder, that severely limited his activities of daily living. Although the rent for his rent-stabilized apartment was well-below market rate, at approximately \$920.00 per month, he was unable to afford it.

Mr. P’s case was referred to our office through the UA Intake process, after Mr. P defaulted in appearing in the case and filed an Order to Show Cause to stay the eviction. A social worker from our office immediately identified Mr. P’s health challenges, and, with Mr. P’s consent, referred him to Adult Protective Services (“APS”) for services and supports, including potentially a referral for a CityFHEPS rent supplement. APS opened a case for Mr. P, and referred him for CityFHEPS. In the meantime, an attorney from our office filed another Order to Show Cause to stay the eviction, pending HRA’s processing of Mr. P’s CityFHEPS application. Subsequently, Mr. P was approved for CityFHEPS, including rental arrears assistance in the

amount of approximately \$49,000.00, the eviction case was discontinued, and Mr. P remained stably housed, with the assistance of a home health aide and financial management from APS.

### BRONXWORKS, INC.

BronxWorks helps individuals and families improve their economic and social well-being. From toddlers to seniors, we feed, shelter, teach, and support our neighbors to build a stronger Bronx community. In all aspects of our work, BronxWorks strives for the highest ethical and performance standards. We are guided by the belief that people must be treated with dignity and respect, regardless of their present situation or past experiences. We have over 65 locations throughout the Bronx providing a variety of programs that assist in the areas of family, children and youth support, educational services, senior services, homelessness, financial empowerment, and workforce development, among others. With over 50 years of experience supporting Bronx communities, we are an employer of choice for those seeking a meaningful career in the public interest and social services field.

The BronxWorks model aims to break the cycle of poverty through a holistic approach, helping individuals and families transition from crisis to self-sufficiency. A key component of this continuum of support is BronxWorks Legal Services, which provides free legal assistance to those facing eviction, seeking immigration stability, and survivors of domestic violence and other crimes. Within BronxWorks Legal Services, the new Tenant Defense Program plays a vital role in securing housing stability for low-income tenants. The program will support New York City's groundbreaking Universal Access to Counsel initiative which, as implemented, ensures low-income tenants the right to full legal representation in eviction proceedings.

#### *An Example of Our Work:*

Ms. J and her family were on the brink of eviction, with the city marshal scheduled to remove them from their home. Thanks to the rapid and effective efforts of our legal team, we intervened just in time to stop the eviction and secure a court order that ensures the family can remain safely housed while their case proceeds. In our motion, we are asking the court to vacate the eviction judgment due to procedural defects, set aside a prior stipulation Ms. J signed without legal representation, and provide her with additional time to secure alternative housing and access supportive services. This critical victory not only prevented the trauma of displacement but also gave the family an opportunity to stabilize and access essential supportive services. It demonstrates how timely, expert advocacy can transform lives and uphold housing stability for those facing urgent crises.

### BROOKLYN LEGAL SERVICES CORPORATION A

Brooklyn Legal Services Corporation A (Brooklyn A) believes all New Yorkers should have equal access to legal services to seek justice, make their voices heard, and overcome systemic racism and oppression. 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 more than 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 (PAH) 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. Brooklyn A's PAH Brooklyn and Queens Programs have 46 staff attorneys, paralegals, social workers, and supervising attorneys, in addition to other supporting staff.

*An Example of Our Work:*

A client in Brooklyn was facing more than \$13,000 in rental arrears. The client had been withholding rent because the apartment had a worsening ceiling leak that went unrepaired for years. During the nonpayment trial, Brooklyn A's cross-examination of the landlord's witness proved critical: our team revealed that the landlord had known about the leak for four years and never repaired it—even when he did finally attempt to make the fix the past summer, he couldn't find the source of the leak. The judge ruled in favor of our client and removed 95 percent of the rental arrears.

### CAMBA LEGAL SERVICES

CAMBA Legal Services, Inc. (CLS) is a community-based law practice in Brooklyn and Staten Island that provides free civil legal assistance to low-income New York City residents. Our mission as a dedicated and diverse staff of lawyers and paralegals is to provide our clients with the highest quality of legal representation while standing committed with our communities in the fight for racial, social, and economic justice. CAMBA Legal Services' Housing Unit provides anti-eviction legal services to tenants, including legal advice and representation in non-payment proceedings, holdovers, HP actions for repairs, HCR overcharge complaints, administrative hearings (NYCHA and HPD), Article 78s and other related proceedings. The CLS Housing Unit has a staff of more than 56 attorneys and paralegals. CLS prides itself on being guided by the following principles; compassionate case handling, decentering the attorney to empower the client, tenacious advocacy, collaborative learning, and a commitment to legal excellence.

*An Example of Our Work:*

Our organization represented an octogenarian who was being overcharged in her rent-stabilized apartment. Her landlord had taken a rent increase based on an alleged individual apartment improvement that her landlord had substantiated by forging our client's signature. At trial, we were able to demonstrate to that court that her signature had in fact been forged and that she was accordingly being overcharged. The court made a finding of fraud on the part of the landlord and dismissed the case against her.

### HOUSING CONSERVATION COORDINATORS

Housing Conservation Coordinators (HCC) is dedicated to advancing social and economic justice and fighting for the rights of poor, low-income, and working individuals and families. With a primary focus on strengthening and preserving affordable housing, we seek to promote a vibrant and diverse community with the power to shape its own future. Since its founding in 1972, HCC has been devoted to preserving the character and diversity of the Hell's Kitchen Community and guaranteeing that high quality affordable housing remains in the neighborhood.

Each year the organization helps more than 6,000 individuals and families by preventing evictions, educating them about their rights, and weatherizing their buildings.

Since the implementation of Right to Counsel (RTC) in 2017, HCC has been an RTC provider in Manhattan's Housing Court, ensuring that tenants have competent and zealous representation as well as support from advocates and a social worker in eviction proceedings.

*An Example of Our Work:*

Marta is a single mother. Her son, who is in his mid-twenties, is autistic. He also suffers from depression and epilepsy. Due to the stress of the housing court case and care of her disabled son, Marta struggles with depression and anxiety. The tenant fell behind in her rent and we appeared shortly after court intake opposing the landlord's motion for a judgment and warrant. Our attorney argued successfully that the landlord failed to provide the tenant a fully signed lease. We assisted the struggling tenant to complete the One-Shot Deal application and successfully advocated with HRA's and secured the back rent. Marta and her son are living together and report and are obtaining mental health services.

LEGAL SERVICES NYC

Legal Services NYC's (LSNYC) is the largest civil legal services provider in the country, with a mission to fight poverty and seek racial, social, and economic justice for low-income New Yorkers. For over 50 years, LSNYC has helped New Yorkers obtain the basic necessities of life, including housing, economic security, family and immigration stability, education, health care, and challenge the systemic injustices that trap people in poverty. At LSNYC, we pride ourselves on our deep community roots, our holistic, trauma-informed approach to advocacy, and our ability to work creatively, strategically, and collaboratively with our clients.

*An Example of Our Work:*

LB, 74, lived in his rent-stabilized apartment in Mt. Hope, Bronx for over 23 years. He shared the apartment with the tenant-of-record, whom he considered a sister, and her disabled son, GR. When the tenant-of-record passed away, the landlord brought a licensee-holdover seeking to evict LB and GR. LB's case was referred to Legal Services NYC through judicial referral.

Upon investigation, Legal Services NYC quickly uncovered multiple procedural defects in the landlord's petition and filed a Motion to Dismiss. While that motion was pending, we worked on substantively ensuring LB's claims were protected, gathering an abundance of documentation demonstrating LB's right to succeed to the tenant-of-record's tenancy as a non-traditional family member.

We worked with LB to ensure the apartment would remain affordable to him once he obtained succession, by assisting him to succeed to the tenant-of-record's Senior Citizen Rent Increase Exemption as well.

Ultimately LSNYC was able to leverage the procedural defects in the petitioner's case as well as utilize the abundance of proof gathered demonstrating LB's right of succession to secure a lease

for LB at pre-trial conference, without payment of \$16,000 in alleged arrears the landlord has previously sought. As a result, LB was able to remain in his home of over two decades.

### MOBILIZATION FOR JUSTICE

Mobilization for Justice's (MFJ) 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 RTC/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:*

Mobilization for Justice received through OCJ a court referral involving a case in the trial part. Landlord brought a squatter/licensee proceeding seeking possession of a project-based Section 8 apartment. The respondent was the surviving son of the deceased tenant-of-record. Respondent's mother failed to certify his yearly income or add him to the household composition prior to her death. Under project-based Section 8 rules, the landlord determined the respondent was ineligible to succeed to the tenancy. The court deemed respondent to have interposed an entitlement to succeed to the tenancy as his defense, whereupon the matter was referred to MFJ. MFJ represented respondent in a two-day trial of respondent's succession defense. Respondent testified on his own behalf and called his cousin and brother as witnesses. MFJ submitted voluminous evidence that respondent resided in his apartment for at least the two years preceding the death of the tenant of record.

After receipt of the parties' post-trial memoranda, the court issued a decision restating the law permitting certain respondents to succeed to project-based Section 8 tenancies even when not listed on the lease. The court found that respondent's witnesses and documentary evidence "...established his co-residency with his mother at least two years prior to her death as the evidence shows he was born in the apartment and lived there his entire life." It granted succession rights to the respondent and dismissed the petition. Notably, the court came to this conclusion, even though the respondent "...admitted his mother took him off the lease because the rent was too high." The decision supports the proposition that courts are disinclined to punish remaining family members in subsidized housing for possible improprieties by deceased tenants.

### NEIGHBORHOOD ASSOCIATION FOR INTER-CULTURAL AFFAIRS

The Neighborhood Association for Inter-Cultural Affairs, Inc. (NAICA) is a not-for-profit corporation that has been providing housing intervention and assistance services to residents of the Bronx since its establishment in 1974. NAICA's mission is to provide culturally and linguistically client-centered housing, legal, and social support services that promote

self-efficacy and quality of life improvements for individuals and families in New York. Our core methods of service include affordable housing development, housing management, free legal assistance, homelessness prevention, case management, community education, and community development.

#### 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:*

NYLAG prevailed on a motion to dismiss an illegal sublet holdover in which the landlord attempted to evict Client O, a 56-year-old Russian-speaking woman, who has resided in an affordable rent stabilized apartment in Ditmas Park, Brooklyn for 13 years. The NYLAG attorney, who speaks Russian, successfully moved to dismiss the proceeding based upon the insufficiency of the predicate notices. Client O is the long-term partner of the tenant of record who has been stuck abroad in Belarus for several years due to illness. The predicate notices contained no facts regarding the claim of illegal sublet. The judge dismissed the proceeding, finding that the landlord did not rebut the statements Client O made in her affirmation in support of the motion. After the order dismissing the case, the landlord moved to renew and reargue with an affidavit from its agent, which (falsely) claimed our client had no relationship with the tenant of record. The judge denied the motion to renew, holding that an affidavit from an agent is not new evidence. This outcome preserved our client's affordable long-term home and demonstrates the immense value of language accessible legal services.

#### NORTHERN MANHATTAN IMPROVEMENT CORPORATION

Northern Manhattan Improvement Corporation (NMIC) is a community-based settlement house founded in 1979 which has grown into a leading multi-service agency with a staff of over 120 employees. Available to all of New York City, our core catchment area is Upper Manhattan and the Bronx. Our mission is to serve as a catalyst for positive change in the lives of the people in our community on their paths to secure and prosperous futures. We serve about 14,000 clients each year with a variety of programs to address Housing, Immigration, Education/Career, Finance/Benefits, Health, and Holistic needs. We provide crisis intervention with legal or social services as a part of our legal, organizing, and advocacy initiatives. NMIC is ideally situated with offices in Upper Manhattan and the Bronx, where the large immigrant and mostly Spanish speaking populations in these communities can easily access the broad range of services available. NMIC has advocated for the housing rights of its community since its founding almost 45 years ago, and has represented tenants in housing court for decades. NMIC has been a RTC provider since the program's inception.

##### *An Example of Our Work:*

At court intake NMIC was referred a client whose landlord alleged he had failed to sign a rent stabilized renewal lease. The tenant had been trying to have his wife added to the lease for years, but the landlord continuously refused to do so, even though rent stabilized tenants have a statutory right to add their spouses to their leases. With NMIC's advocacy the landlord issued a renewal lease under the name of both NMIC's client and his wife. The tenant had been withholding rent due to habitability issues and the lack of a current lease. NMIC was able to assist the client in obtaining all necessary repairs before closing this case. NMIC also secured an abatement of nearly \$8,000 from the outstanding arrears, enabling the client to pay all outstanding arrears and avoid a future non-payment case from being brought against him.

### RISEBORO

RiseBoro Legal Empowerment and Assistance Program (LEAP) began as Ridgewood Bushwick Senior Citizen Counsel 50 years ago. From its beginnings the goal has always been to keep New Yorkers and especially Brooklynites in their homes in Bushwick and Queens. As the organization has grown, a number of other programs have been added or expanded. LEAP is one of those programs. LEAP takes a holistic approach in assisting our clients and works closely with our Homebase(s) in seeking resources, financial and otherwise, to find solutions for our clients.

Our vision and mission is to provide legal services and community empowerment to vulnerable Brooklynites. LEAP assists tenants in gaining access to justice with dignity by preventing evictions and preserving thousands of housing units. Our dedicated staff consisting of community organizers, paralegals, legal service navigators, managers, administrators, and attorneys are committed to providing low-income Brooklynites with high quality legal representation, with a core aspect of our holistic approach to legal representation focused on addressing the underlying economic issues that bring our clients into contact with the legal system.

#### *An Example of Our Work:*

Recently Riseboro was involved in a case involving an elderly client who is on a fixed income and had health issues. In that nonpayment proceeding, the Landlord alleged that the client owed nearly \$60,000 in arrears. After litigating this case, Riseboro was able to get this case dismissed, as the Landlord had not offered our client lease renewals for several years. As such that they could not maintain the nonpayment proceeding due to there being no lease in effect at the time of commencement. Additionally, we sought to ensure the client was enrolled in other beneficial services, such as SCRIE.

### NEIGHBORHOOD DEFENDER SERVICE OF HARLEM

Neighborhood Defender Service of Harlem (NDS) is a community-based public defender office that provides high-quality legal services to residents of Northern Manhattan and a member of the LEAP coalition. Since 1990, NDS has been working to improve the quality and depth of criminal and civil defense representation for those unable to afford an attorney through holistic, cross-practice representation. With the early implementation of Right to Counsel in key Northern Manhattan zip codes, NDS joined the Right to Counsel Coalition and began serving the community through the Right to Counsel Program. As a holistic public defender office, NDS is particularly familiar with the collateral consequences of homelessness, including an increased chance of entering the criminal legal system.



*An Example of our Work:*

NDS recently won a case for two tenants in a non-primary holdover against Steve Croman, one of New York's most notorious landlords. After years of litigation and on the eve of trial we were able to force Mr. Croman to settle and recognize our clients' entitlement to a renewal lease. We also forced Mr. Croman to agree to a conditional waiver of the \$10,000 in arrears and, critically, to catch up on years of uncompleted repairs, including increasing the electricity amperage and providing a working refrigerator.

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, LAS 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 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 housing crisis has further focused our efforts to advocate for the needs of New York's marginalized communities.

*An Example of Our Work:*

DC, 60, lives alone in the Pelham Gardens neighborhood of the Bronx, in an apartment he has lived in for ten years. His primary language is English. DC lives with HIV and receives benefits from the HIV/AIDS Services Administration (HASA). We received his chronic nonpayment holdover case as a referral from the Court. We agreed to represent him in his Holdover case based on chronic nonpayment of rent, as well as two additional underlying nonpayment cases. When we took on the case, we discovered that DC's landlord had illegally deregulated the building and increased the rent approximately 100%. Due to this rent increase, the landlord alleged that DC owed \$99,274.41 in owed arrears. However, because the stipulations in the two prior nonpayment proceedings were based on the illegally high rent, we moved to vacate the stipulations and the judgments for the two underlying nonpayment cases, and to seek leave to file an amended answer that raised the issue of the overcharge. To prevent DC's chronic nonpayment

holdover from moving towards eviction while we litigated the prior cases, we also moved to stay the holdover case.

While we litigated those motions, we also successfully sought retroactive payments that needed to be re-issued by HASA, totaling \$24,276.97. Furthermore, during the representation, we obtained significant repairs to the apartment, including repairing the defective stove, exposed wires, defective smoke and carbon monoxide detectors, and wall/ceiling leaks.

We successfully resolved all three cases in a stipulation dated April 23, 2024. The stipulation states that the landlord had illegally increased DC's rent, sets a new monthly rent amount of \$1,272.61, and provides that DC will receive all protections as a rent stabilized tenant. The stipulation further agrees that DC has a rent credit of \$7,107.89. In total, we got DC's landlord to agree to waive \$99,274.41 in alleged arrears, thus successfully preserving an affordable apartment and DC's tenancy.

Chair, Committee on Governmental  
Operations, State & Federal Legislation

Committees  
Environmental Protection, Resiliency &  
Waterfronts • General Welfare •  
Housing & Buildings • Oversight &  
Investigations • Criminal Justice



**Lincoln Restler**  
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Office of Civil Justice/ATTN: HEARING COMMENTS  
NYC DSS Office of Legal Affairs  
150 Greenwich Street, 38th Floor  
New York, NY 10007

January 29, 2025

re: New York City's Universal Access to Legal Services

I am writing to express my strong support for New York City's Universal Access to Legal Services program. Right to Counsel has been essential in keeping tenants in their homes - and the data is clear that it works. 84% of tenants who receive an attorney win their cases and stay in their homes. In addition, it has resulted in fewer frivolous lawsuits and served as a critical tool for fighting back against landlord harassment.

The passage of Right to Counsel was a significant moment for NYC and set us out as a model - leading to 15 other cities and three states passing similar laws. Unfortunately, New York City's implementation and administration of Right to Counsel has been far from ideal. I have been disappointed that the Adams Administration has not provided adequate funding or support to meet the City's legal obligation to provide attorneys.

The law is clear: the City "shall ensure that all income eligible tenants have access to legal representation." Yet despite this mandate, since January 2022, only 40% of tenants have received an attorney. The failure to represent every tenant has disastrous consequences - more than 25,000 tenants have been evicted. The City has killed this program through neglect. Since taking office, Mayor Adams has permanently reduced the Department of Social Services headcount by 1,500 positions and failed to fill half the budgeted positions in the Office of Civil Justice. And the Administration has failed to provide any increased funding despite clear evidence that current levels are inadequate.

New York City is facing a mounting housing affordability crisis. One in three New York tenants pay the majority of their income in rent, the number of New Yorkers sleeping in shelters has increased by more than 50% under Mayor Adams, and the Rent Guidelines Board has continued to raise rents. We must do everything we can to keep New Yorkers in their homes. I urge the Adams Administration to fully staff all Right to Counsel positions, and provide the full funding necessary to meet the City's legal obligations under the law. We cannot continue to standby while hundreds of tenants are needlessly evicted.

Thank you,

Lincoln Restler  
New York City Council Member, District 33



**OCJ Annual Hearing**  
**RTC NYC Coalition Testimony on Right to Counsel Implementation**  
**January 29, 2025**

Thank you for the opportunity to testify about the Right to Counsel. The Right to Counsel NYC Coalition is a tenant-led coalition that formed in 2014 to disrupt Housing Court as a center of displacement and stop the eviction crisis that has threatened our families, our neighborhoods, and our homes for too long. After a hard fought, three-year grassroots campaign, we won and became the first city in the nation to establish a Right to Counsel (RTC) for tenants facing eviction. Since then, the success of RTC has been undeniable: In the years following RTC's enactment, evictions plummeted, landlords sued tenants less, and almost everyone (at least 84%) of tenants who had the Right to Counsel stayed in their homes. RTC has also helped develop a body of more just case law, lowered tenants' rents, re-stabilized apartments, and has forced landlords to make repairs.

Evictions impact people's education, employment, relationships, physical and mental health, and so much more. And the positive impacts of RTC in eviction cases, on communities in New York and across the country, are multiple and [well documented](#). Of note:

- A recent [study](#) found that Right to Counsel is linked to a reduced risk of adverse birth outcomes among Medicaid-insured mothers. This shows how eviction prevention, through RTC, does more than just keep families housed – it also contributes to better maternal and child health.
- Evictions have also been found to have a disproportionate impact on people of color, and [especially on Black women and children](#).
- And stopping evictions and keeping families housed is more important than ever before: [1 in 8 children in New York City was homeless last year](#). That is a staggering statistic, and it should enrage all of us.

Countless families across NYC are being forced into homelessness, shelters, and other precarious living situations, but it doesn't have to be this way. The solution is right in front of us, and tenants fought for it.

**Just to be clear: When properly implemented and upheld, RTC works.** It prevents evictions and homelessness. It keeps our communities whole. And yet, the Office of Civil Justice (OCJ), the agency mandated to implement RTC, is failing to do so. For the last couple of years, neither the courts nor the City has adequately upheld RTC. Instead, the courts *have chosen* to move cases faster than the legal services providers can take them on. This is a violation of tenants' right to due process and a gross injustice. As we stated in our testimony last year, we understand that a core challenge here is that we need a state housing court to willingly implement a city law. We know the state can do more and that is why our coalition is fighting at the state-level to expand and strengthen RTC.

At the same time, we know the City can, and must, do better. OCJ only exists because of the tenant movement. It was created to implement a law that we won. Under the de Blasio administration, OCJ would negotiate with the courts to enforce Local Law 136 and worked closely with our coalition to implement it – They were transparent, open to our input, and committed to making RTC a success. In contrast, **under the Adams administration, OCJ has not fiercely fought to uphold RTC. Instead, it has capitulated to the courts' position and is responsible for [more than 73,000 tenants being denied their rights](#).**

While OCJ has so far failed to protect RTC, now is the time to step up and ensure that this law is effectively and fully implemented. That is why we, at the Right to Counsel NYC Coalition, are urging **OCJ to publicly commit to fighting for Right to Counsel and join us in demanding that:**

- The state legislature pass our **Statewide Right to Counsel legislation (S2721)** which would expand and strengthen the right in NYC and create rules for the courts to uphold and implement RTC.
- The City **FULLY FUND** Right to Counsel by adding at least \$350 million to the budget to **ensure there are enough attorneys to represent everyone entitled to RTC.**

**We also demand that OCJ resume holding these annual public hearings on Right to Counsel in person**, as they were prior to the COVID-19 pandemic. Holding these hearings virtually no longer makes sense, as the public health emergency caused by the pandemic has ended (and all city, state, and federal requirements around social distancing, masking, etc. have been lifted). OCJ is, and must be, accountable to tenants. Choosing to keep these hearings virtual is one example of how OCJ, under the Adams administration, continues to neglect its duty to fiercely protect and uphold RTC.

**There is no denying that the Right to Counsel, the right that we won and that OCJ is tasked with upholding, helps preserve our communities and saves lives. And so, we are imploring you to address this crisis with the seriousness and urgency it deserves.**

Testimony of  
Fitzroy A. Christian  
At  
Public Hearing of the Office of Civil Justice  
Wednesday, 29<sup>th</sup> January, 2025

MY NAME IS FITZROY CHRISTIAN AND I AM A TENANT RESIDING IN A RENT STABILIZED BUILDING IN THE BRONX. I AM A MEMBER OF, AND TENANT LEADER AT CASA (COMMUNITY ACTION FOR SAFE APARTMENTS) AND A NOW RETIRED PARALEGAL ADVOCATE FOR TENANTS IN NEW YORK CITY.

IN BOTH THOSE CAPACITIES, I HAVE WITNESSED THE HIGH PRE-2017 VOLUME OF EVICTIONS AND DISPLACEMENTS THAT OCCURRED BECAUSE MOST TENANTS – LESS THAN 10% -- DID NOT HAVE ACCESS TO LEGAL REPRESENTATION IN HOUSING COURT, DID NOT KNOW THEY HAD RIGHTS THEY COULD ASSERT, WERE INTIMIDATED BY THE AGGRESSION OF THE LANDLORDS' ATTORNEYS, AND WERE OVERAWED BY THE COURT ITSELF AND THE STAFF WHO WERE MOSTLY UNHELPFUL AND AT TIMES BLATANTLY ANTI-TENANT.

THEN CAME THE PASSAGE OF RIGHT TO COUNSEL LEGISLATION IN 2017 DURING THE ADMINISTRATION OF FORMER MAYOR BILL DE BLASIO THAT PROVIDED LEGAL REPRESENTATION FOR TENANTS MEETING CERTAIN CRITERIA AND WERE FACING EVICTION IN HOUSING COURT. ALMOST IMMEDIATELY, WE WITNESSED AN VIRTUAL COMPLETE REVERSAL OF OUTCOMES IN EVICTION CASES IN HOUSING COURT, WHERE MORE THAN 80% OF TENANTS WHO PRIOR TO RIGHT TO COUNSEL WOULD HAVE BEEN EVICTED WERE

ABLE TO STAY IN THEIR HOMES BECAUSE OF FULL REPRESENTATION BY AN ATTORNEY. IN ADDITION, NEW YORK CITY ALSO SAW IMMEDIATE SAVINGS OF MORE THAN \$200 MILLION ANNUALLY WITH THE IMPLEMENTATION OF RTC.

TODAY, WE ARE ALMOST ALL THE WAY BACK TO THE BAD, OLD DAYS OF **FIVE-MINUTE-JUSTICE** IN HOUSING COURT, WITH THE RESULTING MASSIVE INCREASE OF EVICTIONS AND EXPLOSION OF HOMELESSNESS. HOUSING COURT IS NOW AGAIN THE **LANDLORDS' EVICTION MILL** AND **COLLECTION AGENCY** -- ALL BECAUSE OF YOU, THE OFFICE OF CIVIL JUSTICE, IN COMPLICITY WITH THE STATE'S OFFICE OF COURT ADMINISTRATION. BOTH OF YOU HAVE BECOME THE MAJOR OBSTACLES IN THE FULL IMPLEMENTATION OF THE RIGHT TO COUNSEL IN HOUSING COURT IN NEW YORK CITY.

IT IS NOT DIFFICULT TO UNDERSTAND WHY YOU REFUSE TO ACCEPT THE INTENDED NAME OF RIGHT TO COUNSEL, BUT USE THE NAME "**UNIVERSAL ACCESS TO COUNSEL**" IN A SYSTEM THAT HAS THE OCJ AS GATEKEEPERS WITH FULL CONTROL OF ACCESS TO THE RESOURCES MANDATED BY THE RTC LEGISLATION.

THE SCANT COUPLE OF MINUTES ALLOCATED TO US, TENANTS AND MEMBERS OF THE PUBLIC, TO ADDRESS THIS HEARING, DOES NOT ALLOW FOR A DETAILED DISCUSSION OF THE MANY WAYS THE OCJ AND OCA HAVE INTENTIONALLY SABOTAGED THE FULL AND PROPER IMPLEMENTATION OF THE RIGHT TO COUNSEL LAWS. BUT I CAN, AND WILL, SAY THIS:

THE OCA, HEADED BY THE STATE'S CHIEF JUSTICE, IS RESPONSIBLE FOR ENSURING THE APPLICATION OF JUSTICE THROUGHOUT ALL THE COURTS IN NEW YORK STATE. HERE WE ARE WITNESSING AND ENDURING THE EXECUTION OF JUSTICE (PUN INTENDED) BY THE OCA! AND I SAY: SHAME! SHAME! SHAME! THIS IS NOT WHAT THE PHRASE "JUSTICE IS BLIND" MEANS.

YOU, THE OCJ, WITH YOUR INCREASING BUREAUCRATIZATION OF THE PROCESS OF PROVIDING FUNDING AND OTHER RESOURCES TO ENABLE THE PROPER APPLICATION OF RIGHT TO COUNSEL, WHAT WITH YOUR PROGRESSIVELY BURDENSOME "PAPER WORK" DEMANDED, AND RELUCTANCE TO PROPERLY FUND THE CRITICAL NEED FOR HOUSING ATTORNEYS, HAVE BECOME THE MAJOR OBSTACLE TO THE FULL IMPLEMENTATION OF THE RTC PROCESS.

THIS PUBLIC HEARING TODAY IS A FARCE. IT SERVES ONLY TO MEET THE LEGISLATED REQUIREMENTS OF AN ANNUAL "HEARING" AT WHICH MEMBERS OF THE PUBLIC HAVE AN OPPORTUNITY TO CONTRIBUTE TO THE RTC PROCESS. BUT, AS HAS HAPPENED EACH YEAR SINCE THE FIRST HEARING IN 2018, THE TESTIMONIES OF THE PUBLIC, AND THE VOICES OF THE TENANTS HAVE BEEN IGNORED ... AND WILL AGAIN BE IGNORED.

I AM CALLING ON YOU, THE OCJ, TO RECONSIDER YOUR APPROACH TO THE FULFILLMENT OF THE RTC MANDATE.



BECAUSE OF YOU, TENS OF THOUSANDS OF HOUSEHOLDS HAVE BEEN DISPLACED, TENS OF THOUSANDS OF FAMILIES HAVE BEEN DEVASTATED, AND TENS OF THOUSANDS OF CHILDREN HAVE BEEN TRAMAUTIZED AND WILL CARRY THE SCARS OF HOMELESSNESS WELL INTO THEIR FUTURES.

ENOUGH IS ENOUGH!

YOUR OFFICE WAS CREATED TO BE THE PATHWAY TO THE SOLUTION OF UNFAIR EVICTIONS. YOU HAVE MADE YOURSELF INTO A MAJOR PART OF THE PROBLEM AND CRISIS OF UNHOUSED FOX.

DO THE RIGHT THING! MAKE RTC THE RIGHT IT WAS DESIGNED AND INTENDED TO BE. MAKE IT POSSIBLE FOR THE POORER FOLX OF THE CITY HAVE AN OPPORTUNITY TO REMAIN IN THE CITY THEY BUILT, AND NOT BE CHASED OUT BECAUSE OF THE GREED OF PREDATORY LANDLORDS WITH YOUR FULL ASSISTANCE.

HOUSING IS A HUMAN RIGHT. THE RIGHT TO COUNSEL IS THE WAY TO MAKE IT REAL. IN THE CITY, AND THROUGHOUT THE STATE.

THANK YOU.

**January 29, 2025**

**Office of Civil Justice Public Hearing on Right to Counsel**

**Written Testimony from Catholic Migration Services**

Dear Members of the Office of Civil Justice,

Thank you for the opportunity to testify about the Universal Access to Counsel Law. Established in 1971, Catholic Migration Services (CMS) is a not-for-profit that provides free legal services, tenant organizing services and community legal education to low-income individuals regardless of race, religion, ethnicity, national origin, or immigration status. The mission of Catholic Migration Services is to empower underserved low-income immigrant communities in New York City, primarily in Brooklyn and Queens, by providing immigration, housing and employment legal services, tenant organizing, and community legal education.

CMS is a proud member of the Right to Counsel (RTC) Coalition. The RTC Coalition was formed in 2014 as a tenant-led movement to disrupt the unjust systems of housing court, challenge displacement, and address the eviction crisis that has long threatened the stability of our families, neighborhoods, and homes. Through a hard-fought, three-year grassroots campaign, we succeeded in making New York City the first in the nation to establish a Right to Counsel for tenants facing eviction. This historic victory has inspired similar efforts across the country.

Today, we find ourselves at a critical juncture. Over 73,000 households in our city are facing eviction, and many of them qualify for RTC.<sup>1</sup> Tragically, a disproportionate number of these tenants are low-income Black and brown people. Despite the proven success of RTC in reducing evictions and stabilizing communities, the courts are failing to uphold this mandate, and the Office of Civil Justice (OCJ) has not taken sufficient action to address this grave injustice.

**The Proven Power of Right to Counsel**

Since its implementation, RTC has had a transformative impact. Evictions have dropped significantly, landlords have been less likely to initiate cases against tenants, and the vast majority of tenants with RTC representation—at least 84%—have been able to remain in their homes. This is not just a policy success; it is a lifeline for families and communities.

However, the current situation undermines everything we fought for. Evictions have surged back to pre-pandemic levels, and tenants are being denied their fundamental right to legal representation. Landlord attorneys are routinely cornering pro se tenants whom they know will not be chosen for representation, pressuring the tenants to sign unfair settlement agreements and waive away their legal rights. The courts are prioritizing speed over due process, forcing cases to

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<sup>1</sup> <https://www.righttocounselnyc.org/nycrcrisismonitor>

move faster than legal service providers can manage at current funding levels. This blatant disregard for tenants' rights is a gross violation of the law and a disservice to our communities.

### **Anand Bisht's Story**

At CMS, we have had the privilege of standing alongside tenants who face incredible hardships, including individuals like Anand Bisht, whose journey exemplifies the dire need for RTC.

Anand Bisht, a resident of Woodside, Queens, moved into his building in 2014. He was a dedicated worker, always paying his rent on time while working as a chauffeur. However, in 2019, his life was upended by a traumatic encounter with the NYPD. During a routine workday, an interaction with an officer escalated into violence. Anand was forcibly removed from his car, beaten, and left both physically and emotionally scarred. The incident did not end there—he was detained in an immigration detention center for a month, leaving him shaken, afraid, and unable to return to work.

When Anand was finally released, he faced a drastically different world. The COVID-19 pandemic had taken hold, making it impossible for him to find employment. Administrative delays compounded the issue, stalling the approval of his work permit and leaving him in a precarious financial state. As rent arrears began to mount, the strain of providing for himself while trying to navigate this crisis became overwhelming.

In 2022, after the pandemic-era eviction moratorium was lifted, Anand's landlord sued him for eviction. This lawsuit was not just a threat to his home; it was a source of constant anxiety, fear, and emotional turmoil. To make matters worse, the conditions in his apartment deteriorated significantly. Anand was forced to live with leaks, mold, rodents, and broken appliances. At one point, his bathroom ceiling caved in. His landlord's aggressive behavior only deepened his vulnerability—throwing him out of his office when he sought assistance.

Amid these dire circumstances, Anand discovered that the courts were scheduling eviction cases faster than tenants like him could secure legal representation. Each court appearance filled him with dread as he was forced to face a complex legal system on his own. Anand's fear of losing his home was compounded by the systemic injustices that left him feeling powerless, defeated, and forgotten despite the fact that he was working almost constantly trying to obtain the money to pay the rent.

It wasn't until Anand connected with Catholic Migration Services that he began to see a glimmer of hope. From the moment we took on his case, our team was committed to standing with him every step of the way. We provided him with an attorney and an organizer who listened to his story with compassion, helped him understand his rights, and fought tirelessly to protect his home.

Together, we negotiated with his landlord to reduce his rent arrears and worked for months to secure funding from the Human Resources Administration to cover the remaining balance. This was not just legal advocacy; it was a comprehensive effort to restore Anand's sense of safety, dignity, and stability.

Anand's story is a stark reminder of why RTC is essential. If he had access to legal representation from the very start, he could have avoided years of unnecessary trauma. The fear, stress, and emotional toll of navigating a system stacked against tenants without support are experiences no one should have to endure.

His case underscores the importance of ensuring that every tenant—regardless of their background or circumstances—has the legal protection they deserve. For Anand, having representation was not only a turning point in his case; it was a source of hope, humanity, and justice in an otherwise unjust system.

CMS stands firm in our belief that housing is a human right. Stories like Anand's fuel our commitment to ensuring that no tenant faces the threat of eviction alone. Through RTC, we can fight to create a city where all tenants, regardless of their circumstances, are treated with dignity and respect.

### **The Broader Impacts of Eviction and the Need for Urgent Action**

The importance of RTC extends far beyond preventing displacement. A recent study revealed that RTC is linked to reduced risks of adverse birth outcomes among Medicaid-insured mothers, highlighting its role in fostering better maternal and child health.<sup>2</sup> Eviction prevention is not just about housing; it is about building healthier, more stable communities for generations to come.

The stakes could not be higher. Last year, one in eight children in New York City experienced homelessness.<sup>3</sup> This staggering statistic is a stark reminder of the devastating consequences of housing instability. Families are being forced into shelters, onto the streets, or into precarious living situations. This crisis demands immediate and decisive action.

### **Our Call to Action for Mayor Adams' OCJ**

RTC is not a suggestion—it is a legal mandate. It is the City's responsibility to uphold it. OCJ was created because of the tenant movement, and part of its mandate is to implement the law we fought so hard to win. In its first few years, OCJ worked in partnership with the courts and tenant advocates to uphold RTC. Recently, OCJ has failed to take a firm stand, instead capitulating to the courts' prioritization of speed over justice. This failure has directly contributed to the denial

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<sup>2</sup> <https://pubmed.ncbi.nlm.nih.gov/39466257/>

<sup>3</sup> <https://advocatesforchildren.org/articles/1-in-8-n-y-c-public-school-students-were-homeless-last-year/#:~:text=The New York Times | At,for Children of New York.>

of RTC for more than 73,000 tenants and many preventable evictions. The economic costs of these evictions are substantial; the human costs are monumental.

The right to counsel in criminal cases is guaranteed to every person because it promotes fair representation and due process. This same principle underpins RTC in eviction cases. Denying tenants their right to counsel is a violation of justice and has profound consequences, particularly for Black and brown tenants who are disproportionately affected by evictions, landlord discrimination, and unsafe living conditions.

We urge OCJ to:

1. Negotiate with the courts to uphold RTC and tenants' right to due process.
2. Meet regularly with the Right To Counsel Coalition to address the ongoing violations of RTC.

### **Conclusion**

CMS, along with other Right To Counsel Coalition members, has fought for years to win RTC because we believe that housing is a human right and that no one should face the threat of eviction, especially without the support of legal representation. We call on the City to uphold RTC, and stop the gross violations of tenants' rights that are occurring in our city every day.

Thank you for your attention to this urgent matter.

Sincerely,

Bryan Fotino, Tenant Organizer

On Behalf of Catholic Migration Services

Thank you to the NYC Office of Civil Justice for holding a hearing on the Right to Counsel (RTC) program, also called Universal Access to Counsel program.

Our names are Oksana Mironova and Yvonne Peña, and we are policy analysts at the Community Service Society of New York (CSS). CSS is 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.

For decades, we've tracked eviction trends in New York. Our soon-to-be published analysis found that between 2017 and 2024, eviction filings declined by 49 percent, down to 114,000. Court-ordered evictions declined by 26 percent, falling to 15,400.

Our research shows that the vast majority of tenants facing eviction are Black and Latino. Single parents are overrepresented among tenants facing eviction. And in a pandemic-era shift, moderate-income people now make up a growing share of tenants experiencing eviction attempts—a sign of an expanding housing crisis in New York City.

Right to Counsel, local anti-harassment laws, the 2019 rent laws, and new Good Cause eviction protections are working in tandem to lower eviction rates in New York City. At the same time, more than a [third of tenants](#) are facing housing court without legal counsel, because of systemic underfunding of the program. The courts are choosing to move cases faster than the legal services providers can take them on, prioritizing speed over the tenants' right to due process, and in direct violation of the RTC law.

In addition to threatening tenants' rights, the underfunding of legal services providers exacerbates administrative burdens on an already taxed Human Resources Administration (HRA). During a tenant's housing court case, tenants will undoubtedly stop by HRA's office for emergency assistance grants, also known as one-shot deals, often with the assumption that HRA's financial assistance is all that is needed to resolve a case. However, tenants are likely to submit incomplete and even duplicate one-shot deal applications for rental arrears. A legal service provider can offer support and expertise to ensure one complete application is submitted, effectively supporting HRA's capacity and preventing backlogs and overutilization of city resources.

There are also complex cases when tenants may qualify for FHEPS (Family Homelessness & Eviction Prevention Supplement), a rental subsidy program for families with children at risk of homelessness. The most successful way to apply for FHEPS is for a family to be represented by attorneys of the legal service providers under the OCJ contracts. The provider can confirm if the family is eligible for FHEPS and submit a complete application packet, which includes pages of information and requires coordination with a tenant's landlord. Otherwise, tenants may not correctly apply for FHEPS – getting closer to homelessness and having to utilize our Department of Homeless Services (DHS) shelter system. While applicants are supposed to be screened by HRA for FHEPS when they submit a one-shot deal application or an initial cash assistance

application, this screening process is not without issues. Because complex cases that require FHEPS are not properly referred within HRA departments as outlined in [HRA's policy memo](#), the underfunding of OCJ providers once again affects HRA's capacity. Tenants often reapply for one-shot deals instead of properly applying for FHEPS.

There is also the issue of housing quality—represented tenants can be more successful at having repairs and maintenance issues resolved during their housing court settlement. When tenants are unrepresented, they may not know how to effectively to settle with landlords or landlords' attorneys for repairs. When tenants live in units that are not safe and habitable or fail to meet the City's housing maintenance laws, families are not only at risk of homelessness, but their health is also at risk.

New York City must do more to defend and uphold Right to Counsel. In doing so, not only will the City ensure that all tenants who are denied access to legal representation can receive it, it is also supporting families beyond the courts, as they access other social services within HRA's broader benefits landscape.

We join legal service providers and the RTCNYC Coalition in calling for full funding for the Right to Counsel law. Full implementation requires, at a minimum, an additional \$350 million in funding, which will help ensure there are enough attorneys to represent everyone entitled to RTC.

Thank you for the opportunity to testify. If you have any questions about my testimony or CSS's research, please contact us at [omironova@cssny.org](mailto:omironova@cssny.org) and [ypena@cssny.org](mailto:ypena@cssny.org).

The logo for the New York City Bar, featuring the words "NEW YORK CITY BAR" in a bold, serif font, centered between two horizontal blue bars.

**NEW YORK  
CITY BAR**

**TESTIMONY OF THE NEW YORK CITY BAR ASSOCIATION  
BEFORE THE NEW YORK CITY OFFICE OF CIVIL JUSTICE**

**JANUARY 29, 2025**

**MUHAMMAD FARIDI, CITY BAR PRESIDENT AND  
ALISON KING, ANDREW SCHERER AND SARA WAGNER,  
TASK FORCE ON THE CIVIL RIGHT TO COUNSEL CO-CHAIRS**

This testimony is presented on behalf of the New York City Bar Association’s (the “City Bar”) Civil Right to Counsel Task Force (the “Task Force”). The Task Force was formed in the spring of 2018 to advocate for the most effective implementation of New York City’s 2017 legislation providing for a right to counsel in eviction cases (RTC), to support the expansion of that right to other jurisdictions, and to advocate for the extension of the right to counsel in other civil matters where fundamental human needs are at stake. The Task Force Co-Chairs are Alison King, Pro Bono Counsel at Kirkland and Ellis, New York Law School Professor Andrew Scherer, and Sara Wagner, Associate Director of Teamsters Local 237 Legal Services Plan. Membership includes past Presidents of the City Bar as well as the current President, Muhammad Faridi, who sits *ex-officio*, prominent members of the bar, judiciary and legal academia, leading housing rights advocates and liaisons to relevant City Bar committees. By design, the Task Force does not include representatives of organizations with an immediate stake in the right to counsel program.

New York City’s passage of legislation guaranteeing a right to counsel for low-income tenants facing eviction proceedings was a monumental step toward equal justice, one that was decades in the making. For the first time anywhere in the United States, tenants facing legal proceedings that could lead to loss of their homes, displacement from their communities and the threat of homelessness were guaranteed representation by an attorney. Since New York City passed this landmark legislation, twenty additional localities have adopted their own right to counsel laws, as have five states.

The right to counsel for tenants in New York City has been an enormous success. Evictions and eviction filings have been significantly reduced. Over 83% of represented tenants have been able to remain in their homes. RTC is leveling the playing field in Housing Court, giving people a fighting chance to assert their legal rights, and sending a message that New York City’s low-income tenants are entitled to be treated with dignity and respect. RTC preserves affordable housing, stabilizes low-income communities, stems displacement, promotes family stability, and reduces the incidence of homelessness among low-income New Yorkers together with concomitant human and governmental costs. And RTC is transforming the culture in Housing

**About the Association**

*The mission of the New York City Bar Association, which was founded in 1870 and has 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.*



Court, to a more balanced forum with greater civility and deeper attention to legal rights and principles. During the pandemic, RTC saved lives as well as homes, as attorneys funded by the City assured that tenants were able to avail themselves of pandemic-related protections against eviction as well as pre-existing rights. New York City is to be applauded for leading the nation in adopting this measure, for moving forward with the massive undertaking of its implementation, and for engaging in ongoing dialogue with key stakeholders to further ensure its success.

The Task Force's goal is to be a supportive and positive voice for implementation of RTC in a manner that is the most responsive to the needs of the community, with the bedrock understanding that no one should be evicted or face an eviction proceeding without counsel. To that end, the Task Force meets regularly with key stakeholders to monitor the City's implementation of RTC. We have met with tenant leaders, legal services providers, Housing Court Judges, HRA Office of Civil Justice leadership and, late last Spring, with Chief Judge Rowan Wilson.

All stakeholders agree about two things: 1) that RTC is the right thing to do to protect tenants' rights, prevent eviction and homelessness and secure equal justice; and 2) that the promise of RTC is far from being fully realized. Despite stakeholders' efforts to right the ship after the tidal wave of post-pandemic eviction proceedings, New York City's RTC program is still struggling. Simply put, the program is not being effectively or efficiently administered and there are not enough attorneys available to meet the need, with the result that thousands of tenants are going unrepresented. This crisis is not simply an issue of access to justice: given the vastly disproportionate rate of eviction proceedings brought against people of color, it is an issue of racial justice as well.

Based on our discussions with stakeholders, the Task Force urges HRA's Office of Civil Justice (OCJ), which is tasked with RTC implementation, to take these immediate steps.

***First:*** The City should support, and urge the New York State Legislature to pass and the Governor to sign, the state-wide Right to Counsel bill (S06678A/A07570A) this session.<sup>1</sup> In addition to providing RTC to tenants in all parts of the state, this legislation would improve upon the NYC law in key respects and would greatly assist OCJ with effective implementation of the NYC program and averting evictions. The proposed legislation would:

- cover any case that could result in tenants losing their homes, no matter the legal forum. Administrative hearings, appeals, affirmative litigation, would all be covered, and more
- require courts, judges and landlords to ensure that tenants know about their right to counsel and how to use it, and

require courts to adjourn cases until tenants have had time to retain and consult with their RTC attorney.

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<sup>1</sup> See *Report in Support of Creating a Statewide Right to Counsel in Eviction Proceedings*, NEW YORK CITY BAR ASSOCIATION, May 25, 2022, [https://www.nycbar.org/reports/report-in-support-of-creating-a-statewide-right-to-counsel-in-eviction-proceedings/?back=1#\\_ftn6](https://www.nycbar.org/reports/report-in-support-of-creating-a-statewide-right-to-counsel-in-eviction-proceedings/?back=1#_ftn6) (supporting the legislation while leaving to the legislative debate the question of whether tenants should meet an income eligibility cap prior to receiving counsel).

**Second:** OCJ should work with other departments in the City’s Human Resources Administration to streamline and revise procedures that affect implementation of RTC.

- Stakeholders report that there are substantial and intolerable delays in processing one-shot deals and housing subsidies. These are necessary government benefits to avoid eviction and should be provided at the earliest possible stage when eviction is threatened. A system should be put in place to make these benefits available before eviction petitions are filed. The current approach wastes court time and attorneys’ time. An efficient system would reduce court filings and enable legal services providers to use their resources to provide eviction-prevention legal representation rather than spend their time chasing after government benefits.
- The system for distribution of cases of RTC-eligible tenants to legal services providers is, by all accounts, chaotic and confusing for tenants, providers and the court. OCJ should work with tenant leaders, providers and the courts to devise a better approach.

**Third:** OCJ should work, in consultation with all stakeholders, to develop a full-implementation plan to assure that all tenants who are entitled to representation under the RTC law are able to secure counsel as soon as possible. This plan should include concrete steps with a specific timetable to grow the program by providing sufficient funding to hire and retain enough attorneys and support staff to provide the highest quality legal representation to meet the needs of eligible clients. Funding must be sufficient to ensure that caseloads are manageable and employee compensation is at a level that will support recruitment and retention of qualified candidates. The city should support and fund pipeline efforts of the providers, local law schools and others to prepare, recruit and retain attorneys and other eviction-prevention staff.

One final comment. As we have noted in prior testimony, the Task Force has long supported the term “right to counsel” to describe the RTC program. We greatly appreciate that OCJ has adopted this term and shifted away from the confusing and opaque phrase “universal access.” This gesture is important: tenants and their allies fought hard to win the *right* to counsel, and RTC has inspired a movement to replicate this right in jurisdictions across the country. It’s time to make the *right* to counsel a reality.

Thank you for your time and consideration, and please do not hesitate to call upon the Task Force if we can be helpful in any way. We look forward to continuing these important discussions.

New York City Bar Association  
Muhammad Faridi, President

Task Force on the Civil Right to Counsel  
Alison King, Andrew Scherer and Sara Wagner, Co-Chairs

January 2025

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