

Testimony by the New York Legal Assistance Group (NYLAG)
Annual Public Hearing on the NYC Office of Civil Justice’s Programs to Provide
Universal Access to Legal Services for Tenants Facing Eviction
November 23, 2020

Good evening and thank you for the opportunity to speak at today’s annual hearing on the Office of Civil Justice’s programs to provide Universal Access to Legal Services for Tenants Facing Eviction. My name is Ed Campanelli, and I am the Associate Director of the Tenants’ Rights Unit at the New York Legal Assistance Group (NYLAG).

NYLAG uses the power of the law to help New Yorkers in need combat social and economic injustice. We address emerging and urgent legal needs with comprehensive, free civil legal services, impact litigation, policy advocacy, and community education. NYLAG serves veterans, immigrants, seniors, the homebound, families facing foreclosure, renters facing eviction, low-income consumers, those in need of government assistance, children in need of special education, domestic violence victims, people with disabilities, patients with chronic illness or disease, low-wage workers, low-income members of the LGBTQ community, Holocaust survivors, as well as others in need of free legal services.

For anyone who takes the time to review the transcripts from the prior annual public hearings held by the Office of Civil Justice (OCJ) concerning implementation of the Right to Counsel for tenants , a word that comes up frequently is “groundbreaking.” When the City Council passed the law in 2017 establishing the

Right to Counsel, it was indeed groundbreaking. But in 2020, it's not an exaggeration to say that for some tenants, the Right to Counsel will be lifesaving.

A now-retired administrative judge who invested much effort into trying to make New York City Housing Court more just said in a speech that all societal ills are filtered through Housing Court. And right now Housing Court is ground zero for NYC tenants during the ongoing COVID-19 pandemic. Our current public health emergency turned life on its head in a minute and swelled the ranks of the housing insecure. While there are no silver linings to be found amid this raging pandemic, it is the City's good fortune that because OCJ spent the prior 2.5 years implementing RTC, there already existed a standing army of attorneys and paralegals ready and able to assist vulnerable tenants navigate through the COVID-19 storm.

When the Governor, the Mayor, and the courts were trying to figure out what to do next, and before OCJ established a housing legal hotline, the staff at NYLAG and other legal service providers were helping the tenants who were already clients because of their Right to Counsel understand what was happening. As the courthouses and the offices of government and property managers became ghost towns, legal services providers maintained communication with our clients, which in turn allowed providers to be conduits of communication for these vulnerable tenants who, even in ordinary times, are often heavily reliant on government services.

Communication, for our staff, means actions as much as it does words. Take for example the family of five with three minor children under the age of twelve who our attorneys got restored to possession after being evicted on March 12 for nonpayment of rent right before the eviction moratorium went into effect. Just as the

public health messaging was to shelter in place, this family lost its home and relied on us for help. Communicating with Human Resources Administration for a rent arrears grant was tricky; city workers were displaced from their offices like everyone else. HRA RAU was generally unresponsive until very close to the payment deadline in the judge's order. After a tremendous amount of additional advocacy, HRA finally issued the checks. A NYLAG staff attorney who resides in Brooklyn retrieved the checks from HRA in Manhattan and then immediately met with the landlord and the family in Queens to exchange the checks for the keys so our clients could return to their home.

On February 24, 2020, Crain's New York Business published the article, "Council looking to expand program that gives tenants free legal help." We all know that the program has already expanded. Because of the astounding job loss and interruption in incomes, many more tenants qualify for services. In order to meet that increased demand, it is incumbent on OCJ to remain attentive, nimble, flexible, and passionate. Those aren't words that are ever associated with bureaucracy, but to your credit, you have already demonstrated those traits. And don't forget, you're not alone.

When people used to ask me what I did for a living, for many years my standard answer was, "Make bureaucracy produce the correct result for my client." But being part of Right to Counsel means working with bureaucracy to achieve the correct and just result for the tenants of New York City.

There are big open questions that can only be answered by action. What should OCJ advocate for to protect tenants? What should OCJ do when there is no longer is any moratorium on evictions? We respectfully suggest the following:

- Our guiding principle is the importance of keeping people in their homes. It is hard to imagine something beyond the current pandemic that can put that in starker relief, yet some will still need convincing, especially at budget time. But we will remain firm.
- To keep people in their homes, we will have to expand the Right to Counsel. The growing tsunami of pending and new Housing Court filings will smother the Right to Counsel if we don't shore up and expand the program now. We must support pending legislation, like City Council bill Intro 2050, that will improve the Right to Counsel and expand its reach for tenants in the City's Public Housing.
- OCJ is part of the Human Resources Administration, the city agency with the most crucial role in addressing the impact of COVID-19. Under Commissioner Banks, we've all experienced a better managed and more efficient bureaucracy. The back office so to speak is running well. But on the front end, the public interface, people needing assistance still find access impenetrable. Communication is key. Never getting a response from Homebase, or Adult Protective Services taking five months to process a CityFHEPS application must be a thing of the past.
- Create and improve upon referral mechanisms that connect tenants with attorneys at the earliest stage possible. Housing Court operations are expanding and with it the threat of eviction for many tenants. As OCJ explained in its most recent annual report, "OCJ is providing access to free legal representation for unrepresented

tenants who respond to motions by landlords to proceed with pre-pandemic eviction warrants by appearing for a scheduled court conference through the assignment of counsel to any tenant at such a conference who wants legal representation in their case.” This intervention is crucial now. It is well understood, however, that the earlier the intervention, the better the outcomes. When I started Housing Court practice, I was mostly occupied with drafting Orders to Show Cause to stay imminent evictions. The few tenants who had attorneys were getting assistance at the 11th hour. For me, the most important aspect of the Right to Counsel is coming into a case at the very beginning for the tenant. But here we are again meeting tenants for the first time on the cusp of the execution of an eviction warrant. Tenants facing pre-pandemic warrants need money or a break on the rent more than they need lawyers. We need to push for greater and expanded subsidies. But to prepare for the future, we need to get back to focusing on intercepting tenants as soon as they pass the threshold into a summary proceeding. Even better would be working to make sure the Housing Court case never comes. It makes no sense to wait until a tenant is already in court in order to get assistance with rent arrears.

The calendar year 2020 is almost over, and no one is going to miss it. At the start of the year, Community Service Society reported positively, “Right to Counsel and Stronger Rent Laws Helped Reduce Evictions in 2019.”¹ What will be the headline for 2021?

¹ Mironova, Oksana.” Right to Counsel and Stronger Rent Laws Helped Reduce Evictions in 2019.” 24 February 2020. <https://www.cssny.org/news/entry/right-to-counsel-and-stronger-rent-laws-helped-reduce-evictions-in-2019>

The actions that the City does or does not take now will write the story for next year. NYLAG appreciates its role in working towards the full implementation of Right to Counsel, and we look forward to continuing our partnership. Working together, we can write a story of hope for New York City tenants.

Respectfully submitted,

New York Legal Assistance Group