

AN ACTION PLAN TO

SAVE RIGHT TO COUNSEL

Right to Counsel is in danger. Tenants in Housing Court are finding it impossible to gain access to the attorney they have been promised, and after dealing with the devastating impact of the Covid-19 pandemic, are now expected to again fend for themselves without representation when faced with eviction. Our city cannot stand for that.

Protecting tenants will require urgent collaboration between the State, the Courts and the City. All must take action to protect tenants and ensure that the Right to Counsel program continues to be a national model for protecting tenants from unfair eviction.

I. SLOW THE CALENDARING OF EVICTION CASES

The Legal Aid Society, Legal Services NYC, the Right to Counsel Coalition and other tenant representatives are at capacity, unable to take on more clients at the current pace. The Office of Court Administration must stop the breakneck speed and calendar cases at a pace that ensures that every tenant has access to the attorney the law promises. Cases where a tenant is unable to secure a Right to Counsel attorney must be administratively stayed and taken off the calendar until the tenant has a RTC attorney under retainer. a pace that ensures that every tenant has access to the attorney the law promises. Cases where a tenant is unable to secure a Right to Counsel attorney must be administratively stayed and taken off the calendar until the tenant has a RTC attorney under retainer.

II. EVALUATE TENANTS FOR GRANT ELIGIBILITY

The Department of Social Services (DSS) needs to evaluate all tenants in non-payment cases in Housing Court for grant eligibility, and take a more proactive approach to tenant support beyond legal representation. DSS can better help tenants who have found themselves in Housing Court. NYC DSS already has access to all the information that is required to determine household eligibility for various grants and subsidies. These programs include EAF, EAA, ESNA, FHEPS, City FHEPS, and the new Rental Assistance Program that was included in the governor's budget. DSS should immediately staff a Part in housing court to screen tenants for eligibility and help relieve caseload.

III. SUSPEND REPAYMENT REQUIREMENTS FOR 1-SHOT DEALS

The State should suspend One-Shot Deal repayment requirements in section 131-w of the NYS Social Law during the emergency and recovery. These rules require that tenants who receive rent arrears grants repay funds within a year regardless of whether the grants for which they apply actually require repayment, which is an unnecessary requirement that deters eligible New Yorkers from applying for grants that could keep them in their homes.

IV. EXPEDITE ERAP APPLICATIONS

The NYS OTDA must expedite ERAP applications for all pending non-payment cases. The Courts are able to identify which cases have an Emergency Rental Assistance Program stay, and should help the NYS Office of Temporary and Disability Assistance expedite the determination on those applications, and work with the City to ensure that those who are ERAP eligible have filed applications. This action will enable the courts to prioritize cases where intervention that can keep someone in their home is possible, rather than eviction.

V. FULLY FUND LOCAL LAW 53

The City must fully fund Local Law 53 requiring the Office of Civil Justice Coordinator to work with community groups to educate tenants about their rights in Housing Court, and better fund tenant representation in Housing Court by increasing baseline funding for tenant representation. Housing Court cases are funded at approximately 70% of the cost of representing New Yorkers. That rate should be increased to 100% so that organizations providing services to New Yorkers can afford to retain legal, social worker and administrative talent required to do this essential work.

VI. CONVENE A COUNCIL TO ADDRESS SYSTEMIC CHALLENGES

The City and State should immediately convene an emergency council comprised of representatives from the courts, the City, the State, legal representatives, as well as tenant and legal advocates, to address systemic challenges facing the Right to Counsel program and identify long-term solutions that ensure that every tenant receives access to legal representation while also ensuring that cases are heard in a timely and fair manner.



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