

CMS Testimony on Funding for a Statewide Right to Counsel (S2721/A1493)

On February 27, with the support of Catholic Migration Services' legal and organizing teams, the tenants of 94-16 34th Road rallied at Queens Housing Court, after taking on their landlord in a group repairs case. The tenants, who are predominantly low-income people and migrants from Latinx countries, hoped to bring attention to the nightmare they've long been contending with: living conditions that have threatened their health and safety for the past 30 years. They also uplifted their case to highlight the importance of passing legislation, Statewide Right to Counsel (A1493-Joyner/S2721-May), that will address the gross imbalance of power between landlords and tenants in New York State's housing courts, by establishing the Right to Counsel for ALL New Yorkers in ALL types of cases that could result in eviction—including affirmative repairs cases

The tenants of 94-16 34th Road are not alone in facing unacceptable living conditions. In 2021, New Yorkers in approximately 8% of privately owned rental units in New York City suffered under serious housing code violations—HPD's "class C" violations that are "immediately hazardous" and violate a tenant's legal right to safe and livable conditions. Landlords, code enforcement, city agencies and politicians allow these conditions to persist along racial lines: more than twice as many Black and Latinx New Yorkers live in units with three or more maintenance deficiencies than Asian or white New Yorkers.

In the case of 94-16 34th Road, the building continues to be severely undermaintained, even though the tenants have been paying rent. Over the years, there have been numerous power outages in individual units. Tearing up the walls to work on the wiring left dust flying around apartments for over a year, leading multiple tenants to develop asthma and other health complications. There have also been problems with the elevator, rodents, and heat. On February 23, one tenant was without heat for over 11 hours, according to their Heat Seek device. For some of the tenants at 94-16 34th Road, it has been nearly impossible to reach their super for maintenance or cleaning needs, and the tenants have resorted to maintaining the building themselves.

There have also been security issues that the landlord has failed to address. There have been numerous reports of people who don't live in the building (and weren't invited as guests) getting inside the building, and the mailboxes, which were once broken into, have still not been repaired. According to Wanda Martinez, Tenant Leader at the 94-16 34th Road Tenant Association, "I feel under duress to leave my apartment because of the safety issues." She even spoke about one tenant who self-evicted due to the landlord's failure to maintain secure premises.

Prior to being connected with Catholic Migration Services, Wanda felt afraid to stand up to her landlord. She wasn't fully aware of her rights as a tenant. "Personally, Sarah Hainbach, Staff Attorney at Catholic Migration Services, made all the difference," Wanda said. "She informed us of our rights and removed fear from the equation, so we felt comfortable standing up for our wellbeing." Under the proposed Statewide Right To Counsel bill, tenants across NYS would have the right to an attorney if their landlord violates their right to a liveable home. Many tenants, often uncounseled in official eviction statistics, self-evict each year because of threats to their health and safety they experience at home. Without an attorney, a tenant's legal right to seek justice in these cases is in practice unattainable.

Catholic Migration Services echoes the demand of our larger Right To Counsel NYC Coalition, which is working to pass a Right to Counsel for ALL New Yorkers and transform housing court from an "eviction machine" to a place that holds landlords accountable, upholds tenants' rights, and enables tenants to remain in their homes. We and members of our Housing Courts Must Change! campaign collectively represent tens of thousands of tenants across New York State and are honored to be working on permanent and transformative solutions to New York's eviction crisis. Our statewide Right to Counsel legislation (S2721/A1493), introduced by Assembly Member Latoya Joyner and Senator Rachel May, would ensure that every tenant in New York State has the right to a lawyer when facing an eviction and:

- Covers every tenant across the state, regardless of income.
- Covers any legal proceeding that could result in a tenant losing their home.

- Requires that tenants be represented throughout their entire case, not just when they show up in court. This includes legal advice, advocacy, and assistance.
- Requires the State to contract with non-profit legal services organizations to provide Right to Counsel and with non-profit community based organizations to provide tenants' rights education and tenant organizing.

New York State's eviction crisis will only get worse if we don't enact solutions that strengthen tenants' rights and empower tenants to fight for their homes. Passing and funding statewide Right to Counsel would do just that. Right to Counsel is proven to prevent displacement – 84 percent of tenants in New York City who had a Right to Counsel lawyer won their case and the seven U.S. cities that passed Right to Counsel as of 2021 have seen up to a 77 percent reduction in evictions. Right to Counsel is critical to upholding ALL tenants' rights: without an attorney, it's much harder for tenants to raise available defenses, and ensure all their rights are respected in their homes and in the courts. Finally, we know that keeping people in their homes is vastly less expensive than the state having to pick up care for people who become homeless. In fact, Statewide Right to Counsel will save our state an estimated \$3-6 for every dollar invested!

While many tenants facing eviction in NYC have a Right to Counsel already, the NYC Right to Counsel law currently does not cover everyone, such as the thousands of families at risk of eviction with incomes above 200 percent of the federal poverty line, nor does it cover all the types of cases through which a person might be evicted and displaced. NYC residents also need a Statewide Right to Counsel to ensure courts honor NYC's RTC law. Currently, 17,000 tenants are being denied their legal right to a lawyer because courts are pushing cases through housing court at a rate outpacing the capacity of RTC legal services providers. Passing Statewide Right to Counsel will alleviate this crisis by mandating that courts participate in upholding tenants' rights and match the pace of cases to attorney capacity.

While we are encouraged by Governor Hochul's renewal, in her proposed budget, of \$35 million in funding for upstate legal defense, this funding does not go far enough to protect tenants. It does not establish the universal Right to Counsel that tenants across New York State need, nor does it help tenants in NYC. Providers are using this funding to lay the groundwork for a Statewide Right to Counsel outside of New York City—hiring more attorneys to defend tenants facing eviction, building out infrastructure for affirmative cases, partnering with law schools to create clinics that will attract new talent to the field, and initiating an array of other vital changes to tenant defense outside of NYC—but \$35 million is simply not enough to meet the need of tenants throughout Upstate New York and the rest of the state that are still reeling from the economic and public health crisis caused by the pandemic, let alone the housing and eviction crisis that has devastated New York communities for decades.

To comprehensively transform our court system and keep New York tenants in their homes and in New York, we need a fully funded Statewide Right to Counsel. Our budget proposal lays out the need, in the FY 2024 budget, **for \$172 million** that will enable the first year of Statewide Right to Counsel's implementation. This funding includes:

- **~\$152 million for New York's civil legal services.** The bulk of this funding would cover a significant expansion of representation both within and outside of NYC, as well as a critical expansion of resources to support affirmative, or tenant-initiated cases, outside of NYC. We have also highlighted, in our proposal, funding that should be dedicated to building out NYS's "attorney pipeline": the strategies and resources needed to hire, train and retain the next generation of New York's civil attorneys. New York critically needs this funding because:
 - There are many places in the state where tenants are still largely unrepresented. For example, in the third quarter of 2022, only about 1.3% of tenants in Albany eviction court had an attorney, compared to 92-94% of landlords.
 - Even in localities where tenants have greater access to representation, we are seeing multiple and overlapping significant issues. Attorney caseloads are so high as to be unmanageable, and are contributing to retention challenges. These caseloads, which could be addressed through greater funding and resources, also mean that providers are not always able to use best practices to represent tenants. We need to fund robust and

effective representation, as part of eviction defense, but also beyond formal eviction defense. We know that landlords displace tenants through a variety of legal and extralegal means, and yet, in most places in the state, tenants are completely unable to take their landlords to court, to defend against these tactics.

- **~\$14M for community organizing in and outside of NYC, to support Right to Counsel's implementation.** Community organizing is an essential component of ensuring tenants KNOW about their rights, can use their rights effectively to protect against eviction, and are enabled to fight to protect those rights, something that tenants unfortunately must continuously do as they cannot rely on courts or landlords to uphold their rights. We need funding for community organizing because:
 - Right to Counsel has been proven to stop evictions in NYC, but many tenants who are eligible for Right to Counsel don't know about it or are too afraid to use it. When tenants don't know or use their rights, they are more easily harassed in their homes, disenfranchised in the court system, and evicted and displaced. Tenants might decide not to appear in court, decline representation, sign agreements with their landlord's lawyer prior, decide not to ask for repairs in fear of being evicted, or face a variety of other serious consequences.
 - The funding we're asking for in areas outside of NYC will enable the hiring of an estimated 42 organizers and 14 supervisors. This funding would have a transformative effect on areas outside of NYC, which often have little to no tenant organizing. Consider the success of funding for NYC organizers: In 1 year, just 4 tenant organizers who were supported by the Right to Counsel NYC Coalition - 1 in the Bronx, Brooklyn, Queens, and Manhattan:
 - Distributed information about RTC to nearly 8,000 people.
 - Conducted outreach to approximately 200 buildings.
 - Conducted 75 Know Your Rights Workshops reaching more than 1,100 tenants.
 - Formed 26 new tenants associations, in which over 700 tenants are active.
 - Stopped harassment in more than 500 households.
 - Helped more than 400 households get repairs.
 - Helped more than 350 tenants apply for a rent reduction
 - Developed approximately 150 tenant leaders
- **~\$6.4M for the Office of Civil Representation.** This new state agency, which the Statewide Right to Counsel bill would create, is critically needed to oversee New York's civil legal services, and implement a Right to Counsel. The agency would collect and publicize data that we don't currently have but that we need, in order to understand the breadth of the housing crisis and respond effectively—such as representation and eviction rates in Town and Village Courts.

At full implementation, a TRUE Right to Counsel will cost around \$500 million per year. Research around the country has repeatedly demonstrated that investing in an eviction right to counsel is a good fiscal investment. We've seen Right to Counsel drive down eviction filings in NYC by 30%, and anticipate that filings will drop outside the city by 19% with Right to Counsel's implementation. Overall, we estimate that [between 45,000 and 50,000 tenants outside of New York City would be served annually through an eviction Right to Counsel.](#)

We urge you to support the full funding and passage of Right to Counsel in the budget this year. As a society, we cannot stand by any longer while New Yorkers are forced into a confusing, overwhelming and traumatizing court system without counsel by their side. No one should have to face something as devastating as eviction without even the most basic right to representation. We know that establishing this right will keep New Yorkers in their homes, prevent an array of long-lasting harms to our families and communities, and save our state money. Our state has every reason to pass and fund S2721/A1493 in the budget this year, and we count on your leadership to ensure this happens.

Signed,

Catholic Migration Services

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