



Testimony in Support of Right to Counsel in Eviction Proceedings and Home Owner Protection Program (HOPP) Funding

Submitted by the New York Legal Services Coalition

March 1, 2023

The New York Legal Services Coalition represents over forty-five civil legal services and legal aid programs throughout the state. Our members range from statewide and large multi-service, multi-county or citywide organizations and pro bono programs, to neighborhood-based organizations. Collectively, member organizations provide legal representation and assistance to New Yorkers living in poverty in every county in the state, and we represent tens of thousands of tenants in eviction proceedings in Landlord Tenant courts across New York State. As providers of free legal services to low-income New Yorkers, we see first-hand the profound difference that legal representation has for low-income tenants.

In our testimony today, the New York Legal Services Coalition urges you to:

- 1) Prioritize and fund Right to Counsel legislation (A1493/S2721) this session and include the \$172 million requested by Senate Sponsor Rachel May for first year implementation in the budget.
- 2) We also urge you to restore funding—in the amount of \$40 million—for the Home Owner Protection Program (HOPP).

Approving and Funding the Right to Counsel Legislation

With our advocacy, tenants avoid eviction, avoid monetary judgments, and assert their right to safe housing in the face of housing quality issues, code violations and lack of essential services. For example, one of our members recently represented Traci, a single mom of 5, whose landlord claimed she owed over \$4,000 in back rent. Traci had kept her receipts, and was holding back rent because the landlord had refused to make critical repairs to address issues like sewage leaks. Because of her lawyer's advocacy, Traci's back rent was reduced to only \$500 and payment was only to be made after repairs were completed. Traci and her family were able to remain safely housed.

The statewide Right to Counsel legislation, introduced by Senator Rachel May and Assembly Member Latoya Joyner, would ensure that every tenant in New York State has the right to a lawyer when facing any legal proceeding that could result in a tenant losing their home. Ensuring that tenants have a right to a lawyer is proven to stop evictions – [84 percent of tenants in New York City who had a Right to Counsel lawyer](#) were able to stay in their homes and the seven cities throughout the country that now have Right to Counsel have seen up to a 77 percent reduction in evictions. Evictions across New York City also declined more than five times faster in neighborhoods where tenants had the Right to Counsel than in areas that did not. As a result of Right to Counsel, evictions have also decreased by nearly 40% and landlords are suing tenants less overall, with eviction filings dropping by 30%. Defaults also dropped by more than 30%, which means more tenants (by way of their counsel) are showing up in Housing Court to fight their cases. Two years ago, [Washington State, Maryland, and Connecticut also](#)

[passed Right to Counsel statewide](#). But in New York State, nearly all landlords have lawyers in eviction cases, while most tenants do not.

The NYS legislature has passed important and meaningful tenant protections in recent years. The Housing Stability and Tenant Protection Act of 2019 extended notice periods for no-cause evictions, limited security deposits, imposed financial penalties for illegal evictions, terminated vacancy increases and locked in preferential rents in regulated apartments, and excluded non-rent charges from eviction proceedings, among other things. The Tenant Safe Harbor Act prevented landlords from evicting tenants who were unable to pay rent during the pandemic months. The Tenant Dignity and Safe Housing Act, passed last session, will provide a mechanism for tenants to assert their right to safe and habitable housing across the state. These recent tenant protections offer affirmative defenses which tenants must identify and raise at the appropriate time, in the appropriate manner. Tenants need access to attorneys in order to ensure that these new defenses actually protect them. *Tenant defenses that can only be identified and asserted by attorneys will not protect tenants who don't have access to attorneys.*

The housing and eviction crisis continues to ravage New York communities. Across the state we are seeing increased numbers of landlord tenant filings, increased numbers of evictions, and a disturbing rise in the number of individuals and families experiencing homelessness. Many of our communities are reaching a crisis with rents increasing more than 20% from one year to the next, meaning an eviction can leave a family with nowhere else to go, no other apartment they can afford. While investments in affordable housing are critical for long term housing sustainability, immediate action to protect tenants' rights is needed across the state; we must pass A1493/S2721 and establish a Right to Counsel for all New Yorkers.

Funding the Homeowner Protection Program

The Homeowner Protection Program (HOPP) is New York State's only homeowner retention program focused and the only services in communities throughout New York State focused on helping homeowners in distress. Since 2012, this network of 89 housing counseling and legal services programs has helped nearly 150,000 families statewide, achieving loan modifications in about 34 percent of those cases and saving even more through reinstatement, litigation or other loss mitigation options.

Last year, HOPP received \$35 million in the final budget, including \$20 million in the executive budget. Governor Kathy Hochul unexpectedly eliminated funding for HOPP in her Executive Budget this year. The program is requesting \$40 million this year, including restoration of funding through the thirty-day amendments.

Statewide, 43% of the families served by HOPP are households of color; in New York City, the percentage is 75%. HOPP has always been a program primarily serving lower-income homeowners throughout the State, and one of the strongest stop-gaps for preserving wealth in low-income communities and communities of color. Historically, each \$1 million invested in HOPP yields a return of over \$5 million in tax and property cost savings.

HOPP is more necessary than ever to preserve homeownership in Black and Brown communities, and to help homeowners grappling with post-COVID issues such as inheritance issues, increased interest rates, mortgage and tax foreclosures, and a lack of rental options. It is critical that HOPP be funded at \$40 million in the final budget.

Respectfully submitted:

A handwritten signature in blue ink, appearing to read "Tina M. Foster". The signature is written in a cursive style with a large initial 'T' and 'F'.

Tina M. Foster
President
New York Legal Services Coalition