



Joint Legislative Budget Hearing on Housing February 14, 2024

The Legal Aid Society of Rochester, NY Testimony on Urgent Need to Fund and Pass Statewide Right to Counsel (S2721)

The Legal Aid Society of Rochester, NY is a proud member of the Right to Counsel Coalition, which unites tenants, organizers, legal services providers, unions, faith communities and many others who are working to ensure that all New Yorkers across the state have a Right to Counsel when facing eviction. 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 work on permanent and transformative solutions to New York's eviction crisis. LASROC has provided civil legal services to low and moderate-income people in Monroe County since 1921. Our mission is to ensure that those who seek justice have an opportunity to receive a fair and full hearing. We obtain legal solutions that have a beneficial impact on our clients and the community. LASROC's Housing and Consumer Law Unit (HCLU) is one of the only programs of its kind, providing comprehensive housing assistance ranging from averting the crisis of eviction to clearing credit and consumer debt, to assistance for first time homebuyers. The HCLU provides a continuum of services, including direct representation, legal counseling, community legal training, and assistance navigating community resources.

The historic passage in 2017 of New York City's Right to Counsel law made NYC the first place in the nation to establish a Right to Counsel for tenants facing eviction, and inspired a movement across the country, which has now seen over 20 cities, states and counties win a Right to Counsel, including Westchester County in 2023. The statistics speak for themselves: 84% of NYC tenants with a Right to Counsel lawyer have won their case and been able to remain in their homes; and default evictions as well as eviction filings have dropped dramatically. San Francisco saw a 10% drop in eviction filing rates in just one year after passing a universal RTC, and two-thirds of all represented tenants were able to remain in their homes. Cleveland found that within the first six months of having Right to Counsel, 93% of tenants with a Right to Counsel lawyer avoided eviction or an involuntary move.

Right to Counsel works. It's a solution with a proven track record of success everywhere it's passed. Yet while New York City led this charge, the majority of New Yorkers still lack this fundamental right. And with landlords suing over 175,000 New Yorkers for eviction, New York State needs Right to Counsel now more than ever. In many localities across the state, only a fraction of tenants facing eviction are represented. In Albany, for example, in 2022, less than 2% of tenants had an attorney, while the vast majority of landlords were represented. This rate of representation is even lower when it comes to affirmative cases to protect against neglect of repairs, harassment or illegal lock out. Most tenants outside of New York City experience housing court as a place that *only exists to facilitate eviction*—a place where they have little to no recourse to assert their own rights, in particular, their right to a safe, habitable home.

According to the NYS Office of Court Administration (OCA) website, eviction filings in Monroe County totaled **8,316 filings** in 2023. Of these filings, 5,689 were directly in Rochester City Housing Court. This leaves an additional 2,627 filings for tenants being evicted in surrounding suburbs. Filings do not encompass total tenants impacted, as children and other household members are not listed on filings. Therefore, the actual number of people facing eviction is much greater. OCA has Monroe County **issuing 2,895 warrants of eviction** in 2023. We are confident that legal services offered to tenants, including: an

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explanation of their rights, creating working relationships with opposing counsel, the ability to analyze filings for defects, and competent legal counsel for trials, led to the discrepancy in the number of total filings versus warrants of eviction issued in Monroe County. The need for competent counsel for all people facing eviction is paramount to continue that trend.

That's why we are now fighting, with over 100 statewide partners, for a Statewide Right to Counsel. S2721, our Right to Counsel for ALL legislation introduced by Senator Rachel May, guarantees the right to a free attorney for all New Yorkers facing displacement across the state. **This year we are also requesting \$260 million in funding to begin Right to Counsel's implementation.** \$260 million is the necessary first step in empowering a wholesale change in our court system. It's going to allow for tens of thousands more tenants to be represented. It will equip attorneys to fully litigate their cases and help ensure long-term housing stability for tenants. It will transform workplace conditions for legal providers and help us to compete nationally, attracting the next generation of civil legal talent to New York State. It will support organizers whose work is essential to ensuring tenants know what their rights are and how to use them. And it will establish a new state agency, the Office of Civil Representation, to oversee the Right to Counsel.

We are currently unable to offer representation in Town and Village Courts, as the needs in the City of Rochester are so great - LASROC offered legal advice or representation to 1,967 tenants in the City of Rochester in 2023 alone. That leaves an additional population without any access to free legal counsel. Many of the landlords in the suburbs are also self-represented, increasing the likelihood of defects in their filings, as they are self-prepared. Also, Town and Village court justices are often not attorneys. This means they are not as well versed in the law and may not dismiss defective filings without prompting. As attorneys, it is our job to find these defects and argue for the case to be dismissed. Outright dismissal of cases and other workouts, including giving tenants a dignified amount of time to move or payment arrangements, helps to avoid eviction. Avoiding warrants of eviction provides housing stability in the community by keeping people housed. With this additional funding from the Right to Counsel Program, we could expand into these courts through additional hiring of attorneys and support staff. We believe through our presence in these courts, there would be an immediate impact on the number of warrants of eviction issued. This creates housing stability, which is simply beneficial for the community of Rochester at large.

We urge you to support the 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 and traumatizing court system without counsel by their side, and as a result, face devastating consequences that could've been avoided. 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 in the long-term. New York has every reason to pass and fund S2721 in the budget this year, and we count on your leadership to ensure this happens.

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