



**Joint Legislative Budget Hearing on Housing
February 14, 2024**

New York District of the Communist Party, Housing Committee Testimony on Urgent Need to Fund and Pass Statewide Right to Counsel, Good Cause Eviction, and Funding Public Housing.

New York District of the Communist Party, Housing Committee (hereby referred to as “The Committee”) is a proud member of [the Right to Counsel Coalition](#), [Housing Justice For All](#), and [Save Section 9](#), which all unite 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 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. The Committee alone is representative of more than 11 chapters across the State that are actively working to address the New York housing crisis, which alongside a multitude of other socio-economic issues inherent to capitalism, are making life increasingly impossible for the working class.

Right to Counsel

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](#), 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 95% 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.

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.

The Committee has chapters spanning New York State, with active members organizing from Buffalo to Brooklyn. In Western and Central New York, cities like Buffalo, Syracuse, and Rochester are working to address the lack of tenant representation by over-saturating attorneys to the extent that they are representing upwards of 300 tenants each year. This is commendable, hard-work, being conducted by severely underpaid and overworked true-believers. While evictions are regularly prevented thanks to these efforts, rarely are poor conditions addressed, or counterclaims filed, or exploitative landlords punished. This is because Upstate NY attorneys are so overburdened by their many clients risking homelessness that they cannot possibly raise needs such as repairs and repatriation for every household they represent, despite the glaring need.

Meanwhile, members in the Capital Region have no such representation pipelines, as the sole low-income legal services provider is clearly overstretched. As a result, Albany County launched the Eviction Prevention and Intervention Collaborative, a program designed to increase tenant representation in Albany. However, the appreciated \$260,000 from the City and County is not enough to resolve the crisis. It is therefore no surprise that Rensselaer, Albany, and Schenectady Counties are respectively top-10 counties in NYS for evictions-per-tenant.

Members in the Hudson Valley have noted increasing rents as a serious cause for concern, as more NYC residents find living within the five boroughs nearly impossible due to the high cost of living. As rents increase, long-term residents disperse, as they struggle to maintain even a meager quality of life. The Committee commends the work Westchester tenants have done to secure Right to Counsel locally, but understand this is being afforded as a part-time protection related to the pandemic, and should NY not support statewide Right to Counsel, many Hudson Valley tenants will suffer.

And in NYC, where Right to Counsel is not seriously respected, there have been many tenants who have had to face eviction without a representative due to the speediness of eviction proceedings and disinterest in upholding tenants' Right to Counsel. The Committee urges our representatives to pass Defend Right to Counsel, so tenants are afforded the representation that they rightly deserve.

We urge you to support the funding and passage of Right to Counsel in the budget this year. 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.

We Oppose the Creation of a Social Housing Development Authority

The Committee opposes the creation of a Social Housing Authority as proposed in State Assembly Bill 2023-A9088I.

The bill includes an operating budget of \$60 million, for the creation, administration, and staffing of a Social Housing Development Authority. The remainder of the \$5 billion in capital, proposed by the plan's supporters, relies on bonds that the newly created authority would issue against future income from its properties.

There is a growing trend among cities in the US of setting up "public authorities" to solve their financial problems - "corporate instruments," which rely on the private bond market to finance public infrastructure projects. They issue financial reports for their investors, they make financial decisions that guarantee them income streams (through rents, of say airport terminals or tolls, on bridges), and they assess risk of a successful challenge of their projects by their bondholders, without any direct accountability to voters.¹

The much-touted "resident democracy" incorporated into the bill amounts to choosing which pre-approved private management company to use and 8 building-resident seats on the 19-member authority board of directors. Meanwhile, the authority could sell any of its properties and relocate residents for rehabilitation or demolition, to balance its portfolio and please bondholders, without any mechanism for resident involvement in these decisions about their homes.

The Social Housing Development Authority (or, "the corporation" as referred to in the bill) would be able to determine the proportion of income categories for each of its projects. While the bill guarantees 25% of the entire portfolio of the authority be reserved for very low income residents (compare this to the 40% of PHA units guaranteed by federal housing law²), it would be entirely up to the discretion of the authority what the "mix" of incomes is within one particular mixed-use building. Up to *one third* of all the units in its portfolio could be 100 - 165% AMI. Based on current AMI in New York City, these units could have monthly rents as high as \$4,369 for a three-person household. The average monthly NYCHA rent in 2023 was \$544.

¹ <https://www.sec.gov/news/press-release/2017-4>

² <https://sgp.fas.org/crs/misc/R41654.pdf>

As many housing activists have pointed out, AMI itself is a poor metric for determining community needs. According to HUD, the 2023 AMI for the New York Metropolitan Region is \$127,100 for a family of three.³ But, the median income for *renters* in New York City is \$70,000 (up from \$50,000 two years ago)⁴ and the average household income in NYCHA is \$24,511⁵. That's off the charts for the 2023 New York City region AMI - poverty wages.

The bill conveniently exempts all of the Authority's projects, whether affordable or mixed-income, from local zoning laws on height, bulk, or parking regulations. This can be used as a not-to-subtle back-door upzoning scheme. The Authority, working in consultation with local electeds and "other leaders" (say, friendly developers), could determine that it would be very beneficial to its portfolio to build some new mixed-use towers in an up and coming neighborhood, paying its bond-holders and driving low-income residents further out of the city, and ultimately raising fair market rates and AMIs.

The initial annual rent for a household will be based on 25% of their (gross) annual income⁶. While the bill claims that the Authority's units fall under the jurisdiction of existing rent stabilization laws, the annual rent of a unit is subject to re-evaluation based on income any time a new resident moves in, effectively undermining the 2019 rent laws, which eliminated vacancy increases and high-rent/high-income deregulations. The rents in these buildings will continue rising as the city gentrifies.

Such rent increases, combined with the loss of public housing units through decades of underfunding and negligence, would be catastrophic. No scale of mixed use building could make up for the rising rent threshold driven by the bond market interests at the heart of the proposal.

Housing and tenant organizations across the state and country should resist such schemes and join the growing national movement represented by Save Section 9, Poor People's Campaign and other forces to fund and expand public housing.

If continued, such a scheme would accelerate the eviction of low income residents, affecting the livability of NYC and NY state for everyone and it must be stopped.

Fund Public Housing

The Committee stands with Public Housing Authority (PHA) the 360,970 residents in New York City Housing Authority units, and 35,975 PHA residents across NYS. PHA units are largely occupied by Black and Hispanic single-mother households and elderly tenants on fixed incomes. Every year, there is a \$40 million gap between what the federal government contributes to PHAs and what PHAs need to operate, making it impossible for PHAs to sustain themselves

³ <https://www.nyc.gov/site/hpd/services-and-information/area-median-income.page>

⁴ <https://www.nyc.gov/assets/hpd/downloads/pdfs/about/2023-nychvs-selected-initial-findings.pdf>

⁵ <https://www.nyc.gov/assets/nycha/downloads/pdf/2023-NYCHA-Budget-Book.pdf>

⁶ Compare this to federal housing law for public housing, which bases rent on 30% of *adjusted* family income, 10% of gross family income, welfare rent, or a minimum rent (up to \$50) set by the local PHA. <https://sgp.fas.org/crs/misc/R41654.pdf>

financially. As a result, many PHAs have turned to the private market, allowing RAD conversions and demolitions that displace thousands of households and increase the instability of once stable low-income tenant families. This is demonstrably a strategy designed to place money into the hands of what are often bad-acting landlords and strip the State of any responsibility regarding housing low-income, over-exploited renters.

This issue of instability was accelerated by the COVID-19 pandemic, which remains a persistent reality despite the sunset of the emergency declaration. PHA tenants were purposefully excluded from the Emergency Rental Assistance Program (ERAP), and in late 2021, the State decided to prioritize tenant households with incomes between 80%-and-120% of the AMI, rather than PHA tenants (the majority of which have an AMI well below 30%). A program to pay-off landlords (LRAP) was enacted before PHA tenants were given serious thought. It was not until 2023 that the State allocated ERAP funds for PHA tenants, which was appreciated, but in many instances was too little, too late. The vast majority of tenants with pandemic-related arrears are now severely rent burdened in the private market, or struggling to exit the shelter system (if this is even an attainable prospect).

It is likely that over one-fourth (approximately 100,000 residents) of NY PHA tenants are at-risk of eviction or have already been evicted as a result of these decisions. To allow the evictions to continue to occur will certainly condemn the vast majority of tenants with arrears to long-term homelessness, which is all the more concerning when considering the Adams-Hochul proposals to deny tenants the right to shelter.

We urge our Democratic Leadership and the other members of the State legislature to provide public housing authorities *a minimum of \$4.5 billion for capital repairs to preserve 40,000 public housing units over the next five years and \$500 million to address public housing arrears*, stopping the displacement of thousands of low-income families and securing much needed capital for our underfunded PHAs.

We further urge our Democratic Leadership and the other members of the State legislature to advocate for full Federal funding for public housing authorities and the protection of all 396,945 NY PHA units. The numbers to retain and maintain existing PHA units across the country are astronomical (see the NYCHA need for \$78B⁷), but pale in comparison to the hundreds-of-billions being spent on prospective wars, ongoing conflicts and genocides across the world⁸.

Good Cause Eviction

The Committee supports statewide Good Cause Eviction. Too many tenants have found their leases terminated without cause, just so the landlord can increase rents to rates that continue to make our cities increasingly unaffordable. We recognize that Good Cause can only be implemented in the courts if tenants have representation. We reject the position of the

⁷ <https://www.nyc.gov/site/nycha/about/public-housing-preservation-trust.page>

⁸ See example of \$95.34B military aid package passed in the Senate February 13, 2024 <https://www.wsj.com/politics/policy/senate-on-verge-of-passing-95-3-billion-ukraine-israel-aid-package-55d07d5a>

Governor that Good Cause Eviction is a NYC issue. Before Albany's local Good Cause was struck down, four Upstate NY cities (Beacon, Kingston, Newburgh, and Poughkeepsie) passed the protection, while Hudson, Ithaca, Rochester, and others began the process of bringing the law onto the books. To mandate Good Cause Eviction for just NYC would leave out nearly half of the State's renter population. Any Good Cause Eviction deal should be statewide, and protect all tenants in NYS.

For the Senate to consider exempting landlords with 10 or less units in their portfolio would be disastrous for tenants. Firstly, any skillful landlord will know to hold their properties under Limited Liability Corporations (LLCs) to avoid any personal liability related to the property. While the Legislature passed the LLC Transparency Act in 2023, the Governor's chapter amendments ensured such data was held privately by NYS, thus placing the impetus of demonstrating said protection (if granted) onto the tenants before finding themselves in court. Secondly, to exempt owners with less than 10 units in their portfolio does not address the fact that many tenants find their "small landlord" considerably overbearing, absent, and dangerous. Tenants of these landlords are often the most in need of legal protections that provide housing stability and prevent discrimination and retaliation. In 2023, a dilapidated multi-family home in Rochester owned by a small landlord caught fire, killing a 78-year-old tenant. The building had 62 open code violations – including broken smoke detectors. The landlord owns only one other property, which also has open code violations. In Ithaca, the entire Ithaca Tenants Union steering committee (which is fully composed of volunteer tenant leaders) would be exempt if such a carve out was allowed, given the small size of the existing housing stock and landlord portfolios. City of Albany data alludes to more than 35% of tenants being exempt from Good Cause Eviction if such landlords were exempt. We assume such numbers would be replicated across other Upstate cities.

On the issue of rent increases, rumors appear to be that the Senate is considering increases allowable to be upwards of 8%, without consideration for inflation. If 10% increases are deemed conscionable, then the protection will be rendered irrelevant. If a landlord cannot evict a tenant without Good Cause, but can increase the rent approximately 10%, many tenants will find themselves seeking alternatives. Additionally, this would essentially set the floor for increases anticipated annually to be between 5% and 10%. The Committee urges legislators to uphold the bill as written, which would limit rent increases with no sincere updates within reason.

In short: Pass Good Cause Eviction as written! Fund Right to Counsel! Fund public housing and fight to expand rent control! Join the national movement!