



TAKEROOT JUSTICE

Testimony Concerning:

Funding for a Statewide Right to Counsel

Presented Before:

Joint Legislative Budget Hearing on Housing
February 14, 2024

Presented By:

Michael Grinthal
Director of Housing Rights
TakeRoot Justice
123 William Street 16th Floor
New York, NY 10038
(646) 459-3039 • mgrinthal@takerootjustice.org

TakeRoot Justice provides legal, participatory research, and policy support to strengthen the work of grassroots and community-based groups in New York City to dismantle racial, economic, and social oppression. TakeRoot has a twenty-year history of partnering with grassroots and community-based organizations that build leadership and power within New York City's low-income communities, particularly communities of color, immigrant communities, and others traditionally excluded from policymaking. Our Housing Rights team works side-by-side with tenants as they fight against gentrification by demanding better living conditions, affordable rents, and a voice in the policies that shape their neighborhoods. This advocacy has resulted in millions of dollars' worth of repairs in low-income housing and has kept New Yorkers in their homes.

We Urge You to Implement a Statewide Right to Counsel for People Facing Eviction From Their Homes

TakeRoot Justice is a proud member of the New York City Right to Counsel Coalition, which won the campaign to establish a right to counsel for tenants in New York City. We are also a Right to Counsel provider, representing many dozens of tenants facing eviction in Housing Court. It is from this experience that we urge the passage of S2721, which would create a statewide right to counsel, and the full funding of civil legal services, community education, and an Office of Civil Representation.

We know from our experience that funding for legal services alone – while crucial – is not enough to ensure that every New York tenant facing eviction can be represented by a lawyer. Even New York City's Right to Counsel law – which has expanded legal services funding to historically unprecedented levels – needs a state law to be fully effective. Cities and towns have no legal authority over judges, so local laws can't stop judges from rushing eviction cases forward before tenants have time to secure representation. As one New York City Housing Court judge told me when I confronted him for rushing a tenant to trial before she could get a lawyer, "Right to Counsel is the City's problem, not mine." For exactly this reason, there are currently 14,000 tenants facing eviction in New York City who are unable to connect with lawyers in time to defend themselves.

Robert C was one of them. HIV positive and fighting cancer, Mr. C fell ill with the flu the day before his first court date in Queens Housing Court. He could not risk his life by visiting the crowded courthouse. Delirious with fever, he did not know who to call to postpone his court date (not that it would have made a difference – tenants who request adjournments by phone are routinely denied as a matter of policy). When his fever subsided several days later, he learned that a judgment had been issued against him in his absence, and his eviction was imminent. At significant risk to his life, he went to court in person to beg for more time. The judge noted that Mr. C was eligible for a free lawyer, but refused to refer him to the Right to Counsel program or adjourn the case to give him time to contact a lawyer. Any delay, the judge decided, would be "burdensome" to Mr. C's landlord. Mr. C was evicted soon after.

After his eviction, Mr. C met one of TakeRoot Justice's lawyers by chance. We immediately saw that the rent arrears over which he had been evicted were largely an accounting error. We also saw that the judge had not given Mr. C any chance to explain why he had missed court (if he had, it would almost certainly have prevented the eviction, as illness and disability are strong legal grounds for excusing a court absence). A TakeRoot Justice lawyer was ultimately able to get Mr. C back home, but only after he had slept for 2 weeks under a desk at his workplace and delayed chemotherapy treatments.

Shockingly, nothing Mr. C's judge did was illegal – or even out of the ordinary - under current state law. Even when civil legal services are well funded, local governments do not have the legal authority to require judges to give tenants time to secure a lawyer. **You do.** Only the State can ensure that every tenant's need and right to representation is fulfilled before their cases move forward. If S2721 had been law last fall, the judge in Mr. C's case would have been *required* to pause his case until he was assigned a lawyer. A lawyer would have caught the accounting error and - like 84% of tenants who have lawyers - Mr. C would have won his case without jeopardizing his health.

There is no shortage of evidence showing that a statewide right to counsel is good policy. There is a 77% reduction in eviction rates in cities that have adopted right to counsel and the program is estimated to save \$3-6 in on homeless services for every dollar invested in right to counsel. We urge you to study and follow the evidence presented by our colleagues in the Right to Counsel Coalition.

For our part, as lawyers on the front lines of the statewide housing crisis, we ask you to remember the story of Mr. C: a dying man evicted for an accounting error because nothing in state law required a judge to pause and honor his right to counsel. There are tens of thousands of Mr. C's across the state, in every town, county, and district, right now. The Legislature – and only the Legislature – has the power to decide how their stories will end.

Conclusion

Therefore, we urge you pass S2721, and to include in the FY25 budget \$260 million to fund a statewide right to counsel program.