



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

United Tenants of Albany, Inc. Testimony on Urgent Need to Fund the Neighborhood Preservation Program, Homeowner Protection Program, Pass Statewide Right to Counsel and Pass Good Cause Eviction

United Tenants of Albany (UTA) is a proud member of the Neighborhood Preservation Coalition, HOMESave Coalition, Right to Counsel Coalition and Housing Justice For All which 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 homes, tenant protections and a Right to Counsel. We collectively represent tens of thousands of tenants and low-income homeowners across New York State and are honored to work on permanent and transformative solutions to New York's eviction crisis.

Neighborhood Preservation Program

In 2023, UTA Distributed \$269,560 to support 175 households at-risk of imminent displacement in Albany County, in addition to more than \$208,953 distributed to support an additional 36 households via direct referrals to CARES ARPA emergency assistance (a program UTA was consulted to create). UTA also assisted more than 300 tenant households in Albany Civil Court eviction proceedings. Additionally, UTA received more than 6,300 calls on our housing hotline. 37% of calls were for rental assistance, 18% of calls were for court advocacy, and the remaining 45% of calls regarding general tenant issues. We also advocated for the strongest Inclusionary Zoning ordinance across Upstate New York, and the allocation of \$75,000 for a vacancy study to determine if the City of Albany can opt-in to the Emergency Tenant Protection Act. UTA helped facilitate the development of four tenant associations representative of more than 500-households across Albany County. None of this would be possible without the Neighborhood Preservation Program's administrative support. **UTA urges the legislature to fund the Neighborhood & Rural Preservation Program**, and ensure a mandated budget line-item for the program.

Homeowner Protection Program

UTA is a proud recipient of the Homeowner Protection Program and member of HOMESave in Albany, a coalition of foreclosure prevention specialists across the Capital Region working to assist low-income homeowners in maintaining and retaining their homes. Despite being a tenant-centric organization, UTA has seen a steady increase in tenants and "bank tenants" (mortgagees) seeking assistance since the County began resuming foreclosures post-moratorium, and has repeatedly surpassed the number of homeowners anticipated to seek assistance from the organization.

Notably, the NYS Attorney General recently declared that the City of Albany has the second largest homeownership disparity between white and Black residents in the country. We recognize that essentially all tenant issues are directly related to a history of racist lending practices and discrimination. HOPP is a key resource for our communities across the State in the prevention of foreclosures and homelessness. What's more, the successes of HOPP ensure municipalities receive property tax benefits. This is all the more relevant to Albany, where 63% of the land is tax exempt (due to the prevalence of NYS-, federal-,

university-, and hospital- owned), resulting in a greater strain on the city's dependence on the State. **UTA urges the legislature to fund the Homeowner Protection Program**, and ensure a mandated budget line-item for the program.

Right to Counsel

UTA is a steering committee member of Housing Courts Must Change, which is fighting to secure statewide Right to Counsel. This would be an expansion upon 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 is a solution with a 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. 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. 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 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.

Tenants in the Capital Region are struggling. Albany and Troy have seen significant increases in holdover eviction filings between 2022 and 2023 (see more below). The increases are stark, and seem to highlight the need for more affordable housing, the ongoing vacancy crisis in Upstate NY, the lack of protections unregulated tenants have (such as Good Cause), and the void of support they receive in court (without Right to Counsel). Albany County community groups (including UTA) drafted the Eviction Prevention and Intervention Collaborative in response to the poor representation rate identified in Albany Civil Court (less than 2% of tenants were represented in one quarter of 2022). The City and County of Albany together allocated \$260,000 in November of 2022, and are now introducing the resolution to allocate the funding by April of 2024. So in addition to a dizzying delay in delivery that has left many COVID-19 impacted tenants without support, the quarter-million allocation is significant, but not enough to resolve the crisis. Albany is just one example of the many issues tenants face in the Capital Region when it comes to court and support. As noted by a report from last year, **Rensselaer, Schenectady, and Albany Counties are respectively the first, third, fourth county-wide leaders in NYS for evictions-per-tenant.**

Good Cause Eviction

The City of Albany was the first municipality to pass Good Cause Eviction in 2021. It was the first time in 50 years that UTA could tell tenants, "no, your landlord cannot evict you for no reason." Quickly, UTA worked to make community partners and tenants aware of this protection. There was no starker example

of the utility of the protection than the establishment of the Bleecker Terrace Tenants Association (BTTA) in early Spring of 2022. Bleecker Terrace (279-unit complex in Albany's West Hill / West End neighborhood) was developed in 1985-1987 with a Housing Development Action Grant (HoDAG) that put a long-term subsidy on the property that was bolstered by a PILOT provided by the City of Albany until 2021, when the property underwent two different management and ownership schemes within one year that left tenants with Opus Management Group taking over, Bleecker Terrace being renamed Capitol Crossings, and the loss of the City's PILOT due to the rapid ownership transfers by out-of-state actors.

UTA has been in contact with many Bleecker tenants because the property was one of less-than-a-handful of affordable rental options in the City. As the average UTA-assisted tenants household is about 25% of the AMI, it only made sense that we would be interacting with these tenants more regularly than others. In addition to several accounting concerns and ERAP-related barriers established by management, UTA and Bleecker tenants were alarmed to hear from management that Opus planned to begin increasing rents 50%-to-100%. At the time (April-May 2022), the tenants had Albany's local Good Cause Eviction protections, which would have prevented such substantial increases without warrant (no improvements had been made) and, despite all being month-to-month tenants (leaving them vulnerable to retaliatory evictions for participating in organizing activities) due to successive ownership trials, the tenants felt protected to come together in response to the community threat.

By June, Albany local Good Cause had been struck down. We knew the City intended to appeal the Supreme Court's decision, but the tenants were scared. Paradoxically, this fear turned in on itself when on Juneteenth and Father's Day, Opus sent an armed private security guard to menace families and Black youth for grilling in the parking lot (this was a previous point of contention, where the owner had confiscated and disposed of all tenants' grills due to it being an alleged fire hazard). The tenants responded in unity, and chased the security guard back to his car, where another armed man stood. Imagine the many other ways this situation could have gone, had there not been such a strong sense of community...

Capitalizing on this bad press, despite not having Good Cause, the tenants were able to bring management to the table. There, Opus agreed to the following terms: No 'out of pocket' increases in excess of 5%, the right to a lease and renewal, no 'no cause' evictions or rent hikes, the establishment of identifiable maintenance, and the forgiveness of demonstrably bogus arrears balances. It was the biggest Upstate tenant victory since the beginning of the pandemic. Nonetheless, the promises did not last.

While management stayed true to agreement to not gouge rent for unregulated tenants for the remainder of the year, those with Section 8 saw 'out of pocket' increases of between 33% and 73%, each. Upon request for another meeting to discuss this egregious breach of the agreement between management and the BTTA, there was no response. By February of 2023, with Good Cause Eviction stayed but pending an Appellate Court decision, Opus Management Group sent tenants a notice to increase rent in excess of 16% on average. In March, Good Cause was once more struck down, and without a Good Cause agreement secured during budget negotiations, BTTA members suffered significant rent increases with no means of regress. Yes, 16% is significantly less than 33%, 50%, 73%, or 100%, but it was still an unpredictable, unacceptable hike that forced many tenants out of their homes. With no deal secured at the end of the legislative session, BTTA was left with no defenses beside the generally unenforceable claim of retaliatory eviction.

Throughout the remainder of the year, dozens of tenants were displaced, more often than not, without cause. The below is an email sent to City of Albany officials during the early Summer:

In all, we know of at least 14 tenants that received non-renewal/lease terminations since Capitol Crossings first began pushing people out.

One household, a mother of six, lost her retaliation trial with Legal Aid. She did secure a Section 8 voucher, though has not yet identified new housing and is facing eviction by the end of the month. During her retaliation trial, the leasing agent / property manager for Capitol Crossings said they had given 30-to-40 nonrenewals...

Another tenant had his first hearing last week. He has been unable to identify new housing. He has never been behind on rent, has Section 8 and a payee, and has a disability that prevents him from taking care of himself. He is expected to also lose his retaliation trial – if it gets to that point.

Two other tenants that have Section 8 and payees are experiencing the same difficulties in identifying new housing. One of them – who has lived at Bleecker for 31 years - expressed repeated denials based on his credit history, despite the voucher and payee.

Another household, a single mother, is having the same problems – no affordable units, her credit score is preventing her from locking down a new home despite having a stable income, her single income is insufficient for the largely expected income that is 'three times the rent', and her mother (who also lives at Bleecker) cannot co-sign despite a good credit score due to a bankruptcy filing eight years ago.

UTA supports statewide Good Cause Eviction as written. To mandate Good Cause Eviction for just NYC would leave out nearly half of the State's renter population. 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. Opting in would not necessarily be a problem for the cities that had already passed local versions of Good Cause. However, what does that say for tenants in cities that are unlikely to opt-in? For example, **Albany Civil Court saw a 50% increase in holdover evictions between 2022 and 2023, while the Troy Civil Court saw a 130% increase in holdover filings** during the same timespan. Albany would expectedly opt-in with no hesitation, but Troy is dominated by a Republican Mayor and City Council, and expectedly would not opt-in.

For the Senate to consider exempting landlords with 10 or less units in their portfolio would be disastrous for tenants. Firstly, **enforcement would be a significant problem.** Any skillful landlord will know to hold their properties under Limited Liability Corporations (LLCs) to avoid any personal liability related to the property. 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. 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 are replicated across other Upstate cities.

Good Cause Eviction - as written - is the floor. It significantly alters tenants' relation to their housing, it preserves communities, and it guarantees tenants housing stability. What's more, and most important: Good Cause Eviction fostered tenant empowerment outside of the courts - and we believe this is why organized Real Estate has fought so fiercely (and expensively!) to prevent its passage.