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**WRITTEN TESTIMONY OF THE NEW YORK CITY BAR ASSOCIATION
PRESIDENT ROGER JUAN MALDONADO**

**NEW YORK CITY COUNCIL COMMITTEE ON JUSTICE SYTEM
AND COMMITTEE ON HOUSING AND BUILDINGS**

**OVERSIGHT HEARING T2020-5733: IMPLEMENTATION AND EXPANSION OF
RIGHT TO COUNSEL IN HOUSING COURT**

February 24, 2020

As President of the New York City Bar Association (“City Bar”), I would like to respectfully request that, in addition to my oral remarks being given today, that the appended reports be included in the written record for the oversight hearing being conducted by the New York City Council Committee on Justice System and Committee on Housing and Buildings regarding implementation and expansion of right to counsel (“RTC”) in Housing Court. The appended reports discuss two bills currently pending in the City Council related to expanding the landmark RTC in eviction cases in New York City: (1) Int. 1529-2018, which requires the Office of Civil Justice coordinator to work with community groups to educate tenants of their rights in housing court; and (2) Int. 1104-2018 which (a) increases the RTC’s income eligibility level from 200 percent to 400 percent of the federal poverty level, and (b) expands the types of eviction cases covered by RTC.

The City Bar supports these bills, which we believe will ensure that all vulnerable tenants facing eviction will have the right to an attorney in their fight to keep their home while also providing them with the information needed to help them prevent potential eviction in the first place.

We hope our analysis of these bills will be helpful to the Committees as they review New York City’s right to counsel program. Thank you for your consideration.

**REPORT ON LEGISLATION BY THE
TASK FORCE ON CIVIL RIGHT TO COUNSEL**

Int. 1529-2019

Council Members Levine, Gibson, Rosenthal, Cohen, Adams, Chin, Cornegy, Ayala, Powers, Reynoso, Levin, Rivera, Richards, Constantinides, Menchaca, Brannan, Torres, Ampry-Samuel, Lander, Rose, Perkins, Grodenchik, Van Bramer, Moya, Salamanca, Koslowitz, Rodriguez, Louis, Kallos, Cumbo, Lancman, Eugene, Treyger, Maisel, Cabrera, The Public Advocate (Mr. Williams)

A LOCAL LAW to amend the administrative code of the city of New York, in relation to requiring the office of the civil justice coordinator to collaborate with community groups in engaging and educating tenants of their rights in housing court

THIS BILL IS APPROVED

I. INTRODUCTION

A recent *New York Times* investigation showed how landlords “follow a standard playbook to push tenants out” to avoid affordable housing regulations.¹ Their tactics include buyouts, harassment, poor services, constant construction, and lawsuits in housing court.² Landlords in such proceedings rely on a team of attorneys who often mount questionable cases and process servers sometimes fail to notify tenants of the suit before judges order evictions.³ The *Times* found that approximately 232,000 cases were filed in 2017, mostly against tenants who allegedly did not pay back rent (although many had).⁴ When tenants had withheld rent, the *Times* found that often landlords had failed to perform much-needed repairs.⁵ Because the cost to file a housing court complaint is only \$45, large landlords can file thousands of cases each year and keep a cadre of lawyers on retainer, while tenants, historically without access to counsel, are left having to fight to save their homes without any legal support.⁶

¹ Kim Barker, Jessica Silver-Greenberg, Grace Ashford & Sarah Cohen, *The Eviction Machine Churning Through New York City*, N.Y. Times (May 20, 2018), <https://www.nytimes.com/interactive/2018/05/20/nyregion/nyc-affordable-housing.html>. (All links in this report were last visited Feb. 21, 2020).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

In part to address the historical disparity in representation in housing court between landlords and tenants, in August of 2017, Mayor Bill de Blasio signed Intro 214-B to make legal services available to low-income tenants facing eviction in New York City housing court and public housing authority proceedings (the “Right to Counsel” Law).⁷ The Right to Counsel law provides free legal representation in eviction proceedings for residents whose household income falls below 200 percent of the federal poverty level⁸ and calls on the Civil Justice Coordinator (“Coordinator”) of the Office of the Civil Justice (the “OCJ”) to implement a program to achieve total representation for eligible tenants by 2022.⁹ Such representation comes from nonprofits across the five boroughs, including, among many others, Brooklyn Defender Services, the Bronx Defenders, The Legal Aid Society, Legal Services NYC and Neighborhood Defender Services of Harlem.¹⁰

The Coordinator anticipates that by fiscal year 2022, when the Right to Counsel Law is fully implemented, 400,000 residents in 125,000 households will take advantage of the Right to Counsel annually, which would cost \$166 million in annual funding in such year.¹¹ In fiscal year 2019, after the second phase of implementation, approximately 105,000 New Yorkers in 41,000 households took advantage of the OCJ’s legal services for tenants.¹² However, there still are many families that are eligible for the Right to Counsel, but don’t know about it, and therefore often don’t show up to court to fight their case. Substantial progress is necessary to achieve the goal of total representation for eligible tenants by 2022. This report is submitted in support of Int. 1529-2019, which provides for crucial community support and OCJ interaction necessary to obtain the goal of total representation for eligible tenants.

Int. 1529-2019 was referred to the New York City Council Committee on Housing and Buildings on April 18, 2019.¹³ Int. 1529-2019 requires the Coordinator to work with community groups to educate tenants of their rights in housing court, and to create the necessary infrastructure

⁷ NYC Office of Civil Justice 2018 Annual Report at 14, https://www1.nyc.gov/assets/hra/downloads/pdf/final_2018_ojc_report_march_19_2019.pdf.

⁸ Testimony of Jordan Dressler, Civil Justice Coordinator Before the New York City Council’s Committee on the Justice System HRA’s Fiscal Year 2020 Executive Budget (May 22, 2019)(“Testimony of Jordan Dressler”) at 4, https://www1.nyc.gov/assets/hra/downloads/pdf/ocj_exec_fy20_testimony_final.pdf.

⁹ *Id.*

¹⁰ *Id.* at 3-4.

¹¹ *Id.* at 4.

¹² Office of Civil Justice, NYC Human Resources Administration, *Universal Access to Legal Services: A Report on Year Two of Implementation in New York City*, (Fall 2019), at 2, https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ_UA_Annual_Report_2019.pdf.

¹³ Int. 1529-2019, “Minutes of the Stated Meeting – April 18, 2019,” at 1533, *available at* <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3923900&GUID=93564381-0704-43F3-9599-244BA2545155&Options=ID%7cText%7c&Search>. There are currently two bills pending before the City Council related to expanding RTC in eviction cases in New York City. Int. 1529-2019 and Int. 1104-2018, which (a) increases the RTC’s income eligibility level from 200 percent to 400 percent of the federal poverty level, and (b) expands the types of eviction cases covered by RTC. While the City Bar supports both bills, this memorandum focuses on Int. 1529-2019.

within the communities to ensure that tenants take advantage of their rights.¹⁴ Such efforts include workshops and training for tenants, distribution of literature about housing rights, assisting tenants to form and maintain tenant associations, referring tenants to designated community groups, and “any other activity to engage, educate or inform tenants about their rights in housing court.”¹⁵ Specifically, “designated community groups” refer to nonprofits that can educate tenants on their rights.¹⁶ Additionally, the Coordinator would be required to publish an annual report on community outreach on tenants’ rights.¹⁷

II. BACKGROUND

In June 2015, Mayor Bill de Blasio signed City Council Int. 736-A, which amended the New York City Charter to create the OCJ under the Human Resources Administration/Department of Social Services.¹⁸ The Mayor created the OCJ to supervise New York City’s civil legal assistance for low-income residents and study the need for additional services.¹⁹ OCJ’s mission is to combat poverty, income inequality, and homelessness.²⁰ With the subsequent enactment of Intro 214-B, New York City became the country’s first city to mandate civil legal assistance for low-income tenants facing eviction in Housing Court and in New York City Housing Authority (“NYCHA”) proceedings.²¹

One of New York City’s primary tools to prevent homelessness in its “Turning the Tide on Homelessness” plan is prevention,²² which equitable eviction proceedings can facilitate. Until the passage of Intro 214-B, Housing Courts posed a particularly inequitable forum for low-income residents because most landlords enjoy legal representation, whereas most tenants are not represented.²³ Jordan Dressler, the currently serving Coordinator, has emphasized a “prevention-first” approach to address homelessness and housing instability for low-income residents.²⁴ In line with this approach, he announced that, of the fiscal year 2020 OCJ legal services budget of \$159.4 million,²⁵ \$128.3 million will go to legal services programs for tenants of which \$82.1 million will

¹⁴ Int. No 1529-2019, *id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ NYC Office of Civil Justice 2018 Annual Report at 3.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Turning the Tide on Homelessness in New York City*, (2017), http://www1.nyc.gov/assets/hra/downloads/pdf/news/publications/Turning_the_Tide_on_Homelessness.pdf.

²³ NYC Office of Civil Justice 2018 Annual Report at 13.

²⁴ Testimony of Jordan Dressler at 1.

²⁵ *Id.* at 2.

go towards eviction defense legal services and \$46.2 million for legal services to protect tenants, including combatting harassment.²⁶

III. ANALYSIS

Int. 1529-2019 aims to ensure that all eligible New Yorkers can take advantage of their right to free counsel in housing proceedings, thereby reducing the amount of evictions and the homeless population in New York City. This Memorandum demonstrates why the Coordinator's mandated contact with designated community groups and qualified tenant associations is necessary to maximize participation in the Right to Counsel Law and to eliminate the historical disparity in housing disputes between landlords and tenants.

a. The Many Obstacles of Low-Income Tenants Facing Eviction

A Housing Court judge may rule in favor of a litigant represented by counsel simply because attorneys better comprehend the complexity of a given case. Pro se litigants are less familiar with court procedure and may try to simply appeal to the judge based on their individual narrative as opposed to understanding the nuances of their lease or the applicable law. Furthermore, attorneys are repeat "players" in Housing Court and they can develop strategies based on familiarity with the courts and parties involved and specialized knowledge of substantive law to better serve their clients. Further, if the landlord's attorney knows that a tenant will not have representation in Housing Court, the attorney may take a more aggressive stance in settlement negotiations. Additionally, the landlord's attorney may try to approach an eligible tenant in the court hallway and intimidate and pressure the tenant to settle prior to the tenant being able to identify and meet with his or her representative. As such, tenants may settle with landlords before they even know that they are eligible for representation. Thus, the Coordinator must increase recruitment of community organizations who can ensure that more and hopefully all litigants in Housing Court who are eligible for Right to Counsel are informed and take advantage of that right.

Low-income tenants generally lack the resources to effectively represent themselves in Housing Court. In addition to having to navigate discovery, depositions, and presenting evidence, tenants must also respond to eviction notices. Language and education barriers in addition to time and economic constraints could lead a tenant to ignore her eviction notice, which could result in displacement or homelessness. Low-income tenants, unlike experienced attorneys, also lack the ability to tackle unsettled issues of law, including those involving fraud.

Currently, there is insufficient information made available to eligible tenants about their right to counsel and where to find the legal services lawyers. Tenants currently are not sufficiently aware in advance of arriving at court of the rights and the nature of legal assistance available to them. For example, a survey described in a community group white paper found that 52% of tenants living in eligible zip codes of the Bronx did not know about the Right to Counsel Law until arriving at court.²⁷ When tenants arrive at court there is insufficient signage in the courts and no

²⁶ *Id.*

²⁷ *Tipping the Scales: Right to Counsel is the Moment For the Office of Court Administration To Transform Housing Courts*, A Report by CASA - New Settlement and the Northwest Bronx Community and Clergy Coalition, (Oct.

consistent and effective method of communication to tenants the rights that are available to them. Moreover, many eligible tenants experiencing eviction proceedings don't even make it to court because of lack of information and awareness of the process. Thus, many eligible tenants are not able to take advantage of their right to counsel.

b. Outreach Is Imperative to Enable Residents to Take Advantage of the Right to Counsel

Int. 1529-2019 mandates that the Coordinator take a more active role in connecting low-income tenants with legal counsel, including by supporting the development and maintenance of tenant associations and education initiatives regarding the Right to Counsel. If New York City intends to meet its 2022 goal of 100 percent representation of eligible tenants, the Coordinator will need to more directly partner with community groups to increase the number of eligible tenants who are represented by counsel in eviction hearings. As noted above, despite the availability of the right to legal services in eviction cases, significant numbers of eligible tenants have not shown up to court to fight their case and likely did not know that they had a right to an attorney. Thus, tenant associations, targeted marketing and education with respect to Right to Counsel and participation from the OCJ with respect to such associations, are all necessary to create equitable proceedings that directly affect New York City's rates of homelessness.

The above-described obstacles contribute to the continuance of the past inequities of the Housing Courts. Legislation that would allow for community education and outreach about Right to Counsel is pivotal in diminishing these obstacles and ensuring that the maximum number of eligible tenants take advantage of the program. Tenants must be better informed of their rights and the legal assistance that is available to them before arriving in court. The Coordinator's mandate to work with tenant associations is important because such associations are expected to be the most efficient forum for disseminating information to eligible tenants regarding their rights because tenants will be most receptive to individuals within the same communities.

Finally, Int. 1529-2019 accomplishes more than merely educating eligible tenants of the Right to Counsel before arriving at Housing Court for eviction proceedings. Tenant associations are expected to not only educate tenants of their rights in the event of eviction proceedings, but also to "level the playing field" between tenants and landlords prior to the commencement of eviction proceedings and to limit the ability of landlords to intimidate uninformed tenants with unwarranted threats of eviction proceedings. This type of assistance will help resolve landlord-tenant conflicts and reduce the number of court filings.

Supporting Int. 1529-2019 is particularly important given the positive impact that Right to Counsel has had in the short-term in preventing evictions or providing a reasonable path for litigants to find alternate housing in lieu of being evicted and facing the certainty of either living in a shelter or the streets. With these resources, tenants will be more likely to take advantage of

2019), at 4, <https://newsettlement.org/casa/wp-content/uploads/sites/7/2019/10/Report-Tipping-the-Scales-Right-to-Counsel-is-the-Moment-for-The-Office-of-Court-Administration-to-Transform-Housing-Courts.pdf>.

legal services that could be dispositive in a case that would otherwise overwhelm a pro se litigant who had to work two jobs or attend to familial responsibilities.

IV. CONCLUSION

Int. 1529-2019 allows New York City to maximize the chances that everyone who is eligible will avail themselves of the right to counsel in eviction proceedings because few residents may know who to call when they receive an eviction notice. While New York City has already seen a significant increase in representation thanks to the Right to Counsel, the Coordinator can improve on this progress with a mandate to work with community groups to educate indigent residents of their right to counsel. Int. 1529-2019 bolsters the right to counsel because more residents will know such a right exists. Thus, the “David versus Goliath” tension between tenants and better-resourced landlords in Housing Courts will be further equalized with passage of Int. 1529-2019. Consequently, tenants will be better able to prevent the crippling effects of homelessness and displacement.

February 2020

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* Ms. Vega-Rivera passed away in December of 2019. This report is dedicated to her memory. We are forever thankful for her important voice on this Task Force. She will be missed.

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**REPORT ON LEGISLATION BY THE
TASK FORCE ON CIVIL RIGHT TO COUNSEL**

Int. 1104-2018

Council Members Levine, Gibson, Ayala, Constantinides, Ampry-Samuel, Powers, Chin, Rosenthal, Richards, Rivera, Lander, Menchaca, Levin, Kallos, Adams, Cornegy, Cohen, Lancman, Maisel, Reynoso, Brannan, Koslowitz, Torres, Rose, Louis, Perkins, Moya, Grodenchik, Van Bramer, Salamanca, Rodriguez, Cumbo, Eugene, Treyger, Cabrera, The Public Advocate (Mr. Williams)

A LOCAL LAW to amend the administrative code of the city of New York, in relation to expanding the right to counsel for tenants.

THIS BILL IS APPROVED

There are currently two bills pending before the New York City Council related to expanding the landmark right to counsel (“RTC”) in eviction cases in New York City. Int. 1529 requires the Office of Civil Justice coordinator to work with community groups to educate tenants of their rights in housing court,¹ while Int. 1104-2018 (a) increases the RTC’s income eligibility level from 200 percent to 400 percent of the federal poverty level, and (b) expands the types of eviction cases covered by RTC. While the New York City Bar Association supports both bills, this memorandum focuses on Int. 1104-2018.

I. BACKGROUND

Evictions have devastating consequences for both individuals and their communities. As the supply of affordable rental homes has failed to keep pace with ever increasing demand, more and more Americans—including New Yorkers—are becoming tenants.² A nationwide trend of increasing rents and stagnant income has yielded more tenants spending an ever increasing share of their income on housing costs.³ In 2016, approximately 2.3 million eviction cases were filed

¹ Testimony of Jordan Dressler, Civil Justice Coordinator Before the New York City Council’s Committee on the Justice System HRA’s Fiscal Year 2020 Executive Budget (May 22, 2019)(“Testimony of Jordan Dressler”) at 4, https://www1.nyc.gov/assets/hra/downloads/pdf/ocj_exec_fy20_testimony_final.pdf. (All links in this report were last visited Feb. 21, 2020).

² Heidi Schultheis and Caitlin Rooney, *A Right to Counsel Is a Right to a Fighting Chance*, Center for American Progress (Oct. 2, 2019), <https://www.americanprogress.org/issues/poverty/reports/2019/10/02/475263/right-counsel-right-fighting-chance/>.

³ *Id.*

nationwide and almost 900,000 of these resulted in an eviction.⁴ A recent study from New York University found that evictions cause a significant and persistent increase in the risk of homelessness, increase emergency room use and increase the risk of mental health hospitalizations.⁵ New York City has not been immune to these nationwide trends nor has it been spared the consequences of rising evictions. In the backdrop of this nationwide epidemic, and in the context of a citywide grassroots movement, RTC was born.

In August 2017, New York City Mayor Bill de Blasio signed Int. 214-B into law, which created a right to counsel in eviction cases in New York City. RTC provides free legal representation to tenants in eviction proceedings for households whose income falls below 200 percent of the federal poverty level and charges the Civil Justice Coordinator of the Office of Civil Justice (“OCJ”) with implementing the program, with the goal of achieving representation for all eligible tenants by 2022.⁶ To accomplish this goal, the OCJ has partnered with nonprofit legal services organizations throughout New York City, including Legal Services NYC, Neighborhood Defender Services of Harlem, Bronx Defenders, Legal Aid Society, Urban Justice Center, Brooklyn Defender Services, among others.⁷

The right to counsel in eviction cases in New York City is an essential component of the de Blasio Administration’s “prevention-first” strategy to address homelessness and housing instability for New Yorkers.⁸ “Providing quality [legal] representation and counsel for thousands of the City’s low-income tenants facing eviction and displacement is a key component of [the Administration’s] civil legal services programs, and the cornerstone of [their] tenant legal services is [the right to counsel].”⁹ This groundbreaking advancement of tenants’ rights is a cost-effective and commonsense response to the myriad of issues rooted in the City’s ever-rising housing costs.

The first iteration of the right to counsel covers all New Yorkers with household incomes at or below 200 percent of the federal poverty level.¹⁰ The 2019 federal poverty level income level equates to \$12,490 for individuals and \$25,750 for a family of four. New Yorkers who make less than \$24,980 and four-member households earning less than \$51,500 qualify for representation under the law. At present, RTC covers tenants facing an eviction proceeding in New York City housing court as well as New York City Housing Authority (“NYCHA”) administrative proceedings. Today, RTC is in effect in approximately 25 zip codes.

⁴ *Id.*

⁵ Robert Collinson and Davin Reed, *The Effects of Evictions on Low-Income Households* (Dec. 2018) at 30-31, https://www.law.nyu.edu/sites/default/files/upload_documents/evictions_collinson_reed.pdf.

⁶ Testimony of Jordan Dressler at 4.

⁷ *Id.* at 2-4

⁸ *Id.* at 1.

⁹ *Id.* at 3.

¹⁰ *Id.* at 4.

Once RTC is fully implemented, OCJ estimates that a total of 400,000 New Yorkers in 125,000 households will avail themselves of this law.¹¹

II. ONE YEAR OF THE RIGHT TO COUNSEL IN EVICTION CASES IN NEW YORK CITY

In the two years since New York became the first city in the country to create a right to counsel in eviction cases in New York City, the effort has transformed the playing field for low-income New Yorkers.

Tenant representation in housing court has drastically increased. In FY 2013, one percent of tenants were represented by counsel; in FY 2018, 30 percent of tenants had an attorney in Housing Court.¹² As the law continues to expand throughout the City, tenant representation continues to rise. The NYC Office of Civil Justice found that during the last quarter of FY 2018, 56 percent of tenants in RTC zip codes were represented by counsel in eviction proceedings. In conjunction, the number of eviction cases in Housing Court continues to fall. In 2018, there were approximately 29,000 fewer eviction proceedings filed than in 2013. Housing Courts have also reported an increase in pretrial motions and a corresponding decrease in emergency orders to show cause.¹³ These trends demonstrate an increase in substantive litigation, undoubtedly a welcome result of RTC. Some landlord attorneys have lauded the benefits of RTC in terms of easing case management, reaching quicker solutions and facilitating repairs.¹⁴

Importantly, this law ensures that more New Yorkers remain in their homes. For those New Yorkers represented by an Office of Civil Justice-funded attorney in FY 2018, 84 percent were able to prevent eviction. RTC has helped drive the consistent recent declines in eviction filings, warrants of eviction and executed evictions in New York City.

As reported by Roger Juan Maldonado, President of the New York City Bar Association in his remarks for the Chief Judge’s Statewide 2019 Civil Legal Services Hearing, after only two years of RTC, “[t]enants have a greater sense that they are being treated with dignity and respect. The behavior of judges and opposing counsel is changing as the expectation changes that the litigation will require hearing from both sides in an equal manner. . . . Simply put, it is a game-changer.”¹⁵

¹¹ *Id.*

¹² Oksana Mironova, *NYC Right to Counsel: First year results and potential for expansion*, Community Service Society (Mar. 25, 2019) (“First Year Results”) at 1, <https://www.cssny.org/publications/entry/nyc-right-to-counsel-first-year-results-and-potential-for-expansion>.

¹³ Testimony of Jordan Dressler at 4-5.

¹⁴ Eddie Small, *Inside the Fight to Revamp Right to Counsel*, The Real Deal, New York (May 13, 2019) <https://therealdeal.com/2019/05/13/inside-the-fight-to-revamp-right-to-counsel/>.

¹⁵ Roger Juan Maldonado, Remarks for the Chief Judge’s Statewide 2019 Civil Legal Services Hearing, New York City Bar Association (Sept. 23, 2019) at 4, <https://s3.amazonaws.com/documents.nycbar.org/files/2019566-MaldonadoCivilLegalServicesFundingTestimony.FINAL.pdf>.

III. INT. 1104-2018

On September 12, 2018, the City Council introduced Int. 1104-2018, entitled “A local Law to amend the administrative code of the city of New York, in relation to expanding the right to counsel for tenants.”¹⁶ It seeks to double RTC’s income threshold to 400 percent of the federal poverty guidelines, to ensure that all tenants in need receive legal assistance during an eviction proceeding. Int. 1104-2018 also expands the types of cases covered beyond just those in housing court to cover all proceedings where ejection, eviction or termination of residence may result. To date, 35 of the City Council’s 51 members and the Public Advocate have sponsored the bill.¹⁷

Int. 1104-2018 is central to the Administration’s goals of reducing evictions and combatting homelessness in the City as it ensures *all* needy New Yorkers facing eviction have access to quality representation.

IV. INCREASING INCOME ELIGIBILITY

As stated above, RTC only covers New Yorkers whose yearly earnings are below 200 percent of the federal poverty level.¹⁸ When accounting for the astronomical cost of living in New York City, the insufficiency of the current levels are revealed. According to estimates by the United States Department of Housing and Urban Development (“HUD”), an individual New Yorker who earns less than \$58,450 and a family of four that makes less than \$83,450 qualify as “low income,” and one who earns less than \$36,550 and a four-person family that makes less than \$52,150 qualify as “very low income.”¹⁹ As City Council Member Mark D. Levine explained, “[t]he federal poverty level is totally out of whack with the reality on the ground in New York City. With the skyrocketing cost of living here, more and more people above 200% of the federal line are in fact facing enormous economic struggles. We need to expand the right to counsel law to reflect that.”²⁰

Int. 1104-2018 seeks to increase the number of struggling New Yorkers who have access to the substantial benefits of RTC by raising the income eligibility level from 200 percent of the federal poverty level to 400 percent of the same. This will expand coverage from individuals with incomes of \$24,980 to \$49,960 and four-member households with incomes of \$51,500 to \$103,000. These new levels will now include most individuals and all four-member households classified by HUD as “low income” as well as single New Yorkers working full-time earning the

¹⁶ Int. 1104-2018, The New York City Council Legislative Research Center, <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3673428&GUID=4205F42E-82F7-4976-8BF7-035AE2B5B16D&Options=ID%7cText%7c&Search=>.

¹⁷ *Id.*

¹⁸ First Year Results at 1.

¹⁹ Ameena Walker, *Make less than \$58,450? You may qualify for low income housing*, Curbed New York (May 17, 2018), <https://ny.curbed.com/2018/5/17/17361580/nyc-affordable-housing-requirements-income-limits>.

²⁰ Jake Sporn, “*Right to Counsel*” Leaders Call for Expansion of Landmark Tenants’ Rights Law, Mark Levine (June 8, 2018), http://www.marklevine.nyc/_right_to_counsel_leaders_call_for_expansion_of_landmark_tenants_rights_law.

\$15 minimum wage.²¹ By one estimate, this expansion may help between 55,000 and 70,000 households facing evictions in Housing Court.²²

These moderate-income New Yorkers are predominantly working in healthcare, education, social services, retail, and hospitality,²³ and are almost as likely to experience a housing hardship as low-income tenants.²⁴ Moreover, moderate-income tenants receive considerably less public assistance than low-income New Yorkers.²⁵ This is a vulnerable population filled with hard-working New Yorkers who form the backbone of the City's labor pool. By increasing the income eligibility threshold, Intro 1104-2018 will ensure that the vast majority of vulnerable New Yorkers facing eviction will have a powerful legal ally in their fight to level the playing field and stay in their home. This equates to more stable families and neighborhoods as well as a reduction in the negative externalities imposed upon the City by evicted tenants.

V. EXPAND THE LAW TO COVER MORE EVICTION CASES

Int. 0214-B only covered eviction cases that occur in the City's housing courts and NYCHA administrative proceedings. While this includes the majority of eviction cases, it excludes other notable proceedings that can ultimately result in tenant evictions. This rather glaring omission places hundreds of at-risk tenants in danger of losing their home solely because of the forum where their eviction is brought. To rectify this wrong, Int. 1104-2018 expands RTC to all cases that could possibly result in an eviction. Specifically, it would cover (1) administrative hearings, (2) NY Supreme Court ejectment cases, and (3) appeals. With this expansion, tenants' access to an attorney will no longer be determined by the type of case brought.

The Right to Counsel NYC Coalition estimates that there are approximately 1,400 housing court appeals filed every year and approximately 400 are litigated to a decision. With the increase in successful outcomes for tenants resulting from RTC, landlords are filing more appeals. Without an attorney at the appeal level, tenants must navigate a complicated, intricate, and novel appeal process on their own. This puts them in a highly unfavorable position and may erase all the hard-fought victories achieved at the trial level. This gap in coverage severely undermines the success of RTC by allowing landlords to take advantage of unrepresented tenants during the appeals process.

By expanding RTC to include moderate-income New Yorkers and all eviction forums, the City Council can ensure that all vulnerable tenants facing eviction will have the right to an attorney in their fight to keep their home.

February 2020

²¹ Right to Counsel, Power to Organize, NYC Coalition.

²² First Year Results at 1.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

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* Ms. Vega-Rivera passed away in December of 2019. This report is dedicated to her memory. We are forever thankful for her important voice on this Task Force. She will be missed.