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to the New York Advisory Committee to the U.S. Commission on Civil Rights

Racial Discrimination in Eviction Policies and Enforcement

June 23, 2021

Good afternoon and thank you to the members of the New York Advisory Committee to the U.S. Commission on Civil Rights. My name is Jordan Dressler and I am New York City's Civil Justice Coordinator. In this capacity, I lead the City's Office of Civil Justice, a unit of NYC's Department of Social Services (DSS)/Human Resources Administration (HRA)). DSS/HRA is the United States' largest social services agency, assisting more than three million New Yorkers annually through the administration of a range of public assistance programs. In administering these programs, HRA is at the forefront of New York City's efforts to combat poverty, reduce income inequality and promote economic stability. In a city where the median household income of a white household is almost double that of a Black household and more than double that of a Latinx household,¹ where Black and Latinx New Yorkers are overrepresented in high-poverty neighborhoods,² and where since the pandemic loss of work has disparately affected New Yorkers of color compared to white New Yorkers,³ these efforts are critical to the City's work in advancing racial equity and ensuring that the City of New York continues to fight discrimination, confront segregation and take action to advance opportunity for all.

Providing civil legal services for New Yorkers in need, in particular legal services for tenants, is an important element in this ongoing work, and is part of New York City's "prevention-first" strategy to address homelessness and promote housing and neighborhood stability for tenants. Services for tenants are critical in a city of renters like New York, where over 68 percent of

¹ *Where We Live NYC Plan*, City of New York (2020), at 59 ("White households have the highest median income (\$79,743) in New York City, compared to Asian/PI households (\$58,541), Black households (\$43,326) and Hispanic households (\$37,281).") (citing 2012-2016 ACS Public Use Microdata Sample (PUMS)), available at <https://www1.nyc.gov/assets/hpd/downloads/pdfs/wwl-plan.pdf>.

² *Id.*, at 91-92.

³ *U.S. Census Bureau Household Pulse Survey*, Week 25 (February 17 – March 1). Employment Table 2 (nearly 48% of non-white respondents drawn from the NYC metropolitan area reported having no work between February 17 and March 1, 2021, compared to approximately 40% of white respondents), available at <https://www.census.gov/data-tools/demo/hhp/#/>.

households rent their home, compared to approximately 36 percent nationally,⁴ and where disproportionately those renters who are the most severely rent-burdened are people of color.⁵ Since 2014 and the start of the Administration of New York City Mayor Bill de Blasio, the City has dramatically increased its investments in legal services for tenants facing eviction, harassment by unscrupulous landlords and other forms of displacement; in City Fiscal Year 2013,⁶ mayoral funding for tenant legal services totaled approximately \$6 million, compared to \$166 million in the City Fiscal Year 2022 starting on July 1 of this year.

These investments have enabled the City to expand initiatives that provide free legal assistance to tenants facing a range of housing-related legal issues and launch new initiatives to protect tenants facing the threat of eviction. A centerpiece of this work is our implementation of New York City's groundbreaking right-to-counsel law. With enactment of this law in 2017, the City of New York became the first city in the United States to ensure that all tenants facing eviction in housing court or in public housing administrative termination of tenancy proceedings have access to free legal services. The City's right-to-counsel law tasks OCJ with providing access to free legal representation to tenants who are respondents in eviction proceedings whose household income is at or below 200 percent of the federal poverty line, and brief legal assistance for those tenant households earning more.

Prior to the COVID-19 pandemic, OCJ undertook a multi-year implementation plan to increase the availability of legal representation for tenants in eviction proceedings in New York City Housing Court, identifying high-need neighborhoods across New York City by ZIP code based on factors including the number of entries into the homeless shelter system, the prevalence of rent-regulated housing, the volume of eviction proceedings and executed evictions, input from community-based tenant advocates as well as other factors of need. The launch of right-to-counsel legal services in the City's housing courts involved close collaboration between OCJ, over a dozen City-contracted nonprofit legal services provider organizations and court administrators and judges to develop robust and reliable processes for tenants in target ZIP codes who were facing eviction cases to be connected with available free legal counsel. OCJ worked with system stakeholders to create intake processes to identify low-income tenants in these ZIP codes and connect them with legal services providers to receive full legal representation in their eviction cases. To accomplish this, the courts routed newly calendared cases drawn from the target ZIP codes to their own designated courtroom, where right-to-counsel legal service

⁴ *STATE OF THE CITY 2020: State of Renters and Their Homes*, NYU Furman Center (2021), available at <https://furmancenter.org/stateofthecity/view/state-of-renters-and-their-homes>.

⁵ *STATE OF THE CITY 2020: Citywide Data*, NYU Furman Center (2021) (in 2019, 29.0% of Black households and 31.5% of Hispanic households "severely rent-burdened," compared to 21.3% of white households), available at <https://furmancenter.org/stateofthecity/view/citywide-data>.

⁶ July 1, 2012 to June 30, 2013.

providers established intake operations close by these designated courtrooms, allowing eligible tenants to access services in an efficient and effective manner.

These efforts to expand access to legal services for New York City tenants have shown positive results. At the end of calendar year 2019, 38 percent of tenants citywide – nearly one in four – who appeared in eviction proceedings in New York City Housing Court were represented by counsel. In 2013, the rate was only 1 percent.⁷ In the high-need neighborhoods targeted through right-to-counsel for implementation of in-court access to free legal representation for all low-income tenants, 67 percent of tenants who appeared in court were represented by counsel as of the end of 2019. These gains in closing the “justice gap” for tenants have been mirrored in an unprecedented reduction in residential evictions in New York City by city marshals since 2013, which declined over 40 percent, from approximately 29,000 in 2013 to 17,000 in 2019. Furthermore, when lawyers have represented tenants in court, they have been successful in preserving the homes of thousands; between 2017 and 2019, in Housing Court eviction cases resolved by OCJ’s legal services providers, approximately 84 percent of households represented in court by lawyers were able to remain in their homes, not only saving thousands of tenancies, but also promoting the preservation of affordable housing and neighborhood stability.

The processes we put in place to expand and enhance legal services for tenants have proven to be critical as the city faced the devastating impacts of the COVID-19 emergency. Since the start of the crisis, OCJ and its nonprofit legal services providers have been working to ensure that all New York City tenants who are facing eviction in court have effective access to free legal assistance, by eliminating ZIP code-based screening to make services accessible to tenants citywide, by standing up a housing legal hotline to provide access to phone-based intake, advice and other assistance, and by establishing protocols with the housing court to virtually connect unrepresented tenants facing eviction in court with assigned legal providers to provide free legal representation in their eviction proceedings.

As critical as providing legal services to tenants has been to reducing evictions and ensuring housing stability for New Yorkers in need, it has also been important in promoting fairness and equity in our legal system. As recently detailed in Special Adviser Jeh Johnson’s eye-opening report about racial bias in the overall New York State court system, the New York City Housing Court, one of the highest volume courts in New York City and one in which the overwhelming majority of tenant respondents are people of color,⁸ has suffered from a lack of resources,

⁷ *Permanent Commission on Access to Justice, Appendices to Report to the Chief Judge of the State of New York* (2014), at 609, available at https://www.nycourts.gov/accesstojusticecommission/PDF/2014%20CLS%20Report_Appendices_Vol%202.pdf.

⁸ *Report from the Special Adviser on Equal Justice in the New York State Courts* (2020), (NYC Housing Court described as “an environment where the litigants of color are often being evicted and the landlords and attorneys

physical facilities that are ill-suited to the dignified and efficient administration of justice, and a culture described as demeaning and dehumanizing in the way it treats its litigants,⁹ including “delays in case processing that cause cases to be adjourned out of necessity, meaning that unrepresented litigants must take another day off from work or arrange for childcare.”¹⁰

The right to counsel for tenants is not a panacea, but the legal services staff who every day work to implement the right-to-counsel law for tenants in New York City help to address these pernicious issues and are transforming the city’s housing court into a fairer and more equitable place for those in need. They work to ensure that the rights of tenants – disproportionately Black and brown, low-income tenants – are not violated. They connect tenants with rental assistance and other public assistance programs that help to ensure their economic stability. They make innovative legal arguments that pro se tenants would be hard pressed to make themselves and that help shape the jurisprudence of the housing legal system. They often appear in their clients’ stead, allowing their clients to avoid missing work or the challenges of child care.

In addition, tenant legal services attorneys by their very presence in the courts shine a light on discriminatory or biased behavior that might otherwise go undetected or unchallenged. A recent incident illustrates how right-to-counsel legal services are critical in highlighting and addressing racial bias in the housing legal system. Last month, in Staten Island, a landlord’s law firm served dozens of eviction petitions on tenants including a tenant notice that read “Chinese Wuhan virus emergency” where it should have said “coronavirus emergency.” Including this odious language in a legal notice was a perversion of a court rule enacted last fall for which we and our legal provider partners advocated that requires that new eviction petitions sent to tenants include a notice stating that the tenant may be able to raise pandemic-specific defenses in court and should contact OCJ’s free legal services program for assistance. Tenants served with these notices were indeed connected with one of our legal provider partners, and counsel urgently brought the hateful notices to the attention of the court, where two days later the cases were summarily dismissed by the administrative judge for New York City Civil Court. It is difficult to imagine that an incident like this would be elevated to the highest levels of court administration for such hateful conduct to be swiftly and appropriately penalized without the action of tenants’ counsel.¹¹

Thank you again for the opportunity to speak with you today. I would be happy to take your questions.

pursuing the evictions are overwhelmingly white”), at 58, available at <http://www.nycourts.gov/whatsnew/pdf/SpecialAdviserEqualJusticeReport.pdf>.

⁹ *Id.*, at 3, 54.

¹⁰ *Id.*, at 57.

¹¹ *NYC Judge Tosses Eviction Cases With 'Wuhan Virus' Notice*, E. Whitford, Law360 (May 21, 2021) available at <https://www.law360.com/realestate/articles/1387338/nyc-judge-tosses-eviction-cases-with-wuhan-virus-notice>.