



**Testimony of Catherine C. Carr, Esq.
On Behalf of the National Coalition for a Civil Right to Counsel (NCCRC)
Before the Philadelphia City Council
March 20, 2017**

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Good afternoon. I am Catherine C. Carr, Adjunct Professor of Law at the University of Pennsylvania Law School and former Executive Director of Community Legal Services of Philadelphia. I am also co-chair of the Philadelphia Bar Association's Task Force on Civil Gideon and Access to Justice, which Chancellor Deborah Gross has testified about and which has been working to bring the need for counsel in eviction hearings to the public's attention.

I am pleased to appear today in front of this Honorable Council in a slightly different and national role, to present testimony on behalf of the National Coalition for a Civil Right to Counsel. The NCCRC is a nationwide association of nearly 300 individuals seeking to advance a right to counsel for indigent people in civil cases when their basic human needs, such as their housing, are at stake. These efforts are in accordance with the American Bar Association's unanimous resolution in support of such a right. Across the country, there is a growing recognition that in housing cases there is a critical need for legal representation, and that systemic representation has a dramatic impact. The NCCRC is led by a remarkable and dedicated attorney, John Pollock, who could not make it today, and I am honored to represent the Coalition in his stead.

I want to first thank the Philadelphia City Council for taking up this issue and recognizing the difficult plight of the tens of thousands of indigent and vulnerable families facing the loss of their homes through eviction proceedings. Not just our city, but our whole nation has for too long been cavalier about people being forcibly thrown out of their homes and the impact it has on their physical and mental health, employment, child development and education, and indeed survival. But we also have failed to fully recognize the costs involved; by not spending the money for lawyers in housing cases, our city and state governments instead spend millions of dollars more on the avoidable costs of eviction: shelters, emergency medical care, prisons, public benefits, and more. Philadelphia today shows national leadership by putting this issue in the spotlight and considering ways to help vulnerable and impoverished families in crisis while at the same time saving this City the diverse costs it must bear as the result of evictions that are too often inappropriate and even illegal.

Putting a lawyer in courtrooms to represent all low income tenants is actually a simple law enforcement step. Without representation, landlord lawyers can take advantage of tenants' lack of knowledge and experience, and tenants cannot

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present their defenses or enforce the laws passed to protect them. Our court systems are designed as adversarial; fair results require that both sides present the evidence and law in their favor. This does not happen when one side is represented by experienced counsel and the other is brand new to legal proceedings. Too much is at stake when we are talking about a family's home. Even where the eviction is legitimate, lawyers can often help the tenant avoid homelessness by obtaining additional time for the tenant to move, securing emergency rental assistance, or assisting with overcoming barriers to public or subsidized housing.

It is for these reasons that we believe there must be a right to counsel in these proceedings and urge this Council to consider how Philadelphia can move forward to make it reality. We are not starting from scratch with this idea of a right to a lawyer in a non-criminal matter; Pennsylvania, like most states, guarantees the right to counsel in some civil matters, such as when the state takes children away from their parents or when the mentally ill face institutionalization. But justice dictates that we move to also guarantee a right to counsel when the loss of a home is at stake. Let Philadelphia help lead the way in this national movement.

In our new and difficult national political environment, Philadelphia has been courageously showing that it will not stop working to address poverty and that it will stand up to protect the vulnerable, that our leadership will continue with creative and aggressive steps to improve this City and the lives of its citizens. Philadelphia has been a leader in assisting victims of the predatory mortgage crisis as well as ex-offenders needing expungement. We are building our early education system and providing assistance to those in need of public benefits. Moving forward to provide a right to counsel in housing matters is one more important and bold step, one that will help move the national access to justice movement forward.

New York City Mayor Bill de Blasio recently announced the city will be providing a right to counsel to low-income tenants in housing court, capping an advocacy effort over the past several years that thrust that city into the national spotlight as a leader in providing justice to the most needy. Philadelphia has the opportunity to join New York in the vanguard of cities protecting the rights of its most vulnerable people, and to show that this is not just a "New York thing" but rather a commonsense and necessary protection, which has the advantage of saving the city costs in the long run.

Other cities are also seeing the wisdom of providing counsel to tenants. Boston Mayor Marty Walsh recently caused bills to be filed in the state legislature that would guarantee counsel to low-income tenants, dubbing it a "homelessness prevention act." The bill followed a statewide study of representation in eviction cases that found tenants were twice as likely to stay in their homes when fully represented by an attorney rather than just being provided limited legal assistance. In San Francisco, the City Council passed an ordinance in 2012 declaring its intention to become the first "right to civil counsel city." As a first step, the city created a pilot tenant representation program that is estimated to have saved over \$1 million in avoided homelessness costs. And the D.C. City Council is currently weighing the "Expanding Access to Justice Act of 2017" that would significantly increase expand representation in housing cases

with a stated goal of “mov[ing] toward a right to counsel”. D.C.’s effort is supported by a program that has been providing representation to District tenants in subsidized housing and evaluating the outcomes.

Other key efforts are happening at the state level. California passed legislation to run five multi-year pilot programs providing counsel in evictions, and last year made the pilots permanent. In Connecticut, a 2016 legislative task force recommended the establishment of a right to counsel in eviction cases, and bills were introduced this year to effectuate that recommendation.

The bottom line is that across the country, cities and states are expanding housing representation and considering making such representation a right. Such an approach has the power not just to change people’s lives, but to save large amounts of money for governments in that process. It is not always the case that doing the “right” thing for the vulnerable and the impoverished can also save money, but this is one such opportunity. There is no logical reason not to move forward to protect the city’s vulnerable while also saving money for city taxpayers.

I conclude by urging you to strongly consider the right to counsel as a powerful “solution that would improve the safety and stability of rental housing”, in the words of the ordinance that created this study committee. Know that there will be thousands cheering this leadership step across our land.