

TESTIMONY OF THE REAL ESTATE BOARD OF NEW YORK TO THE COMMITTEES ON HOUSING & BUILDINGS AND THE JUSTICE SYSTEM OF THE NEW YORK CITY COUNCIL CONCERNING IMPLEMENTATION AND EXPANSION OF RIGHT TO COUNSEL, INTRO. 1104, AND INTRO. 1529

February 24, 2020

The Real Estate Board of New York (REBNY) is the City's leading real estate trade association representing commercial, residential, and institutional property owners, builders, managers, investors, brokers, salespeople, and other organizations and individuals active in New York City real estate. REBNY thanks the Council for the opportunity to submit comments regarding the implementation and expansion of the city's Right to Counsel Program.

REBNY supports expanding the right to counsel program. Regardless of why a tenant is in Housing Court, having equal access to legal representation is important. According to a 2018 paper "Protect Tenants, Prevent Homelessness" from the National Law Center on Homelessness and Poverty, "There is not enough affordable and available housing for America's millions of low-income renters.... The lack of affordable housing causes housing instability for low-income renters and leads to increased risk of eviction." A key recommendation from that paper, based on evidentiary practice, is that guaranteeing counsel in housing cases leads to more families staying in their homes.

Equally important to combatting homelessness would be efforts to prevent and reduce incidents of domestic violence. Domestic violence is the single largest cause of homelessness for people entering the Department of Homelessness shelter system. Forty percent of the family population in shelters are there because of domestic violence. The city needs policies that provide survivors of domestic violence the opportunity to establish credit and financial agency. More upstream intervention and assistance is important to solving the homelessness crisis in this city.

The existing "Right to Counsel" program – enacted in 2017 and the first of its kind in the country – has been critical in decreasing evictions. The Regional Planning Association found that less than 2% of owners are "bad landlords." These bad actors are defined as having high eviction rates and over 10 housing code violations, which indicate a repeated pattern of harassment and neglect. The majority of those impacted by poor behavior are also low income and geographically concentrated, with 43% of people affected by bad landlords living in the Bronx.

It is wholly appropriate and laudable for the City Council to level the playing field against these bad actors and ensure equal representation in court. According to the Rent Guidelines Board *2019 Income and Affordability Study*, citywide in 2018 "evictions are down 37.1% over 2013 levels. This is also the fewest number of evictions since at least 1983 (the first year the data is available for)." That trend has continued, with evictions decreasing by more than 25 percent in New York City in January 2020 compared to January 2019. In the areas where the program is offered, it is attributed for the majority of the decrease in evictions in those zip codes.

Intro. 1104 would expand this program in a key way. It is appreciated that the covered proceedings have been expanded to include termination of an income-based rental housing subsidy. It is a public policy failure that owners' recourse to gain the attention of the city for remiss or late payments by the city for a household receiving a city voucher is to file for an eviction proceeding. As part of the reporting structure on the efficacy on the program, REBNY recommends that the Office of Civil Justice should track how many individual clients were served versus repeat clients to ensure we understand the universe of New Yorkers being helped. We also recommend that the Office identify sources of public assistance that have bureaucratic inefficiencies that lead to immediate losses of a subsidy, such as incorrect paperwork or consistent late payments by a city agency.

Intro. 1529 would task the office of the civil justice coordinator to collaborate with community groups in engaging and educating tenants of their rights in housing court. This role seems redundant with efforts of the Tenant Harassment Prevention Taskforce and the Council discretionary funding for not for profits and community-based organizations that do this very work today. Instead of creating an extra layer of government that recreates work done elsewhere within the Mayor's Office, HPD, and City Council sponsored programs, there should be a holistic approach that takes into account all the services provided by all branches of City government. In addition there should be additional investments on tools further upstream to ensure stability for the thousands of households on the brink of homelessness. A lawyer near the end of that process is helpful but homelessness is a complex problem that requires multiple modes of intervention at the city, state and federal level to combat. This includes efforts to increase the supply of housing, including both traditional and supportive units for homeless individuals.

Thank you for the consideration of these points.

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