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February 26, 2019

Honorable Janet DiFiore, New York State Chief Judge
NYS Unified Court System - NYC Office
Office of Court Administration
25 Beaver Street - Rm. 852
New York, NY 10004

Honorable Judge DiFiore,

As the City of New York proceeds with the expansion of its Right to Counsel law, providing tenants facing eviction in housing court with legal representation, we write to ask for your support in implementing the recommendations accompanying this letter to improve conditions at New York State's Housing Courts.

The Courts have done exceptional work implementing this immense, multifaceted undertaking and we appreciate your continuous commitment to maintaining dialogue with key stakeholders. While recognizing that both the staff and the infrastructure of our courts has had to manage large numbers of tenants navigating the legal system on a daily basis, we believe the recommendations attached here, which were developed based on the first-hand experiences of tenants, advocates, and legal services providers, will help ensure our courts work as efficiently and as fairly as possible for all New Yorkers.

Since 2014, the City of New York has provided over 250,000 tenants with access to legal representation or consultation during eviction proceedings. For far too long, landlords used eviction proceedings as a tool to intimidate and harass tenants into leaving their homes. The lack of resources, language barriers, and other obstacles were only compounded by the difficulty of accessing an affordable attorney.

The Right to Counsel law has made a huge difference in the lives of tenants and has shown the potential to level the playing field for those in housing court. This in turn gives tenants the comfort of knowing that if they assert their housing rights, someone with knowledge of the law will have their back.

Now a full year through, there has been an incredible drop in the amount of evictions, and even a measurable drop in the number of homeless shelter entries caused by evictions. Since 2013, the City has seen a record 37 percent decline in the number of evictions.

We are incredibly grateful for the work that has been done in our courts in the past year to facilitate the implementation of this law.

To that end, we are deeply concerned that not enough tenants who have the right to counsel know it exists, and that those who do are too intimidated to use it. As the five year roll out continues, and as we move towards expanding the Right to Counsel law, we must be ready for even more tenants will take advantage of this program.

The enactment of this landmark civil rights legislation in New York City is having an impact across the United States as other cities and states are already moving towards a right to counsel in eviction proceedings. It is exceedingly important to lead by example.

Thank you for consideration of these items and we look forward to working together.

Sincerely,



Mark Levine
Council Member, 7th District



Vanessa Gibson
Council Member, 16th District

Recommendations to Improve the Implementation of Right to Counsel in Housing Court

Court Facilities and Policies

Institutionalizing the Right to Counsel in eviction proceedings will require New York's housing courts to significantly change how eviction proceedings are conducted, develop new physical infrastructure and make alterations to existing facilities to remove impediments to tenants' access to counsel. We therefore make the following recommendations:

For all courthouses:

Intake Areas

All intake areas should include sufficient confidential and ADA-accessible spaces. These spaces should be close to the courtrooms that will hear the cases. These spaces should also include:

- electrical outlets and free Wi-Fi;
- free access to copy machines with scanning and printing capability;
- free-to-use computers;
- secure, lockable spaces for organizations to store supplies;
- waiting areas with sufficient seating.

Courtrooms

Courtrooms should have sufficient seating for litigants, ample space for conferencing cases and space for litigants waiting to check in.

Court Houses

The court should provide adequate scanning machines and court officers to reduce wait time on the lines entering the courts. All courthouses should have sufficient functioning elevators to accommodate the volume of litigants and their representatives. Courts should allow individuals to enter the court with food and water. Courts should also provide HRA's Office of Civil Justice (OCJ) with space nearby Right to Counsel courtrooms and intake spaces to ease intake waiting times and confusion.

Bronx: We are aware that the Office of Court Administration (OCA) is currently planning relocation of the Bronx Housing Court to 851 Grand Concourse, and that there could be a delay in the move. In the meantime, we ask that the court develop a plan for the

current space to ease confusion, overcrowding and the discomfort that currently impedes the smooth operation of assigning counsel. As the plans for the new space are being developed, we ask that members of the Right to Counsel NYC Coalition be consulted to insure the implementation of the recommendations in this document and best practices for implementation of right to counsel overall.

Brooklyn: The court has recently constructed additional interview space on the 9th floor of 141 Livingston Street. However, legal services providers still do not have lockable cabinets and photocopier/printer/scanner that can efficiently handle high volume copying. Furthermore, the space needs to be monitored for confidentiality issues as the right to counsel phase-in continues – as the volume of intakes increases, there is a risk that the cubicle spaces will not be confidential once the 9th Floor intake space is being used at full capacity. While OCA ultimately intends to relocate Brooklyn Housing Court to 210 Joralemon Street (currently, the Municipal Building), this could take at least five years. In the meantime, it is imperative that OCA consult with the Right to Counsel Coalition as it develops its plans for the new space at 210 Joralemon Street.

Staten Island: The first-floor intake spaces are not confidential - there is a volunteer lawyer occupying one of the spaces and HRA in another. On the second floor, the intake space is an anteroom that is not accessible to individuals with disabilities and is also impractical for parents who must bring young children to court in strollers. Further, the intake space does not provide for confidential interviews as there is extra traffic by attorneys, clients and court personnel who must pass through the area to enter and leave the civil courtroom on the second floor.

Increasing Awareness of the Right to Counsel

Successful implementation requires that tenants know their rights and are aware of the availability of counsel. Accordingly, the Courts must take steps to ensure that all tenants, including Limited English Proficient (LEP) tenants and tenants who are deaf and/or vision-impaired, have access to information and resources to take advantage of the Right to Counsel. We suggest the following:

- Mandate that landlords serve with the petition and notice of petition a one-page description of the Right to Counsel with guidance regarding access and eligibility;
- Judges and hearing officers should make announcements at the beginning of the day and periodically thereafter, to inform *pro se* tenants about the Right to Counsel;

- Court officers and clerks should provide *pro se* tenants with information on how to access a lawyer and take steps to connect tenants with legal services providers in the court;
- ADA court liaisons should inform tenants about the Right to Counsel;
- The court should include a Right to Counsel announcement in the video played in each courtroom
- The court should work with the Department of Investigation (DOI) to amend the Marshal's Notice to include information on Right to Counsel and how to access legal representation;
- Court computers should include information on Right to Counsel on the home intranet page;
- The court should consult with the Right to Counsel NYC Coalition regarding information that should be included in any communications with tenants. Informational pamphlets should contain detailed descriptions of tenants' rights, the benefits of representation and a list of items that tenants should bring to court.

Access to Counsel

We must provide as many opportunities for tenants to connect with legal representation, to ensure that tenants have full access to this new right. Specifically, we recommend the following:

- Court staff and judges should direct tenants to designated legal services providers whenever they are appearing in court without legal representation;
- The Court should require clerks to provide information regarding Right to Counsel to tenants who are answering petitions in eviction cases.
- For post-judgment and post-eviction cases, judges and court attorneys should immediately refer eligible tenants to the legal service provider covering intake that day, in particular if the judge is denying an Order to Show Cause.
- The Court should guide judges to grant adjournments on the date counsel is first appointed.

Language Accessibility

Right to Counsel will only provide meaningful access to justice if it is made fully accessible to LEP tenants. We therefore recommend the following:

- Materials used in outreach and communication with tenants about the Right to Counsel should be provided in the 9 most common languages of New York City;

- When an LEP tenant seeks legal representation– whether by contacting the Central Coordinator, 311, visiting a legal services provider or at Housing Court– Language Line should be used to communicate to the tenant the process for the assignment of counsel;
- Regular language access training for all court staff should be required, especially since Court Officers are frequently the first points of contact for LEP litigants.
- In-person, fully-certified interpreters should be provided whenever possible;
- OCA should only contract with interpreting service providers who have demonstrated legal language training;
- Interpreters must receive anti-bias training;
- The court should make the process to file complaints about interpreters transparent by listing the process by which the Clerk of the Court reviews complaints and the outcomes of the review;
- The court should post conspicuous signs in at least the 9 most common languages in the lobby and on each floor of the courthouse to tell litigants where to go for interpretation/translation assistance;
- The court should post conspicuous signs to inform litigants about the availability of interpretation at or near the clerk’s office/window and the interpreter’s window; and to direct litigants to the interpreters’ window. Conspicuous places include: entrance, security check in points, lobby, elevator banks, stairwell entrance, clerk’s office, pro se office, HRA offices, legal services providers’ offices, and courtrooms;
- The court should improve the design of signs relating to language access. In particular, the non-English language should appear larger than English (currently it is the other way around);
- LEP tenants should have access to court interpretation at all times during their case including in the hallways and in other areas of the court, such as when applying for emergency assistance in HRA offices.

Accessibility for Tenants with Disabilities and Homebound Tenants

Right to Counsel must be fully accessible to tenants with disabilities and homebound tenants. Therefore, we recommend the following:

- ADA liaisons should connect tenants who come to their attention with legal services providers. Adult Protective Services (APS) should be notified that the tenant is in the process of accessing their right to counsel, when appropriate;
- For homebound tenants, ADA liaisons should take the tenant's answer over the phone (or make any other accommodation necessary), inform tenants about Right to Counsel, and connect tenants with a legal services provider;

- Marshals should contact APS if in the course of performing an eviction they encounter a homebound person. APS should immediately connect homebound individuals with a legal services provider;
- Intake spaces where tenants meet with their attorneys must be ADA compliant, in addition to meeting all requirements for confidentiality and functionality;
- Tenants with disabilities should not have to wait in security lines to enter the courthouse;
- All courtrooms should have space to accommodate tenants in wheelchairs and also sufficient seating for tenants with disabilities;
- All publicity, signage, and other information about Right to Counsel should be made accessible to vision- and hearing-impaired tenants.

Additional Recommendations

- The court should provide free childcare facilities for tenants at each housing court location.
- If an unresolvable conflict arises during the course of representation, the court should enable the tenant to connect with an alternate right to counsel provider, including by adjourning cases as necessary.
- Courts should make a further attempt to notify tenants of their right to counsel before issuing a warrant on a default.
- For each tenant who is receiving Right to Counsel representation, the court should provide the tenant's lawyer with a file that includes copies of all court papers, including any pro se documents filed; DHCR rent registration records; HPD violation reports; complaints filed by tenant, etc. This will ensure that attorneys can provide high quality representation to tenants at an earlier stage and more efficiently, which will also encourage more tenants to take advantage of Right to Counsel.