

**Right to Counsel: A Memphis Pilot Program sponsored by The Works, Inc.  
Funded by the Kresge Foundation**

I. Overview

- A. The Right to Counsel Pilot Program (the “Program”) was a program operated by The Works, Inc. (“TWI”) from January 2022 until December 2023. The program was funded by the Kresge Foundation in the amount of \$200,000.00. The program began accepting applications on February 19, 2022, and closed the application on November 17, 2023. The program received over 2,600 unique applications from tenants in Memphis, Shelby County, Tennessee.

II. Program Personnel

- A. The program required a small operations and leadership team, a roster of attorneys, social workers, surveyors for data collection and administrative support.

B. Core Program Team

1. The core program team consisted of several employees of The Works, Inc. as well as several contractors and academic researchers. Brian Rees, a staff attorney at The Works, Inc. was the primary program lead as well as managing attorney. Margaret Haltom, a former TWI employee and current Doctoral student at the Massachusetts Institute of Technology (MIT) was the co-program lead and ongoing consultant. Jenna Richardson, an independent contractor, was a project manager as well as manager of social workers and surveyors as needed. Our research team was led by Charlie Rafkin, a doctoral student in economics at MIT and assisted by Aviv Caspi, a postdoctoral fellow at Stanford University. Jenna Richardson, MSW, worked as our project manager and build much of our program infrastructure alongside Margaret Haltom.

C. Attorneys

1. Sixteen attorneys represented clients over the two years the program accepted applications. Two of the attorneys were full-time employees of The Works, Inc. Nearly all remaining attorneys were solo practitioners or associates at small to mid-sized law firms. None specialized in eviction defense.
2. Attorney’s varied in caseload, with many accepting between three and five cases at a time. Attorneys with TWI would be assigned between eight and ten cases at a time.
3. Non-TWI attorneys were paid a flat rate on a per-case basis for their representation of tenants. Our rate began at \$250.00 per case and increased over the life of the program to \$325.00 per case.

D. Other Program Staff

1. Other program staff consisted of: administrative support staff in the form of tenant outreach coordinators; social workers who provided counseling to tenants who were not selected for representation; and surveyors who

contacted tenants after their cases were closed to conduct data collection and record various case outcomes.

### III. Program Outreach

A. The program sought to find tenants to apply for the program in several different ways.

B. Home901.org

1. Home901.org was a website set up during the Covid-19 pandemic as a one-stop-shop for resources in the areas of rental and mortgage assistance, as well as more general housing assistance. The website was a partnership between The Works, United Housing, the City of Memphis, and Shelby County Government. We felt it was a natural place for our application to live as many tenants were already directed to that website for eviction prevention resources. Our application lived on that page for the duration of the program.

C. Postcards

1. In addition to our online presence, we mailed postcards on a weekly basis to homes facing eviction in Shelby County. This was accomplished using a data scraping tool which scraped all of the publicly available eviction filing information. We would then send a spreadsheet of names and addresses with information about the eviction filing as well as links to resources for rental assistance and eviction prevention.

D. Other means

1. Tenants reported many different ways in which they heard about our program. Among the most commonly reported was word of mouth through friends, family, their landlord, or the court system. Some reported finding us via the news, however, we never did a media blitz about our program. This indicates that not all of the responses in this area may have been accurate or that tenants heard about Home901.org and applied to every tenant centered program located on the website.

### IV. Selection

A. Due to limited capacity and funding, we were not able to provide full representation to all of the 2,631 tenants who applied to the program. In order to account for this, we implemented a randomized selection process to give tenants between a 33% and 50% chance to be selected for full representation. Those who were not selected had the opportunity to be selected to receive housing counseling from either a law student or licensed social worker.

B. Reasoning

1. We decided to go with a randomized selection process, as opposed to a more traditional first-come first-served or triage approach for several different reasons. A chief reason is that it allowed us to make impartial, fair decisions without regard to type of case. Since many of our cases were non-payment of rent cases, we needed a way to determine which ones would be fair to take. A randomized process allowed us to select one of two otherwise identical cases without favor or prejudice to another.

Additionally, we wanted to have a clean, academic, evaluation of the data, and a randomized controlled process allowed us to do so with our academic partners.

C. Eligibility

1. We sought to keep our eligibility requirements fairly simple so as to provide assistance to the most people as possible. This led to two primary requirements for our program: 1) current renter in Memphis/Shelby County and; 2) currently under a court eviction. We received many applications of tenants who had received a late rent notice, but were not presently under a court eviction. Unfortunately, they were ineligible for representation by one of our attorneys, but they were eligible for housing counseling as will be discussed later. Additionally, we did not consider tenants who were post-judgment eligible as we did not believe we had the resources to help those post-judgment. Roughly 1,400 tenants (54.4%) who applied to our program were ineligible for representation.

D. Representation

1. As previously stated, our eligibility requirements were fairly straightforward. Of the 2,631 applicants, 960 met our threshold eligibility requirements (36.5%). Three hundred thirty seven (337) of those applicants were selected for representation (35% of eligible applicants; 13% of all applicants). Representation from our program meant full in-court representation by an attorney licensed in Tennessee. That attorney would be empowered to counsel the tenant, negotiate for them, advise them of their rights and obligations under Tennessee law. Additionally, they could raise defenses and make motions, as well as take the case to trial if the client and opposing party could not come to an agreement. Appeals were not required under our retainer agreement.

E. Memphis and Shelby County Emergency Rent Assistance Program (“MSCERA”)

1. The Memphis and Shelby County Emergency Rent Assistance program was a robust rent assistance program that operated from 2021-2022. As part of that program, landlords would receive full payment of the tenant arrearages in exchange for a dismissal of the eviction. Three hundred twenty seven tenants applied to our program who were also approved for MSCERA assistance, and they were deemed ineligible for representation. Once the MSCERA program stopped taking applications in August 2022, this ceased to be a reason tenants were ineligible.

F. Counseling

1. Because of the limited resources of the program, we could not provide representation to all applied to it. We decided to offer housing counseling to some tenants via the same randomized process we used to select tenants for representation. Our counselors were a mix of law students from the University of Memphis Cecil C. Humphreys School of Law as well as licensed social workers. While counseling was offered as a part of the program, it did not factor into our evaluation.

## V. Applicants and Demographics

### A. Race

1. An overwhelming majority of our applicants were black. (Upwards of 95%)

### B. Gender

1. Over 80% of all applicants were women. Only 17% were men. Less than one percent identified as non-binary or declined to report.

### C. Household Size

1. Over 71% of applicants had multiple persons in their household.

### D. Income

1. We asked for income information of our applicants, but did not take steps to verify it in an effort to reduce the paperwork a tenant would need to apply, so all income information should be taken with caution. That being said, the reported average monthly household income for all applicants was just over \$1,300, with the median at about \$900. 15% of applicants reported having no income.

### E. Monthly Rent

1. Average self reported monthly rent among applicants was about \$975. 91% of applicants reported being behind on rent at the time of application. Average self reported amount owed was a range between \$3000-\$4000. The median was about \$2700.

### F. Zip Code

1. We had tenants from nearly every Shelby County zip code apply for assistance. The most frequent zip code was 38115, which is an area with a younger population and a high amount of multifamily renters. The second highest zip code was 38116, which has a similar profile to 38115. Other high frequency zip codes were 38128, 38127, and 38016.

## VI. Budget

- A. We received a grant of \$200,000 from the Kresge Foundation to stand up the program and operate it for two years. Our program has been supplemented by research grants from the Massachusetts Institute of Technology and Stanford University in the amount of \$12,000 and \$10,000 respectively.

- B. Office Expenses

1. Office expenses included software subscriptions and mailing services. For one year, we used CLIO Client Management System for attorneys to record case information. We also used Jotform to accept applications and Airtable to hold client information. We also used Central Printing, a local company, to print our informational postcards to potential clients. Overall, we spent \$ \$12,720.78 on these office expenses.

- C. Client Representation

1. At the beginning of the program, we paid attorneys \$250/case. By the end of the program, we paid attorneys \$325. TWI Staff Attorneys did not receive additional compensation outside of their normal salaries for taking on case assignments. We spent about \$36,575.00 on representation by attorneys during the program.

D. Staff Salaries

1. We spent \$66,810.66 on staff attorneys. Only one salary was covered by this program.

E. Contractors

1. The program was supported by several contractors, including project managers, social workers, law students, and surveyors. They varied in rates depending on the work they performed. We spent an estimated \$52,421.31.

F. Other Program Expenses

1. Other program expenses consisted of payments for tenants taking surveys, postage and mailing charges, and other supplies. We spent \$37,228.46 on these other program expenses. Much of the supplemented funding from MIT and Stanford was used for these expenses.

VII. Findings:

- A. Attorney results of the 337 represented tenants are as follows: 127 tenants had their case dismissed or non-suited. 37 tenants had judgments for possession and damages taken against them, whereas 23 tenants had judgments for possession only taken against them. Writs of possession did not appear to be granted in these cases. 50 tenant did have writs issued against them which followed the granting of an eviction for the landlord. Remaining tenants had a range of outcomes from bankruptcy to cases being dropped but not reset on the docket.
- B. Attorneys have a large effect, but their effectiveness is significantly larger when paired with the Emergency Rental Assistance Program (ERAP)
  1. On average, receiving an attorney reduces judgments within 60 days by 28 pp (50%), raises the nonsuits by 14 pp (111%), and reduces the issuance of writs by 16 pp (79%). Attorneys also reduce the amount owed in money judgments by more than \$1,300.
  2. However, attorneys are significantly more effective when paired with ERAP
    - a) ERAP concluded in December 2023, so the program ran for 9 months with ERAP and 9 months without ERAP
    - b) Attorneys have significantly smaller effects on judgments, nonsuits, and writs without ERAP. For instance, without ERAP, receiving an attorney reduces judgments within 60 days by 15 pp (26%) and is not significant in some specifications.
    - c) Attorney tactics are similar with and without ERAP: in both cases, attorneys file continuances at similar rates, in an attempt to buy tenants time
  3. Key policy recommendation: the *combination* of attorneys and ERAP appears to be effective
- C. What accounts for the effect?
  1. Lawyers are more likely to obtain more time to move, negotiate more favorable terms, as well as help tenants apply for more social services

2. Lawyers provide intangible benefits to courts and opposing counsel as they provide credibility, legal skills, and knowledge of court processes to tenants that they otherwise may not have had.
3. Lawyers are able to slow down the court process and help tenants evaluate all their options even when they have no legal recourse.

D. Why do tenants value the assistance?

1. At intake, we ask tenants why they value lawyers. After cases conclude, we follow up with tenants to determine 1) what happened after the case ends, 2) their interactions with the lawyer and the program, and 3) how lawyers affected informal bargaining between tenants and landlords.
2. In incentivized surveys, tenants place high monetary valuations on lawyers. On average, they are indifferent between receiving \$679 in cash and a lawyer. 42% of tenants prefer receiving a lawyer to receiving \$1,000 in cash.
3. When asked what tenants wanted from a lawyer, 60% said they hoped it would help reduce stress, while only 40% wanted to actually beat the landlord in court. A little less than 60% stated they wanted assistance negotiating.

VIII. Implementation Suggestions

A. Phase In

1. Rather than casting a wide net and offering representation to all of Shelby County, it would be best to phase in the program and offer representation to those in perhaps either the poorest areas, or the areas with the most commonly evicted persons.

B. Attorneys

1. It would be preferable to have either full time staff attorneys or dedicated contract attorneys for this sort of project.

C. Outreach

1. More efforts at targeted outreach could be done with community members, courts, clerks, and other tenant assistant groups to ensure that tenants know they have a free representation option, or at least have a resource to call to talk through their case.

D. Rent Assistance

1. It is no secret that Tennessee law is unfriendly to tenants who are not able to pay their rent. It then follows that the best way to assist tenants is to have easily accessible rent assistance in addition to attorneys ready to represent and negotiate with landlords on their behalf.