

# Frequently Asked Questions about Right to Counsel

## ***How much does right to counsel cost?***

The cost really depends on how many cases are in court. Right now, given the number of cases in housing court, RTC would cost about \$200 million. Studies show that at least half of all evictions wouldn't result in eviction if tenants had attorneys. That means that landlords are winning half the time, not because they are right, but because they have more power than tenants.

If tenants had attorneys, landlords would lose more often, which is costly. We believe they will stop bringing frivolous cases. Therefore, as the number of cases goes down, so will the cost.

In addition, having an attorney means that tenants won't have to go to court, meaning they won't lose days of work, risking their employment.

Lastly, a study commissioned by the Bar Association and done by SRR Financial Firm shows that when fully implemented, right to counsel not only pays for itself but also saves the city \$320 million/year through savings in shelter costs, emergency services, etc.

So really, right to counsel doesn't cost money. It saves money. What we need to get it started is an initial investment.

## ***But right to counsel won't save everyone from eviction, right? Is it really effective to have attorneys on cases that will lose?***

Right. RTC won't end evictions—it will just end unjust evictions. And the ultimate result in a case might be an eviction, having an attorney still can make a difference. Attorneys can negotiate time, can apply for services, can help find alternate housing options and can help with wrap around services that a family might need. So while an evicted tenant is still an evicted tenant, the possibility that they will move with options instead of going into the shelter system is greater if they have an attorney, especially if they have an attorney that works at an organization with wrap around services.

Also, RTC isn't just about evictions. It is also about power. While hundreds of thousands of tenants make it to housing court, countless tenants don't. Many tenants move out because they are harassed and intimidated by their landlords, because they can't pay rent and don't know of any options, because they are denied basic services like heat and hot water, because they don't know there are any options to fight. Landlord harassment can range from things like not having hot water, to being told that if you organize you'll be evicted, to being threatened with deportation, to being physically and verbally assaulted. If a right existed, it would create breathing room for these tenants to say stop, I have rights, let me see what my options are.

## ***Don't we already spend a lot on eviction prevention services? Isn't that enough? And if not, can we just increase funding?***

Mayor de Blasio did significantly increase funding for eviction prevention services. Before this administration, the city was spending about \$5 million on eviction prevention. We now spend about \$67 million. That is an incredible increase in funding and that funding has had a significant impact. Evictions have decreased from about 30,000 to about 22,000 and the rate of representation for tenants has also increased from about 10% to about 27%. That is fantastic news for many tenants

# Frequently Asked Questions about Right to Counsel

in NYC. However, these funds are designated to neighborhoods with high concentrations of evictions leading to shelter entry and neighborhoods that are being rezoned. So if you are a tenant being evicted in a zip code that doesn't fit these categories—most of NYC—you are a lot less likely to get an attorney. Moreover, what these numbers tell us is that having a lawyer leads to less evictions. Let's keep going until there are no more unjust evictions!

Moreover, increased funding does not make representation a right. Lawyers still have discretion and can decide not to take a case. Lastly, increased funding for eviction prevention, operates after the fact. Meaning tenants will find out if they have access to an attorney once they are in court. They have to first decide to fight their landlord in court to even know that they might have an attorney. Right to counsel would function entirely differently. If you know that you had a right to an attorney, you'd be more likely to challenge a bogus rent demand letter, you'd be more likely to call 311, to investigate your rent history, to challenge an MCI, to organize your tenants' association, etc. And having a right would mean that attorneys would have to take your case.

Increased funding misses hundreds of thousands of tenants because it doesn't change the institutions of power. Increased funding increases the pool of people who get lucky. By contrast, a fully funded and a well implemented Right to Counsel, is a strong step forward in the path towards institutionalizing justice.

***\$67 million isn't \$200 million. Where will the increase in funds come from?***

We don't need to spend \$200 million right away, in fact, we shouldn't implement a full right to counsel at once. Organizations need time to hire and train attorneys, supervisors and paralegals. We need time to implement systems and structures that streamline information and services. We have put together a plan that would phase in Right to Counsel over 3 years by populations based on need. The first phase would be senior tenants, disabled tenants and tenants who have been formerly homeless. The second phase are holdover cases (evictions cases for reasons other than rent) and families with children under 12. The last phase is everyone else. So that means that we aren't talking about an immediate increase of \$130 million but more like an increase of \$45 million a year. We are not proposing to take money from any particular budget line but to baseline the cost of right to counsel into the budget.

***Right to Counsel is for tenants at 200% of the poverty line (\$48,000 for a family of 4) or below. What about tenants that make more than that and don't qualify?***

Right now about 2/3 of tenants who go to housing court would qualify for right to counsel. While not everyone would qualify under the law, that doesn't mean that legal services organizations, who will be better resourced and staffed than they currently are, don't have discretion to use other resources to defend tenants who don't qualify under right to counsel.

**Do you have a question that isn't answered here?** Let us know! Call or email Susanna at 718-716-8000, ext. 125 or [s.blankley@newsettlement.org](mailto:s.blankley@newsettlement.org)