

EXPANDING THE RIGHT TO COUNSEL IN NYC

Facing an eviction in NYC has historically been a dehumanizing experience, as nearly all tenants could not afford a lawyer (unlike their landlords) and were forced to represent themselves in court. In 2017, the Right to Counsel NYC Coalition won a campaign to guarantee tenants a right to have a lawyer when facing an eviction in housing court. This historic law is beginning to shift the balance of power in housing court. But the law must be expanded to make sure that all New Yorkers have the right to defend their homes.

Right to Counsel Works!

Under the Right to Counsel (RTC) law, in just the 1st year of its 5-year phase in:

- 84% of tenants who had a lawyer under RTC (nearly 22,000 households) were able to remain in their homes
- Evictions across the city are down by nearly 14%
- Zip codes with RTC accounted for 64% of the overall citywide decline in evictions
- Evictions declined more than 5x faster in zip codes where RTC is currently in effect than in similar zip codes where it is not
- 30% of tenants in housing court received legal representation
- Tenants were 3x as likely to receive legal services in RTC zip codes, compared to similar non-RTC zip codes

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The Right to Counsel law will be fully phased in by 2022. Now is the time for NYC to look to the future and strengthen its groundbreaking law. The city must:

- **Increase the income threshold from 200% of the federal poverty level (FPL) to 400%:** While the majority of tenants in housing court have a right to full legal representation, 31% do not because they are over income. This includes a single New Yorker working full-time earning the \$15 minimum wage. Yet, more than 1/3 of these tenants with incomes between 200%-400% of the FPL experience housing hardships that indicate they are at-risk of eviction, such as being threatened with eviction, falling behind on rent, or moving in with other people. Doubling the income threshold would mean almost everyone who is in housing court now would be eligible.
- **Expand the law to cover eviction proceedings that take place outside of housing court:** While most eviction cases are held in the city's housing courts, several hundred are left to higher courts or administrative hearings, including HPD administrative hearings for Mitchell-Lama residents, Supreme Court ejectment cases, and Housing Development Fund Corporation cases. Additionally, though the current law guarantees tenants a lawyer for the entirety of their cases, it does not cover appeals, leaving tenants to defend their victories alone.
- **Fund community-based organizations:** Based on a recent survey by volunteers at the Bronx Housing Court, 53% of tenants who had a right to a lawyer didn't know before arriving in court. It's essential to inform tenants of their right to an attorney before they arrive in court. Neighborhood-based groups with histories of tenant organizing are trusted community partners and, therefore, are best positioned to do this outreach work that is critical to the law's success. The right is only as effective as tenants' ability to know and claim their rights.

Sources:

NYC Office of Civil Justice 2018 Annual Report
NYC Office of Civil Justice Universal Access 2018 Report
NYC Right to Counsel: First year results and potential for expansion, a report by the Community Service Society of New York

