

# “RIGHT TO COUNSEL, POWER TO ORGANIZE” CAMPAIGN FAQ

## What is Right to Counsel (RTC)?

Right to Counsel is a law that New York City passed In 2017, which guarantees low-income tenants a right to a lawyer when facing an eviction in housing court. NYC was the first in the nation to ensure a Right to Counsel. This new right for tenants was won after a 3-year campaign by the Right to Counsel NYC Coalition, which is made up of tenants, lawyers, organizers, academics, and more.

RTC is being phased in over 5 years, meaning that all tenants who are sued for eviction in housing court, and who are income eligible, will have a right to a free lawyer to defend their case by July 2022. Until then, tenants in certain zip codes—chosen by the city based on a variety of factors, including eviction rates, shelter entries and number of rent stabilized units—have RTC. RTC is currently in 25 zip codes across the city. New zip codes are added every year until 2022, when all eligible tenants will have RTC regardless of where they live.

## Has RTC been successful?

In just its first year, RTC has proven to be a powerful tool in helping tenants defend their homes against eviction. Here are some key facts:

- 84% of tenants who had a lawyer under RTC (nearly 22,000 households) were able to remain in their homes
- Evictions declined more than 5x faster in zip codes where RTC is currently in effect than in similar zip codes where it is not
- Evictions across the city are down by nearly 14%
- Shelter entry due to evictions is down significantly.

## If RTC is so successful, what more do we need?

Currently, the majority of tenants who are eligible for RTC don't know they have this new right and many are afraid to use it. It's unjust to deny people both the information about their rights and the support needed to exercise them. Additionally, more than one-third of tenants facing eviction in housing court don't have a Right to Counsel because they are considered over income. Yet, nearly all of these tenants wouldn't be able to afford a lawyer and would be forced to represent themselves in housing court. It's unfair for some tenants to be denied RTC because of a small difference in income.

Now that it's been proven that RTC is effective in stopping evictions, it's time to expand it to ensure that all tenants facing an eviction have RTC and know about it. That's why the Right to Counsel NYC Coalition is organizing a campaign called “Right to Counsel, Power to Organize,” calling for the passage of two bills that would strengthen the law:

- **Intro 1529** requires the city to support trusted tenant organizing groups to make sure that tenants know about and use their Right to Counsel.
- **Intro 1104** increases RTC's income eligibility level and expands the types of eviction cases covered by RTC.



## Why support community organizing? (Intro 1529)

While our work to stop evictions and decrease eviction filings is proving to be successful, we must also ensure that landlords don't find other ways of forcing tenants to move out—outside of the legal court process. In order for RTC to continue to be effective, everyone needs to know about it, understand it, and use it as a tool to address other housing issues, like needed repairs and landlord harassment. For example, tenants who know about RTC due to tenant organizing are starting to take bold actions like rent strikes, because they know RTC will protect them if the landlord retaliates.

Yet, we estimate that the majority of tenants don't know about RTC. A recent survey done by volunteers at Bronx Housing Court found that 53% of tenants who had a right to a lawyer didn't know about this right before arriving in court. This means tenants might decide not to appear in court, decline representation, sign agreements with landlord attorneys prior, decide not to ask for repairs in fear of being evicted (77% of these tenants surveyed needed repairs), and a host of other severe consequences. Intro 1529 would require the city to support organizers who would ensure tenants know about their Right to Counsel and feel supported using it.

Tenant organizing is the most effective means of ensuring tenants know about their rights. Trusted tenant organizing groups can create an environment where tenants feel supported by a community that is working together to combat landlord abuse. And their work goes a long way. In 1 year, just 4 tenant organizers who were supported by the Right to Counsel NYC Coalition—1 in the Bronx, Brooklyn, Queens, and Manhattan:

- Distributed information about RTC to nearly 8,000 people.
- Conducted outreach to approximately 200 buildings.
- Conducted 75 Know-Your-Rights Workshops reaching more than 1,100 tenants.
- Formed 26 new tenants associations, in which over 700 tenants are active.
- Stopped harassment in more than 500 households.
- Helped more than 400 households get repairs.
- Helped more than 350 tenants apply for a rent reduction
- Developed approximately 150 tenant leaders

Tenant organizing is powerful! But more resources are needed to ensure that all low-income New Yorkers understand their rights. We are calling on the city to fund this organizing work essential to RTC's success. RTC would be an even more powerful tool in stopping evictions if more tenants knew about it and used it.

## Why increase the income eligibility level? (Intro 1104)

To be eligible for full legal representation under NYC's current RTC law, a tenant's household income must be 200% or below of the federal poverty level (FPL). That is less than \$24,980 for a single adult or less than \$51,500 for a family of four. This means a single New Yorker working full-time and making the \$15 minimum wage would not qualify.

We are calling for an increase of RTC's income eligibility level from 200% of the FPL to 400% (which is a yearly income of \$49,960 for a single adult and \$103,000 for a family of four). Though these tenants with incomes between 200%-400% of the FPL don't qualify for full legal representation, more than 1/3 of these tenants 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.

There are 527,000 tenant households (25% of the total NYC renter population) with incomes between 200-400% of the FPL. Approximately 56,000-71,000 households in this income range are sued in housing court each year. 52% of them live in regulated housing, which we must protect to preserve neighborhoods and affordable housing. The majority of these tenants work in healthcare, education, and social services or in retail, hospitality, and food service. 61% of them live in regulated or unregulated housing *and* do not receive any form of housing assistance, such as Section 8. If evicted, these tenants could easily end up in a homeless shelter, require public assistance, and, ultimately, end up costing the city hundreds of thousands of dollars more than it costs per case for full legal representation.

Currently, tenants with incomes between 200%-400% of the FPL make up an estimated 31% of tenants in housing court. (Tenants with incomes at or below 200% of the FPL make up about 60% of tenants in housing court). Doubling the income threshold would cover approximately 40,000 additional eviction cases each year. This is 31% of the 130,233 eviction cases heard in housing court in 2018. This means almost everyone who is in housing court now would be eligible for full legal representation if Intro 1104 is passed.

### Why cover more types of eviction cases? (Intro 1104)

Currently, RTC only covers eviction cases that take place in NYC's housing courts. While most eviction cases are held there, several thousand are held in higher courts or administrative hearings. For example:

- **Administrative hearings:** NYC's affordable housing programs are governed by various city agencies that can hold hearings that lead to eviction. For example, NYCHA holds about 3,500 termination of tenancy procedures each year and the Department of Housing Preservation and Development holds about 300 termination hearings for Mitchell-Lama.
- **Supreme Court ejectment cases:** Approximately 100 tenants are evicted through Supreme Court ejectment cases every year. While we don't know the number of cases because it's not easily available to the public, we estimate it to be about 300 cases per year. Landlords can sometimes bring eviction cases to the Supreme Court when Housing Court doesn't have jurisdiction. For example, some Housing Development Fund Corporation (HDFC) co-op evictions happen here.
- **Appeals:** Though the current law guarantees tenants a lawyer for the entirety of their cases, it does not cover appeals. We estimate that approximately 1,400 housing court appeals are initiated in NYC each year, with approximately 400 being litigated fully. With more tenants than ever being represented and winning their cases, landlords are filing more appeals and tenants are also more likely to appeal bad decisions when they have had an attorney in housing court and therefore understand the law and their rights. Without legal representation to defend their victories or to fight back against unjust decisions, tenants will be left alone when the final and most important decision is made.

Intro 1104 would ensure that tenants facing any hearing that leads to an eviction would have a Right to Counsel. All tenants facing eviction, regardless of their type of case or where their cases fit into the eviction process, should have the right to a lawyer. These two bills get us one step closer to making that a reality.



## Who is supporting Intro 1529 and Intro 1104?

NYC Council Members Mark Levine and Vanessa Gibson, who championed the city's groundbreaking RTC legislation, have introduced these two bills to strengthen the law. 42 Council Members supported the original RTC bill, and it's our goal to have the same level of support for these bills.

Right to Counsel, Power to Organize is a campaign of the Right to Counsel Coalition, whose members include:

AARP	Housing Court Answers
Bronx Defenders	Interfaith Assembly on Homelessness and Housing
Brooklyn Defender Services	Legal Services-NYC
DC 37	Mobilization for Justice
LiveOn NY	Neighborhood Defender Service of Harlem
Brooklyn Legal Services Corporation A	New Settlement's Community Action for Safe
CAMBA Legal Services	Apartments
Catholic Migration Services	New York Legal Assistance Group
Center for Independence of the Disabled	Northern Manhattan Improvement Corporation
Community Service Society	Northwest Bronx Community and Clergy Coalition
Flatbush Tenant Coalition	NYC Central Labor Council
Goddard Riverside Law Project	The Urban Justice Center
Housing Conservation Coordinators	The Legal Aid Society

## Are other places with the Right to Counsel doing this?

After NYC passed RTC, other cities were inspired to do so as well. Yet, these cities included things that our legislation doesn't. San Francisco did not set income eligibility limits and Newark, NJ's law covers appeals. More than a dozen regions are currently working on passing a Right to Counsel and are looking to NYC as an example.

## When would these laws be implemented?

We know RTC and its expansion must be implemented with adequate preparation time to ensure our goal of tenants receiving quality legal representation. Intro 1529 would go into effect immediately, so that much-needed tenant organizing could kickoff around the city. Intro 1104 would go into effect after the phase-in period for the current RTC law is completed in 2022. We hope to phase it in fully by 2024.

## How will there be enough lawyers to handle the expansion Intro 1104 is calling for?

Intro 1104 would not begin until RTC is fully implemented in 2022. This means there will already be an infrastructure in place to ensure the training, recruitment, and supervision of tenant attorneys to represent tenants facing eviction across the city before Intro 1104 would begin getting implemented. The law would then have an additional 2-year phase-in period to become fully in effect citywide by 2024. The number of tenant attorneys has expanded dramatically. In just a few years, the number of tenant attorneys has increased from less than 200 to over 500, and eventually with the current law, there will be 1,000 or more tenant attorneys in NYC.



In addition, the Right to Counsel NYC Coalition is committed to building the pipeline of new tenant attorneys. To date, the coalition:

- Has worked to create tenant/landlord legal clinics in law schools across NYC so that more students graduate from law school with a knowledge of landlord/tenant law.
- Presents regularly to law school students about RTC and what it means to be a tenant attorney.
- Holds sessions for law school interns on RTC.
- Created an interactive history of the tenant movement so that lawyers and aspiring lawyers see themselves as part of the tenant movement.
- Works closely with the coalition members who are legal services providers to support the training and orientation of new attorneys.
- Created the Housing Justice Leadership Institute—a training program to help supervising attorneys develop the skills they need to ensure the highest quality legal assistance to tenants who face eviction from their homes.

The Coalition has done this and much more. We are committed to adapting our work and advocacy as any capacity needs develop.

It's also important to note that the number of lawyers we estimate needing is based on the number of cases in housing court currently. But the number of cases that landlords bring against tenants is already decreasing because of RTC. As RTC expands, coupled with the strengthened tenant protection laws recently passed by the state legislature, we expect landlords to sue fewer and fewer tenants.

### **How much will this cost the city?**

For Intro 1529, we are calling for \$5 million from the city to fund tenant organizing. This would fund more than 40 tenant organizers across the city plus administrative and other associated costs.

Intro 1104 would cover approximately 46,000 additional eviction cases each year. This number includes 40,000 cases in housing court due to the increase in the income threshold and an additional 6,000 cases in additional venues (administrative hearings, Supreme Court, etc.) and appeals. However, the number of cases and therefore the cost may decrease over time as eviction filings decline, which they did by 5% in RTC's first year. We expect this decline to continue with the expansion of RTC, the new rent laws, investigation of NYC's worst evictors and powerful organizing. We are currently working with legal service providers to develop an updated cost/case estimate that reflects adequate funding for social workers, public benefits specialists, and other support staff that make RTC a success. While we don't currently have this number, we anticipate it to cost a minimum of \$150 million.

