

Written Testimony Regarding Senate Bill S2892B  
The Legal Aid Society of Northeastern New York, Inc.

**I. Introduction**

The Legal Aid Society of Northeastern New York (LASNNY) is grateful for the invitation of Senators Hoylman and Kavanagh to submit written testimony with respect to this bill, which would require that landlords—with some exceptions—have good cause, as defined in the bill, to evict their tenants. LASNNY does not take a position as to this legislation; however, we offer our experiences for consideration.

LASNNY offers civil legal services for low-income clients in sixteen counties throughout Upstate and Northern New York. Generally speaking, we represent clients whose household income is at or below 125% of the federal poverty guidelines. For a household of one, that means the client's income must be at or below \$16,100 per year, and a family of four must have income that is at or below \$33,125 annually. We assist clients with various types of civil legal problems, from domestic violence to disability to taxes; however, for the low-income and otherwise vulnerable people who we serve, housing is consistently one of the greatest needs. In 2019, before the pandemic and eviction moratoria, 3,454 or approximately 31% of our cases dealt with housing. This is true throughout our service area, in rural and urban counties alike.

This testimony sets forth representative experiences with clients who are facing or have faced evictions which would fall within the ambit of this law. We hope these experiences will be useful to these committees and the Senate in their deliberations.

**II. Background: Housing Affordability**

A 2019 report by the New York State Comptroller defined “affordable housing” as housing which took up less than 30% of the household’s income.<sup>1</sup> The report broke down, county by county, the percentage of rental properties which were above the affordability threshold. Within the sixteen counties served by LASNNY, Hamilton County was the only county with less than 30% of its rental property above this threshold. The rest of our counties ranged from a low of 38.6% of rentals above this threshold (in Saratoga and Essex Counties) to a high of 57.5% above this threshold in Greene County.<sup>2</sup> To put this into context, in 2019 “affordable housing” for a family of four living at 125% of the federal poverty guidelines--\$33,125 annually— would have to cost no more than \$9,937.50 per year, or \$828.13 per month.

From 2020 into 2022, news stories about rent increases throughout the state and the country have abounded. While it can be difficult to find information about these increases which exclude New York City, the Fair Market Rent promulgated by HUD for 2022 is instructive. Fair Market Rent is defined as rent in the 40<sup>th</sup> percentile for a given area.<sup>3</sup> In 2022 Fair Market Rent for a two-bedroom rental in Hamilton County is \$897.00 per month, and in Greene County it is \$1,030 per month.<sup>4</sup> In 2019, these figures were \$786 and \$957, respectively.<sup>5</sup> In other words, a two-bedroom rental which is at the 40<sup>th</sup> percentile of rent has remained unaffordable in Greene County and has become unaffordable in Hamilton County for a hypothetical low-income family of four.

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<sup>1</sup> “Housing Affordability in New York State, June 2019,” Office of the State Comptroller, *available at* <https://www.osc.state.ny.us/files/reports/special-topics/pdf/housing-affordability-2019.pdf> (last accessed 12 Jan. 2022).

<sup>2</sup> *Id.* at 11.

<sup>3</sup> “Fair Market Rents (40<sup>th</sup> Percentile Rents),” Housing and Urban Development (HUD) Office of Policy Development and Research, *available at* <https://www.huduser.gov/portal/datasets/fmr.html> (last accessed 12 Jan. 2022).

<sup>4</sup> *Id.* at [https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2022\\_code/2022state\\_summary.odn](https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2022_code/2022state_summary.odn)

<sup>5</sup> *Id.* at [https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2019\\_code/2019state\\_summary.odn](https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2019_code/2019state_summary.odn)

Affordable housing is a scarce and precious resource for the low-income individuals and families who we serve. Our clients' experiences must be considered with this in mind.

### **III. Representative Client Experiences**

While landlords often claim that they are bringing an eviction because of nonpayment of rent or nuisance behavior (both before and during the pandemic), their actions show that this is not the case. For example, we currently have one client whose landlord wants to sell the rental property. In this particular case, the client has been living with some major warranty of habitability problems that the landlord refuses to fix and has in fact been without water for nearly two months. When the client withheld the rent in an attempt to force repairs, the landlord brought a nonpayment proceeding; however, the landlord has consistently refused payment options. (We have found this to be common both before and during the pandemic, as landlords reject various forms of rental assistance or public benefits even though they have brought an eviction proceeding seeking past due rent.) This suggests that the landlord's actual goal is to remove the tenant despite the eviction moratorium to make the house more marketable.

Similarly, we have another client whose landlord has sold the house and who is explicitly trying to evict her for the convenience of the purchasers. Since this happened during the moratorium period, the landlord brought this as a nuisance proceeding. The "nuisances" claimed are minor things like "failure to pick up pet waste" and "garbage not timely picked up." The client, who is on a month to month lease, cured all the problems within the allotted period; however, the eviction is ongoing. The client has been searching diligently but has not been able to find an affordable rental property that is large enough for her family. In the meantime, the landlord has attempted to raise the rent by over 50%.

In other cases, landlords have used very old violations or claimed that personality conflicts or petty disputes with the tenant are "nuisances." In one instance, the landlord

actively directed other tenants to prepare statements as to their problems with the tenant and seemed to be dictating what they should say. This was a particularly egregious example because the client lived in subsidized housing. Had she been evicted, she would have lost all access to subsidized housing, which is one of a very few affordable housing settings for our client base and is particularly important in light of the lack of affordable housing discussed in Section II. One other landlord brought a nuisance and nonpayment proceeding against her tenant, based on very minor allegations such as a grandchild using a trampoline. When our attorneys raised defenses in a settlement proceeding, the landlord yelled “This is my building and I don’t want you here!” and one of her family members cursed at our attorneys for representing a “horrible person.” A warrant of eviction was issued in this case; while our attorneys were able to halt that, without legal representation the client would have been removed from her housing.

In each and every one of these cases, good cause eviction legislation would have allowed for a more equitable process. While we have been able to delay or prevent these particular evictions, that has been possible only through very intense and often emergency litigation; tenants without attorneys would not have been able to meaningfully represent themselves. Good cause eviction legislation would have prevented the landlords from getting warrants of eviction for very minor allegations of misbehavior while still protecting their right to regain possession of the house if they were not being paid; if the tenants were damaging the house or behaving illegally; or in a variety of other circumstances.

#### **IV. Navigating the Court System**

Throughout much of our service area, evictions are carried out in justice courts. These courts are in session only part-time (often in the evening), may not have a full-time clerk or similar assistant, and are presided over by nonlawyer judges. We must often file emergency Orders to Show Cause to prevent evictions, whether because a client has been

unable to come to us before a Warrant of Eviction has issued or because a Warrant of Eviction was improperly issued. Unfortunately, justice court judges are not often available outside their court hours to sign this paperwork, and there are no other personnel to accept the papers or transmit them to the judge. This forces us to bring these Orders to Show Cause to the county's judges of general jurisdiction, who are often reluctant to accept them and uncertain of their jurisdiction over the matter. This law as proposed, however, clarifies these judges' jurisdiction and would allow for more seamless filing of emergency orders, particularly in our rural areas.

It can also be difficult for judges in all courts, from courts of record down to the justice courts, to fully understand the problems our clients face and to consider those appropriately in making decisions. For example, one of our clients recently appeared in court because his landlord was challenging his hardship declaration. The client explained that he had been looking for a place to move for seven months and had been unable to find affordable housing. The judge did not believe it was that hard to find affordable housing; he said that he was inclined to strike down the hardship declaration because he did not believe the client was in fact searching for alternative housing. A robust statement of legislative intent accompanying this legislation could help educate judges as to the very real problems faced by tenants in general and low-income tenants in particular.

## **V. Conclusion**

Thank you for the opportunity to present this testimony. While LASNNY takes no position as to whether this bill should be passed into law, we hope that these experiences are helpful for these committees' and for the Senate's consideration.

Respectfully submitted,  
THE LEGAL AID SOCIETY OF NORTHEASTERN NEW YORK, INC.