



**September 4, 2020**

**Written Testimony to New York State Senate**

**Submitted by the Right to Counsel NYC and Housing Justice For All Coalitions**

**Joint Public Hearing: The Unified Court System and COVID-19 Judiciary, Codes and Housing, Construction and Community Development Committees**

**Hearing Date: August 21, 2020**

The Right to Counsel NYC and Housing Justice for All Coalitions jointly submit written testimony to the New York State Senate to call for the immediate halt of all eviction proceedings throughout the state of New York and call on the New York Senate to immediately pass a real universal eviction moratorium as outlined in the proposed **Emergency Housing Stability and Displacement Prevention Act** (Sponsored by Zellnor Myrie/ Assemblymember Karines Reyes - S8667/A10827). The Coalitions also wish to express deep disappointment that the Judiciary, Codes and Housing, Construction and Community Development Committees did not extend and invite the Coalitions to present oral testimony. As a result, there was no oral testimony presented at the virtual hearing by community members who would be the ones directly impacted and displaced by the re-openings of court nor was any Tenant Organization, Homeless Organization or Advocates allowed to testify on behalf of their membership. In short, New Yorkers who would be the most impacted by the Court System were denied a voice or representation at the hearing.

All eviction proceedings, in all venues, should be suspended indefinitely for at least one year after the state of emergency has been declared over by Governor Andrew Cuomo. The impact of an eviction is devastating, always, but especially during a pandemic. No New Yorker should have to face the stress of becoming homeless or arguing their case, in person or virtually, during a pandemic. Evictions and eviction cases have been proven to negatively affect the health of tenants and therefore will continue to disproportionately impact communities of color throughout the state. There is no public health reason to proceed with eviction cases. On the contrary, moving forward with eviction cases creates a public health crisis. We can't support any eviction cases moving forward at all in the midst of a global pandemic that has claimed the life of over 32,000 New Yorkers to date in part due to government inaction and failure. 92,000 New Yorkers are already homeless -- a devastating statistic that we call on the

legislature to urgently address. Without a universal eviction moratorium, this crisis will only grow.

On August 12, the Office of Court Administration (OCA) issued a new order that extends the universal eviction moratorium until at least October 1, 2020 for all New Yorkers. Unfortunately, the order also mandates that eviction cases filed on or before March 16 should move forward, either virtually or in person. We condemn OCA's decision to move these cases forward. Evictions are not just about the final result of a case but also about the stress and anxiety of fighting to save one's home. No one should have to fight to save their home during a pandemic. There is no good venue in which eviction cases can move forward. In person hearings require that tenants risk their health to save their homes and virtual proceedings require tenants to give up their due process rights to save their homes. All options are unacceptable. Worse still, NYC housing court issued an order saying that tenants who fail to attend, virtually or in person, can be held in contempt and even have an eviction order issued against them when they're not there.

Tenant initiated cases, for repairs, illegal lockouts, and harassment are ultimately about the public health and safety of New Yorkers. These cases make up a small percentage of all cases in housing court, less than 3%. These cases must be able to move forward because they are about public health! Tenants should have the option to move forward either in person, provided all public health precautions have been addressed or virtually, provided all due process claims have been met. No tenant should be forced to participate in person, given the very real public health challenges, or virtually, given the very real due process and technological concerns. At any stage in a case, if a tenant is not comfortable with proceeding in either venue, they should have the option of postponing their case. This should apply even when tenants are represented--attorneys are not a substitute for tenant engagement and participation in a case.

Thanks to Right to Counsel NYC, tenants in NYC will be able to have legal representation in most cases, but tenants outside of NYC without RTC will not have the same protections. **No case, anywhere in the state, should move forward without Right to Counsel.** The goal of the courts must be justice, not expediency.

Yesterday, the Centers for Disease Control and Prevention (CDC) took emergency action to protect tenants and the public health, when our state politicians have not. It is a sad day for all New Yorkers when the federal administration in Washington outdoes Governor Cuomo and our State elected officials in taking emergency action to protect tenants during this pandemic. The federal order doesn't go nearly far enough, but it also makes clear the abject failure of leadership in Albany.

An eviction moratorium is critical right now to prevent mass displacement and homelessness. But the CDC's moratorium does little for New Yorkers except add another layer of confusion. Instead of acknowledging that all evictions are a public

health crisis, the CDC offers limited protections for certain tenants. This moratorium does not protect tenants who are facing eviction for issues unrelated to rent payment; it doesn't include a prohibition on landlords suing tenants, which is a serious cause of anxiety and stress; it requires that tenants make declarations that many lawyers would never advise a tenant to make when they can still be sued and evicted eventually; and it requires tenants to swear they'll pay their landlord what little money they have, clearly prioritizing a landlord's profit over tenants' basic needs. Lastly, in New York, the courts are moving pre-covid cases forward first. This, plus the fact that eviction cases generally take more than 4 months to finalize in NYC, means that we won't see evictions from cases started during covid before 2021 anyway, making this moratorium largely meaningless because it's not long enough.

The Emergency Housing Stability and Displacement Prevention Action, on the other hand, provides the comprehensive and stable solution we need. By ensuring the eviction moratorium lasts for a year, it gives tenants the predictability and stability they need to stay in their homes. In addition, it prevents commercial evictions. Many of our members in our coalition are also small business owners or commercial renters -- people who now face losing their homes AND their livelihoods. Finally, it prevents residential foreclosures. By guarding against these three things, S8667/A10827 pushes the cost of eviction up the ladder to those with the most resources: corporate landlord with large reserves, and bankers. It's the common sense solution that NY needs.

An eviction moratorium like that designed by S8667/A10827 is a matter of racial and economic justice. According to US Census Pulse Date, Black and Latinx households are far more likely to face untenable rent burdens and face moderate to no confidence in paying next month's rent. According to the Community Service Society, as of June 2020, 53% of Black households were behind on rent, compared with just 6% of white households.

In the midst of a global pandemic that is hitting Black communities the hardest, and in full recognition that housing is healthcare, we must stop more New Yorkers from being thrown from their homes (renters and working class homeowners) and from losing their places of business.

In addition to calling on the state to pass the Emergency Housing Stability and Displacement Prevention Act, we've also been calling on the Department of Health to: Conduct a full inspection of all courts where evictions happen across the state; Conduct a full investigation and interpret the data on the impact of evictions on public health; Demand that the Office of Court Administration close housing courts and maintain the indefinite and universal moratorium on evictions across the state while this investigation is being conducted. To date, the DOH has failed to act.

The CDC moratorium is a moral failure and a call to action to our state government to do better. **We need the state legislature and our Governor Cuomo to**

**pass the Emergency Housing Stability and Displacement Prevention Act (Myrie S8667/Reyes A10827) before October 1.**