

**NEW YORK
STATE
SENATE**

ALBANY, NEW YORK 12247



July 22, 2021

Hon. Lawrence K. Marks
Office of Court Administration
4ESP, Suite 2001
Empire State Plaza
Albany, NY 12223-8650

Dear Honorable Judge Marks:

The Senate Republican Conference recently held two roundtables on the reopening of housing court with real estate industry professionals. We thank you for submitting written comments in response to these. The Office of Court Administration's leadership in responding to the unprecedented volume of pending and anticipated landlord-tenant cases arising from the pandemic and subsequent eviction moratoria is critical for maintaining stable and affordable housing in New York.

Based on the testimony received at the hearings, the court system should provide a comprehensive plan detailing measures and goals to equitably balance the rights and responsibilities of both owners and tenants in the housing court reopening. This comprehensive plan should consider the following recommendations:

- OCA should not issue any more administrative orders that serve to extend the moratorium on residential and commercial evictions or otherwise further delay summary eviction proceedings;
- Repeal any administrative orders that suspend notice requirements under the RPAPL, CPLR, or any other statute or rule affecting petitions, motions, and orders to show cause;
- Immediately open housing courts and courts with housing jurisdiction to in-person appearances while also continuing to utilize virtual appearances as an additional option;
- Reassign court personnel, court attorneys, judges, including senior Supreme Court judges, to assist current court personnel similar to the assignments which have been made to Family Court;

- Dedicate additional space as needed to accommodate the additional personnel allocated to Housing Court proceedings;
- Bundle cases together wherever possible, either by the same party or by the same attorney representing both sides so that these cases can be heard and addressed at once;
- Work with ODTA to have personnel assigned to high volume housing courts that are able to make on-site determinations of tenant eligibility for ERAP funds to enable courts to resolve cases;
- Work with non-profits such as Catholic Charities and similar groups to act as navigators for tenants to provide information for completion of ERAP documents;
- Create a settlement part for any tenants that have received ERAP funding that have pending cases;
- Work with local authorities and/or non-profits to ensure maximum possible assignment of attorneys to represent the interests of tenants;
- Require ERAP determinations to be made within 30 days of application and funds available within 15 days of a determination.

Since March 2020, summary proceedings and ejectment actions for the most part have been stayed due to the eviction moratorium leaving hundreds of thousands of landlords and tenants in limbo. Landlords have been left with little assistance, guidance, and information throughout the pandemic and tenants have received little of the federal rent relief money allocated to New York since last year. In an attempt to protect renters throughout these unprecedented times, New York State has failed to protect the landlords who provide housing Statewide. Many landlords now find themselves on the brink of financial ruin — refinancing their homes, using their savings, and cashing in insurance policies to scrape together money to survive.

During these two roundtables, with one focused on Downstate New York and the other Upstate, we found the main theme from both roundtables was that landlords have dwindling confidence in the system- in the courts' capacity to address the growing backlog of cases, in the State's ability to protect landlords from the full burden of hardship caused by the pandemic, and in the New York's ability and urgency in distributing the Emergency Rental Assistance Program (ERAP) funds, as New York stands as one of only four states who have failed to begin distributing funds. Another point of broad agreement was that evictions would be a net negative for all parties.

There was also general recognition that landlords continue to unduly suffer under the status quo and they deserve to have their legal rights fully restored.

According to information provided by an attorney specializing in landlord and tenant-related issues and litigation, pre-pandemic, New York City housing courts held an estimate of 70-90 cases per residential housing part each day. Post-pandemic, the same courts are handling a fraction of that caseload virtually -- only 12-15 cases per part each day. Yet staffing remains at pre-pandemic levels. Housing cases are being adjourned in perpetuity or marked off-calendar indefinitely; the majority of cases commenced post-pandemic in New York City have yet to receive court dates. Prior to the pandemic, most housing cases were settled during their first hearing, but now cases are simply not being heard, and those that are, are being postponed, with no clear timeline on when the case will be heard. Moreover, with respect to the number of cases going forward, under the current system tenants are unwilling to proceed on the merits of their case and seek legal assistance, leading to indefinite adjournments and additional delay until counsel is assigned. There appears to be a lack of motivation on the part of the courts and the tenants to dispose of matters efficiently, leaving many property owners without recourse.

The most striking testimony though was the personal stories of landlords. They spoke of being owed tens of thousands of dollars while still having to meet operational costs such as hefty property taxes and their fear of losing their hard-earned investment. Those who have sought redress from the court system have been met with outrageous delays or have been denied due process. New York State has left landlords with no support and no clear picture of the future. Many property owners stated they were worried not only about themselves, but also for the future of their tenants, employees, and properties should the courts remain unprepared for reopening.

Delaying the full reopening of the housing courts while providing no solutions or alternatives has left the real estate industry desperate for assistance. To help address these issues, the Senate Republican Conference has introduced legislation requiring the Office of Court Administration to prepare a report detailing plans for re-opening housing courts upon the expiration of the eviction moratorium. Such a report would include plans to address court and calendar congestion created as a result of the eviction moratorium. The plan also would have to consider alternative temporary space for court proceedings, assigning additional judges or hearing officers, and coordinating with the New York State Office of Temporary Disability Assistance to ensure tenants and landlords have access to programs for which they are eligible, such as ERAP.

With so many facing housing instability, we must act quickly, effectively, and efficiently. We need to implement solutions and represent all New Yorkers, whether they be tenants or landlords and property owners. Thank you for your consideration on this important matter and our conference will continue to be advocates for those who have been forgotten during the pandemic.

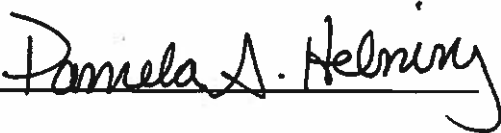
Sincerely,



Senator Robert G. Ort



Senator Andrew J. Lanza



Senator Pamela Helming



Senator Fred Akshar



Senator Mike Martucci



Senator Daphne Jordan



Senator Edward Rath



Senator James Tedisco

Senator Phil Boyle



Senator Thomas F. O'Mara



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Senator Anthony H. Palumbo



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