



**RTCNYC Coalition Testimony on Right to Counsel Implementation  
February 24, 2023**

The failure of the city to uphold and protect one of its most powerful tools to stop displacement, reduce homelessness and expand and uphold tenants' rights is simply outrageous. In the midst of an unprecedented crisis, the city has shown no leadership and instead has allowed its own law to be violated. We are writing to express our outrage and to urge the city to reverse course.

We know that evictions and housing instability have a disproportionate impact on people of color, especially women and children of color. Evictions and housing instability also have significant impacts not just on people's housing, but on people's education, employment, family relationships, physical and mental health, and so much more. NYC's Right to Counsel moves us closer towards achieving economic, gender, and racial justice.

NYC is the first city in the nation to establish RTC. On the heels of our success, 15 other cities and 3 states have passed RTC and it has sparked a national movement. The law has had tremendous impact in just the first few years since it passed: 84% percent of tenants who had RTC won their case and stayed in their homes, landlords are suing people less and community groups are actively using the Right to Counsel as a powerful tool to protect and advance tenants' rights. Right to Counsel has also helped develop a body of more just case law, lower tenants' rents, re-stabilize apartments, and has forced landlords to make repairs.

Yet, in the last year, [more than 17,000 tenants are being denied Right to Counsel](#). Denying tenants RTC impacts poor tenants of color the most. We are all well aware of the capacity challenges the legal services organizations face, the backlog of cases due to COVID that the court started moving forward last year and the pressure from the landlords to move cases forward. However we don't accept the logic that cases have to move forward at a rate that outpaces justice for tenants and denies them their rights under NYC law.

We understand that one of the challenges you face is that we need the *state housing* court to willingly implement a *city* law---they can't be required to do it without state legislation. However, pre-COVID the courts were adjusting calendars and implementing different rules to uphold RTC, like signage, notice in court papers, judges making announcements, in close collaboration and in part due to pressure from the Office of Civil Justice. OCJ under this administration has shown no political will to demand that OCA does more to defend and uphold RTC.

But you can and must. We, at the Right to Counsel NYC Coalition, have been urging the courts to take action since the beginning of 2022. We are calling on the courts to:

- Issue an administrative order to mandate that all eviction cases where a tenant is eligible for RTC shall be administratively stayed until the tenant has had an opportunity to meaningfully meet with and retain a right to counsel attorney.

- Calendar new eviction cases *only after* all eligible tenants with currently pending cases have retained counsel for full representation.
- Reduce the volume of eviction cases on court calendars so that the number of new cases each day matches legal service provider capacity to provide full representation to all eligible tenants.
- Provide sufficient time between court dates to allow time for lawyers to complete essential work on each case, keeping in mind the current staffing shortages and work overload.

[The legal arguments](#) for multiple and prolonged adjournments for the purposes of Right to Counsel assignment, both in terms of NYC's Right to Counsel law and also as a matter of due process, are clear. Your office must do more to adhere to your mandate to uphold RTC. It's critical that OCJ and the city administration as a whole commit to upholding the law as it is versus any attempts to water it down. Doing so would accept the court's logic that cases have to move fast at all costs--COVID showed us that is not true--and permanently weaken a powerful law in the face of a temporary challenge.

In addition, the pace of cases cannot be separated from the current labor shortage---moving cases at a pace that forces RTC lawyers to make choices where they can't represent tenants to their best ability is deeply demoralizing. Implementing the above changes would go a long way towards retaining a talented, experienced and passionate tenant bar.

In addition, the city needs to Fund RTC in two critical ways:

**First**, in May of 2021 the city passed **Local Law 53**, which ties tenant organizing to Right to Counsel. The intent of Local Law 53 is clear - to fund trusted tenant organizing groups working in low-income communities of color to lead outreach and education efforts through community meetings, workshops, Tenant Association meetings, and more. This is the vital work of tenant organizers, and ensuring that tenants are informed of Right to Counsel and supported prior to an eviction case being filed. Tenants know about their rights and exercising them is a preventative and proactive measure.

We understand that HRA allocated \$3.6 million towards this bill, had drafted the Request for Proposal (RFP) and was going to release it in November of 2021 but it was never released. We understand you plan to release an RFP on this for FY 2024 for \$3.57 million. This RFP needs to be released NOW in order for **tenant organizing groups to do their work to educate and organize tenants across NYC about their rights.**

**Second**, Local Law 136 as it stands is not fully funded. While the city allocated \$166 million it simply isn't enough to cover the full cost of the work. The retention rates at the legal services organizations are proof of this. According to the provider community, RTC is currently funded at about 70% of its current cost, and that's not even accounting for what it would cost if we were to implement best practices with all of the support roles tenants need, fair salaries for legal services workers, and caseloads that ensure all tenants receive the best possible representation. **This means that the city needs to increase the budget for RTC by at least \$70 million dollars to fund the law as it is now, while also looking to further increase the funding to achieve best practices and its full potential for tenants.** In addition the city needs to set up a mechanism to monitor the cost---if cases go up the cost goes up and the city needs to proactively plan for this.

The Office of Civil Justice exists because of the tenant movement. The rights we won, that your office is tasked with upholding, save lives. We urge you to address this crisis with the seriousness it deserves.

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