



Right to Counsel NYC Coalition Testimony
City Council Committee on General Welfare Oversight Hearing on Tenants' Right to Counsel
March 27, 2023

Right to Counsel is one of the city's best, most powerful and most effective tools to stop displacement, reduce homelessness and expand and uphold tenants' rights. But today, after years of success, that Right is being violated. We are writing to urge the City to do everything in its power to uphold, defend and strengthen Right to Counsel.

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 19,000 tenants are being denied Right to Counsel](#). This means that folks are moving out when they get sued who shouldn't, folks are signing papers they shouldn't sign, folks aren't getting the repairs they deserve and this means that THOUSANDS of families are being evicted who wouldn't be evicted if they had RTC! This is absolutely outrageous. 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 are calling on you to support and uplift our demands to the court, specifically that the courts:

- 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. 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.

Senator Holyman and Assemblymember Rosenthal have introduced legislation ([S3254 / A4993](#)) that would mandate judges provide the necessary adjournments tenants need to get RTC. Right now there is language about adjournments in eviction cases in the Assembly One House budget *but it does not cover NYC tenants*. **We are calling on you to pass [Resolution 499](#) in support of this critical legislation, sending a strong message to your colleagues in the senate and assembly to include this critical legislation in the budget.**

The City Must 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 that OCJ plans to release an RFP on this for FY 2024 for \$3.57 million. We are urging you to ask OCJ/HRA to release this RFP 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 60-70% 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.

Oversight of the Office of Civil Justice

The Office of Civil Justice was created to implement Right to Counsel and is responsible for upholding it. OCJ is not fulfilling that responsibility. By law, the Office of Civil Justice is supposed to hold annual hearings on RTC and release annual reports. They did neither in 2022.

We understand that ultimately, the State courts must implement our City law, and are not legally compelled to do so without legislation at the State level. However, OCJ has a history of pushing the courts to make changes that are fully within their power in order to uphold RTC, such as adjusting calendars, posting accurate signage, and having judges make announcements to inform tenants of their rights and options. The implementation of RTC was a collaboration between OCJ and the courts. Now, OCJ is remaining silent and allowing legal service providers to take the blame for a problem that can only be solved by the courts.

In addition, OCJ used to meet regularly with the members of the Right to Counsel Coalition; under this administration they don't. OCJ can't just meet with the organizations they contract to. They must meet with and hear from tenants and tenant groups directly.

The city must ensure that OCJ follows the requirements of the law, advocates with the Courts to uphold it and meets regularly with tenant groups to make sure their practices are rooted in the needs of tenants facing eviction.

Support Statewide Right to Counsel

We need statewide legislation to fix the crisis in NYC. Statewide Right to Counsel (A1493 / S2721) not only expands RTC to all tenants across the state, it also creates rules for the court system to uphold it. Passing Statewide RTC mandates adjournments and essentially legislates what the Chief Judge has so far failed to do. The bill requires that courts notify tenants of their RTC, give them the info they need to reach an attorney, and adjourn cases until they've been able to connect with one. RTC will mandate the courts uphold Right to Counsel and match the pace that cases move forward to attorney capacity. Despite massive protests, the courts have so far refused to solve the crisis. Legislation will mandate that they uphold the law. If the provisions in Statewide RTC had been in place, we would not be having the crisis we have in NYC, period.

It's imperative that this legislation is not only passed this session but also fully funded. With adequate funding, providers will have a greater ability to hire not only attorneys, but social

workers and other support staff critical to implementing Right to Counsel. [We are fighting for \\$172 million in FY 24](#). \$62.5 million of that funding would go to NYC.

It's imperative that city council members [Pass Resolution 345](#) in support of Statewide Right to Counsel (A.1493/S.2721) for all New York tenants to urge their colleagues in the state legislature to pass and fund it NOW.

In Summary:

Right to Counsel keeps New Yorkers in their homes. It is up to us to ensure its success. We are calling on all members of the City Council to be RTC champions and publicly fight to defend RTC. Specifically we are asking that you:

- Pass City Council [Resolution 499](#) in support of our Statewide Defend RTC Legislation ([S3254 / A4993](#)), which would mandate that tenants have the time they need to get RTC.
- [Pass Resolution 345](#) in support of Statewide Right to Counsel (A.1493/S.2721) for all New York tenants.
- Demand that the courts pause all cases for eligible tenants who don't yet have RTC until there is lawyer capacity
- Ensure that OCJ manage the waitlist of tenants to make sure that all tenants who have been denied RTC get a lawyer
- Ensure that OCJ meets regularly with tenants and organizers to develop solutions and that it will comply with the law to hold annual hearings and release annual reports.
- Fully Fund RTC. As it exists now, the law is not currently fully funded. This is leading to retention challenges at Legal Services Organizations and discouraging zealous representation. We need the City Council to build on and maintain the legacy of RTC and add at least \$70 million dollars to fund Local Law 136.
- Call on HRA to Fund Local Law 53 Immediately; HRA must announce publicly when they will release the Request For Proposals (RFP) for FY 2024 and the \$3.57 million they have allocated.
- Support and advocate for Statewide Right to Counsel to be passed and funded this session.

We urge you to address this crisis with the seriousness it deserves.

For more information, contact Susanna Blankley: susanna@righttocounselnyc.org

www.righttocounselnyc.org www.worstevictorsnyc.org www.evictionfreenyc.org