



## ***How Statewide RTC Solves the Crisis in NYC + Preempts any Future Capacity Challenges***

### **The Problem:**

The court system is failing to uphold NYC's Right to Counsel law, moving thousands of cases forward without tenants getting their Right to Counsel. What's going on?

- One of the central challenges for NYC's RTC law (which can't be fixed on the city level) is that we need the *state housing* court to willingly implement a *city* law---we can't require them to do it. Pre-COVID the courts were adjusting calendars and implementing different rules to uphold RTC, like signage, notice in court papers, judges making announcements, etc. Between March 2020 and Jan. 15, 2022 COVID related eviction protections put many cases on pause for months if not years. When those protections were lifted Jan. 15, 2022, courts began to move old and new cases at a rate that outpaced the number of lawyers. At the same time, legal services orgs (like most sectors), are experiencing an unprecedented labor shortage---there are less RTC attorneys than before the pandemic and not enough to meet the pace the courts have set.
- ***The reason tenants aren't getting attorneys today is because the courts are refusing to use their power to slow down cases until everyone has an attorney.*** The courts refuse to match the flow of cases with the capacity of the RTC legal services providers.

### **Statewide RTC as One Solution:**

- **Statewide Right to Counsel** which not only expands RTC to all tenants across the state, 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.
- Right to Counsel will mandate the courts honor and enforce Right to Counsel: 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

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mandate that they uphold the law. See our [Defend RTC FAQ](#) for more on this.

- If the provisions in Statewide RTC had been in place, we would not be having the crisis we have in NYC, period. In addition, it will mean that any implementation related to expansion will happen at a pace that meets the capacity of the legal services orgs. Therefore the concern that the crisis in NYC will be replicated statewide doesn't hold up! (it might if all they do is add funding without legislation)
- We are fighting not only to pass but to FULLY FUND Statewide Right to Counsel in the state budget this year. 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. Also: providers have already begun using the \$35 million the Governor allocated for upstate legal defense last year to establish partnerships with law schools to create clinics, fellowships and other initiatives to attract the next generation of attorneys to housing law. We need the funding we're advocating for to expand those initiatives.
- As part of RTC's implementation in NYC, we established an Attorney Pipeline Working Group to build a cohort of highly qualified and effective advocates and supervisors to implement RTC. To do this, we have been focusing on promoting greater attention to housing rights advocacy in law school instruction, including promoting more clinical and doctrinal offerings, and changing attitudes in law schools so that becoming a housing rights advocate is seen as an exciting, transformative and desirable career choice. We have also been focusing on the need for excellent supervision so that the provider organizations have the capacity to hire new attorneys for the work. The state can expand on these efforts as it implements Statewide Right to Counsel.

#### Other Key Capacity Considerations:

- It's really important to remember that RTC causes landlords to sue tenants less. So while we are planning for capacity based on current cases, we have to keep in mind that there will be fewer cases once RTC is passed and implemented. In NYC, filings dropped by 30% after RTC's passage. Outside of NYC, it's estimated they'll drop 19%.
- The rate of representation across the state is abysmal. In Albany it's 1%. Even with the crisis in NYC, tenant representation is MASSIVELY better than before RTC. Passing RTC

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represents changing the status quo and building the infrastructure we need. Not passing RTC because of capacity concerns ACCEPTS the status quo.

- It's critical to remember *the number of attorneys needed to defend tenants is a direct consequence of the number of cases landlords initiate*. The city and state can and should be doing much more to prevent lawsuits against tenants. On the city level, we've been calling for the city to investigate the **worst evictors** whose use of evictions is a clear business model and we've been calling on the city and state to stop subsidizing these worst evictors. On the state level laws like **Clean Hands**, which would negate a landlord's ability to sue for nonpayment if there are housing code violations, and **Good Cause eviction**, which would limit a landlord's ability to sue for things other than nonpayment, would drastically reduce the number cases and therefore the number of attorneys needed.
- Additionally, there is no reason courts have to move so fast. Only the housing court moves at this pace. This is really critical---**in contrast to other courts, housing court cases are being driven by one party who is wealthier, whiter and more powerful than the other party and the courts are responding to that**. If cases slowed down, you wouldn't need so many attorneys.
- So while there are real capacity needs at legal services organizations, we should not let landlords and the courts dictate the conditions that require so many attorneys. We can and must change the rules and we must continue to organize to change the context in which RTC exists.

***Put it to your politicians! Why are you allowing landlords to sue so many tenants? Why are you allowing courts to move cases so quickly?***