

Testimony by the New York Legal Assistance Group

Before the NYC Council Committee on the Justice System and Committee on Housing and Buildings
in Support of Intro 1104 and Intro 1529

February 24, 2020

Chairs Lancman and Cornegy, Council Members and staff, good morning and thank you for the opportunity to speak in support of Intro 1104 and Intro 1529, which would expand the Right to Counsel program to more people in New York City and provide New York City tenants more resources to learn about their rights as tenants. My name is Beth Goldman, and I am the President & Attorney-in-Charge of the New York Legal Assistance Group (NYLAG). I am here with my colleague, Rogelio Tec, the Coordinating Paralegal for Community Outreach in NYLAG's Tenants' Rights Unit. NYLAG is a nonprofit law office dedicated to providing free legal services in civil law matters to low-income New Yorkers. NYLAG uses the power of the law to help New Yorkers in need combat social and economic injustice. We address emerging and urgent legal needs with comprehensive, free civil legal services, impact litigation, policy advocacy, and community education. NYLAG serves immigrants, seniors, the homebound, families facing foreclosure, renters facing eviction, low-income consumers, those in need of government assistance, children in need of special education, domestic violence victims, persons with disabilities, patients with chronic illness or disease, low-wage workers, low-income members of the LGBTQ community, Holocaust survivors, veterans, as well as others in need of free legal services. Through our Tenants' Rights Unit (TRU), NYLAG has tirelessly worked to preserve the homes of countless New York tenants and ultimately prevent homelessness and evictions. Last year, TRU provided legal services to thousands of tenants facing eviction in New York City.

Thank you for taking the opportunity to re-examine the ongoing problem of housing preservation and homelessness in New York City. NYLAG is proud to be a part of the nation's largest Universal Access to Counsel in Housing Court program. The 2017 Right to Counsel legislation was groundbreaking, and thousands of tenants have been assisted and have avoided homelessness as a direct result. As we have already seen, access to counsel exponentially increases the chances that tenants will be able to stay in their homes. The Office of Civil Justice's most recent report on the program shows that more than 32% of tenants were represented in Housing Court in the last quarter of FY19.¹ Some 84% of households represented in court by lawyers were able to remain in their homes, not only saving thousands of tenancies, but also promoting the preservation of affordable housing and neighborhood stability.² We are proud to be part of a cohort of legal services providers who served more than 100,000 individuals in FY2019.

While the Right to Counsel law has significantly reduced the number of low-income New Yorkers appearing in their eviction cases without an attorney, there is still more work to be done to ensure that all New Yorkers of limited means have an attorney by their side when their housing is on the line.

NYLAG strongly supports the provisions of Intro 1104 that would expand the income limits for eligibility for services under Universal Access. As the program has increased its geographic coverage over the years since implementation began, the limitations of the current program have become clear. As of now, NYLAG can generally only provide full legal representation to clients whose household income is below 200% of the federal poverty line. According to the 2019 federal

¹ Office of Civil Justice, New York City Human Resources Administration. "Universal Access to Legal Services: A Report on Year Two of Implementation in New York City." Fall 2019.

https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ_UA_Annual_Report_2019.pdf

² *Ibid.*

poverty guidelines, that is less than \$24,980 for a single adult and less than \$51,500 for a family of four. While an estimated 60% of tenants facing eviction in housing court meet this income eligibility requirement, more than one-third of tenants do not, leaving many of them to fight their eviction case on their own. Even tenants whose incomes are slightly above the current income limit are unable to afford attorneys, and we know the reality is that nearly 100% of landlords are represented in eviction cases. This income limit has caused us to turn away a number of potential clients who earn more than the 200% threshold, including particularly vulnerable populations, such as veterans, senior citizens, immigrants, and people receiving federal subsidies as a form of income.

As just one example, Erica was recently referred to NYLAG. She was suffering from cancer and had just been evicted from her home due to her overwhelming medical expenses, but her social security disability benefits put her just over the 200% poverty line. Although Erica came to our office to seek much-needed representation, all we could do was give legal advice for her case because, in its current form, the Universal Access program does not provide representation to people above the income limit, even if their disability makes it difficult to handle Housing Court on their own. As the Council recognizes, legal representation is often the only thing that stands between keeping one's housing and becoming homeless and entering the shelter system. Furthermore, as the cost of living in New York City continues to outstrip the rate of inflation and with recent minimum wage increases, a potential client earning the minimum wage of \$15/hour, which is 250% of federal poverty guideline would not be eligible were the 200% guideline to remain in effect. Yet, it is beyond dispute that a potential client earning minimum wage would not be able to afford private counsel to represent them in an eviction proceeding.

Another key component of Intro 1104 is its expanded definition of covered proceedings. Currently, the Right to Counsel only applies to eviction proceedings in Housing Court and NYCHA termination of tenancy proceedings. However, there are many other proceedings that pose a grave threat to housing-insecure New Yorkers, especially those who are beneficiaries of Section 8. While Section 8 termination proceedings may appear informal and insignificant to the casual observer, and even to some Section 8 voucher beneficiaries, they are a critical quasi-judicial process that determines whether a household will be able to continue to afford their rent. Giving legal services providers the resources to address Section 8 termination hearings in the first instance will result in many of these cases resolving far more efficiently before they reach Housing Court, while preserving stability for Section 8 households who have their voucher threatened.

For example, in one case, NYLAG preserved a Section 8 voucher for a Queens household that had lived in their apartment with their voucher for 20 years, but did so through an Article 78 challenging the termination after an administrative voucher termination process and hearing riddled with error. The Section 8 termination stemmed from a relatively straightforward dispute about whether a particular household member's income should have been included for purposes of calculating the Section 8 share. If NYLAG had been able to represent the client in the administrative proceeding, it is likely that a hearing could have been avoided entirely and the voucher preserved once we coordinated with the client to provide the necessary documents to Section 8. Instead, the agency and NYLAG both consumed significant resources to reach the only just outcome. Intro 1104 would double RTC's income eligibility level and expand the law to cover a much larger range of proceedings that threaten housing-insecure New Yorkers. Nearly all tenants facing an eviction would have the right to a lawyer, which greatly increases their chances of staying in their homes.

As Intro 1104 further expands the Right to Counsel, Intro 1529 becomes even more necessary to ensure that New Yorkers everywhere know their rights as tenants and how they can access counsel. When we conduct intake in Housing Court, we encounter many clients who are unaware of their rights. Most people don't know that Right to Counsel exists, rent stabilized tenants often don't understand their rights, and, with the passage of state Housing Stability and Tenant Protection Act in June 2019, there are a whole range of new and extremely important tenant-protective laws that are not widely known. While these new laws are potent, if communities don't know what their rights are, the laws are stripped of much of their power to effect the change the City Council and NY State Legislature intended. With Intro 1529, designated community groups will have the resources to target rent stabilized tenants, seniors, and those most at risk of shelter entry to provide these communities with information about their rights so that the laws that exist on the books can have the impact they deserve in the communities most affected by displacement pressures and gentrification. Intro 1529 would give the power back to the tenants so they can fully support themselves before coming to Housing Court, where the power dynamics are skewed against them.

New York City cannot resolve its housing crisis without providing individuals and families at risk of homelessness with knowledge of their rights and access to legal counsel. Importantly, the problem cannot be solved without allocating proper resources to organizations that provide the vital legal services to tenants necessary to prevent evictions and homelessness. We are incredibly grateful for the investment the City has made in Universal Access and for the funding NYLAG has received to enable us to make these enormous strides in providing access to counsel for tenants. We are also mindful that the ambitious goals of Universal Access and any expansion of the program must be supported by increased funding. Universal Access should only be expanded with the

intention of providing the full funding necessary to ensure high quality services and fair caseloads for attorneys. NYLAG urges the Council to vote in support of Intro 1104 and Intro 1529, and to ensure that adequate funding is provided for implementation. Thank you for the opportunity to testify today. I would be happy to answer any questions or provide any further information.

Respectfully submitted,

New York Legal Assistance Group