Next In Line:
The Human Cost of the Eviction Crisis
Hunter College Department of Urban Planning Studio, 2020

In partnership with The Right to Counsel Coalition
Acknowledgements

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Table of Contents

Overview 8
The Problem 10
1: Methodology 14
2: The Most Vulnerable are the Most Impacted 16
3: Housing Court Serves Landlords 24
4: Evictions Do Not Occur in a Vacuum 32
5: Right to Counsel is Working, But There is More Work to Be Done 38
Recommendations 44
Appendices 53
Overview

The Hunter College studio (“the Studio”) worked with the Right to Counsel NYC Coalition (“RTCNYC”) to collect, analyze, and narrate data pertaining to tenant experiences in the housing court process. RTCNYC is made up of tenant organizing groups, tenant advocates, legal service providers, homeless advocates, and a broad array of allies working to guarantee legal representation for tenants facing eviction in housing court. In 2017, after years of organizing, RTCNYC won a campaign for what is now Local Law 136, and this year, RTCNYC is organizing the second phase of its campaign to address these issues. The “Right to Counsel, Power to Organize” campaign (the “Campaign”) calls on City Council to pass two bills: Intro 1104 (increasing the income eligibility level of free legal representation) and Intro 1529 (calling for the city to fund tenant organizing groups to conduct outreach and educate tenants about their rights). Our primary objective with this studio project is to shine a light on the narratives and lived experiences of tenants who have come into contact with the housing court system in order to support the campaign. The Studio conducted background research of scholarly articles, news, and reports published by advocacy groups to frame our research, created and administered a survey to tenants in housing courts in the Bronx, Brooklyn, Queens, and Manhattan; and conducted in-depth interviews with tenants, lawyers, policymakers, and activists to answer the following questions on behalf of the client:

1. Who is in housing court as a defendant in eviction cases?
2. What is the extent of their knowledge of resources available to them and which resources do tenants access?
3. What housing issues have tenants faced previously to this case?
4. What are the primary sources, histories, and personal impacts of housing instability for tenants in housing court?

Note on COVID-19

For 9 months, the Studio has researched housing court and evictions in New York City. The spread of the coronavirus (COVID-19) this Spring has dramatically upended previous conceptions and realities of the political, social, and economic landscape of the city, with many unknowns and uncertainties in how we move forward. However, what this crisis has made abundantly clear is the precariousness of our economy and inadequacies of our social safety net, particularly around housing. As this pandemic illustrates, housing is healthcare, and having a safe, healthy, and dignified place of residence is critical to issues of public health. This is particularly relevant when thinking about the existing inequalities that are deeply embedded in our housing system; while the virus itself does not discriminate, the disproportionate racial impacts are widely noted, revealing underlying housing vulnerabilities, discrimination, and segregation throughout boroughs such as the Bronx, Queens, and Brooklyn.

The New York State eviction moratorium went into effect in March, which temporarily allows individuals and families under eviction orders to stay in their homes. Governor Cuomo then extended the moratorium through an Executive Order until August 20, 2020. Tenant associations, including RTCNYC, have criticized Cuomo’s lack of effective aid pertaining to housing. The Executive Order does not bar landlords from initiating new cases or evicting their tenants. By definition, this extension is not a true moratorium. There are valid concerns among tenants, tenant associations, lawyers, and organizing groups that the number of evictions filed by landlords will skyrocket and housing courts will be flooded with new and existing cases later this year.

Similarly, there is no plan to cancel rent in New York at the city or state level. At the time of this report’s publication, roughly 624,000 New York City residents filed for unemployment because of COVID-19. A partial or complete shutdown will continue to create financial hardship, especially for low-income tenants of color, who, under racist and discriminatory housing practices, are already facing tenuous living situations that may include crowding, lack of crucial repairs and possible eviction when the moratorium lifts. As more tenants citywide fear looming rent payments, it is important to note that tenants in housing court have always dealt with these feelings and impossible choices. This crisis has us asking hard questions: Will the city’s or state’s stance continue to ignore New Yorkers as unemployment sky-rockets and rent is not cancelled? Will they wait until the economy’s bottom falls out to address stark housing inequalities? How many residents will become homeless (or die) through lack of action?

The Studio’s report should serve as a guide in these devastating times; research on evictions is more relevant than ever. These tenants’ stories should highlight pitfalls of our housing court system before and during COVID-19. While tenant organizers, associations, and regular renters decide to participate in the growing city and statewide rent strike, the Studio hopes this report will move the needle and put pressure on elected officials to act NOW, not later, for New Yorkers.
Housing Court, Landlords, Evictions

What is “Housing Court”? Prior to Housing Court’s (aka Housing Part) establishment in 1973, cases related to evictions, repairs, and other housing issues were handled in various other courts throughout New York City, resulting in a disorganized and “dispersed” system. The Housing Part was created as an extension of the Civil Court of the City of New York to provide justice and fairness to both tenants and landlords engaged in housing-related disputes while maintaining the city’s housing stock. Since the Housing Part’s creation, there has been further subdivision, with separate spaces in court buildings designated for the resolution, conference, and trial parts of a case.

Today, the New York City Housing Court is one of the busiest and most overburdened courts in the nation. On average, the Court handles a quarter of a million summary proceedings annually, as well as thousands of other housing-related cases. When it was first established, the Court only had ten presiding judges. Since then, it has grown to over fifty presiding judges between all five boroughs, in addition to court attorneys, clerks, and interpreters.

Each borough has its own Housing Court in which cases in that jurisdiction are heard.

There are two common cases that are brought to Housing Court by landlords against tenants. The first type of case is a nonpayment case. This type of case is brought to court when the landlord claims that the tenant owes them rent and would like to sue them in order to collect the money. The second type of case is a holdover case. This is when the landlord is attempting to evict the tenant for any reason other than nonpayment of rent. This can include situations in which the tenant allegedly broke the lease agreement or destroyed property. For more information about the Housing Court process, please see Appendix A: Housing Court Process Summary.

The Problem

There have been a number of reports studying New York City Housing Court over the last 40 years. Photo Credit: Jenifer McKim, New England Center for Investigative Reporting. A Line formed outside of Bronx Housing Court at 1118 Grand Concourse.
Housing Court is not a place of justice

While Housing Court was created to uphold tenants’ rights to safe and decent housing, it eventually evolved into what housing advocates in the City have deemed an “eviction mill” since the vast majority of the cases are landlords seeking the eviction of their tenants. Landlords fare far better outcomes than tenants in the vast majority of cases, as most landlords have lawyers and most tenants do not. Within a complicated legal system, tenants are at a significant disadvantage standing alone in front of a judge.

Moreover, most of New York’s housing court buildings are not large enough and lack the proper amount of clerk staff, translators, and judges to accommodate the high volume of citizens and attorneys that pass through the facilities each day requiring court services. In a 2018 New York City Bar survey of tenant attorneys, landlord attorneys, court attorneys and judges, the majority of respondents indicated that housing courts are in need of more judges, court attorneys, and translators, and clerks. This lack of resources can delay and complicate the legal process for all parties, and create further confusion for tenants navigating the legal system without legal representation.

“Right to Counsel” legislation

After a three-year grassroots campaign spearheaded by the RTCCNYC, the New York City Council passed Local Law 136 (Intro 214-B) in August 2017, becoming the first city in the United States to provide free legal representation for eligible low-income residents facing eviction. Although the formal legislation is titled “Universal Access to Counsel” (UAC), many tenants’ rights advocates and city officials use the term interchangeably with the phrase “Right to Counsel” (RTC).

Local Law 136 establishes Right to Counsel for eligible low-income tenants facing holdover and nonpayment cases. Income eligible tenants include households with a combined household income that is 200% below the federal poverty guidelines (Table 1). Currently, RTC is available only to tenants within certain zip codes (Table 2). By 2022, however, all low-income tenants facing evictions will have access to free legal counsel.

The legislation also establishes procedures for feedback, review, and thorough reporting. Each year, the Office of Civil Justice (the agency’s coordinator) is required to hold a public hearing to receive recommendations and feedback about the program. The public hearing must be well advertised in all designated citywide languages beginning no later than 30 days prior to the hearing.

By September 1st of each year, the Office of Civil Justice must submit a review of the program and information regarding its implementation. Organizations providing free legal counsel to tenants are required to undergo annual performance reviews, as well.

RTCCNYC is now working with Councilmembers Mark Levine and Vanessa Gibson to expand the reach and scope of RTC in New York City through the enactment of Introductions (Intro.) currently referred for review to the Committee on Housing and Buildings; Int. 1104 and Int. 1529. Int. 1104 increases RTC’s income eligibility level and expands the types of eviction cases covered by RTC, while Int. 1529 would require the city to work with trusted tenant organizing groups to engage and educate tenants about their legal rights.

The Studio finds that Housing Court has physical and structural barriers that benefit the landlord over the tenant, which contributes to the current eviction crisis. RTCCNYC’s campaign to expand free legal access to tenants directly addresses these inequitable structures.
1 Methodology

Qualitative Research and Analysis

Qualitative research is a crucial practice in the social sciences because it creates theories based on lived experiences, memories, and cultures. It allows researchers to ask “how” and “why” in situations where quantitative data does not give a full or distinct picture.² The Studio embarked on qualitative research with an anti-oppressive framework in relation to the most vulnerable tenants in Housing Court.

The methods used to inform our research questions included: expert interviews, field observations and public events, tenants survey and spotlight tenants interviews. We analyzed the data from each method through the qualitative research practice of triangulation—each of these methods were studied separately, and then studied as a whole to create a comprehensive analysis in this report.³ For a complete look at our approach, please see Appendix B: Research Methods and Materials.

As mentioned in the Overview, both primary and secondary research and analysis in order to understand the following framing questions provided by RTCCNYC at the beginning of our project:

1. Who is in housing court as a defendant in eviction cases? What is the extent of their knowledge of resources available to them and which resources do tenants’ access?
2. What housing issues have tenants faced previous to this case? What are the primary sources, histories, and personal impacts of housing instability for tenants in housing court?

With the guidance of field experts and the RTCCNYC, we designed our interview and surveys around our core objectives:

Expert Interviews
1. To understand their role related to housing court.
2. To understand their perceptions of housing court.
3. To identify gaps in existing research.
4. To examine what resources are available or not available to them in their work.
5. To identify potential challenges in tenant and housing court research.
6. To understand how housing court cases have changed over time, specifically since Right To Counsel legislation.
7. To understand interpersonal challenges between tenants and housing court staff.

Tenant Surveys
1. To understand who is in housing court
2. To understand how informed tenants feel about their rights within housing court.
3. To understand difficulties tenants face because of housing court.
4. To understand how informed they feel about the overall legal process in housing court.

Tenant Interviews
1. To uncover narratives that support insights captured in our survey.
2. To spotlight individual tenant stories.
3. To reveal common themes of tenants in housing court with different backgrounds.
4. To understand the impacts of housing court on daily life.
5. To underscore the stakes for the Right to Counsel Campaign.

Because our work was mainly qualitative, the Studio gained a lot of insight into the precarious states of many tenants. Statistics, though informative and crucial for tracking trends in real time, do not give a full picture of the hardships tenants face every day in the throes of possible eviction. As the Studio analyzed the collected data, we decided to form “chapters” to tell the story of the imbalanced power structure between tenants, landlords, landlords’ attorneys, judges, and even the city itself as tenants address challenges with rent vouchers and available, affordable housing.
“Poor families live under constant threat of eviction, facing housing insecurity, fees, and legal sanction, with negative impacts for their sense of home and community.”

All too often, our society’s most vulnerable members are forced to shoulder the largest burdens. Unfortunately, this is a reality we confronted during the course of our research into the impacts of New York City Housing Court. Our research confirmed that the threat of eviction is one that is experienced disproportionately by people of color, people with low incomes, and people with children. In this chapter, we will highlight the findings of both our background research and primary qualitative research that show that those who are least likely to be able to weather the emotional, mental, and financial challenges presented by housing court are those who are most often taken to housing court by their landlords.
Dealing with Housing Court creates additional financial and burdens

In New York City, with a population of more than eight million people, over 65 percent of the city’s housing is renter-occupied, and more than half of tenants are rent-burdened, meaning they spend 30% or more of their income on rent.11 The NYC boroughs with the highest rates of poverty are the Bronx and Brooklyn, with 27.3% and 18.9% of tenants living in poverty in those boroughs, respectively. 12 The Bronx and Brooklyn also have the highest percentages of African-American residents among all five city boroughs with 43.1% and 34.6%, respectively. Additionally, 34.6% of Bronx residents are Hispanic or Latina. This data strongly suggests that, in NYC, poverty disproportionately affects people of color.

During our survey, we asked tenants to indicate their household income with respect to the 2019 federal poverty guidelines. Poverty guidelines are issued each year in the Federal Register by the United States Department of Health and Human Services (HHS) for administrative purposes such as determining financial eligibility for certain federal programs.13 Our survey delineated the level of income according to household size such that Income Band 1 is less than or equal to 200% of poverty guidelines, Income Band 2 is greater than 200% and less than 400% of poverty guidelines, and Income Band 3 is greater than or equal to 400% of poverty guidelines.

Of the tenants we surveyed in housing court, 78% fall within Income Band 1, which represents household income at twice the federal poverty level, making these tenants income eligible for full legal representation under NYC’s Right to Counsel legislation. Of the tenants whose household income falls within Income Band 1, three in four (77%) reported that they live with children and 4 in 5 (81%) of those tenants self-identified as female. Over half of those tenants (51%) are African American, with the second largest share of tenants in this group represented by Hispanic/Latinx tenants (27%).

Of the tenants we surveyed, 78% had been made to appear at housing court multiple times. For tenants living in rent-stabilized apartments, 54% reported to have been to housing court three or more times. For appearances related to the same case (62%), 71% of those tenants still reported the need for major repairs in their building. For those tenants made to appear in housing court for different cases brought by the same landlord (66%), 68% of those tenants still reported the need for major repairs. The predominant issues tenants reported involve the need for structural repairs and pest control.

Our survey results also found that as length of tenancy increases, so does the number of times tenants are made to appear in housing court. This trend is most apparent for tenants who reported that they have been made to appear at housing court three or more times. Overall, 82% of rent-stabilized tenants and 77% of not rent-stabilized tenants had been to Housing Court more than once.

“We know that evictions affect mainly people of color and we see this especially in our table but it is something that is not properly documented in the court system, but we do see...more people that come to our table are people that are black or brown.” Débora Aquino, Housing Court Answers
The majority of tenants reported that they needed to take time off from work to appear in housing court multiple times, directly affecting already vulnerable tenants and their ability to earn income. NYC Housing Court buildings in most boroughs are not physically large nor sufficiently staffed to accommodate the high quantity of cases that are heard. It is not uncommon for the Housing Court Clerk’s Office in Brooklyn or the Bronx to have more than an hour-long wait time for tenants to file documents for their cases. Notably, tenants in Income Band 3 had the highest share of responses related to taking time off work. It stands to reason that tenants who may have 400% or more of the federal poverty level may have higher income jobs that take place from 9AM-5PM. Tenants in Income Bands 1 or 2 may also have to take time off work, but their work schedules may primarily occur outside the 9AM-5PM workday.

Our Housing Court survey also revealed that women were twice as likely to report needing to find childcare in order to appear in housing court. Furthermore, only women reported needing to find a caretaker for another family member as a necessary arrangement for appearing in Housing Court. One in 7 survey respondents indicated childcare on site would have increased the share of days spent in shelter during the two years after filing by 5 percentage points, or about 36 days.22 As Matthew Desmond said, evictions cause and perpetuate poverty. They are not a symptom of it.23

Beyond the psychic toll of eviction itself, a 2018 study demonstrated that evictions increased hospitalization for mental illnesses by 9% and increased the number of emergency room visits in the two years after filing by about 7%.24 Tenant advocates described the physical process of being evicted from one’s home as “sudden and traumatic”: tenants are rushed out of their home just to watch a marshal change their locks in front of their faces.25 Evictions have the potential to affect a person’s life on a physiological level, increasing the all-encompassing nature of this crisis in a person’s life.

Despite the fact that tenants widely reported perceiving housing court as a fair place for tenants, the foremost impact reported as a result of undergoing the housing court process was stress and fear of losing their home: 4 out of 5 respondents, or 83% of tenants, reported that they experience stress and are fearful of losing their home. Evictions continue with 43% of respondents claiming housing court has impacted their mental health, followed by 29% of tenants stating it has affected their job performance. Overall, 94% of tenants reported experiencing at least one adverse impact affecting their life due to their case in housing court.

There are many negative impacts borne by tenants beyond strained finances

Families and individuals who have experienced forced removal from housing report significantly higher levels of material hardship and depressive symptoms years after the event.26 A 2018 study demonstrated that evictions or the threat of eviction has been found to worsen an individual’s mental and physical health, increasing their trips to the emergency room.27 The same study found that evictions increased hospitalization for mental illnesses by 9% and increased the number of emergency room visits in the two years after filing by about 7%.28 Tenant advocates described the physical process of being evicted from one’s home as “sudden and traumatic”: tenants are rushed out of their home just to watch a marshal change their locks in front of their faces.29 Evictions have the potential to affect a person’s life on a physiological level, increasing the all-encompassing nature of this crisis in a person’s life.

For many New Yorkers, Housing Court is their first and perhaps only experience with the legal system other than jury duty—and is aptly described by one observer as the “place where ordinary people build their personal understanding” of fairness, justice, and the state.30 Both tenants and landlords come to Housing Court under great stress, but the stakes for tenants are always higher than landlords. Some tenants face the frightening prospect of losing their homes; others seek to improve conditions that threaten the health and well-being of their families. Small business landlords may be concerned about losing their livelihood or property or face other dire financial consequences if they are denied timely disposition of nonpayment or holdover proceedings, but as a recent report shows, landlords who owned or managed over 20 buildings were responsible for more than half of all executed evictions in 2018.31 More of these implications will be explored in Chapter 4. The Studio’s survey results expose similar concerns related to additional burdens.

**Tenant Spotlight**

Rosa has lived in the same building for her entire life. She started to have problems with her landlord when he moved her and her children into a 1-bedroom unit, promising to renovate her apartment and let her move back in once it was complete. Despite her landlord’s repeated reassurances, she was never able to move back into her larger unit. Although she’s lived in her too-small apartment since 2015, she has tried to make the best of the circumstances.

Rosa is HIV positive and receives support from HASA to help her manage her SSDI. Her caseworker is responsible for paying a portion of her rent directly to her landlord and Rosa is responsible for the rest. Recently, because of some clerical confusion Rosa has yet to solve, the landlord claimed he never received her rent and eventually filed for eviction. When we spoke to Rosa, the eviction moratorium had just been announced, which offered her some short-term reprieve. But the reality of her case still looms large; she is scared to go back to court since they are eventually opened and is unsure what the future holds for her and her family.
Of those tenants we surveyed in housing court who were made to appear for a specific case, 83% were in housing court for a nonpayment case, 12% were made to appear for a holdover case, 4% of tenants reported that they were in housing court because they were using their landlord, and the remaining tenant answered that they were unsure as to why they were made to appear in housing court. Nearly half (48%) of tenants had arrived at housing court in response to receiving a Notice of Petition to appear (responding to the landlord’s eviction claim), whereas about a quarter of tenants (24%) were in the Resolution phase of their case (usually when the tenant appears in front of a judge). Other tenants we spoke with were in the trial phase (11%) in which the tenant and landlord are made to appear in order to present their case to a judge who will decide the case, or were appearing at housing court for issue of a final judgment on their case (9%). However, some tenants did not have a sense of which stage they were in with respect to the processing of their case (6%) and a few tenants preferred not to answer (2%).

Stress and fear of losing their home remains constant, and holds as the predominant impact reported by tenants, regardless of what point of the process the tenant is in. However for all other indicators, the further along tenants are in the housing court process, especially approaching final judgement, more tenants reported experiencing these impacts. For example, 21% of respondents in the beginning stage of housing court (answering the Notice of Petition) responded that their job performance was impacted, while 50% of respondents in the judgement phase reported their job performance was impacted. Other common stressors included job performance, mental health, financial well-being, physical health, household relationships, and harassment from their landlord: 77% reported 3 or less impacts in the answering petition phase, while 57% reported 4 or more impacts in the judgement phase.

Conclusion

The Studio wanted to showcase the data we collected from tenants to show the current demographics and situations of many residents facing eviction. The findings demonstrate how critical it is to change the current dynamic in Housing Court -- if low-income tenants (who may experience simultaneous stresses related to race, class, health or gender) are disproportionately taken to court, how do we reverse this trend? To better answer this question, we first take a closer look at the plaintiffs: landlords.

“[Eviction is] devastating. It severely impacts physical health, mental health, their relationships with their family and world. It’s alienating and absolutely devastating.”

Sandra Conteras, Catholic Migration Services

“It’s absolutely violent and disruptive on every level. When you lose your home, every aspect of your life is thrown up into absolute chaos […] It is one of the most destabilizing things you can go through.”

Shekar Krishnan, Communities Resist
3

Housing Court Serves Landlords

“I think it’s as much going up against the landlords as it is the court system that is completely apathetic and disconnected from tenants and structurally isn’t set up to ensure that their voices are heard.”
Shekar Krishnan, Communities Resil

“The whole culture of the place [Housing Court] is very, very against the tenants.”
Lorena Lopez, Catholic Migration Services

Photo Credit: Michael Nicholas. The People’s Tribunal, a RTCCNYC-led event, gave tenants from across NYC the opportunity to testify against their landlords in a public forum.
“Tenants... didn’t see Housing Court as a place where they were entitled to assert any rights. They saw it as a place where landlords would come to collect money, and the process was, at best, about getting more time to pay that money.”

One of the first things the Studio learned is that the housing court system structurally favors landlords. The vast majority of cases heard in Housing Court are initiated by landlords seeking the eviction of their tenants. Because of this, and because of the substantial disadvantage tenants face without legal representation, the court system has come to be known as an “eviction mill” by tenant advocates across the city. With these dynamics in play, tenants are unable to present their side effectively in the courtroom, and can easily be rendered defenseless against landlord attorneys that often employ intimidation and manipulation tactics to discredit them. The Studio came to view Housing Court through the eyes of tenant advocates, as a place with a culture that prioritizes landlords over tenants. Tenants without representation are forced to navigate housing court and the legal process alone.

Of the tenants that we surveyed in Housing Court, only 28% reported having a lawyer for their case, while the remaining 72% did not. This finding corroborates the results of a NYC Housing Court report by Urban Omnibus in 1981, in which 90% of landlords had legal representation in Housing Court while 80% of tenants did not. This uphill battle is made even more difficult for tenants due to most Housing Court buildings lacking any form of directional assistance. The vast majority of cases heard in Housing Court are initiated by landlords seeking the eviction of their tenants. Because of this, and because of the substantial disadvantage tenants face without legal representation, the court system has come to be known as an “eviction mill” by tenant advocates across the city.

Overall, the tenants that we interviewed found the Housing Court process to be confusing and not well explained to them. In one of our tenant spotlight interviews, Awana felt that the physical layout and the lack of staff to guide her where she needed to go was insufficient and that the court staff was very rude to her. Furthermore, due to the anti-tenant atmosphere of Housing Court, unrepresented tenants from our surveys were highly unlikely to seek assistance for their Housing Court cases, regardless of whether or not they felt that they understood their rights in Housing Court. Unrepresented tenants are also susceptible to manipulation from landlord attorneys outside of the courtroom, sometimes being pressured into settling with their landlord in the hallway before a hearing.

Translation services are also largely unavailable in Housing Court. Because of this, tenants belonging to the 48.7% of NYC households whose primary language is not English are put at a further disadvantage during a Housing Court case. In a legal process that relies solely on written and spoken testimonies from each party, proper translation services are crucial for non-English speakers and can be a determining factor in whether or not a tenant is able to stay in their home. As mentioned in Appendix B: Research Methodology and Materials, the Studio tried to survey in multiple languages but faced constraints based on availability of fluent students.

As a result, this constraint may have limited our findings with tenants who spoke another language. Within our survey, 23 respondents (14%) noted they spoke Spanish at home, and 3 respondents (2%) noted they spoke Kreyol at home.

From the surveys that we conducted, nearly 70% of respondents indicated that access to legal representation would have had a significant impact on their experience in Housing Court. With legal representation, most difficulties in understanding and navigating Housing Court would be eliminated for tenants.

Without representation, the burden of proof falls on tenants. Of the tenants that we surveyed, 78% were there for non-payment cases while only 11% were there for holdovers. Landlords can bring a nonpayment case against a tenant with limited proof of money owed, and without consideration of the fact that a tenant could be withholding rent until a repair is made in their unit or building. From our surveys, we found that 15% of tenants with nonpayment cases claimed that they did not actually owe rent. Yet, their landlords were still successful in bringing a case against them, with the burden of proof falling on the tenant to prove that they did not actually owe money. Proving that you do not owe money or that repairs need to be made.
in your building are both difficult without having the legal representation to do so. In addition, from our interviews it became clear that multiple people had issues with the amount of money that landlords claimed tenants owed, as we'll see in Connie’s story on the previous page. Her story demonstrates how nonpayment cases are rarely simple, and in tenants’ lives, there are often other tactics landlords use to push a tenant out of their apartment before or during an eviction proceeding. This creates a messy web that an unrepresented tenant must parse out and argue in court. In Connie’s situation, she had a lawyer to help her.

Boris, a taxi driver from Queens, lived in a rent-stabilized unit from 2014 through 2016, until his landlord approached him about renewing his lease. When Boris first moved into his apartment, he signed a preferential lease, which allows the landlord to charge less than the legal maximum rent under rent stabilization laws. While this sounds like a good-faith deal, Boris found out while resigning his new lease that his landlord wanted to almost double his annual rent. Boris decided to visit a New York State Division of Housing and Community Renewal (DHCR) office in Jamaica, Queens to make a formal complaint against his landlord – he did not understand why his landlord would increase his rent so suddenly. In 2018, Boris received another lease renewal with a $300 per month increase, bringing his total rent over $2,000 per month. At this point his original DHCR complaint was still processing, and Boris signed the second renewal because he didn’t know what else to do, and hoped the complaint’s decision would say otherwise. Two months after signing his newest lease, he heard from DHCR – the division denied his complaint. Boris’ lawyer told Boris he didn’t have legal standing because, again, he already signed the new 2018 lease. Boris also did not qualify for free legal representation. Of the experience, he said, “I was going to many lawyers. This is what I was hearing: ‘You pay, you stay. You do not pay, you [get] evict[ed].’ I stopped paying rent. I was trying to find Legal Aid by the income, but I live right in the wrong place.”

Boris gave a compelling account of how hard he worked to stay in his apartment. He researched his building’s rent history, he talked to tenants in his building to see how they were treated, and tried desperately to obtain free legal representation. Despite his best efforts, he was ordered to be evicted in 2019, right before the eviction moratorium. He was still living in his apartment at the time of his spotlight interview.

The stakes are higher for tenants than they are for landlords.

Through our surveys, it became clear that despite the fact that many tenants widely reported perceiving Housing Court as a fair place, the number one reported impact of the process on the tenants was the stress and fear that they felt about losing their home. Eighty-three percent of the tenants that we surveyed reported the stress or fear over losing their home, 43% claimed that Housing Court has had an impact on their mental health, and 29% said that it has affected their job performance.

Despite tenants’ absolute need to stay in their current apartments, it should be noted that the quality of rental housing is often poor. According to John Pollock, staff attorney for the Public Justice Center and the Coordinator of the National Coalition for the Civil Right to Counsel, “[Tenants are] spending such a disproportionate percentage of their income on housing and they’re spending it on housing that’s often substandard... And if you live in substandard housing, that’s going to lead to a whole cascade of other problems.”

When landlords ignore repairs, or do extreme renovations while tenants are still living in the building, they are harassing tenants. Repairs, or the lack thereof, are a central factor in a significant amount of housing court cases. Many tenants whose landlords refuse to perform necessary repairs to their unit have the right to withhold rent until the repairs are performed. However, when tenants choose to do this their landlords can retaliate by bringing them to court for nonpayment of rent, and strong-arm them into paying their rent.

Eviction is devastating on families. It just breaches the core stability of someone’s life. A lot of times people end up in doubled-up situations or homeless shelters and are at the same time at work, or losing jobs, and kids lose time at school. It’s traumatic. People lose connections with their communities -- often they can’t find housing in the same community where they were living or where they grew up.”

Jessica Hurd, Housing Court Answers

Tenant Spotlight

Okolo and her family were brought to Housing Court for nonpayment of rent even though she was able to provide two years worth of NYC311 records of reported repair issues from her household, including gaping holes in the ceiling, a sewage leak from the apartment upstairs and a toilet that leaks into the apartment downstairs.

Norma lives in a 15-unit apartment, in which most tenants are elderly. She tends to watch and take care of her grandson during the day. In 2019, her landlord brought a nonpayment case against her, claiming they had not received her rent checks.

At the same time, the management company was renovating Norma’s building. Norma said they waffled on renovating her bathroom for two weeks, leaving herself and other tenants with no option to shower or use the toilet. “I have seven kids living with me and a grandson,” she said. “I had to pay like other people use their bathroom and stuff like that, or go to the hotel to bathe.” The management company said they’d move people to a hotel temporarily but never did.

In July, the landlord turned off the gas to work on Norma’s kitchen. “They don’t give you no money for food. You can’t use your stove for more than a full week. There was no stove there, and I had a gas leak in my apartment,” she explained. Eventually Norma and her neighbors made a formal complaint to the city, which issued a Stop Work Order for two months.

Tenant Spotlight

Awana, Tenant Spotlight

“It was hard [being in Housing Court] because you live in a home, you don’t want to lose it.”
“Over 65 percent of the city’s housing is renter-occupied, and more than half of tenants are rent-burdened (paying more than 30 percent of their income for rent). That makes conflict between landlords and tenants nearly inevitable.”

Jenny Laurie, Housing Court Answers

It can be difficult for a tenant to prove harassment in Housing Court, especially if the landlord claims they are making necessary improvements to the building. As we have demonstrated in our background research, the scale of power overwhelmingly leans towards the landlord, who tends to win cases and are rarely held accountable for repairs if they lose. Even if the tenant can provide proper documentation and get a chance to explain their situation in front of a judge, the overall process is very long and complicated, especially when they do not have legal representation. Norma told us that despite being taken to court for nonpayment, she intended to bring her landlord to court because of her experience without a working stove and hot water for a week at a time last summer.

The relationship between tenants and landlords is generally negative.

Tensions between landlords and tenants tend to exist before one party brings the other to Housing Court. The power dynamics of the city’s current housing system force renters into a position of being perpetually indebted to their landlords in order to have access to shelter. With the playing field between landlord and tenant never being quite level, it is nearly impossible for tenants to exercise their rights or voice any concerns they may have with their housing.

Sometimes relationships between landlords and tenants are strained because of the housing landscape that tenants must navigate when they have few options. Toni, a mother and Brooklyn resident, has a CityFHEPs voucher from HRA to pay for most of her rent.62 When she moved into her most recent apartment in southern Brooklyn, she had issues with her landlord because the funding from her voucher was tied up. CityFHEPs told Toni that because she wrote down the new apartment address on her application to request funds, she was rendered ineligible for the funding. The landlord let Toni and her family move in without putting down a security deposit, but ultimately as her voucher funding became complicated, the landlord didn’t want to deal with the issue and moved to evict Toni in a holdover case. After a month’s long back and forth with the HRA office, and going through housing court again (Toni mentioned this wasn’t her first time there), she obtained the money she owed in back rent.

Toni is no stranger to the frustrations and contradictions of navigating the rental market while on public assistance. She said she recently received a “shopping letter” for an apartment that could rent $2,040 or under. She told us, “We have looked at literally hundreds of apartments that are within the range and no one wants to take the program.” Because of this implicit discrimination, Toni has had to lie to get her family into units in the past.

Toni is stuck in a bad situation when she needs to lie in order to procure housing for her family. These tactics are for survival, and yet real estate agents and landlords see these tactics as cause to evict without second thought. This inherent conflict leads landlords towards Housing Court, where they find a higher rate of return to get rid of so-called “problem” tenants.

“I am hoping now there’s an apartment we looked at we love, it’s perfect for us. It’s $2,000. I think… I didn’t tell them I have a program. I’m waiting to get that lease. And I don’t want to-- I don’t want to be deceptive like that. But I have to be, because then we’re on the street, and I’m in a shelter with my kids and they don’t want that. So I have to lie, and I feel terrible about it.”

Toni, Tenant Spotlight

Conclusion

Throughout this chapter, we explored the ways in which tenants and landlords interact (or do not interact) in and outside of housing court. They are two players on a stage set by the housing market and its commodification. The Housing Court power dynamic can be made more equitable through expanded free legal representation for tenants, but as we have seen in this last finding, the relationships between tenants and landlords are already complicated because of the inherent value placed on housing in New York City. In the next chapter, the Studio takes a step back to study the macro-structure surrounding Housing Court.
Figure 5: Rent-burden is truly a national problem, affecting Americans in both urban and rural parts of the country.

4 **Evictions Do Not Occur in a Vacuum**

“New York City’s low-income tenants are squeezed between a rock and a hard place: severe rent burdens at home and no easily accessible alternatives on the market.”

“Housing Court is a product of the New York City housing environment.”

Share of Renters with Severe Burdens (Percent)
- Less than 10
- 10-20
- 20-30
- 30 and Over
The Studio paid close attention to national, state and citywide trends surrounding evictions outside of our work in Housing Court. As planners, we understand that we have to look at bigger, structural issues, such as the recent real estate boom; lack of investment in public housing; and gentrification and displacement that lead landlords to evict low-income tenants on a regular basis. In this context, we see evictions as a system that compounds displacement and disadvantages.

Evictions take place within a larger context of NYC’s housing affordability and inequality crisis

Because housing is a commodity in the United States, landlords and property owners see their properties as investments, not homes for tenants. Housing has also functioned as a barometer for racial segregation and discrimination throughout American history. Rolling these realities up into the present day gives context to the rampant capitalist landscape we see today in New York City, where gentrification fuels landlord harassment and eviction, and causes further disproportionate displacement.

Gentrification theory presents the “rent gap” as the primary reason why landlords allow buildings to deteriorate. By disinvesting in his current portfolio, a landlord will wait until land becomes more valuable to sell, usually when usually white, upper-middle-class so-called “pioneers” like artists and middle-class yuppies start to move in and buy property in a neighborhood. Real estate speculation occurs, and developers see an opportunity to buy land as well to build market-rate housing that will further attract the middle-class. This is a trend we have seen throughout Brooklyn, Manhattan, and now more recently in Queens and the Bronx.

As NYC has gentrified, there have been increasing pressures on low-income renters in the city. A 2014 Comptroller report, The Growing Gap: New York City’s Affordability Challenge documented a substantial shift in the cost of housing in New York City between 2000 and 2012. The median apartment rents in New York City rose by 75%, compared to 44% in the rest of the US, while some neighborhoods in Brooklyn saw an increase of 50% or more over the 12 year period. During this period “more than 400,000 apartments renting for less than $1,000 disappeared from the inventory.”

Soaring real estate prices and the potential for new development (as well as the influx in new residents) intensified gentrification and displacement pressures, especially for long-term rent stabilized tenants. This corresponded to a rapid and acute loss of NYC’s rent stabilized housing stock as powerful real estate interests and politicians weakened rent regulations — with over 290,000 stabilized units since 1994. As the Rent Guidelines Board found in 2018, even landlords of stabilized buildings — who in theory are limited in their profit-making — still make approximately 40 cents on every dollar. For the 13th consecutive year, landlords’ profits on rent-stabilized tenants increased, with property owners on average making $540 from units per month in 2017, according to data published by the City’s Rent Guidelines Board.

The research on housing court makes clear the varied social and economic factors that lie at the root of many housing court cases. While nonpayment of rent represents the majority of the cases in Housing Court (and 78% of those we surveyed), our survey results highlight the various underlying hardships involved: 22% reported job loss, 14% stated a medical emergency, 17% cited an unexpected expense, and 30% listed multiple hardships.

These results are consistent with the broader context of increased housing precarity in the city, particularly for low income renters. According to the Community Service Society’s “Unheard Third” Survey, which collects info from approximately one million households living below twice the federal poverty level, 30% fell behind on rent, 20% had utilities shut off, 19% had to move in with other people, and 15% were threatened with an eviction in 2019.

Additionally 43% of low income New Yorkers have less than $500 in savings in case of an emergency. This means these residents are particularly susceptible to any changes in income or unforeseen expenses, such as job loss, increased rent or medical bills.

Tenant Spotlight

In the summer of 2019, Awana saw a reduction in her scheduled work hours, and money became tight very quickly. She was also expected to pay more of her share of rent throughout that year because of a Section 8 voucher increase. As a result, she fell behind on rent in August and September 2019. The landlord sent her a few warnings that she was late, but at that point she couldn’t pay for the two months in a row. She knew what was coming next and was scared of it, but she couldn’t fix the situation. When asked about her feelings on her landlord taking her to court over two month’s worth of late rent, she said, “You can be here for 10 years and be out in a month.”

Awana was eligible for a free lawyer in Housing Court, who helped her obtain a “One Shot Deal” from HRA. She paid off her debt to her landlord and was not evicted. When asked about how she felt about possibly facing eviction in the future, she said, “I’m just feeling like it’s a cycle. It’s a business. Like, I’m here, I have to pay them. They’re waiting for the rent. This is the cycle.” Awana is relieved that she didn’t have to lose her apartment for now, but feels like the process is unfair, and is unsure about the long-term: “The rent is just way too high… they’re asking for too much money that you worked for.”

Over half a million households live “precariously close to homelessness.” From our survey results, 43% of tenants in court for non-payment cases have lived in their apartments for more than 10 years. Tenants in disinvested neighborhoods face a particularly bad situation: they can often only afford to live in the worst conditions that their landlords refuse to fix, and tacitly accept this through their long-term tenancy, but they are the first to be evicted when they are late on rent because of factors outside their control. In part of Awana’s tenant spotlight, she talked about the conditions she was facing before her landlord served her an eviction notice.

"Given the ever-increasing burden of meeting the rent, it is not surprising that homelessness has soared and remains stubbornly high, with some 60,000 people sleeping in homeless shelters every night."...

“Decades of austerity governance and deregulation have weakened the city’s social safety net and transferred greater risk on to the shoulders of low-income communities of color, both through exclusion and through predatory inclusion.”

Of the 13 tenants interviewed, 8 tenants received some form of assistance yet still ended up in housing court. These included NYCHA’s Section 8 Housing Choice Voucher Program, Homebase, CityFHEPS, and Supportive Housing.
Under these conditions, the social safety net is failing to capture everyone effectively.

Of the almost a million low income renter households, slightly more than half do not receive any housing subsidies, while 29% are assisted through public housing, Section 8 rent vouchers, or other public programs. This is a part of a larger trend. Nationally, only 1 in 5 qualifying households get housing assistance. The housing programs that do serve those with persistently low incomes often fail to address income volatility such as job loss, health emergencies or other unexpected expenses.

Our economic system is not set up to benefit renters, especially those who need public assistance to afford their rent. Wealth creation happens largely through homeownership — nationally, the median homeowner is 46 times wealthier than the median renter, with comparative net worths of $5,000 versus $230,000 in 2016 according to the Survey of Consumer Finances. This wealth inequality falls along racial lines and is based on a long and exclusionary history of property ownership in this country. Meanwhile more subsidies go to mortgage deductions — subsidizing homeownership — than any public or supported housing.

From our survey, write-in responses also uncovered issues with assistance programs and benefits as many respondents cited that as the reason they were brought to court by their landlord. This was also explored in more depth in our tenant interviews.

All of these programs are set up to assist and prevent homelessness, yet these individuals who relied on some form of assistance, still ended up in housing court with eviction as a possibility. This costs both the individuals and the court system, and spotlights the importance of broader measures of preventative action and the expansion of the social safety net that are needed to really address these problems.

Dealing with the bureaucracy for these programs was at times almost as stressful as dealing with Housing Court itself. Multiple people we interviewed mentioned the long wait times and paperwork required to get even the most basic help. Overall this speaks to the exhausting experience of tenants and how many of the “moving pieces” are beyond their control, ultimately requiring more work and time from them even to function as some kind of safety net.

Evictions create a compounding system of displacement and disadvantage

As discussed in Chapter 3, Housing Court serves landlords because tenants are often unrepresented, setting up an imbalanced power dynamic. One study on the serial patterns of evictions found that: “No matter the amount, the legal process that a filing initiates is favorable to landlords…” One factor at play is the incentive to make increased profit from flipping rent stabilized units. While rent regulated units have more legal security with guaranteed lease renewals and regulated price increases, residents also face increased pressures: “Among those who move, families with rental protections are more likely to be forced out of their housing (22 percent versus 15 percent).”

While our research focused on Housing Court directly, it is important to recognize the larger context evictions that can lead to displacement before even getting to court. This broader category of “forced moves” — which include moving due to harassment, buy-outs, rent hikes or other circumstances which displaces a tenant from their home — often go unreported or are not easily documented. The Robin Hood’s 2019 Poverty Tracker provides a survey of this broader context of evictions in NYC, finding that of all total moves, nineteen percent or about 56,000 families were forced out of their homes. This translates to more than 100,000 New Yorkers being forced to move, with nearly one in seven being a child under the age of 13. Of that, formal evictions represent just 46% of all forced moves with an additional 21% due to informal evictions and 32% other types of reasons. In this context, even just the threat of evictions can be a powerful force on its own, with many tenants never getting to actually defend themselves or push back. Formal evictions through housing court are just the last and final step for those who might not have any other options.

As our research makes clear, there is a much broader context beyond just the confines of housing court — both in terms of the causes, but also in terms of the effects of evictions and forced moves. The lack of stable, affordable and dignified housing is deeply interconnected with so many social problems, from poverty and homelessness to wealth disparities and racial inequalities.

Evidence shows those who are forced to move are already disadvantaged compared to other renters prior to moving — “they are more likely to be in poverty (20%), experience a material hardship (35%) such as running out of food or having utilities cut off due to nonpayment, and be rent burdened (75%).” The risks and disadvantages that lead to eviction play into ongoing cycles of poverty and even homelessness.

Tenant Spotlight

Dyami was in Housing Court for a nonpayment case that turned into a holdover. His landlord took him to court over one month’s late rent. After speaking with a nonprofit legal organization, Dyami learned he could argue he was withholding rent — Dyami told his lawyer that when his neighbors cooked, their exhaust traveled through his flue and into his apartment. His lawyer saw this as an opportunity to make the landlord fix this issue contingent upon paying back rent. This allowed Dyami to save up more money to pay what was owed.

Although he was in Housing Court for a nonpayment case, his landlord fixed the exhaust fan issue, but Dyami could see that the landlord didn’t have any pressure or reason to comply with the repairs the court decided because there wasn’t a clear path for compliance and accountability. “A lot of the [nonprofit lawyers] were telling me that a tactic of landlords typically bleeds the tenant dry until their resources are depleted. And by that time, maybe they have success, having the tenant and ending up leaving.”

At the time of his interview, Dyami was paying off the last installment of rent owed.

Conclusion

The Studio firmly believes that housing is not a choice — it is a necessity. There is a personal and social cost to evictions, that often the most vulnerable (and who have already been failed by the system) are the ones that have to bear. Evictions represent an inequitable power imbalance and the direct prioritization of property (housing as a commodity) over home (tenants need for housing). Overall this is reflective of a much larger context of housing conditions in NYC, broader inequality and power dynamics at play and the failures of the social safety net in providing needed stability for tenants. Chapters 2 through 4 demonstrate the imperative need to expand Right to Counsel legislation, and fund tenant organizations to better connect with residents.
Right to Counsel is Working, but there is more work to be done

“The program of RTC even on a theoretical and philosophical level, completely changes the game by putting tenants rights first and recognizing the fight is completely unfair when tenants are unrepresented.”
Shekar Krishnan

“Victory lies ahead when tenants are empowered and organized.”
Councilmember Vanessa L. Gibson

Photo Credit: Alyssa Hassell. On February 24, 2020, New York City Council held a hearing on the expansion of Right To Counsel.
As recently as 2013, only 1% of tenants were represented by counsel, while 95% of landlords were represented by counsel. Since Universal Access to Legal Services passed in 2017, more tenants facing eviction have access to legal representation than ever before. In the second year of Universal Access, approximately 105,000 New Yorkers in 41,000 households received legal assistance, a 74% increase in households served since the start of the program. As of June 2019, 32% of all New York City tenants facing eviction were represented in court by a lawyer. The percentage of tenants with legal representation nearly doubled to 62% in the 20 targeted Right To Counsel zip codes. In other words, the majority of tenants facing eviction in housing court had access to legal representation in RTC-eligible zip codes.

Ensuring that tenants have access to legal representation is a goal in and of itself, however the ultimate goal is to prevent evictions. Data collected by OCJ demonstrates that the Right to Counsel does just that. Tenants with legal representation were less likely to be evicted as a result of their case in housing court; in Fiscal Year 2019, a staggering 84% of tenants with legal representation were able to stay in their homes.

84% of tenants with legal representation were able to stay in their homes.

Essentially, access to legal representation serves as a barrier between tenants and eviction. As more tenants facing evictions are represented by counsel, less tenants are being evicted. Residential evictions by New York City marshals have declined by 19% since 2017; RTC zip codes experienced a 29% decline. In fact, after the first full year of implementing the Right to Counsel, evictions declined more than five times faster in RTC zip codes than in non-RTC zip codes.

Not only are fewer tenants being evicted from their homes, but landlords are also filing fewer eviction proceedings than in previous fiscal years. In 2019, there were an estimated 171,539 residential eviction petitions filed citywide in New York City Housing Court, compared to 230,071 in 2017, prior to the implementation of Universal Access. This reflects a 25% decrease in eviction filings since RTC began.

The Right to Counsel legislation is a crucial step towards equalizing the power dynamic in housing court. Increased access to legal representation results in fewer frivolous eviction filings and more tenants with protection from an unfair trial and, ultimately, eviction. As the city’s RTC legislation continues to expand and cover more zip codes and income levels, more and more New Yorkers will be provided with the crucial right to a fair trial that is often unattainable to them in Housing Court.

The Right to Counsel Legislation is Limited in its Scope and Capacity

Although formally titled Universal Access to Legal Services, the legislation is universal in name only. By 2022, the Right to Counsel will be available to all low-income tenants regardless of zip code. Still, many tenants will remain vulnerable. Under the current legislation, a single New Yorker working full-time and making the $15 minimum wage does not qualify for RTC. Moderate-income tenant households, encompassing 25 percent of New York City households, also experience housing instability and are vulnerable to eviction. Approximately 18% of tenants we surveyed in housing court were moderate-income.

According to a 2016 HRA study, 37.3 percent of unrepresented tenants in housing court had an annual household income above 200 percent FPL, of which 22.8 percent fell within 200 percent

Legal Representation by Borough

Legal representation rates in court varied across the boroughs, with the Bronx at 29%, Queens at 32%, Manhattan at 34%, Brooklyn at 35%, and Staten Island at 48%.

Legal representation rates in RTC zip codes across the boroughs were significantly higher, with the Bronx at 60%, Queens at 56%, Manhattan at 65%, Brooklyn at 62%, and Staten Island at 70%.
FPL and 300 percent FPL. Community Service Society’s 2018 Unheard Third survey demonstrates that low- and moderate-income tenants experience similar rates of housing hardships, including falling behind on rent, being threatened with an eviction, and moving in with other people.

Additionally, the legislation only covers eviction cases that take place in housing court, excluding Housing Preservation and Development administrative hearings for Mitchell-Lama residents, Supreme Court ejectment cases, and Housing Development Fund Corporation (HDFC) cases. Moreover, the current law does not cover appeals. In the event that a landlord files an appeal to a ruling in favor of the tenant, tenants will be left alone to defend their victories.

Those who are covered by RTC don’t know about the program until they arrive at housing court; 61% of income-qualified tenants within RTC zip codes learned about RTC when they arrived in court. When tenants weren’t aware of the tools available to them, they are more susceptible to harassment by their landlord. In order for RTC to be most effective, more outreach and education is needed to inform eligible tenants about their right to legal representation prior to their arrival in court.

**Conclusion**

Though RTC is a significant victory for tenants, legal representation — at the point that tenants receive it — is not enough. By the time tenants reach housing court, the damage caused by the threat of eviction is already inflicted. The Studio’s survey results demonstrate that impacts borne by housing court do not vary between tenants that are represented by a lawyer and those that are not. More specifically, stress or fear of losing their homes remains constant regardless of legal representation. Put simply, Right to Counsel, though a step in the right direction, intervenes too late in a tenant’s fight for affordable and safe housing.

“A lot of renters still don’t know about Right to Counsel. The goal is to get to them before they get that notice in the mailbox that they’re being taken to court.”
Councilmember Vanessa L. Gibson

“The fight for tenants starts far earlier than a court case. By the time you get to court, it’s very scary and it’s very late in the game. These struggles with landlords start way before that.”
Shekar Krishnan
Recommendations
Based on our analysis and findings, the Studio decided to structure their recommendations in the following ways: (a) immediate recommendations for agencies that would be responsible for executing them, and (b) long-term goals that City Council and the Mayor should include in future city plans.

**Immediate Recommendations**

**City Council**

Extend the eviction moratorium. Governor Cuomo extended the statewide eviction moratorium until August 20, 2020, but as our note on COVID-19 addresses, the eviction does not currently protect tenants from eviction or keep them out of crowded housing courts in the near future. On April 21, 2020, the NYC City Council proposed an "Essential Workers’ Bill of Rights" that, among other protections, would create a statewide moratorium on evictions, debt collections, and property seizures until April 21, 2021. We implore the City Council to pass this bill of rights, with the possibility to extend the moratorium further into 2021 as the city continues to recover economically. We also ask the City Council to allow this moratorium to cover all New Yorkers, and disregard any burden of proof related to COVID-19.

**COVID-19 rent cancellation legislation.**

The City Council’s Essential Workers Bill of Rights does not explicitly include any rent relief or cancellation for tenants at this time. We ask the City Council to meet with tenant organizers, associations and advocates to create a new bill that includes rent cancellation for tenants until April 2021, focusing on the lowest-income tenants who need assistance immediately. City Council should also work with the state to lobby banks for a statewide foreclosure moratorium to stabilize the housing market.

**Court Administration**

Create a uniform signage system to better navigate tenants. Almost all tenant highlights discussed how confusing and time-consuming it is to be in housing court. By creating a unified signage system to direct tenants to the security line, elevators, stairs, the clerk's office, courtrooms, Right to Counsel courtrooms, bathrooms, water fountains and other relevant areas, the stress of being late or unsure where to go would be alleviated. The uniform signs would act as wayfinding symbols, like landmarks that tenants can recognize easily and look for more signs in the same color or design.

**2. Require all attorneys and court personnel to wear identification at all times.**

The identification should be visible, legible, and have the employee’s title. This would prevent tenants from being pressured into hallway deals with their landlord’s attorney. Tipping the Scales also recommended this, and we support this recommendation to be regularly enforced.

**3. Provide a digital option and/or extend hours during and after COVID-19, and for tenants who have accessibility needs.**

Based on our data, it stands to reason that tenants (with the assumption that they have free legal representation) need more options to appear in front of a judge or visit the clerk's office. COVID-19 is rapidly changing our perception of what can be done in person versus over the computer or phone — criminal cases are currently being heard remotely. We make this recommendation only based on our findings, but OCA should not read this as a way to facilitate more evictions more quickly. We emphasize that due process should still be carried out in a digital environment. We also recognize that some tenants may not own or have access to the Internet, computer or smartphone. At the very least, OCA should extend its hours beyond 9AM-4PM when it is fully opened again.

**Human Resources Administration (HRA) & the Office of Civil Justice (OJC)**

Consistently collect case data broken down by demographics. OJC collects data and puts out an annual report about all housing court cases. In 2018, they included some demographic information such as age, household size, and income related to tenants. However, between 2016 to 2019, demographic information has been inconsistently reported. The Studio requests that OJC collect and analyze the following demographic categories from every tenant in housing court: age, race, ethnicity, income band, landlord name (corporation or otherwise), and household size each year. We also ask that OJC post datasets and geospatial data of these demographics for further analysis.

**Multi-Agency Coordination**

“Clean Hands” requirement for all landlords. Known as the “clean hands doctrine” in the legal world, this requirement would ensure that landlords cannot evict any tenant if their building portfolio has any outstanding repairs, fines, or violations. The City would coordinate a multi-agency response and enforcement with the Department of Buildings (DOB), OCA and 311, most likely in a shared, aggregated database. The Studio recommends the City promote this as a new program — tenants should call 311 if a repair is not completed within the stated time in their lease, which would be added to the shared database. The City should need to coordinate with DOB/HPO to send out housing inspectors to verify the work has been completed. If a landlord has an outstanding issue recorded in any of these places, they would be barred from filing a Notice of Petition until the issue has been resolved. Our goal is to slow and stymy the “eviction mill” nature of corporate landlords, and make them address repairs under a new program with teeth.

**Better enforcement of repairs within existing cases.**

There are two scenarios in which tenants may require repairs from their landlord and end up in court: (a) tenants can initiate an HP Action (as a group or individual) in Housing Court to demand repairs, or (b) a landlord could initiate a nonpayment case against tenants who withhold rent because of outstanding repairs. In either scenario where the court rules in favor of the tenant, there should be swift and effective enforcement to confirm the landlord has made the necessary repairs before withheld rent is paid. While the clean hands requirement would prevent landlords from initiating any eviction case, the Studio recommends that HPD/DOB work together to also monitor repairs that need to be made in current and ongoing housing court cases.

**Compensate tenants for lost work hours.**

As this report has demonstrated the relationship between the tenant and the landlord is often more complex than not paying rent. Tenants are not just “bad actors” who deserve to be punished. One way to address the imbalanced power dynamic between landlord and tenants in housing court is to acknowledge that tenants lose work hours (temporarily or sometimes permanently) because of their time spent in housing court. HRA has rental assistance for many different tenants. The New York State Unified Court System already pays lost wages for jury duty. It would be a giant step forward if the city and state pooled a fund together that paid tenants lost wages when they needed to appear in housing court. This would not only alleviate acute stress of missing work or make the process of housing court more equitable, it would also symbolically acknowledge that tenants are people who should be compensated for their time.
Long-Term Goals

All tenants, regardless of income, should have a guaranteed lawyer in housing court. The RTCCNYC is expanding income eligibility for free legal representation to include persons considered to receive moderately higher incomes. COVID-19 is upending many low-income communities, and the economic fallout will ripple up through the working and lower-middle classes. A person making more than the minimum wage may lose their job suddenly and have no savings. Expanding legal representation to all New Yorkers would be a security in this uncertain time.

Right to Counsel is defensive, but it should also be offensive. Tenants should have a free lawyer to take their landlords to court for HP Actions. We make this recommendation under the belief and demonstrated evidence that tenants’ lives are at stake when repairs are incomplete, but landlords’ lives are rarely at stake when filing to evict. For example, broken heaters in the winter and rampant pest problems have direct consequences on tenants’ health. While we advocate for completely free legal representation for tenants in defensive cases, we hope Right to Counsel legislation will include HP Actions in the near future.

Significant investment should be made into subsidized housing, which would include (but not be limited to): rental vouchers, public housing, and community land trusts. As we analyzed in our data, many low-income tenants could not afford their rent without the use of vouchers. At the very least, the city should continue to fund voucher programs and expand access to vouchers. With coordinated efforts between the city, state and federal funding, the Studio’s goal to further stabilize housing for low-income tenants would include more quality public housing and community land trusts. Decommmodifying housing for low-income tenants would alleviate evictions ten-fold.

Eviction-Free NYC. Our biggest long-term goal would be to eradicate evictions indefinitely. There are real, devastating human and social costs for evictions, and we need a paradigm shift around evictions that acknowledges and works to address the problem especially in a public health crisis. Everyone deserves stable, affordable and healthy housing. The current conditions of the market fail to provide that for millions of people across the city, state and country and our social safety lets too many fall through the cracks — all while landlords and property owners make record profits. An eviction means that someone with no other options — the most vulnerable and marginalized — has to bear the burden of a broken housing system and face accelerated poverty, precarity, instability, and even homelessness. This is not an inevitability, this is a failure of political will and social accountability.

Conclusion

Connecting the eviction crisis to larger struggles for fair and safe housing is a key part of understanding how the systematic forces lead to eviction proceedings. In their work, the NYC campaign for Right to Counsel has been most effective in connecting the eviction crisis to these larger, structural issues of housing unaffordability and instability. Research and activism around evictions should work in tandem with other movements for housing justice because they are intrinsically related. Based on our research and analysis, it’s clear that statistics alone don’t tell the full story about evictions. The sheer magnitude of evictions that are processed every year aren’t a natural but necessary side effect of our housing system. Tenants aren’t evicted, landlords evict tenants. It is a violating and poverty-perpetuating cycle.

Far from a balanced playing field for tenants and landlords, our city’s housing system is a direct product from decades of racist and classist federal policies that subsidized white, middle-class families over poor people of color. There is a direct racial justice component within amplifying these tenants’ stories and experiences in housing court. We conclude our report by acknowledging longer-term goals that could make New York City’s housing landscape equitable.

The current discourse around evictions often isn’t focused on the traumatizing experience of being removed from one’s home. As it is made even clearer during the current pandemic, secure housing is the difference between life and death. But it doesn’t have to be like this. Evictions aren’t an inevitability. They are a product of public policy choices that have systematically protected the ability of property owners over the rights of tenants. Right to Counsel legislation is a small step towards rectifying that inequity.
Appendices
Appendix A: Housing Court Process Summary

There are two common cases that are brought to Housing Court by landlords against tenants. The first type of case is a nonpayment case. This type of case is brought to court when the landlord claims that the tenant owes them rent and would like to sue them in order to collect the money. The second type of case is a holdover case. This is when the landlord is attempting to evict the tenant for any reason other than nonpayment of rent. This can include situations in which the tenant allegedly broke the lease agreement or destroyed property. In these two cases, the landlord is considered to be the Petitioner and the tenant is the Respondent.

Tenants can bring three types of cases against landlords to Housing Court. The first type of case is called an illegal eviction proceeding, which occurs when a tenant believes that the landlord is wrongfully attempting to evict them. The second most common type of case brought to Housing Court by tenants is a HP Proceeding, where the tenant asks the court to order the landlord to make repairs that they have not been making. The third type of case brought by tenants is the 7A proceeding, where 33% or more of the tenants in a building ask the court to take the control of the building away from the landlord and give it to a court-ordered supervisor.

A tenant's experience in Housing Court can vary based on the type of case they are involved with and depending on whether or not they have legal representation. In nonpayment and holdover cases, landlords serve a notice of petition and petition on a tenant or group of tenants occupying a residential unit. Upon receiving these documents, the tenant has five days to appear to their borough's housing court to file a legal answer against the petition. In cases where a tenant or group of tenants are filing a case against their landlord, they are expected to bring the appropriate documents to court and file them in the correct manner, often with little to no guidance. If a tenant filing a case makes a mistake or does not bring all proper documentation, they must come back at a later date to re-file their case.

The first step for a tenant entering Housing Court, regardless of the nature of their case, is to visit their borough's Landlord-Tenant Clerk's office located in the borough's housing court building. Online court resources instruct tenants to bring the petition and any other relevant documents applicable to their case (the tenant must often use their own discretion to decide what they deem to be relevant documentation) to housing court with them. Upon checking in with the initial clerk, tenants are instructed to pull a colored tag based on their case type, and wait for another clerk to call their specific tag number and color. From there, in holdover and nonpayment cases, tenants must provide an answer to their landlord's petition, either by telling their answer to a court clerk who will complete the document for them or by writing their own answers using various posters on the walls of the clerk's office for guidance. Within the court clerk's offices and the Housing Court in general, there are limited translators available to assist tenants who do not speak English, and most of the court's translated resources describing crucial information about housing court's legal processes are only translated to Spanish.

In nonpayment and holdover cases, following the filing of an answer, the tenant is then tasked with serving their answer on their landlord or, if the landlord has legal representation, their landlord's attorney. This can be done via mail or via direct delivery. The tenant must then prepare an affidavit of service stating that their answer was served on the appropriate party. The tenant is responsible for ensuring that their service of the answer, preparation of their affidavit of service, and all court filings are completed in compliance with housing court rules and regulations. After all of these documents have been filed in the appropriate borough's housing court, the tenant and landlord will be sent a postcard notifying them of the date, time, and courtroom in which their hearing will take place.

Initial hearings in housing court can have many different outcomes, and many times future hearings are scheduled to continue arguing a given case. Tenants are expected to adjust their schedules around these dates and deadlines, facing eviction, fines, and other serious legal consequences if they are unable to attend. For low-income tenants, making time for housing court dates around work schedules, parental duties, and other obligations is especially burdensome.
Appendix B: Research Methodologies and Materials

Expert Interviews
In order to both deepen our understanding of the culture of housing court and to inform our survey questions, The Studio identified some key experts in the field to potentially interview. For the purposes of our research, we defined an expert as a tenant lawyer, tenant organizer, nonprofit affiliate (or any combination of the aforementioned roles) who works directly with tenants in housing court.

We contacted 22 experts via email and scheduled 12 interviews with experts who agreed to the interview. The interviews were recorded on the conference call line with the interviewee’s consent. Students interviewed experts with questions related to expert interview objectives and answered a range of 10-15 questions. Each interview was roughly 30 minutes long.

Analysis
The recordings of the interviews were transcribed by team members into delve and were coded on a rolling basis as they were received. The coding was made based on the main themes the team identified: “The Culture of Housing Court,” “The Impact of Evictions,” “The Impacts of Right to Counsel” and “The Tenant’s Perception of Housing Court.” The key themes and questions assisted in developing the survey based on factors coded from expert interviews and supporting research.

Field Observations and Public Events
In addition to background research, we also attended events related to housing court and observed housing court to better understand our research objectives. As part of our observations, we took field notes at each event.

Survey Pilot
Before launching our in-person research in January, the Studio designed a survey pilot to test our questions and approach. Survey questions were designed based on key themes, factors or questions that were identified in expert interviews. The goal of the pilot was to identify any ways to improve our survey by testing it out in the field before locking our final survey questions.

Before piloting the survey in person, tear of two went to both the Brooklyn and Bronx housing court to observe. They scoped out the location and best potential places for surveying and spoke with Housing Court Answers to get input for each location. Two groups of two students then piloted the survey in Brooklyn and Bronx housing courts for about 2 hours and received a total of 14 survey responses. The surveys were administered in person, on paper and verbally in English. Based on our pilot results and feedback offered by the RTCCNYC steering committee, some changes were made to the survey. The finalized English-language survey is included for review at the end of this report.

Tenant Surveys
Members of our studio group completed a convenience sampling of tenants in Bronx, Brooklyn, Manhattan, and Queens housing courts. Surveys were conducted in person and on paper. Tenants could choose to respond in English, Spanish, Mandarin or Kreyol depending on the students conducting the survey.

A note on survey methodology: due to the nature of our outreach on-site at housing court, we were unable to complete a random sample. As such, our findings offer qualitative insight into existing conditions but are not statistically significant. Also, despite putting the survey into different languages, we had limited capacity to make to the survey. The finalized English-language survey is included for review at the end of this report.

The recordings of the interviews were transcribed using a transcription software called Otter.ai, and then fully transcribed and coded using another software called Delve. Interviews were coded on a conference call line with the interviewee’s consent. Interviews were recorded on a rolling basis as they were received. Major themes were identified which would go on to frame the “tenant spotlight” narratives placed throughout this report.

Analysis
Paper surveys were scanned and coded into a spreadsheet on a rolling basis as they were received. Once all surveys had been scanned and coded, members of our team began basic analysis to interpret survey responses such as calculating frequencies per answer choice. After the baseline was established, our team worked to define queries to better understand any correlations between survey questions. Analysis was performed in Excel and Google Sheets.

Tenants Interviews
In order to deepen our understanding of housing court and reveal common themes to underscore the stakes for the RTCNYC Campaign, the Studio conducted spotlight interviews with tenants. As part of the survey, team members asked tenants if they are willing to participate in a longer conversation about their experience in housing court; 66 respondents said “Yes” to this question. We contacted those 66 tenants and scheduled 13 interviews.

The interviews were conducted in English and recorded on a conference line with the interviewee’s consent. Team members led the conversation according to the themes and allowed the tenants to express themselves and tell their story about events leading up to, during or after housing court. Each interview was roughly 20-45 minutes long.

Analysis
The recordings of the interviews were partially transcribed using a transcription software called Otter.ai, and then fully transcribed and coded using another software called Delve. Interviews were coded on a rolling basis as they were received. Major themes were identified which would go on to frame the “tenant spotlight” narratives placed throughout this report.
### Tenant Housing Court Survey

Hunter College and the Right To Counsel Coalition are working together to conduct a survey about tenant experiences in housing court, and new Right to Counsel Coalition legislation. This survey will take approximately 5-10 minutes to complete and is completely voluntary. You can stop taking this survey at any time. Whether or not you choose to complete this survey will not affect your relationship with housing court or any other organization. Thanks for your time!

1. **Are you a tenant?** YES / NO

2. **Do you have a case?** YES / NO

3a. **If a nonpayment case, what factors have impacted your ability to pay rent?** (Check all that apply)
   - I don't owe rent
   - Job loss
   - Medical emergency
   - Unexpected expense
   - Mortgage (or other charge from landlord)
   - My rent is too high
   - My apartment/building needs repairs so I am withholding rent
   - My household members have changed
   - Other: __________________________

4. **Where are you in the housing court process?**
   - Received Notice of Petition/Answered Petition (the start of your case, usually involves a clerk)
   - Resolution Part (you have been in front of a judge for the first time)
   - Trial (your case went to trial)
   - Judgement (the judge made a decision about your case)
   - I don't know
   - I prefer not to say

5. **To appear in housing court today, I needed to...** (Check all that apply)
   - Take time off work
   - Arrange transportation
   - Find childcare
   - Find a caregiver for a family member
   - Other: __________________________

6. **Have you been to housing court before?** YES / NO
   - Yes: How many times?
     - Once
     - Twice
     - 3 or more
   - No:

7. **Weren’t these visits related to the same case?** YES / NO
   - Yes:
   - No:

8. **If "NO" to 6b, were the multiple cases against you brought by the same landlord?** YES / NO

9. **How long have you lived in your current building?**

10. **Please circle YES or NO: In your current building...**
    - Are the elevators, door locks, bathrooms, and/or intercoms working? Y / N
    - Is there proper heating? Y / N
    - Do you have any leaks, mold, or need for major repair? Y / N
    - Are there any pests, such as mice, roaches, and/or rats? Y / N

11. **Have you sought any support or assistance from the following?** (Check all that apply)
    - Housing Court Answers
    - Tenant organizing group
    - Literature about housing court (online)
    - Literature about housing court (pamphlet/print-out)
    - Other: __________________________
    - Not applicable

12. **Do you have a lawyer for your case today?** YES / NO

12a. **If YES, is your lawyer from the Universal Access/Right to Counsel program?** YES / NO

12b. **If YES to #12a, where did you hear about Universal Access / Right to Counsel?** (Check all that apply)
   - Tenant organizing group
   - Housing Court Answers
   - Through a friend/family member
   - NYC website/resources
   - Social media
   - Other: __________________________

13. **What is your zip code?**

14. **Has your case and/or experience in housing court impacted other parts of your life?** (Check all that apply)
    - Job performance
    - Mental health
    - Financial well-being
    - Physical health
    - Stress or fear of losing home
    - Household relationships
    - Harassment from my landlord
    - Not applicable
    - Other: __________________________

15. **What do you think would have a significant positive impact on your experience in housing court?** (Check all that apply)
    - Legal representation / lawyer
    - More information shared before coming to court
    - Translation services
    - More info about housing court process / logistics
    - Info / workshop on tenants rights
    - Flexible scheduling for court
    - Court navigator / help
    - Childcare provided on-site
    - Not applicable
    - Other: __________________________

16. **Is there anything else about your case or housing court experience you would like to share?**

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### Additional Questions

- Do you have children that live with you? YES / NO
- What is your age range? 18-29, 30-44, 45-61, 62+
- What language do they speak at home?
- What is your gender?
- What do you identify as?

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### Financial Information

- If you have any income, please list:
- If you have any expenses, please list:

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### Contact Information

- Date: ________
- Borough: ________
- Name of researcher: ________

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Appendix C: Endnotes

1 “Special Commission on the Future of the New York City Housing Court,” NY Courts (January 2018).
3 New York City Bar, “State of New York City’s Housing Court: State of the Court and Responses from the Bar and Bench to the Special Commission on the Future of the New York City Housing Court,” April 2019. http://www.nycbar.org
4 City Limits Magazine, 1980
5 New York City Council Text, https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=6767428&GUID=d2054e-84f7-4976-8f8f-B054AE2B5B163&Options=ID%7CText%7C&Search=Int+1104
6 Ibid.
10 “Housing Brass Tacks: Ins and Outs of Housing Court,” Urban Omnibus.
13 Okasaa Mironova, “Right to Counsel and Stronger Rent Laws Helped Reduce Eviction in 2019.”
23 New York City Housing Court at 40: Controversies, Challenges, and Prospects for the Future (synopsis of March 11, 2013 conference organized by the Association of Housing Court Judges, NYU’s Furman Center for Real Estate and Urban Policy and the New York City Bar Association, based on recordings, and as compiled and written by the Housing Court Committee of the NY Bar Association).
26 “Housing Brass Tacks: Ins and Outs of Housing Court,” Urban Omnibus.
33 DHCR regulates all rent-stabilized units in New York City.
36 “HFEPS is a rent supplement for families with children who receive Cash Assistance and have been evicted or are facing eviction, who lost their housing due to a domestic violence situation, or who have lost their housing because of health or safety issues.” For more information, please see https://www1.nyc.gov/site/hra/help/hfeps.page.
38 New York City Bar, “State of New York City’s Housing Court: State of the Court and Responses from the Bar and Bench to the Special Commission on the Future of the New York City Housing Court,” April 2019. http://www.nycbar.org
45 Ibid.
47 Caroline Spivack, “Rent-stabilized landlords see profits and costs go up, setting up battle over rent freezes”, Curbed, April 5, 2019, https://ny.curbed.com/.
48 Ibid.
54 “Income Volatility, Housing Instability, and Housing Assistance,” NYU Furman Center, December 5, 2019. https://furmancenter.org
The Studio decided not to survey in Staten Island, due to multiple factors: higher rates of property ownership; lower rates of evictions and housing court cases; and feasibility and time.