

# **Right to Counsel Westchester**

Our research + community-based action process

## What is OCRA?

- Four-year course at Mamaroneck High School
- First and second year students conduct community-based research
- At the end of second year, students isolate one issue they have found to be prevalent and focus exclusively on it for the rest of the four years
- Students develop an action plan to address the issue and execute it in the third and fourth year
- We chose to focus on the lack of legal representation among low income-tenants in eviction courts

## First...a story

- Freshman year visit from Judge Gallagher, from the Village of Mamaroneck
- Vivid description of what he sees in a court during eviction proceedings: a landlord will bring a lawyer while a tenant will often bring a baby in a stroller

## The Current Situation (in data)

- Every Year over **10,000** eviction proceedings are filed in Housing Courts of Westchester
- In those proceedings **over 90%** of landlords have legal representation while **less than 10%** of tenants have legal representation
- In the Fiscal Year of 2019, **4,960** people entered the Westchester Homelessness System, **2,911** of those people were new to the homelessness system
- Typically a tenant without an attorney will lose their case in **under 4 minutes**
- **Evictions** make it harder to rent another apartment, they help to ensure long-term poverty, and they cause psychological and generational trauma

# Context

*What exactly is a Right to Counsel?*

# What is a right to counsel?

Right to counsel is the guarantee of legal representation for tenants in eviction proceedings.

# Why right to counsel?

Right to counsel is a lasting solution to a growing threat.

## Cities and states with R2C:

- ❖ States: Washington, Connecticut, Maryland
- ❖ Cities: NYC, San Francisco, Newark, Philadelphia, Cleveland, Baltimore, Boulder, Denver, Toledo, Minneapolis, Louisville, Seattle, Kansas City
- ❖ Places considering R2C (not all inclusive): New York, New Jersey, Delaware, Massachusetts, South Carolina, Nebraska, Indiana, Minnesota, Hawaii, Milwaukee, Denver

## The Release of the Stout Feasibility Study

In March of 2022 a feasibility study was published that analyzed the cost benefit of right to counsel legislation in the state of NY outside of NYC.

The study illuminated some key data points that will guide our steps forward, and hopefully be utilized to encourage the passage of a Right to Counsel on both the state and county level.

# The State of Eviction in NYS

**42%** of tenants outside of NYC do not appear in court for the proceedings.

**95%** of tenants cannot resolve eviction cases with landlord independently without legal representation.

**97%** of tenants are estimated to accept legal representation if it was provided.

# How does eviction affect tenants?

In NYC, evictions increase the probability of applying for shelter by **14%**

*Landlords can easily access prospective tenants eviction history reports. A data aggregation company that gathers info like this for landlords stated that “it is the policy of 99 percent of our landlord customers in NY to flat out reject anybody with a landlord-tenant record.”*

Eviction-related suicides make up 1-2% of all suicides

Students are 3x more likely to repeat a grade if they experience housing instability

The likelihood of being laid off is about 11 to 22 percentage points higher for workers who experienced an eviction.

## How does Right To Counsel prevent eviction?

- ❖ 42% of tenants in NYS do not appear in court and lose by default -> R2C is predicted to reduce these default rates by 32%
- ❖ Lawyers can formally represent tenants as well as provide legal advice to at-risk tenants

*\*\*Without legal representation, tenants are vulnerable to being evicted on premises of lease violations they did not commit or being looped in to paying more than they legally owe.\*\**

# Current Sources of Help

## In Westchester:

- ❖ Legal Services of the Hudson Valley
  - Does not serve unocumented tenants
  - Extensive intake process
- ❖ Hudson Valley Justice Center
  - Serves unocumented tenants BUT
    - Very limited capacity

*\*\*Existing organizations support many low-income tenants, but are unable to represent all tenants at risk of eviction.\*\**

## Is Right To Counsel economically feasible?

***\*\*Yes, Right To Counsel will save money over time\*\****

- ❖ Eviction increases number of children in foster care: cost per out-of-house child care is 18,000 per year
- ❖ Homelessness is a very direct and costly consequence of evictions
  - The statewide average annual cost to NY to provide emergency shelter of a single individual experiencing homelessness is **\$47,000**, the cost to provide for families is **\$81,700**
  - There are costs associated with the unsheltered population as well, the cost to reduce encampments and provide services ranged from **\$1,672** and **\$6,208**

## NYC Right to Counsel

- ❖ Cost analysis study concluded **R2C could save NYC \$320 million per year**
- ❖ Since R2C was enacted: **84% of represented tenants remained in their home**
- ❖ **Evictions have declined 30%** in zip codes with R2C

# Bringing it Local

*How Westchester is  
working towards a local  
Right to Counsel*

# Westchester Right to Counsel Coalition

- Formed in late 2020 to advocate for a tenant's right to counsel in Westchester County
- Made up of legal providers, community organizers, and faith leaders from across the county
- Has worked directly with the county in some parts of developing the legislation

**Westchester County**



**Right to Counsel Coalition**

*Advocating for the preservation of every person's fundamental right to safe and secure housing.*

# Westchester County Legislation

The vision: County-wide R2C legislation that follows the model proposed by the coalition and that receives adequate funding to make it a reality.

*About a month ago, George Latimer introduced legislation that would do just that.*

Our nearby municipalities have already shown support for this legislation through the passage of municipal resolutions in the Village of Mamaroneck, Town of Mamaroneck, Village of Larchmont, and Village of Port Chester.

# Municipal Resolutions

*Municipal Resolution = passed by a municipal board that typically makes a statement of support or a promise; different from legislation*

The Whereas clauses from our R2C resolution:

**THEREFORE**, on this day, \_\_\_\_\_ the [municipal name] does resolve as follows:

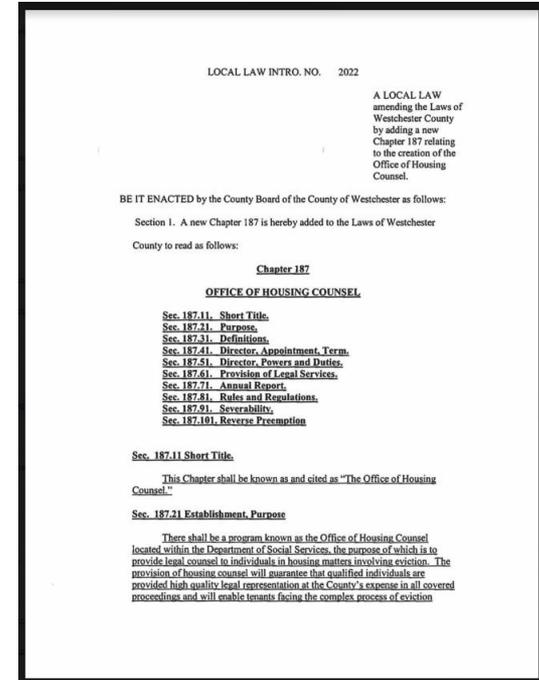
**RESOLVED** that the [municipal name] encourages local leaders to take steps to understand and to address the impact of eviction proceedings on residents of their communities, regardless of immigration status or national origin;

**RESOLVED** that the [municipal name] encourages the Westchester County Board of Legislators to pass legislation guaranteeing Westchester tenants the Right to Counsel, regardless of immigration status or national origin.

# The County Legislation Draft

“A Local Law amending the Laws of Westchester County by adding a new chapter 1987 relating to the creation of the Office of Housing Counsel.”

- Locates the OHC within the Department of Social Services
- Legal services will be provided “designated organizations or qualified professionals”



## Concerns with the County Legislation Draft

In order to make sure the county's legislation is as effective as possible, the Right to Counsel coalition has requested that the following changes be made to the legislation:

**1 - Changing the term “tenant” to “occupant,” to protect tenants who don't have a lease.**

*(Example sentence: “The Office of Housing Counsel will ensure that tenants facing eviction will be provided with professional client centered legal representation”)*

## Concerns with the County Legislation Draft

In order to make sure the county's legislation is as effective as possible, the Right to Counsel coalition has requested that the following changes be made to the legislation:

**2 - Increasing the income cutoff to use a percent of the Area Medium Income, rather than at 300% of the federal poverty level, where it is now. Ideally, like the ERAP program, it would be at 80% of AMI.**

## Concerns with the County Legislation Draft

In order to make sure the county's legislation is as effective as possible, the Right to Counsel coalition has requested that the following changes be made to the legislation:

**3 - It is crucial that this plan is well-coordinated and takes into account all relevant and involved voices. We'd like to see the county work with providers and other cities/counties/states on the implementation plan.**

## Concerns with the County Legislation Draft

In order to make sure the county's legislation is as effective as possible, the Right to Counsel coalition has requested that the following changes be made to the legislation:

**4 - In a similar vein to 3, we'd like to see organizers who are involved receive funding for their work.**

## Concerns with the County Legislation Draft

In order to make sure the county's legislation is as effective as possible, the Right to Counsel coalition has requested that the following changes be made to the legislation:

**And, finally, 5 - We'd like it to be required that the head of the office have sufficient experience and knowledge of landlord-tenant law and practice, as it is essential for the program to run smoothly.**

# Actionable Steps

*How you can get involved  
in Right to Counsel*

# Personal action items

Call, email, or write a letter to your representative on the County Board of Legislators showing your support for the legislation as well as the edits proposed by the Right to Counsel coalition.

[Use our call scripts!](#)



#### **RIGHT TO COUNSEL WESTCHESTER 2022 ACTION KIT**

Participate in the Westchester Right to Counsel movement by urging the County Government to develop and implement a program that guarantees all tenants the right to an attorney.

Right to Counsel (R2C) is the guarantee of legal representation for tenants in eviction proceedings. We are advocating for funding and legislation that sets up an R2C program in Westchester County, similar to the program implemented in New York City in 2017.

#### **Why is representation important in eviction proceedings?**

In Westchester eviction proceedings, an average of **93% of landlords have attorneys, but only 7% percent of tenants do**. Without representation, tenants are often evicted on false premises of lease violations they didn't commit or excess rent that they do not legally owe. That is why it is critical for tenants to be provided with guaranteed legal services, especially with the influx of evictions that has already started to come as a result of the COVID-19 pandemic.

#### **Current status of county-wide legislation:**

The county-wide legislation has been introduced to the Board of Legislators from Executive George Latimer! While this is great, there is still work to be done to ensure that the legislation is written in and carried out in the most effective way possible. In this regard, the Westchester Right to Counsel coalition has highlighted a few changes they'd like to see in the bill, which are specified in the calling and emailing scripts below.

Join the Westchester County Right to Counsel Coalition taking action. **Call, email, or write (or all three!) the County Executive and your legislator** to ensure that Right to Counsel passes in the most effective way possible this legislative session.

## Organization action items

If you are part of an **organization** or a **faith-based community**, consider bringing them a sign-on letter to be sent to the County Board of Legislators. If they choose to sign-on, fill out the form and we'll send the final copy to the BOL.

*\*\*These are google forms – they are super easy to use, all you need to do is fill in the required information!*

# Questions? Comments?

Right to Counsel Westchester | OCRA 2022