



Testimony of FPWA

**Presented to:
Office of Civil Justice
Hearing on Universal Access to Counsel Law
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We are grateful to the Office of Civil Justice (OCJ) for holding this hearing on the Universal Access to Counsel (UAC) Law and for the opportunity to provide written comments on behalf of FPWA (Federation of Protestant Welfare Agencies).

FPWA is an anti-poverty policy and advocacy organization committed to advancing economic opportunity, justice, and upward mobility for New Yorkers with low incomes. Since 1922, FPWA has driven groundbreaking policy reforms to better serve those in need. We work to dismantle the systemic barriers that impede economic security and well-being, and strengthen the capacity of human services agencies and faith organizations so New Yorkers with lower incomes can thrive and live with dignity.

The UAC program is designed to provide free legal representation during eviction proceedings in housing court or termination of tenancy in New York City Housing Authority (NYCHA) administrative proceedings to New York City residents whose households are below 200% of the federal poverty line, a woefully inadequate measure of need. Stable housing is a foundational requirement for individuals and families to thrive. Eviction can destabilize families, forcing children to change schools, and displacing individuals from their communities. The impacts of eviction are far-reaching. Research shows that evictions are correlated with increased risk of homelessness, emergency room use, and mental health hospitalization.¹ Eviction can also have long-term negative effects on financial health including credit, and depresses income, with one study by the National Bureau of Economic Research (NBER) finding that those with evictions experience a 7% loss of earnings in the 1st year after eviction, and a 14% loss of earning in the second year after eviction.²

As a member of the Right to Counsel (RTC) NYC Coalition, a tenant-led coalition that formed in 2014 FPWA lauds the passage and spirit of the Universal Access to Counsel Law. Passed in 2017 New York City became the first city in the nation to establish a Right to Counsel for tenants facing eviction, which has inspired a movement across the country.

To lessen the administrative burden, the UAC program ramped up over several years. In 2017 the UAC program only covered eligible New York City residents in selected zip codes. By 2022 the program had reached full implementation. However, **the UAC program has never had the capacity to provide representation in eviction proceedings to all eligible New Yorkers both due to insufficient funding for the program, and a lack of investment in capacity building among tenant attorneys** that could address issues of burnout and attract more attorneys to the field. Furthermore, **Housing Court proceedings are continuing to move forward despite the lack of representation.** The courts are prioritizing speed over tenants' rights to due process, which undermines the fundamental fairness of these proceedings. Today, more than 46,000 households³ are facing eviction alone.

There is significant evidence of the effectiveness of funding legal counsel for tenants. A study of the roll out of New York City's Universal Access to Counsel Program (UA) found that tenants with lawyers are considerably less likely to be subject to possessory judgments, face smaller monetary damages, are less likely to have eviction warrants issued against them, and are ultimately less likely to be evicted.⁴ The efficacy of legal counsel calls into question the fairness of housing eviction proceedings where the tenants are unrepresented and losing their cases not on the merits, but due to their lack of representation. There is no justice in these proceedings when tenants are denied representation. As an organization dedicated to dismantling the systemic and structural barriers that led to deprivation, FPWA

¹ https://economics.nd.edu/assets/303258/jmp_rcollinson_1_.pdf

² https://www.nber.org/system/files/working_papers/w30382/w30382.pdf

³ <https://www.righttocounselnyc.org/nycrisismonitor>

⁴ <https://www.sciencedirect.com/science/article/pii/S0047272723000269>

notes that this is more than procedural matter, it is also a racial and economic justice concern as eviction particularly impacts low-income people of color with disabilities, especially Black women, who are disproportionately rent-burdened, or pay more than 30% of their income on rent, and more likely to face eviction.⁵

One of the greatest impediments to the successful implementation of the UAC Programs has been the seeming lack of understanding about the importance and spirit of the law on the part of the New York State Office of Court Administration (OCA), who administer the New York State housing courts. OCA continues to schedule eviction proceedings at a rate that exceeds the capacity of the UAC Program attorneys, leaving eligible New Yorkers without representation and thus more vulnerable to the aforementioned negative outcomes. Under the previous administration, OCJ would negotiate with the courts to uphold the spirit of UAC. Under the current administration, OCJ no longer seems to have this open dialogue with the court system, and rather than proactively supporting tenant well-being and upholding the spirit of the law the OCJ is tasked with implementing, OCJ seems satisfied with increasing numbers of tenants facing the dire socioeconomic consequences of eviction without the best tools possible, i.e., legal representation.

To ensure the successful implementation of the UAC Law we recommend the following actions:

The city must add at least \$300 million to the budget to ensure there are enough attorneys to accommodate everyone entitled to representation in eviction proceedings.

We recommend that OCJ work with the New York State Office of Court Administration (OCA) and the state legislature to uphold the spirit of UAC. Several ways this could happen include:

- Chief Judge Rowan Wilson issuing an administrative order mandating that all eviction cases where a tenant is eligible for an attorney under the UAC law shall be administratively stayed until the tenant has had an opportunity to meaningfully meet with and retain counsel.
- The state legislature must vote on and pass S3254 / A4993, which would mandate that the court adjourn eviction cases when a local law provides a right to counsel and no counsel is available, and A1493 / S2721 which would create a constitutionally enshrined right to counsel in eviction proceedings for New York tenants, and create rules for the courts to uphold and implement.

Finally, we have specific recommendations concerning the newly instituted Brooklyn Housing Court Pilot program:

The Human Resources Administration (HRA) has launched an Administrative Pilot in Brooklyn Housing Court that essentially directs tenants to apply for emergency assistance with HRA, before they are connected to a Universal Access attorney to litigate their case. This seems like an attempt to circumvent the tenants' rights to counsel and could lead tenants with viable claims to forgo housing court and the opportunity to receive redress.

We urge you to implement the following recommendations for improving the Brooklyn Administrative Pilot to ensure the spirit of Universal Access is upheld:

- Ensure that tenants are connected to a housing attorney first to allow them to raise and litigate defenses.
- Publicly release any existing metrics and data OCJ has on the impact of the Administrative Pilot.

⁵ <https://www.americanprogress.org/article/recognizing-addressing-housing-insecurity-disabled-renters/>;
<https://www.americanprogress.org/article/the-disproportionate-burden-of-eviction-on-black-women/>

- Engage in a process of deep evaluation of the Administrative Pilot with the RTCNYC Coalition and other stakeholders.

Thank you for the opportunity to testify. FPWA hopes you will consider our recommendations, and we look forward to working with you to ensure the success of the UAC program, and the protection of tenants' rights in New York City.