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Presented before

**The New York City Council
Committee on General Welfare**

Oversight Hearing on the Impact of the Expiration of the Eviction Moratoriums

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Introduction

My name is Tamara Holliday, and I am a Senior Staff Attorney of the Civil Justice Practice at Brooklyn Defender Services. I want to thank the New York City Council for an opportunity to be heard concerning this new post-eviction moratorium era and how the end of the moratorium will continue to have devastating effects on New York City.

Brooklyn Defender Services (BDS) is a public defense office whose mission is to provide outstanding representation and advocacy free of cost to people facing loss of freedom, family separation and other serious legal harms by the government. We represent approximately 25,000 people each year who are accused of a crime, facing loss of liberty, their home, their children, or deportation. BDS' Civil Justice Practice (CJP) aims to reduce the civil collateral consequences for our clients who have interacted with the criminal, family or immigration justice systems. We also serve our clients with additional civil legal needs; we know that even a minor housing or benefits issue, if unaddressed, can have insurmountable repercussions, especially for our clients who are already dealing with serious problems in other forums.

New York City's Post-Eviction Moratorium Crisis

New York City has been at the epicenter of the COVID-19 crisis for nearly two years. The statewide eviction moratorium protected hundreds of thousands of vulnerable tenants and their families safe from eviction and homelessness during an unprecedented health crisis. Many families who were facing housing insecurity and permanent displacement before the pandemic had temporary relief with the eviction moratorium. Those who lost their jobs or had a reduction in income had some peace of mind knowing that they could not be evicted for rent owed during that time. New Yorkers with health risks were able to remain in their homes without fear of being evicted and further risking exposure to COVID-19.



With the end of the eviction moratorium in January, hundreds of thousands of New Yorkers are suddenly facing the threat of eviction. This fallout lands disproportionately on the city's most vulnerable communities. While many industries in the city have recovered since the height of the pandemic, that recovery has been uneven. Many of the people we serve worked in industries that were completely shuttered during the pandemic, such as the hospitality and food services industries, and have faced employment insecurity for nearly two years. While the moratorium has enabled tenants who lost their jobs or income to stay in their apartments long after they otherwise would have, many continue to struggle to pay rent and other expenses now that the moratorium has expired. Not only are tenants now at imminent risk of eviction, they may also face massive nonpossessory money judgments for the rent owed during the moratorium period.

One BDS client, Ms. D., lost her job during the pandemic. Her roommates moved out of her three-bedroom apartment, leaving her responsible for all of the rent in an apartment where she already struggled to afford her portion. While the moratorium protected her from eviction throughout the pandemic, she had no income and is now facing a money judgment of close to \$60,000 for the two years that she was unable to pay her rent. She was also unable to move out earlier in 2021 because she tested positive for COVID-19 and stayed longer than she anticipated to recover. Now Ms. D is faced with an exhausting apartment search and will likely have to face that daunting task with a money judgment of nearly \$60,000. This will negatively impact her credit, making it much more difficult to be approved for a new apartment. As she continues to struggle to support herself with the little income that she has, she will likely carry this debt for most of her adult life.

It is important to note that while the city, state and even federal government have all proclaimed a massive uptick in economic recovery, this does not apply equally to the people we serve. Many of our clients are unable to go back to the jobs they previously had, either because that job no longer exists or because many of them still suffer from the lingering effects of the coronavirus. Many of our clients have also suffered family losses, where that family member was the main provider, with our clients often having to readjust and find alternative means of income without having the time to grieve.

With the economic recovery, we have witnessed a citywide increase in rent. Rents are rising throughout the city, in some neighborhoods even beyond what they were pre-COVID. If our clients were barely able to afford market rate rents pre-COVID, they are unlikely to afford them in this post-moratorium competitive market.

Brooklyn Defender Services employs an affordable housing specialist to assist clients with the challenges of relocation, including seeking apartments that will accept the State FHEPS and CityFHEPS vouchers, advocating with DSS and HomeBase to expedite applications, and speaking with landlords to urge them to accept tenants with these vouchers. Our housing specialist has observed that HomeBase offices have a case backlog of several months, which began during the eviction moratorium and continues now. Often, our clients must wait months just for an initial call to be screened for eligibility and assigned to a case worker. This wait time does not include the lengthy process of HomeBase collecting documents for the application, submitting the application, and issuing a shopping letter. HomeBase must complete those steps before our clients can even begin to search for an apartment where the landlord will accept the voucher. Altogether, the process could take the better part of a year. This incredibly onerous task



of finding an apartment with a voucher was already daunting pre-COVID. Now with landlords raising rents to attempt to recoup the financial losses they suffered during COVID, many of them are more unwilling than ever to accept vouchers that require a weeks or months-long approval process.

Recommendations

The city must prioritize creating more affordable housing. We understand that this has been asked more times than we can all count, and we are all aware that former Mayor Bill de Blasio set out to create over 300,000 affordable units, however, until we see a trend towards more affordable units for those who are homeless, in shelter, or at risk of eviction, this must remain the priority. The affordable housing lottery, as of 2018, had a 1 in 593 chance of success for each person applying for an affordable unit. Even if someone succeeded in obtaining affordable housing from the lottery, the ability to afford those units has been and continues to be uncertain. For instance, the average income for a one-person household in New York City was just over \$32,000, yet the expectation in many of these affordable housing units is for a one-person household to be making well over \$60,000, and even then, that person is still expected to be incredibly rent burdened, often paying 40% or more of their monthly income to rent.

We also urge the city to expand and reform its rental assistance voucher program. The CityFHEPS voucher was created in acknowledgement of the unique and extenuating circumstances and needs of New York City tenants. DSS should remove barriers that are preventing tenants from accessing the vouchers that would directly prevent evictions and secure stable, permanent housing. For example, HRA and the city government should waive the shelter requirement for CityFHEPS eligibility. Families who are eligible for public assistance or whose income falls within the federal poverty guidelines should be able to get assessed and approved for CityFHEPS even if they have never lived in the shelter. This requirement unnecessarily imposes the trauma of a shelter stay on families, while burdening the city with cost of providing that shelter. DSS should also immediately expand the number of providers who are authorized to screen tenants for voucher eligibility and complete applications. Reforming the onerous CityFHEPS eligibility and application process would promote stability and reduce the devastating shuffle between our limited affordable housing stock and the shelter system.

We also urge the city to consider paying a portion of a tenant's arrears, even when that tenant ultimately cannot remain in the apartment, in consideration for the landlord not pursuing a money judgment against the tenant. Historically, DSS has not been willing to make payments on that type of case because the money is not tied to eviction prevention. However, many of our clients, like Ms. D, will have the extra burden of trying to find a new apartment with a money judgment over their heads. After nearly two years of not collecting rent, many landlords are now attempting to recoup something by pursuing massive money judgments where they know the tenant is unable to pay. There have been no exceptions made for tenants who were affected by COVID, and while there are legal protections in place for those who are insolvent, we are all aware that money judgments linger, and can put people at risk of future wage and tax garnishments, frozen bank accounts, and potential bankruptcy. Given how these money judgments become yet another barrier to securing stable housing, they will inevitably force



families into the shelter system. In those cases, the city would spend less paying the arrears upfront than on the \$3,000 monthly cost of housing a family in shelter.

No eviction proceeding in Housing Court should move forward until the tenant has an opportunity to obtain representation. The pandemic has complicated the implementation of Right to Counsel in Housing Court, and with the end of the moratorium has come a massive influx of eviction cases and demand for legal assistance. Given our model of representation at BDS, we are often able to get involved before the Housing Court case begins by addressing underlying benefits issues and giving clients preventative advice. We particularly know how this early involvement and advocacy is critical to avoid months of stressful litigation and the threat of imminent eviction. Returning to the fast pace and high volume that characterized pre-pandemic Housing Court would be particularly devastating for our clients, who are often navigating issues in multiple legal systems.

Finally, eviction prevention is not the only court-based remedy needed to fight against tenant harassment and displacement. Throughout the pandemic we noticed an uptick of illegal evictions, tenant harassment, and failure to make repairs. We expect these problems to persist, especially for the people we serve who are still struggling to pay rent and navigate the bureaucratic hurdles to obtain vouchers. BDS is a proud member of the Leap coalition, which plays an instrumental role in both the Right to Counsel and Anti-Harassment Tenant Protection programs. Through this work we emphasize the importance of sufficient resources to support holistic client services and funding to fight against tenant harassment and displacement beyond individual eviction cases. Our wholistic approach is essential to protecting our communities and ensuring tenants remain in their homes with dignity.

Conclusion

We thank the New York City Council for the opportunity to appear today and discuss these important and timely issues. We urge the city to prioritize investing in safe and stable housing now, and to implement rent relief measures that will keep all families housed and out of the shelter system. Thank you for your time and consideration of our comments. We look forward to further discussing these and other issues that impact the people and communities we serve. If you have any additional questions, please contact Alexandra Dougherty, Senior Attorney and Policy Counsel, at adougherty@bds.org.