



WRITTEN TESTIMONY FOR THE CHIEF JUDGE'S 2024 HEARING ON CIVIL LEGAL SERVICES IN NEW YORK BY BROOKLYN LEGAL SERVICES CORPORATION A

September 6, 2024

Thank you for the opportunity to comment at the 2024 Chief Judge's hearing on civil legal services in New York. My name is Jessica Rose and I am the Executive Director at Brooklyn Legal Services Corporation A (Brooklyn A).

Thank you for continuing to examine the unmet requirements for civil legal services and evaluating the resources needed to address them.

Brooklyn A is a civil legal service provider and member of the New York Legal Services Coalition (NYLSC) and the Leap Coalition. Our mission is to wield community-focused civil legal services to confront injustice. Brooklyn A works to ensure all New Yorkers have equal access to legal services to seek justice, make their voices heard, and overcome systemic oppression and racism. We address the myriad systemic issues facing our communities by providing a combination of legal assistance, including full legal representation, brief advice/services, and community education, to marginalized populations—including the low-income working poor, the unemployed or underemployed, the disabled, seniors, survivors of domestic violence, families in crisis, community-based organizations ("CBOs"), and largely women, immigrant, and BIPOC-owned small businesses throughout New York City ("NYC").

Judiciary Civil Legal Services Grant (JCLS) funding has been instrumental in helping Brooklyn A provide free legal services to low-income residents throughout NYC. Between 2023-24, we handled 3,214 individual cases, impacting 7,162 people across 16 counties. Additionally, we provided legal services in 1,559 group matters. In addition to our tenant housing and foreclosure prevention work, JCLS funds have supported the work of our Low-Income Taxpayer Clinic and our Domestic Violence Program. JCLS funding offers a breadth of utility that enables Brooklyn A to maintain a variety of critically needed programs within our organization.

Our organization has been able to make good use of JCLS funds but shares in the concerns of our fellow civil legal service providers about the unmet need for civil legal representation. This sector is woefully underfunded to meet the ambitious and necessary goals of programs like the state Homeowner Protection Program (HOPP) and the NYC Right to Counsel/Anti-Eviction Full Legal Representation program and we offer this testimony in the hopes that the Chief Judge can improve access to justice for all New Yorkers in the year to come.

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Defending tenant housing

A combination of a dwindling stock of affordable apartments, surging rental rates and the ongoing financial hardship following the pandemic affecting many New Yorkers means the need for legal services still dramatically outweighs the capacity of the legal service providers across NYC. Median rents in Manhattan, Brooklyn, and Queens reached record-breaking highs in 2023 and have cooled only slightly since, while the citywide vacancy rate dropped to 1.4 percent—the lowest our city has seen in decades.¹ Meanwhile, evictions have remained sky-high since NYC’s pandemic eviction moratorium was lifted in January 2022. According to recent reporting on city records, city marshals carried out more than 13,000 residential evictions last year.² Evictions are surging across NYC, with the monthly rate of illegal lockouts mirroring pre-pandemic numbers in the second half of 2023.

Access to free legal services makes a striking difference in the outcome of eviction proceedings: an analysis of Housing Court outcomes by the Office of Civil Justice from 2022 showed 78% of New York City tenants with a lawyer in eviction proceedings were able to stay in their homes and avoid facing the streets or the overloaded shelter systems.³

Brooklyn A’s aggressive housing practice prevents thousands of evictions of low-income tenants and their families each year by securing repairs and essential services; helping families obtain the benefits they need to pay rent arrears and afford future rent; and contesting illegally high rents, slowing the increasingly rising rent costs. This work by Brooklyn A is primarily funded at the city level by the Anti-Eviction: Full Legal Representation program (formerly the Homelessness Prevention Law Project), also known as the Right to Counsel program (RTC); at the state level, JCLS is the top source of funding for us.

Brooklyn A also provides essential legal services to tenant groups, employing aggressive legal tactics to challenge landlords that neglect affordable housing properties in order to ensure that our tenant clients can live safely in their homes and their affordability is preserved. This group representation work is primarily funded by the NYC Anti-Harassment Tenant Protection (AHTP) program.

The demand for these services is higher than ever, and discretionary support is essential to provide continued support for eviction prevention work that remains at citywide highs for NYC, as well as tenant-affirmative work including organizing and assuring safe housing conditions, critical work that is not being funded by the City’s Right to Counsel Program. We need maximum support to provide representation to keep New Yorkers in their homes, get repairs and restoration of essential

¹ New York City Comptroller Brad Lander. “Spotlight: New York City’s Housing Supply Challenge.” February 13, 2024. [Spotlight: New York City’s Housing Supply Challenge : Office of the New York City Comptroller Brad Lander \(nyc.gov\)](#)

² City Limits “Spiking Evictions Renew Calls to Reform NYC Marshals System.” August 26, 2024. [Spiking Evictions Renew Calls to Reform NYC Marshals System \(citylimits.org\)](#)

³ Office of Civil Justice “Universal Access to Legal Services” report, 2022. [OCJ UA Annual Report 2022.pdf \(nyc.gov\)](#)

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services made, educate tenants on their rights, and represent tenants in danger of losing their homes in legal proceedings.

Under New York City's Right-to-Counsel (RTC) law, tenants facing eviction or New York City Housing Authority administrative proceedings are entitled to free legal representation and advice, and Brooklyn A is a proud RTC provider. However, as the RTC program has evolved due to the overwhelming need for these services, providers (and our hardworking staff) have been stretched thin, with attorneys, paralegals, social workers, and support staff working at or beyond capacity. RTC providers continue to advocate for increased City funding, but until the City fully funds the program so that it is scaled to the size necessary to meet the housing court docket, funding from other sources remains essential. Changes in state housing laws over the last five years have afforded tenants more robust defenses. This is clearly a net win for our clients, but it requires more complex legal practice and cases that last longer.

Last year marked the first full year of Brooklyn A's domestic violence (DV) program, which was launched in October 2022. Through this initiative, we provide legal advice and representation to survivors of domestic violence (including child abuse) and sexual assault on civil legal issues, including orders of protection, custody, support, and other related family law issues. Although it is not a collaborative project, the DV team works closely with, and receives referrals from, the Brooklyn Family Justice Center. Brooklyn A has always served survivors of domestic violence, but our dedicated program allows us to holistically address the myriad problems survivors face, particularly housing insecurity. The DV Program of Brooklyn A is largely funded by a Victims of Crime Act (VOCA) Victim and Witness Assistance contract, but we have to additionally underwrite the program with other sources to cover the full cost of the program. Furthermore, it is a pilot project of just one staff attorney and one social worker. We have seen over the last two years that there is need to further expand the team's size to meet the demand for services.

A recent report by New Destiny Housing found domestic violence is one of the leading causes of homelessness for women and children in New York City.⁴ In FY2023, it was the second leading reason for eligibility in the DHS Shelter system behind "asylum seeker." That means domestic violence caused more families to enter the shelter system than evictions. And with the tight housing supply, between 2018 and 2023 more than 50 percent of survivors who left the shelter went to another one rather than find permanent housing. Survivors need better access to legal services to seek justice, but also more case workers and voucher access so they can secure safe housing quickly. When civil legal services are unavailable to New Yorkers overall, it puts strain on the system and prevents providers from responding quickly to DV survivors and others who need new permanent housing immediately. Improving funding for tenant civil legal service providers overall will ripple positively through the system and open up resources for those in crisis.

⁴ New Destiny Housing. "A Crisis Compounded: The Dual Crises of Domestic Violence and Homelessness." July, 2024. [New Destiny Housing » A Crisis Compounded: The Dual Crises of Domestic Violence and Homelessness](#)

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Defending homeowners

New York City's foreclosure moratorium ended alongside the eviction moratorium in January 2022. Although foreclosure rates across NYC remain lower than pre-pandemic levels, they are rising steadily—jumping 87% between 2022 and 2023.⁵ The boroughs in which we conduct most of our foreclosure work, Brooklyn and Queens, combined to account for 70% (26% in Brooklyn and 44% in Queens) of all foreclosures in New York City as of July 2024.⁶ A July report from this year found foreclosures remained flat, with only a 1% increase from 2023 and Queens seeing 44% of the filings in this most recent period.⁷ Still, combined with the reality that the true cost of living in each borough has increased more than 25% since 2021, New York homeowners are still deeply in need of legal services to prevent foreclosure.⁸

Foreclosures disproportionately affect communities of color, who have faced historic barriers to property ownership and accumulation of wealth. More than half of the median wealth gap between Black and white seniors can be attributed to racial differences in housing wealth, according to the Panel Study of Income Dynamics. Additionally, Black and Latine homeowners have substantially lower return on investment due in part to a higher rate of distressed sales caused by foreclosure (National Bureau of Economic Research). The higher rate of foreclosures threatens the potential for greater intergenerational wealth for largely BIPOC low- and moderate-income homeowners.

Many foreclosures are the result of predatory lending scams, which target people with lower credit scores and less cash on hand. In New York City, these borrowers are often people of color. The elderly, whose wealth is more likely to lie in assets, such as their homes, are also more likely to be targeted.

Brooklyn A's Consumer and Economic Advocacy (CEA) Program provides vulnerable homeowners with legal services to protect economic equity. Over the past year, most of our foreclosure cases were in Kings and Queens counties, the counties with the highest foreclosure rates in NYC.

In Fiscal Year 2023, we defended 334 individuals and families from foreclosure discriminatory practices by predatory lenders, financial institutions, and home rescue scam artists. Of these homes, over half were owned by seniors, and 92% were owned by people of color.

In instances where our capacity is strained, we find it necessary to temporarily suspend new cases, leading us to refer these individuals to other reputable organizations in the hope that they can receive the necessary support. These individuals are often in distressing situations, facing imminent threats such as eviction, foreclosure, harassment, and, regrettably, abuse from a

⁵ Property Shark. "2023 Annual Foreclosure Report: NYC Cases Nearly Double Year-Over-Year, but Still Reach Only Half of Pre-Pandemic Levels." January 10, 2024. [2023 NYC Annual Foreclosure Report | PropertyShark](#)

⁶ Property Shark. "2024 Q2 Foreclosure Report: Queens & Brooklyn Claim 70% of City's Caseload." July 3, 2024. [2024 Q2 NYC Foreclosure Report | PropertyShark](#)

⁷ Ibid

⁸ United Way. "NYC True Cost of Living." 2023. [True Cost Of Living - United Way of New York City \(unitedwaynyc.org\)](#)

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domestic partner, necessitating urgent intervention such as facilitating a connection between survivors and other supportive organizations to help them find housing.

Brooklyn A was the first and is still one of the only legal service organizations in New York City whose foreclosure prevention practice includes complex bankruptcy cases suitable to resolving foreclosure matters. The bankruptcy code allows for an array of otherwise unavailable remedies, including forcing a bank to reinstate a defaulted loan, stripping of second and third mortgages from the property, reducing loans to the value of the property in limited circumstances, removing judgment liens attached to the property, protection of co-signers from liability, forcing state and federal agencies to accept back taxes being paid over time, and stopping wage garnishments, among others. Expedient handling of a bankruptcy case also eliminates the arrears, interest, and penalties that can develop and build up from delays in state court.

With more state resources, Brooklyn A and our peers could expand our work, protect more homeowners from foreclosure, and pursue other creative ways of defending clients' greatest financial assets.

Reaching the necessary funding level

The demand for civil legal services continues to grow, and increased funding is essential to provide continued support for eviction and foreclosure prevention work.

The 2023 Annual Report from the Permanent Commission on Access to Justice estimated, New York State is short as much as \$1 billion needed in additional funding to assist all low-income New Yorkers facing civil legal issues.⁹ Brooklyn A joins our fellow legal service providers in urging the state and city to maintain and expand its sources of funding for the Right to Counsel (RTC) and other programs to better meet the need to preserve affordable housing and prevent homelessness. The current funding level for RTC only supports legal representation for just over half of the NYC tenants who need services each year – the antithesis of the intent of the NYC Right to Counsel Law.

The majority of our state and city contracts are not structured to cover yearly increased costs including cost of living adjustments (COLA) and this needs to be remedied so that the contracts includes annual COLA increases as well as additional funding upfront to make up for the years without any such increases.

The “Access to Justice Gap,” the space between the civil legal needs of low-income New Yorkers and the resources available to meet those needs has now been documented and assessed at a \$1 billion over what is currently in the system. As noted in the Permanent Commission on Access to Justice’s 2023 report to the Chief Judge, “the Permanent Commission recently adopted its Funding Working Group’s report finding that between \$842 million and \$1 billion is a realistic estimate of the additional annual funding, over and above existing funding, to close the justice gap.” Notably, this

⁹ New York State Unified Court System. “Report to the Chief Judge of the State of New York.” November, 2023. [Annual Reports & Appendices | NYCOURTS.GOV](#)

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analysis focuses only on those earning up to 250% of poverty and does not include immigration related legal services.

Fully funding civil legal service programs and addressing contracting challenges are parts of the solution to the housing affordability crisis plaguing NYC and the state. Keeping low-income people in their homes is essential not only for their individual well-being, but also as a bulwark against the loss of affordable rents in the housing market. When a low-income tenant is evicted, their apartment at times is not rented again to low-income tenants; as contrary to the law, unscrupulous landlords raise rents illegally or remove the apartment from the market altogether. Thus, as we move through the many stages of this housing and health crisis, we remain on the frontline of efforts to ensure that the needs of New York's marginalized communities are met. We will continue to make the case for justice and equity.

We need maximum support to provide representation to keep New Yorkers in their homes, get repairs and restoration of essential services made, educate tenants on their rights, and represent tenants in danger of losing their homes in legal proceedings.

Brooklyn A along with many colleagues in the public and private bar were very discouraged by the "sweep" of \$55 million from the Interest on Lawyers Account Fund (IOLA), which is a dedicated fund designed to deliver civil legal services to low-income New Yorkers, to fund other housing programs in the most recent state budget. IOLA's revenue comes from interest earned on lawyers' trust accounts – not taxes. This unprecedented raid was the first time in over 40 years that IOLA's revenue was used for purposes outside of the stated intent of its enabling statute. The New York State Legal Services Coalition, of which Brooklyn A is a member, supported bill S.9130/A.10253 to protect the IOLA Fund from further sweeps and we hope to see better commitment to funding civil legal services, both in the context of IOLA and beyond, in the coming year.

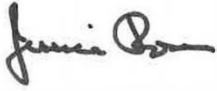
Pay parity is another high priority for Brooklyn A and our fellow NYLSC members. In 2023, NYLSC undertook a project comparing the pay of civil legal services attorneys to comparable Assistant Attorney General (AAG) positions within the Attorney General's Office. The results demonstrate a shocking chasm: In NYC, an AAG makes a starting salary of \$90,000 compared to the average of \$69,000 for the same position at a CLS provider. After 10 years, an AAG earns \$134,000 per year, while the 10-year veteran at a CLS organization earns \$92,000.

Simply put, entry level pay is 30% to 45% lower than their government counterparts. Those inequities grow as careers advance: at ten years of service, the gaps in pay between civil legal services attorneys and AAGs are as much as 75% in some areas of the state—21 years into civil service careers, the gap is 62%. We are therefore calling for pay equity to justly compensate our workforce. To meet the gap, the coalition estimates it will cost an additional \$170 million over the next three years, or \$57 million per year. It is the only way that we will ever make great strides in closing the justice gap.

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Thank you for the opportunity to share this testimony and your continued dedication to delivering civil legal services to all New Yorkers.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jessica Rose".

Jessica Rose, Esq.

Executive Director

Brooklyn Legal Services Corporation A

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