



New York Legal Services Coalition
One Helen Keller Way, 5th Floor
Hempstead, New York 11550

April 23, 2020

Urgent Need for Comprehensive Eviction Moratorium and Plan for Backlog of Eviction Cases in Light of COVID-19

Dear Judge Marks,

The statewide New York Legal Services Coalition urges the judiciary to take immediate action to bring the state judicially-imposed eviction moratorium in line with existing federal protections under the CARES Act and to implement additional procedural safeguards to protect the rights of tenants and help reduce the backlog of eviction cases once the courts reopen. These changes will protect tenants during the public health emergency, avoid a backlog of evictions when the crisis has concluded, and avert confusion about which laws apply when the courts fully reopen.

The CARES Act goes beyond the existing New York State moratorium protections by barring non-payment eviction filings for covered properties through July 25, 2020 (or the duration of any mortgage forbearance). Moreover, the CARES Act requires covered landlords to issue a 30-day notice to vacate before filing any eviction, which cannot be issued before the end of the moratorium on July 25, 2020. As a result, the CARES Act effectively bars new eviction filings through August 24, 2020. The federal law applies to a

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wide range of properties, including those owned by housing authorities, private landlords with tenants who have Section 8 vouchers, and other privately-owned federally-subsidized housing, as well as all private landlords whose mortgages are federally backed. Federally backed mortgages include, but are not limited to, mortgages purchased or securitized in the secondary market by Fannie Mae, Freddie Mac, FHA, USDA or VA. The exact number of protected properties is unknown, but is estimated to be a significant percentage of the housing stock in the U.S.

Unless New York extends the state moratorium on evictions to coincide with the federal moratorium, this discrepancy between the federal and state frameworks will lead to confusion once the courts reopen. These conflicting provisions will be impossible for landlords, tenants, and local courts to effectively untangle. A resumption of summary proceedings or other evictions during the federal moratorium or the pandemic would also jeopardize the progress that has been made by the state and federal government in mitigating the impacts of this health and financial crisis, whereas synchronization with the CARES Act will allow residents who are behind on their rent to access expanded unemployment benefits and federal stimulus checks, avoiding the necessity for many proceedings altogether. Accordingly, we urge the judiciary to follow the timeline laid out in Section 4024 of the federal CARES Act and to extend these provisions to all evictions in New York, as outlined below.



We are particularly concerned about how best to reduce the burden on litigants and ensure that tenants' rights are protected during the likely flood of housing cases once the moratorium is lifted. We urge the judiciary to adopt additional procedural safeguards more fully articulated below to ensure that the state and federal emergency measures are fully implemented and are able to realize their intended goal of protecting citizens from dire outcomes due to the pandemic. It will be particularly important in the months to come that tenants are apprised of their rights, have access to counsel, and have their cases heard by attorney judges in dedicated housing parts able to navigate complex statutory regimes.

Dedicated housing parts overseen by attorney judges are best suited to handle the increased volume of cases, to adjudicate complex legal issues involving the interplay of state and federal laws such as the CARES Act, and to ensure implementation of existing state and federal protections after the crisis. This is particularly problematic in diverse rural courts where there is insufficient access to counsel. Legal services offices and the private bar will lack the staff to effectively respond to a flood of proceedings filed in far apart courts with overlapping schedules. Lack of representation will impair implementation of laws intended to prevent homelessness as a result of the crisis.

Some landlords have been unwilling to comply with existing protections and have already begun to rely on self-help and illegal evictions. Local police are often unsure how to react and refer to such illegal actions as "civil matters" even though they actually amount to Class A misdemeanors.



To ensure that tenants are able to benefit from the state and federal protections now in place, it is critical that the court system take steps to:

- Expand the New York eviction moratorium to include the provisions of the federal CARES act for all landlords statewide, and particularly to include an extension of the moratorium until 30 days after the declaration of the end of the public health emergency or 30 days after the expiration of the federal eviction moratorium imposed by the federal CARES Act, whichever is later;
- Suspend the filing of all new summary evictions until the same date;
- Prohibit the service AND execution of warrants until the same date;
- Require all warrants which have been served but not yet executed upon to be re-served with the proper timeline before being executed upon;
- Require landlords to plead and prove that they are not covered by or in violation of the CARES Act;
- Consolidate housing cases into dedicated housing parts, and ensure that attorney judges oversee all new eviction filings and proceedings to ensure uniform application of all state and federal protections;
- Ensure that all low-income tenants statewide have access to counsel in any summary proceeding;
- Mandate the creation and reading of a bench-card in all summary proceedings advising tenants of their rights, including the right to appear with an attorney and the right to an adjournment;
- If requested by a tenant who is represented by counsel, require an initial settlement conference in which the parties, with counsel, can seek solutions which will keep tenants in their housing and ensure that tenants are aware of their rights.
- Disseminate notice to all state and local police departments addressing landlord self-help measures and illegal evictions

We appreciate that these are extraordinary times and that state officials are working diligently and creatively to abate a deepening crisis. We would welcome the opportunity to meet with you to discuss our concerns in greater detail. As a coalition of organizations that provide direct representation to thousands of low-income tenants, we would welcome the



opportunity to provide feedback on how the courts can ensure protection of the state and federal rights of low-income tenants during and after the COVID-19 crisis. Thank you for your efforts on behalf of litigants during this incredibly stressful time. We respectfully ask that you adopt the recommendations included here, and we appreciate your attention to this letter.

Maha Syed

Executive Director

Member Organizations

The Bronx Defenders
Brooklyn Defender Services
Brooklyn Legal Services Corporation A
Brooklyn Bar Association Volunteer Lawyers Project
CAMBA, Inc.
Catholic Charities, NY
Catholic Migration Services
Center for Elder Law & Justice
City Bar Justice Center
Community Legal Advocates of New York
Empire Justice Center
Erie County Bar Association Volunteer Lawyers Project
The Family Center
Goddard Riverside Community Center
Her Justice
Hiscock Legal Aid Society
Housing Conservation Coordinators, Inc.
Hudson Valley Justice Center
Jewish Association Serving the Aging
Journey's End
Legal Aid Bureau of Buffalo

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Volunteer Legal Services Project of Monroe County
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Western New York Law Center

Association of New York State Legal Services Organizations, Inc. is the 501(c)3 registered nonprofit organization.

The Association has filed a DBA certificate for the use of the name New York Legal Services Coalition.

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