



Lessons from NYC's Right to Counsel Campaign

History of the Right to Counsel NYC Coalition

New York City's Housing Court was created in 1974 to handle eviction cases that are brought against tenants, most of whom are low-income people of color. Housing Court has been an instrument of displacement, gentrification and homelessness that has facilitated the loss of affordable housing. The problem has been caused in part by a severe imbalance of power: almost all the landlords have had lawyers representing them, compared to almost none of the tenants. Since the inception of the court, housing advocates and lawyers have been working to make it a place of justice fairness and equity. One reform sought by advocates has been a right to counsel for tenants who face eviction, in order to level the playing field and give tenants a fighting chance to defend their homes and stay in their communities. A litigation effort in the 1970s resulted in increased legal aid funding for housing representation, but not a right to counsel in Housing Court.

In 2012, members of Community Action for Safe Apartments (CASA), a tenants' rights organizing project in the Southwest Bronx, voted to start a campaign to reform the Bronx Housing Court out of concern about the lack of justice for tenants in Housing Court and the high rate of evictions. A key component of the campaign was the issuance of a report: while there had been many reports about Housing Court reform and access to justice, none were from the perspective of the people who go through Housing Court every day. CASA members decided to take on this task. In partnership with the Community Development Project (CDP) at the Urban Justice Center, they spent a year doing participatory action research and released their report, [*Tipping the Scales*](#), in March of 2013. The report includes 23 recommendations to improve the Bronx Housing Court, including establishing a right to counsel.

In March of 2014, New York City Council Members Mark Levine and Vanessa Gibson introduced Intro 214, a piece of local legislation that would provide a city-funded right to counsel for low-income tenants facing eviction proceedings.

As CASA members and longtime advocates of housing court reform rallied to support this important and critical bill, they recognized the need to build a citywide movement in order for New York City to become the first place in the nation to establish a right to counsel for tenants facing eviction. They formed the Right to Counsel NYC Coalition, which is made up of advocates, tenants, academics and legal services providers, many of whom have been working on issues of affordable housing, tenant power and reform for decades. The coalition is rooted in principles of equity, humanity, diversity and justice. Its members share the goal that people should have a right

to stay in their homes and communities with dignity and respect and that all places that hold eviction proceedings, must be a places where justice is applied equitably.

By 2016, the Coalition’s work had begun to pay off: Intro 214 garnered a veto-proof majority of the City Council, as well as the support of key stakeholders that included the City Bar, Chief Judge of the New York Courts, City Comptroller, and borough presidents. New York City increased its funding for housing representation in eviction cases tenfold, to \$72 million. Between 2014 and 2016, tenant representation rose from 1 percent to 27 percent, while evictions fell by 24 percent. And on February 12, 2017 Mayor de Blasio announced his support for 214 and for implementing and funding a guarantee of “universal access to counsel”--legal representation for all low-income tenants facing eviction and legal consultations for all New Yorkers facing eviction regardless of income. The bill was signed into law on August 11, 2017.

The Coalition took the following actions as part of its campaign:

- Conducting outreach and coalition building:
 - Took Comptroller Scott Stringer and Public Advocate Tish James on a tour of the Bronx Housing Court;
 - Developed a wide base of supporters, including tenant organizing and advocacy groups, bar associations, unions, advocates for homeless people, advocates for seniors, advocates for disabled people, almost every civil legal services agency in the city, and more;
 - Made presentations to community boards throughout NYC, which resulted in all 42 community boards in Manhattan, Brooklyn and the Bronx, as well as the borough boards in those boroughs passing resolutions in support of a right to counsel.

- Mobilizing communities:
 - Put together a [compelling video](#) that featured tenant leaders and cited the statistics that support a right to counsel;
 - Held a day-long forum at New York Law School that drew over 450 people and featured prominent speakers such as then-Chief Judge Jonathan Lippman, New York City Human Resources Administration Commissioner Steven Banks, and many more. Released a [report](#) called “What the Experts are Saying,” citing the findings of this conference;
 - Developed a skit explaining tenants’ experiences in housing court;
 - Held [four town halls in four different boroughs](#), which [educated and engaged](#) over 500 tenants and dozens of elected officials about the need for a right to counsel;
 - Maintained an active social media #TenantTuesday and #FactFriday campaign;

- Organized an interfaith forum at the Mt. Olivet Baptist Church in Harlem with the Interfaith Coalition on Housing and Homelessness that called on the City to move forward with right to counsel as a moral imperative.
- Applying public pressure:
 - Collected close to 7,000 signatures on petitions addressed to the Mayor and Speaker in support of right to counsel, as well as close to 100 signatures to a letter from Faith Leaders throughout the city, urging the Mayor to support Right to Counsel. Organized a press conference on the steps of City Hall that drew more than 150 people, where petitions and the letter were delivered to the Mayor and the Council Speaker;
 - Rallied and organized a press conference and hearing on the bill, packing the steps and the chambers of City Hall to capacity. Coordinated a diverse set of panelists representing New York City Housing Authority, youth advocates, racial justice and civil rights advocates, women’s rights advocates, international human rights perspectives, health perspectives, labor support and many others, to demonstrate widespread support. After 8 hours of testimony, 78 people testified in support of the legislation and none testified against it. On that day, #RTCNYC trended on Twitter.
- Garnering media appearances and coverage:
 - Reached out to NY Times, resulting in [editorial board endorsing the right to counsel](#);
 - Coalition representatives appeared twice on “Inside City Hall” on NY 1;
 - Received national coverage from [Slate](#), [Newsweek](#), [Mother Jones](#), [Baltimore Sun](#), [NY Times](#), [Politico](#), [Next City](#) (Feb. 16), [Next City](#) (Feb. 21), [Village Voice](#), [Wall Street Journal](#), [Huffington Post](#), [CityLab](#), [Vice](#), [Fast Company](#), [Above the Law](#), and [Truthout](#)
 - Received local coverage from the [NY Daily News](#), the [Gothamist](#), [NY Newsday](#), [Metro](#), [City Limits](#), [Village Voice](#), [NY 1](#), [WYNC](#), [Gotham Gazette](#), [Harlem World](#), [New York Amsterdam News](#), [NY Law Journal](#) (subscription required), [6sqft](#), [Town & Village](#), [DNA Info New York](#), [GlobeSt](#), [Curbed NY](#), [NY Observer](#), [Fox 5 NY](#), [New York YIMBY](#), [News 12 The Bronx](#) (video), [Norwood News](#), [New York Amsterdam News](#), [AM New York](#), [The Real Deal](#), [Greenline](#), and the [Caribbean Life News](#)
- Supporting the implementation process:

- Developed a 3-year phase-in plan for right to counsel, taking into consideration the time it will take to develop the infrastructure to expand high quality legal assistance;
- Developed a logistical plan, with detailed proposals for how right to counsel could be most effectively implemented at every step in the process;
- Worked with the New York City Bar Association to commission a [study](#), produced by Stout Risius Ross, of the financial costs and savings of implementing the right to counsel. The report found the right to counsel would not only pay for itself but also save the city an additional \$320 million/year;
- Responded to legal issues raised by the city, proposed draft language for amending the legislation, and recruited pro bono assistance with legal research and legislative drafting from some of the city's top law firms.

Things to consider when exploring a housing right to counsel campaign

Who are your allies?

As you can see from the list of members, we built a lot of allies. A right to counsel affects almost everyone, so you need the support/consent of all stakeholders, especially because it's expensive and folks are competitive when it comes to the budget. Having judges on board was really key.

How are you centering the work of tenant organizing?

As you can see above, this campaign was a grassroots organizing campaign with tenants at the center; we don't think we would have won otherwise. The [town hall meetings](#), mobilizations, petitions, etc., were all to advancing this campaign.

Once the law passed, this was especially critical. In terms of implementation, the city's approach has been to see this as a court-based model; they are less concerned/focused on everyone who doesn't show up for court or with the informal evictions that happen through intimidation. Community groups are better positioned to take on those challenges and are focused on all vulnerable tenants, knowing that eviction is a key tool of displacement, harassment and gentrification. If you aren't in a location with community groups who can do the outreach and education work, this could be really challenging.

What sort of organization will be the focus of advocacy efforts?

At first the internal work of the coalition was fairly informal and was coordinated by key staff of member organizations. It had several committees, such as for research/data, community organizing, and developing a legal services model. After the law passed, we created some more formal structures within the coalition, such as a coordinator position, advisory committee, etc.

Do you have the people/agencies on board who will administer the right to counsel?

- People associated with the courts: This includes judges at all levels, court personnel, social services providers, advocacy groups within the court, etc. In NY, the courts are run by the state but Intro 214-b was a city law. So much of the administrative work, in terms of space, notice, and routing of cases covered by the bill has to be done by the state agency that oversees the court. While many of the judges and leaders of these agencies actively support right to counsel, none of these administrative details were thought through ahead of time, and it is a headache in the beginnings of implementation.
- Legal services providers:

- While almost every legal services provider was in our coalition, they raised some concerns throughout the process. Legal services providers are accustomed to deciding who receives representation and who doesn't, and have their own internal cultures about how to choose. Some expressed resistance to the concept that all tenants (as opposed to just those cases they deem have merit) should have an attorney and in fact advanced a deserving vs. undeserving analysis as a way to phase in RTC. We are working on doing workshops, trainings, etc., but this is a potential concern to identify early.
- Another challenge is capacity: if going from the current model to all income-eligible tenants receiving representation, how many staff would they need? How many supervisors? What space would they need? What kind of trainings? How long will this take?

Who is the opposition?

There was no organizing opposition in New York City; even the landlord bar couldn't come out opposing due process. We did get some resistance in terms of how much it would cost and whether it was really worth it, who would pay for it, whether it would actually stop tenants getting evicted anyway, and so on. See our [Frequently Asked Questions](#) page for some responses to these concerns.

What implementation questions have to be answered?

Our advice: start thinking about implementation as early as possible! The work of implementation and oversight is enormous, so don't overestimate it!! Also, the answers to implementation questions are necessary in order to produce any kind of cost/benefit analysis.

After developing a [set of principles](#) and [fact sheet](#) (in multiple languages) in order to guide the implementation process, we met with advocacy, legal services groups, tenant organizing groups, and others throughout the city to explain them and ask for them to sign on, because even if they aren't part of the coalition, they and their members will be affected by a right to counsel, so we wanted to make sure we had a really broad consensus about implementation.

Some specific implementation questions you'll have to answer include:

What kinds of cases will be covered?

In New York City, eviction proceedings happen in many different venues: for instance, they occur in court but also in the administrative context. Since the legislation said "eviction proceedings" we thought we were on the same page with the City about covering all eviction cases, but this turned out not to be the case. We should have been much clearer in all of our messaging and materials about this. We ended up getting public housing tenants covered, but not exactly [how we wanted](#), and other kinds of cases are still excluded.

Also, the bill only covers eviction defense cases, where tenants are the respondents. It doesn't cover affirmative cases, such as harassment, discrimination, enforcement of the warranty of habitability (i.e., making repairs), and so on. Be really clear about this from the beginning: while we thought we were, many were seeking clarification on this towards the end of the process.

How do you want it to be phased in over time? How will this be explained to the public?

We all agree that this new right needs to be phased in due to the nature of the logistical challenges within the court as well as the capacity of the providers; it can't happen overnight. We [developed a phase-in plan](#) by population type (seniors, disabled people, etc.). However, the logistics of implementing, tracking and monitoring with such an approach are pretty impossible. The city's plan of implementing it by zip code, or neighborhood, was much more logistically feasible. However, there were many debates about this within the coalition, and while we reached consensus, it wasn't unanimous to do it this way. Additionally, we needed to develop our criteria about how to choose which zip codes. While we did do this (prioritizing zip codes with the highest amount of evictions, rent stabilized units, and shelter entry) the city didn't adopt all of our priority zip codes, but they might have if we had thought about this more and sooner.

Messaging is and will be a challenge. Internally we understand the need for a phase-in approach, but tenants and the general public invariably get frustrated when they learn it won't apply to them right away. Because it's unclear when providers will have capacity and be ready to move on to phase 2, it's hard to explain it to anyone else.

What sources of money already exist to support eviction prevention? Which ones do you need to protect from being rolled into a right to counsel?

This is still being worked out here in NYC. There are multiple city contracts and sources of funding for eviction prevention and the city's goal is to roll them all into one contract. Some of the contracts cover things outside of right to counsel, like people who are over income, special needs and services, and affirmative litigation. This is a big concern of the providers here.

If this is being done on the city level, as opposed to the state level, are there any legal issues?

Historically, virtually all rights to counsel in civil cases have been established at the state level (such is true in all states, not just New York), so Intro 214-b is unusual. As such, legal questions were raised early on about whether the state constitution and the City's home rule powers gave it the power to enact local legislation governing the Housing Court, and/or whether such legislation might be preempted. Research answered these questions favorably, but it is good to be aware of them.

What data do you need, and who will analyze it?

There was already a lot of data that we had for New York City, which was critical for producing the cost/savings report:

- The number of evictions;
- A reasonably reliable figure for the number of tenants that would be income eligible for a right to counsel;
- Number of tenants already receiving counsel either through city spending or from the private bar (i.e., retained counsel);
- The number of families and individuals entering shelters, and the percentage who did so due to eviction (which included factoring in those who entered shelter due to an “informal eviction” such as those voluntarily leaving before an eviction is entered) or leaving an overcrowding situation caused by a past eviction;
- The average shelter stay length (when over a year, it can affect the way shelter costs are calculated)
- Shelter funding broken out at the state, city, and county level (so as to figure out where savings may accrue)
- The percentage of unsheltered homeless who became homeless due to eviction;
- The percentage reduction in ordered evictions when tenants had counsel. We were benefited greatly from a 2016 report released from the NYC Office of Civil Justice (an entity created by the City in 2014) that showed the City’s investment of \$60 million from 2014-2016 had resulted in a 24% drop in evictions.

However, we didn’t have and still don’t have access to data about the number of filings; we only have the number of evictions. This has been a barrier to predicting caseloads, etc. Additionally, there was significant variation as to the cost per case (even at times between service providers), with the range being anywhere from \$1,400 to \$3,200 per case.

We were fortunate to get a major financial analysis company to produce the cost savings report pro bono; otherwise, it is not clear we would have been able to afford it. Secure such services as early as you can, as such a report can be a real game-changer. It was also critically important to produce a [distilled, 2-page version of the report](#), as we knew most people would not be able to digest the full 27-page report.

How can you get the media and general public to pay attention to the issue?

We were fortunate that New York City was proposing to do something that no other jurisdiction in the country has done: provide a right to counsel in housing court, as opposed to just increased legal aid funding. As such, the story was very newsworthy. However, the second or third city or state to do so will also be very newsworthy, so pitching the uniqueness of the goal will help. We also benefited from our relationship with [Voices for Civil Justice](#), an organization that exists to raise the profile of civil legal aid in the media. They worked with us to develop a press release and utilized their contacts at many of the major news outlets.

At several times during the campaign, we did coordinated tweet/twitter posts, leading to RTCNYC trending at one point on Twitter. These posts were often shared with others, helping to raise the public profile of the issue.

We developed a number of messaging strategies, including a social media plan (which was used to do coordinated posts to Facebook/Twitter), the [Frequently Asked Questions](#) document, [profiles of impacted tenants](#) from throughout the city, a list of talking points for coalition representatives, [petitions](#) to deliver to policymakers, a communications timeline and much more!

Finally, a number of videos were produced to increase the profile of the issue. For instance, the AARP did a [video infographic](#), and the Coalition produced [several advocacy videos](#).