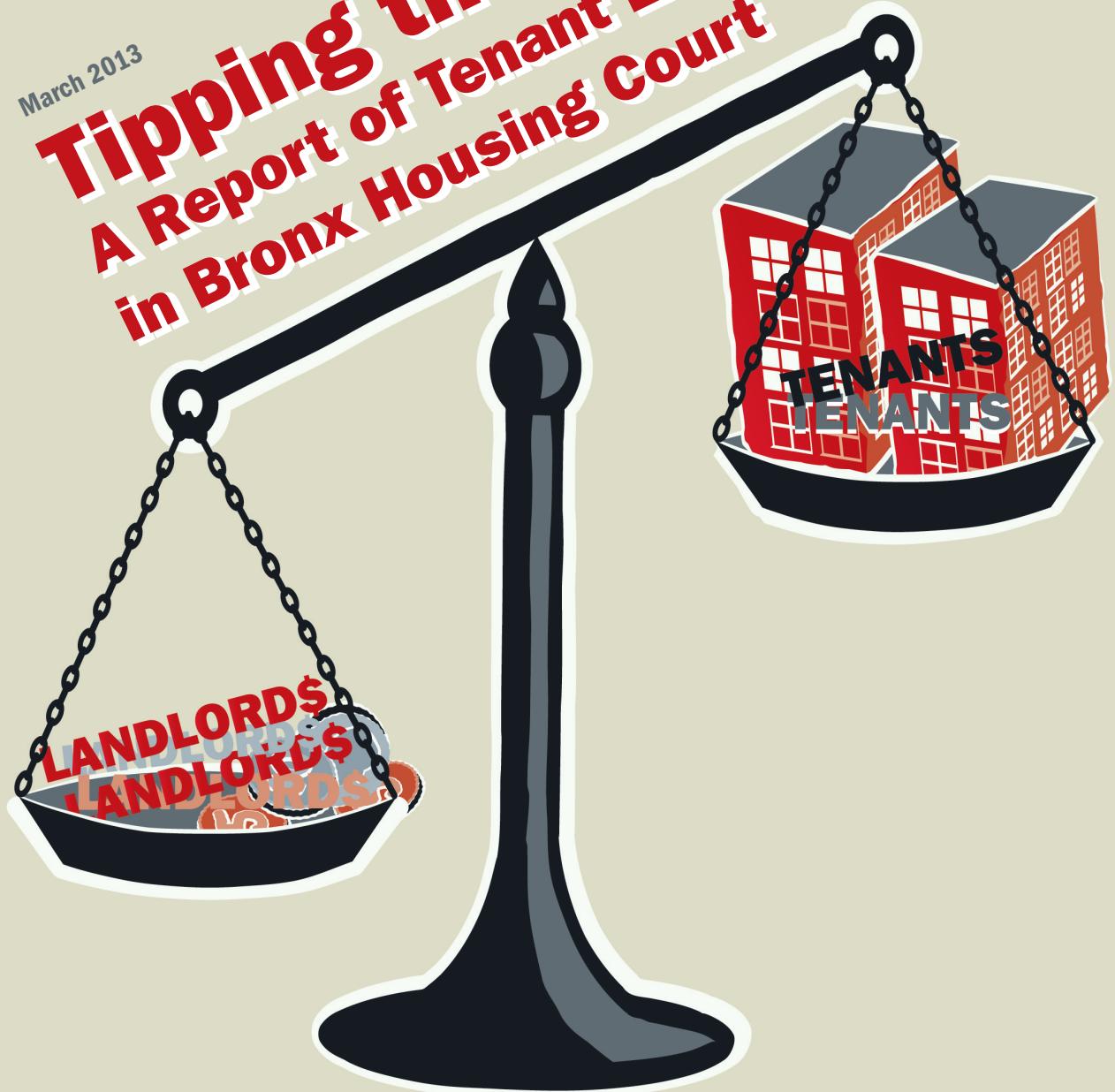
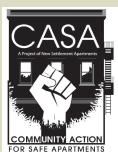


March 2013

Tipping the Scales: A Report of Tenant Experiences in Bronx Housing Court



A Report by New Settlement Apartments' Community Action for Safe Apartments (CASA)
and the Community Development Project (CDP) at the Urban Justice Center



ABOUT THE AUTHORS

New Settlement Apartments' Community Action for Safe Apartments

Community Action for Safe Apartments (CASA) is New Settlement Apartments' housing organizing initiative. CASA began in 2005, out of the need in the community to improve the poor housing conditions that persist for many families in our densely populated and underserved area of the Southwest Bronx. CASA is made up of community residents who work together to improve the living conditions in our neighborhood and maintain affordable housing through collective action. CASA's multifaceted work combines building-specific efforts to improve housing conditions with neighborhood-wide campaigns focused on tenants' rights to a safe, healthy and stable home. CASA also heavily participates in the work of other coalitions that advocate for legislation to preserve affordable housing and better protect tenants.

Community Development Project at the Urban Justice Center

The Community Development Project (CDP) at the Urban Justice Center strengthens the impact of grassroots organizations in New York City's low-income and other excluded communities. CDP's Research and Policy Initiative partners with and provides strategic support to grassroots community organizations to build the power of their organizing and advocacy work. We utilize a "participatory action research" model in which low-income and excluded communities are central to the design and development of research and policy.

Acknowledgments

First and foremost, we are sincerely grateful to the CASA members who voted to do this work and then committed the time, dedication, insight and collaboration necessary. Thank you to all the CASA members and leaders who developed the surveys, facilitated the focus groups, observed judges, reviewed the report and attended an amazing amount of planning meetings, including Carmen Vega-Rivera, Alfreda Lee-Katz, Fitzroy Christian, Shahid Van, Gloria Berry, Lauree Anderson, Emmanuel Yusuf, Donna Johnson, Sarah Huggins, Gussanniono Bryant, Mary Woods, Elizabeth Rosario, John Nevarez, Paul Chen, Virginia Almonte, Dominga Sanchez, Jaime Valencia, Darryl McDow, Doris Conton, Jamira Correa, Carmen Madera, Barbara Williamson, Esther Jackson, Evonne Capers, Miguel Alvarez, Jose Hidalgo, Maggie Silva, Maria Gladis Papino, Gloria Collier, Ophelia Bethea, Norma Dolano, Soledad Franco, Carmen Merced, Minarda Pimental, Joseph Ferdinand, Slyvia Murphy, Olive Trought, Raul Perez and Touba Toure. Sheila Garcia, Susanna Blankley and Enrique Colon provided critical staff support through every stage of this project.

We are grateful to more than 1000 Bronx tenants who shared their experiences with us through the surveys and focus groups. We hope that our report honors you.

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EXECUTIVE SUMMARY

Every day, about 2,000 tenants go through Bronx Housing Court.¹ Most are low-income people of color who have limited resources and cannot afford a lawyer to help them navigate the confusing court system.² The operation of Housing Court has been described as an “eviction mill,” a system created “to work in a landlord’s favor.”³ As a result of this imbalanced system, thousands of tenants are evicted; in 2012, approximately 11,000 households were evicted in the Bronx.⁴ Children have to change schools, jobs are at risk, belongings are lost and communities are uprooted.

Members of New Settlement’s Community Action for Safe Apartments (CASA), many of whom have been in Housing Court, decided that this is a system they simply cannot accept and began to take action. To identify concrete issues tenants face in Housing Court and necessary policy changes, CASA launched a research project in partnership with the Community Development Project (CDP) at the Urban Justice Center, collecting 1,055 surveys, conducting 15 judge observations and holding three focus groups with 25 participants.

Research Findings

Finding 1: Housing Court is confusing and difficult to navigate for most tenants.

Many tenants are unsure where to go or what to do in court. This is particularly true the first time a tenant is in Housing Court, but usually persists throughout the court process.

“You go in there and first of all you don’t even know where you go or what, or who you’re gonna see or anything at all.” – Focus Group Participant #8

- » 1 in every 4 tenants did not know where in the court building they needed to go;
- » 32% of tenants did not know that they needed their calendar number (this is the number the court uses to track a case) before going into the courtroom;
- » 1 in every 4 tenants did not know that they needed to check in with the court clerk.

Finding 2: The vast majority of tenants in the Bronx do not have legal representation in Housing Court to help them navigate the system.

The confusing nature of court favors any litigant with a lawyer, which most landlords can afford and most tenants cannot.

“I didn’t have money or the resources to hire a lawyer.” – Focus Group Participant #10

- » 83% of tenants reported that they did not have legal representation (unrepresented tenants are referred to as pro se tenants).

Finding 3: Pro se (unrepresented) tenants are at a huge disadvantage in Housing Court.

In general, studies show that tenants with legal representation are more likely to have favorable stipulations, win at trial and are less likely to default.⁵ However, pro se tenants’ lack of legal knowledge and understanding about the court process is especially disadvantageous in unmonitored hallway negotiations with landlord attorneys.

“I think hallway deals are horrible because tenants don’t understand what they’re signing. They [the landlord attorneys] get them to sign it, and then once they sign it, they realize what they have signed.”

– Focus Group Participant #5

- » 1 in every 4 tenants reported that no one explained the stipulation to them (a stipulation is a legal, binding agreement with a landlord’s lawyer);
- » 3 in every 4 tenants did not help write the stipulation.

Finding 4: Judges have the ability to do more to even the playing field for tenants.

Judges play an integral role in a tenant's experience of Housing Court. Judges are by far the most prominent players in Housing Court, and many tenants have a clear understanding of a judge's role. However, most tenants don't talk to a judge or court attorney until after they have signed a stipulation, when information about their rights as tenants comes too late.

"We went from the one[judge] that does everything to the one [judge] that did nothing. Every court is handled differently and the outcomes and results can be impacted by that. It's hit-or-miss depending on the judge." – Focus Group Participant #11

- » 41% of tenants never spoke to a judge about their case;
- » About half of tenants reported that courtroom staff, including judges, did NOT explain the rules or court procedures to them;
- » Over half of tenants were pressured by the landlord's lawyer to make an agreement before speaking to a judge.

Selected Policy Recommendations

Our research and findings suggest that Housing Court does not currently operate as a place where tenants can access justice, but rather as a place where tenants are brought to court and evicted at a disturbing and unprecedented rate. The data show that current court protocols and policies are insufficient to level the playing field for these unrepresented tenants in Housing Court. The following are recommendations that can and should be implemented by the Office of Court Administration (OCA) and the New York State and City Legislatures to shift the balance of power away from landlords in order to create an impartial and fair court system.

1. Increase Resources for Tenant Representation. The Gideon ruling gave citizens a right to a court-appointed attorney in criminal cases, but this right does not exist in civil cases like those in Housing Court.⁶ As many studies show, legal representation has an overwhelmingly positive impact on tenants' cases, lowering eviction rates from approximately 51% of unrepresented tenants to 22% of those with legal representation.⁷ Therefore, the New York State Legislature should:

- » **Pass legislation giving all tenants the right to a court-appointed attorney** if they cannot afford one themselves. These additional lawyers could be funded by fines paid by landlords or through the Department of Homeless Services Homelessness Prevention Program or even through "social impact bonds" from banks. Additionally, one analysis estimates that New York State could actually save \$67 million in shelter costs by providing an attorney to low-income tenants facing eviction.⁸ This prediction was confirmed by a South Bronx pilot program in which 1,300 families were given legal assistance.⁹ The program cost the City \$450,000 but saved more than \$700,000 in shelter costs.¹⁰ Despite start-up costs, this initiative would actually save public monies.

2. Require court attorneys to be present at the beginning of negotiations between tenants and landlord attorneys. The court attorney should meet with the tenant and landlord attorney to go over the issues and the framework of the discussion. Only after this initial meeting may the tenant and the landlord attorney begin to negotiate and draft a stipulation. Then both parties must return to complete and vet the stipulation with the court attorney. Dealings between court attorneys and unrepresented tenants should be on record.

3. Require judges to fully allocate stipulations before they are signed or so-ordered in a manner that meets the requirements of RPAPL 746 and Advisory Notice AN-1 (LT-10).¹¹ Judges should be required to ask standardized and comprehensive questions regarding the terms of the stipulation to make sure the tenant fully understands the stipulation and its consequences. In order to determine whether pro se litigants understand the terms and consequences in the stipulations, judges should ask the pro se litigant to explain the terms and conditions in their own words, rather than merely asking yes or no questions.

4. Require all court personnel to wear clear and visible court IDs so tenants can easily identify who works for the court and who does not. This will help clear up the confusion many tenants have about whether landlord attorneys are employed by the court.

5. Improve the quality of language access for non-English speakers.

- » **Translate every court document and sign** (including the new materials suggested in this report) into Spanish and French.

6. Improve information given to tenants about the court process and their rights.

- » **Create a short information sheet** for tenants on the judicial process and what to expect in Housing Court. This information sheet should be translated into Spanish and French. OCA and court clerks should distribute this information sheet to tenants at key points in the Housing Court process, specifically when tenants submit answers, when tenants are in line waiting to get into Housing Court, at the clerks' counters and at the information desk.
- » **Improve content and number of information posters.** Current Housing Court posters don't have enough content, nor is the content easy to understand. Current information posters are not posted at easily visible and accessible locations, thus making it difficult for tenants to locate them. These posters should be on every floor and in places where tenants can easily find them as they walk through court.
- » **Create and post a large sign** with a list of tenants' rights and resources at the court entrance and next to the directory on every floor.

7. Increase information resources for tenants.

- » **Create a well-staffed and well-resourced center with computers.** Currently, there are a few computers in the hallway for tenants to use; however, they are antiquated machines in a crowded space. These computers should have internet access so tenants can access databases maintained by the Department of Buildings, the Department of Housing Preservation and Development, and the Department of Finance to do research about their landlord and their building. Tenants could use these computers to do their own research, but court personnel should be available to answer tenants' questions, provide referrals and help tenants find the information they need.
- » **Play an informational video on repeat in each courtroom.** Housing Court has already created a video that explains tenants' basic rights and court procedures, but it hasn't played in Housing Court in years. The video should be updated and alternate between spoken English with Spanish subtitles and spoken Spanish with English subtitles. The video should play when the courtroom opens, and the court clerk should announce that the video is beginning.
- » **Set up a help desk on the first floor to provide resources about court to tenants.** Housing Court Answers has long provided excellent advocacy services in Housing Court; however, the role of looking up index numbers, directing people where to go and providing basic information should not rest solely on the shoulders of a nonprofit. Housing Court should be providing this type of information to litigants. Court personnel should be trained to staff the information desk, not to give advice but to direct tenants where they need to go. Information desk staff should be, at a minimum, bilingual in Spanish and English.

8. Provide childcare. In the past, Bronx Housing Court provided free childcare, but this service was eliminated in 2011 due to budget cuts.¹² Free childcare services ensure that litigants are able to focus on their case, which is critical given the high-stakes nature of the Housing Court process. This funding needs to be restored immediately.

9. Pass legislation to create a Repair Enforcement Board. Currently, the Housing Maintenance Code is the only health and safety code that uses a judicial model, which makes it difficult to effectively enforce the Housing Code. Therefore, the City Council should transform this system into an administrative model, with power to assess fines given to the Repair Enforcement Board. This simple change will not only increase the quality of life for many tenants, but also decrease congestion in Housing Court and increase fine revenue for the City.

GLOSSARY OF TERMS¹³

7A: One-third or more of the tenants in a building or the Department of Housing Preservation and Development (HPD) ask the court to take control of the building away from the landlord and give it to a court-supervised administrator.

Calendar Number: A number assigned to a case each time it is called in court. Litigants must use this number to check in with the court clerk.

Ejectment: Landlord-initiated action against tenant to obtain possession of an apartment. Unlike holdover proceedings, ejectments must be started in Civil or Supreme Court.

Eviction: An *eviction* case is any court action (like a holdover or non-payment case) in which a landlord is trying to force a tenant to move out of their house. Depending on the case, a judge may issue a *judgment of eviction*, which is a formal decision from the court that a tenant may be evicted if other conditions are not met. If the conditions are not met, a court clerk then issues a *warrant of eviction*, which may or may not actually be carried out. Finally, the actual *eviction* occurs when the landlord hires a marshal to physically remove a family and their personal belongings from an apartment and change the locks.

Holdover: A Housing Court case in which the landlord wants the tenant evicted for reasons other than non-payment of rent.

Housing Part (HP) proceeding: A tenant or HPD ask the court to order the landlord to make repairs on their apartment or building.

HP Proceeding (Harassment): A type of Housing Part (HP) proceeding where a tenant sues because they have been harassed by their landlord (rather than suing for repairs, as with other HPs).

Illegal lockout: Also known as an illegal eviction. A case started by tenants if they have been locked out of or otherwise denied access to their apartments by the landlord without a court order.

Legal Possession: A marshal orders a tenant to leave the apartment and changes the locks. The tenant or the landlord is responsible to move personal possessions out of the apartment.

Non-payment: A type of Housing Court case in which the landlord claims a tenant owes rent and is suing to collect the alleged overdue rent and to evict the tenant if they do not or cannot pay it.

Pro se: A litigant without a lawyer. Almost all tenants involved in Housing Court cases are pro se litigants.

Resolution Part: A part of Housing Court where most cases are initially assigned before trial. Tenants and landlords in a Resolution Part are generally encouraged to settle the case without going to trial.

Stipulation: An agreement between parties (in Housing Court, generally that means tenants and landlords); stipulations must be approved and so ordered by the Court.

Trial Part: If tenants and landlords cannot agree in the Resolution Part, a case is sent to the Trial Part of Housing Court, where a presiding judge (the trial judge) may make a final judgment.

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CASA community meeting.

I. INTRODUCTION



Litigants crowd in the small hallway of the Bronx Housing Court.

Arriving early in the morning, tenants line up outside Bronx Housing Court along the Grand Concourse. They can wait up to an hour to get inside, where they then must submit to a security check. Once inside, most struggle to figure out where they are supposed to go or what to do, particularly those in court for the first time. Cramped hallways buzz with scores of landlord lawyers, court employees, other tenants and their children, making the experience even more disorienting. Even if tenants go to the correct courtroom, they are bombarded with incomprehensible legal jargon from court officers, clerks, and attorneys, whose different roles are usually unclear to tenants.

Hallways act as meeting rooms where high-stakes stipulations are negotiated, often without the oversight of any court personnel. Tenants, who have usually taken time off work to be in court and may be losing a precious paycheck, can wait several hours until their landlord's attorney arrives or begins to negotiate with them. Many tenants, overwhelmed and almost always without legal representation, simply agree to the terms offered by their landlord's attorney instead of negotiating, regardless of whether they have a valid defense. Sometimes tenants even believe that their landlord's attorney works for the courts or has been appointed by the court to represent them. In most cases, tenants only see a judge or court attorney after they have already signed an agreement with their landlord's lawyer. Many of these stipulations require tenants to pay huge sums of back rent in a very short period of time or face eviction.

Every day, about 2,000 Bronx tenants go through this horrific, dehumanizing experience.¹⁴ Most are low-income people of color who have limited resources and thus cannot afford a lawyer to help them navigate the system. Landlords often open case after case against the same tenants regardless of the validity of the claims, and Housing Court becomes a revolving door for tenants. In 2012, almost 11,000 Bronx families were evicted through this unjust process.¹⁵ Whether they result in an actual eviction or not, eviction proceedings take a physical and emotional toll on tenants that bleeds into their professional and personal lives. The fact that a person's home is at risk highlights the high-stakes nature of each and every action in Housing Court.

While efforts to reform Bronx Housing Court are not new, they have mostly been led by judges, lawyer associations, advocates and academics. The voice of the majority of the people who go through and live the consequences of the way Housing Court works, the unrepresented tenants, has been missing. This report gives voice to tenants' concerns, experiences and recommendations. These voices are essential to ensure that Housing Court achieve its original purpose of promoting "safe, decent and habitable housing."¹⁶ These Bronx tenants believe that Housing Court should be a place for fair, equal proceedings, but current court practices fail to even the playing field for tenants. Only when tenants and landlords have equal tools and resources will Housing Court truly be a place where tenants can go to make sure their rights are protected and upheld.

Many of these tenants are members of New Settlement's Community Action for Safe Apartments (CASA). CASA members, with research support from the Community Development Project at the Urban Justice Center, conducted extensive research – including more than 1,000 surveys, 15 judge observations, three focus groups and secondary data collection – to document the tenant experience in Housing Court and identify clear ways to improve it. The data shows that tenants find Housing Court confusing, usually do not have legal representation (which impacts case outcomes), and that judges are key players who could improve the Housing Court experience for tenants.

II. BACKGROUND

The History of Housing Court

The New York City Civil Court, Housing Part, commonly referred to as “Housing Court,” is a special “part” of New York City Civil Court. The Housing Part was established by statute¹⁷ in 1972 as a “mechanism for providing safe, decent and habitable housing.”¹⁸ In the 1970s, New York City’s housing stock was rapidly deteriorating due to abandonment and neglect. With repair cases only being handled in criminal court, the existing system was seen as highly ineffective in addressing this deterioration.¹⁹

To fulfill the mission of this new Court, new types of legal action were created, such as the Housing Part (HP) action, which gives tenants standing to pursue relief from conditions that violate the Housing Maintenance Code.²⁰ Additionally, Housing Part judges were granted special powers beyond those of a traditional neutral magistrate.²¹ For instance, a Housing judge may order a different remedy to enforce housing standards than the one originally sought by a party if the judge believes this other remedy will be more effective.²²

However, despite the ambitious goals of the legislature, the Housing Part has been criticized since its inception for “churning out eviction cases as its primary business,”²³ and as early as 1975 the function of the new Court was described as “rent collection and the eviction of nonpaying tenants.”²⁴ In 1997, the acting Chief Judge of the State of New York, Judith S. Kaye, implemented an innovative restructuring initiative known as the “Housing Court Program” that made administrative changes to the court. To improve access for Housing Court litigants, the Housing Court Program called for a night Housing Court, expanded clerks’ office hours, resource centers and simplified pleadings and procedures. It established Housing Court counselors, a volunteer lawyers’ project, Housing Court associates, a telephone reference service and a community Housing Court.²⁵

The changes also included the creation of the “Resolution Part.” As envisioned by the Housing Court Program, the new Resolution Part was meant to expedite the settlement process. Negotiations leading up to settlement in the Resolution Part were to take place “under the Court’s direct supervision,” and the drafting of stipulations was to be overseen by court attorneys.²⁶ However, the creation of the Resolution Part has been criticized for actually making it easier for landlords to get tenants evicted: “eviction also used to stretch out over three to six weeks, but now the process takes only days. To avoid going to trial, tenants are likely to sign stipulations whose terms they know they cannot meet.”²⁷

The expedited nature of Housing Court stands in stark contrast to other types of civil litigation where cases tend to move much more slowly.²⁸ While all civil cases could theoretically be settled on the first court date, many more Housing Court cases do so compared to other types of civil cases. Even when Housing Court cases are adjourned to additional court dates, most are settled at the second or third court date. Thus each appearance in Housing Court is very important and can have a lasting impact on tenants. This underscores the high-stakes nature of Housing Court.

Despite the Housing Court Program initiatives, the general understanding of Housing Court as an eviction mill where unrepresented tenants’ voices go unheard persists to this day.²⁹ The Housing Court Program changes have only incrementally improved the experience for unrepresented tenants.



Outside view of the Bronx Housing Court.

NEW YORK STATE COURT STRUCTURE AND KEY PLAYERS

NYC Housing Court Advisory Council

The Advisory Council reviews new judge applicants, compiling them into a list of qualified candidates. The Chief Administrative Judge then selects new judges from this list. The Advisory Council also monitors the Court's activities and issues annual reports. The Council has 14 members, representing stakeholders like the real estate industry, tenants and lawyers.

Chief Judge of the State of New York

Hon. Jonathan Lippman

The Chief Judge establishes statewide standards and administrative policies after consulting with the Administrative Board of the Courts and obtaining approval by the Court of Appeals.

OFFICE OF COURT ADMINISTRATION

NEW YORK CITY

Deputy Chief Administrative Judge

Hon. Fern Fisher

The Deputy Chief Administrative Judge oversees NYC's Civil and Housing Court judges.

Chief Clerk

Carol Alt

The Chief Clerk oversees NYC courts' non-judicial staff and court operations.

BRONX

Supervising Judge (Bronx Housing Court)

Hon. Jaya Madhavan

Each county's Supervising Judge works to implement citywide policies at the local level and oversees the day-to-day operations of the court.

Clerk of the County (Bronx Housing and Civil Court)

Maureen Giddens

The Clerk of the County oversees the day-to-day operations of non-judicial staff in both Housing and Civil Court. The Assistant Deputy Chief Clerk Gladys Maldonado oversees just the Bronx Housing Court.

Housing Court Judges

Housing Part Judges have rotating assignments throughout the year, at any given time serving in the Resolution Part, Trial Part, HP Part or Military Part. With the exception of the HP Part (in which the entire case is seen by the same judge), cases are seen in the Resolution Part by one judge before switching to another judge for the Trial Part.

15 Judges serve in the Bronx Housing Court.

Court Clerks, Court Attorneys, Court Officers

Three types of non-judicial personnel make up the majority of court staff and are the primary people that tenants talk to in Housing Court:

- » Court attorneys assist judges by reviewing stipulations and screening cases.
- » Court clerks manage the courtroom files and cases.
- » Court officers are in charge of court security.

TYPES OF HOUSING CASES³⁰

7A: One-third or more of the tenants in a building or the Department of Housing Preservation and Development (HPD) ask the court to take control of the building away from the landlord and give it to a court-supervised administrator.

Holdover: The landlord wants the tenant evicted for reasons other than non-payment.

Housing Part (HP) proceedings: A tenant or HPD ask the court to order the landlord to make repairs on their apartment or building.

HP Proceeding (Harassment): A type of Housing Part (HP) proceeding where a tenant sues because they have been harassed by their landlord (rather than suing for repairs, as with other HPs).

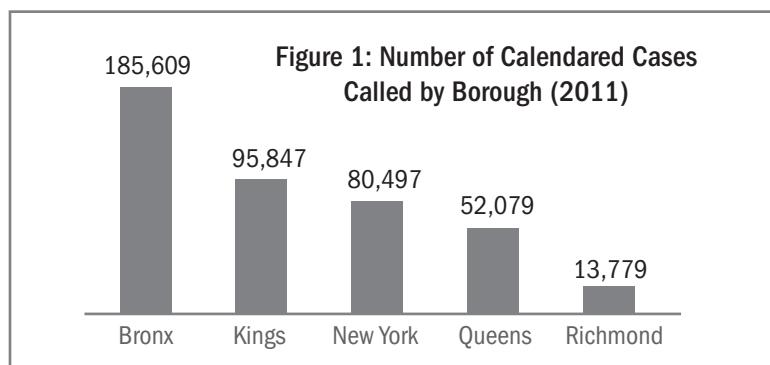
Illegal lockout: Also known as an illegal eviction. A case started by tenants if they have been locked out of or otherwise denied access to their apartments by the landlord without a court order.

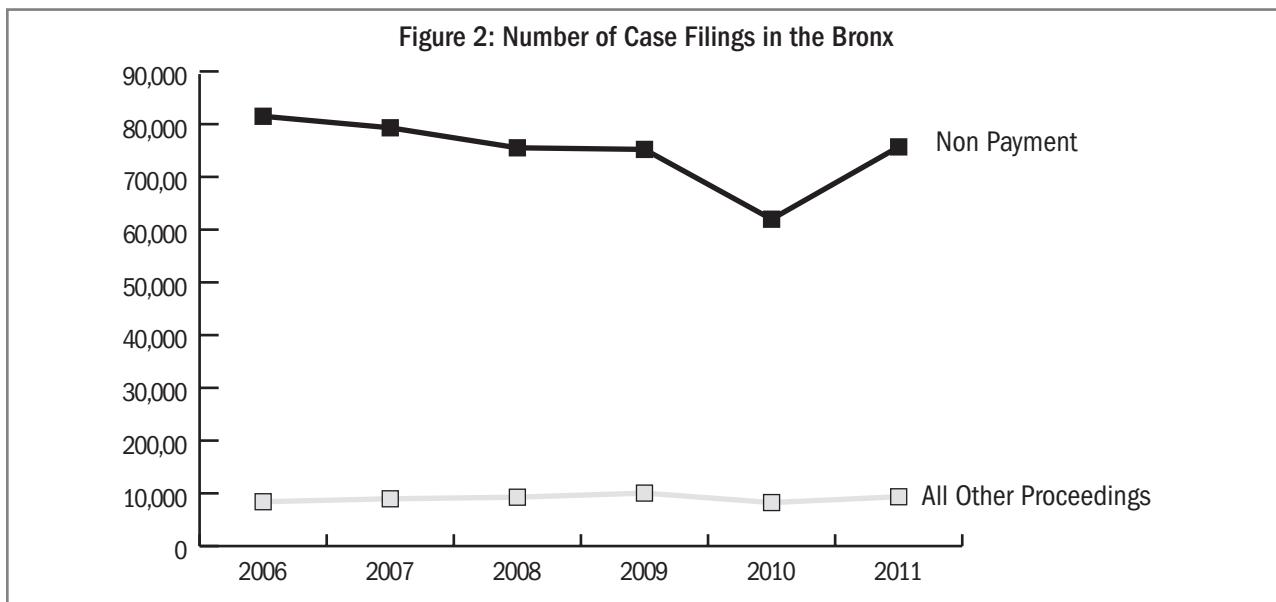
Non-payment: The landlord claims a tenant owes rent and is suing to collect the alleged overdue rent and to evict the tenant if they do not or cannot pay it.

Housing Court Today

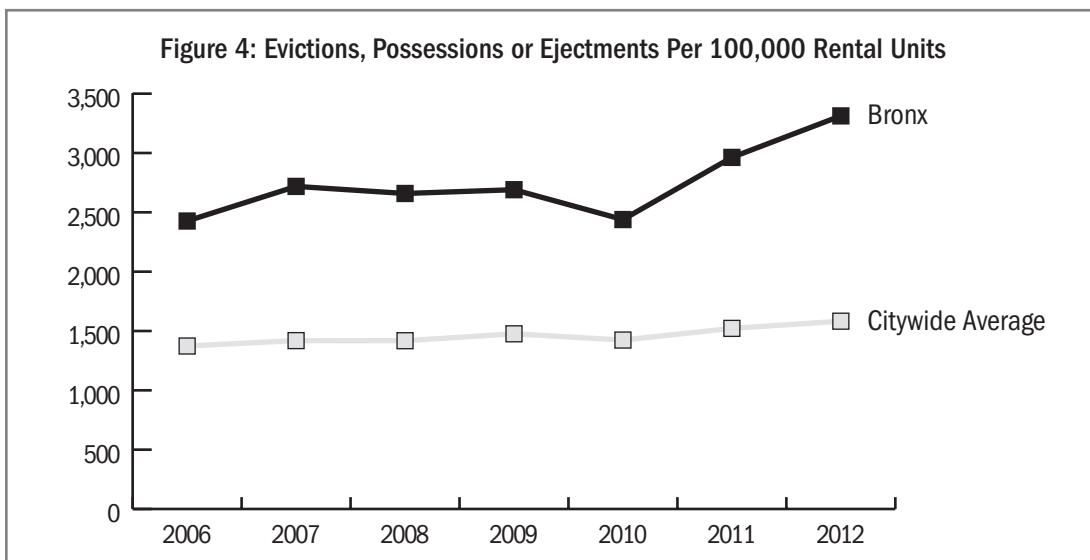
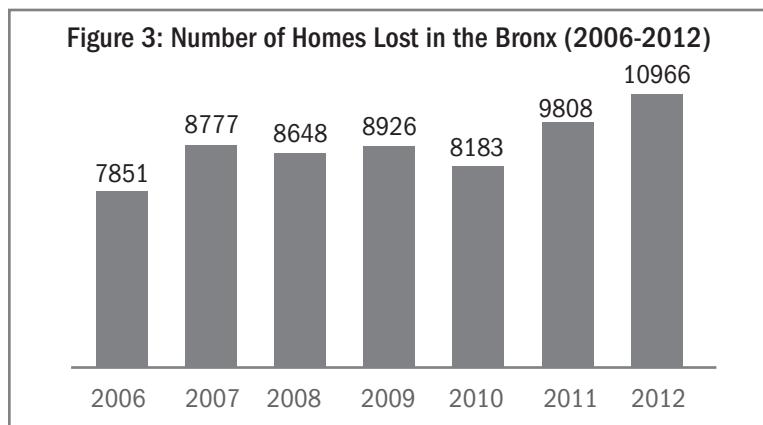
The Housing Court today continues to “handle a crushing volume of cases,” the majority of which involves unrepresented tenants and represented landlords. Bronx Housing Court handles more than 85,000 cases every year, more than any other borough.³¹ This is true even when controlling for the number of occupied rental units in each borough. The Bronx has about twice the rate of cases compared to any other borough (see Appendix B for Additional Figures).³²

Ninety-four percent of all cases in Bronx Housing Court are landlord-initiated, and almost all of those are non-payment cases (see Figure 2).³³ Fewer than 10% of these cases go to trial; the rest are settled in the Resolution Part.³⁴ However, these settlements, or “stipulations,” do not represent a fair justice system for tenants, as many are signed during unethical, unmonitored hallway negotiations.³⁵





Not only does the Bronx have more cases than other boroughs, Bronx tenants are also more likely to be evicted. In 2011, Bronx Housing Court issued a whopping 10,966 warrants of eviction (see Figure 3).³⁶ Furthermore, the rate of tenants who lose their homes through evictions, possessions or ejectments per 100,000 rental units in the Bronx is about double the citywide average (see Figure 4).³⁷



While there is a dearth of recent data on the demographics of tenants in NYC Housing Courts, past demographic data begins to provide a picture of the average tenant in Housing Court:

- » A 1993 study of NYC Housing Courts found that:³⁸
 - o 48% of tenants had incomes less than \$10,000; only 18% had incomes higher than \$25,000.
 - o 69% of eviction cases were brought against households with incomes at or less than \$19,000.
 - o 58% of tenants were African-American, and 29% Latino. The Bronx had the largest proportion of Latinos.
 - o Children represented approximately 43% of the population affected by Housing Court.
 - o 41% of Bronx tenants in Housing Court were on public assistance.
 - o Only 12% of tenants were represented.
- » A 2007 study by researchers at the Graduate Center of the City University of New York found that:³⁹
 - o 76% of tenants did not have a lawyer.
 - o Of those that did have a lawyer, 72% had a Legal Aid/Legal Services lawyer.
 - o 61% reported that at least one child under the age of 18 lived in their household.
 - o 44% had an annual household income less than \$15,000; 24% had an annual income between \$15,000 and \$24,000.
 - o 56% reported employment as the source of their household income; 25% reported public assistance as the source of their household income.
 - o 49% identified as Black/African-American; 27% identified as Hispanic/Latino and 11% as White.

It is clear that the vast majority of tenants in Housing Court are low-income people of color. A majority of tenants in Housing Court are women and many have limited English proficiency.⁴⁰ Women and people of color are also disproportionately more likely to lack legal representation, which increases the eviction rates.⁴¹ For these vulnerable tenants, their very homes are under attack. In fact, 44% of people entering the shelter system are homeless as a result of an eviction.⁴² The City then must shell out \$3,000 per month to house a single homeless family.⁴³ Years after being evicted families are more likely to be struggling financially and more likely to be depressed.⁴⁴ Many tenants experience a cycle of eviction, leading to chronic challenges impacting mental and physical well-being. In places like the Bronx, with sky-high poverty rates, these individual crises snowball to impact the entire community. For these tenants, Housing Court, with its arcane language and incomprehensible procedures, remains a place where they are unable to access a balanced justice system.

Organizing Tenants

CASA works primarily in Community Board 4 (CB4), or the Highbridge/Concourse section of the southwest Bronx. CB 4 is within the poorest Congressional District in the U.S.⁴⁵ Almost 40% of residents in CB4 make less than \$18,500 per year. If any of these tenants pay CB 4's median monthly rent of \$987, they would all be paying more than 50% of their income in rent.⁴⁶ In CB 4, 83% of all residential units are rent stabilized, making our neighborhood home to the second highest concentration of rent stabilized housing in the Bronx, and the third highest in all of NYC.⁴⁷ This important stock of affordable housing—housing that provides home to a vulnerable community—is at risk, as more and more tenants are unjustly evicted in court.

Our membership, of more than 600 members decided to take action. Seeing the disparate impact of an unjust Housing Court processes on low-income people of color, and concerned about the de-stabilizing effect this high rate of eviction has on our community as people are displaced and rents are increased every time someone is evicted, our members voted to begin a Housing Court Reform campaign in early 2012.



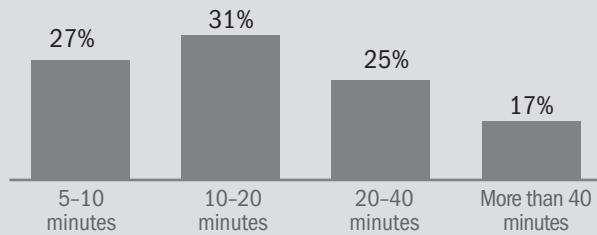
CASA member meeting.

Two Average Tenants in Bronx Housing Court

8:30am: Two tenants arrive at Bronx Housing Court. Tenant #1 has been to Housing Court before. Tenant #2 is at Housing Court for the first time.

- » They both wait in the security line in the rain to get into the Housing Court building.

Figure 5: Time Waiting Outside the Courtroom



9:00am: After going through the long security line, both tenants finally get into the Housing Court building.

- » Tenant #1, who has been to Housing Court before, goes directly to the courtroom to wait for it to open at 9:30am.
- » Tenant #2 doesn't know where to go specifically so she wanders around and then stands in the wrong line before learning of the correct courtroom.
 - 22% of tenants don't know where in the court building they need to go.
 - 54% of tenants were NOT helped by court personnel find the correct room.

9:30am: The courtroom opens but the Judge doesn't immediately take the bench.

- » Tenant #1 has checked in with the court clerk using the calendar number and is waiting for the landlord's attorney to arrive.
- » Tenant #2 hasn't checked in with the court clerk because she did not know she needed to.
 - 32% didn't know they needed their calendar number before going into the courtroom.
 - 24% didn't know they needed to check in with the court clerk.

10:00am: Tenant #2 isn't sure what is going on, and so talks to the court clerk to find out what she should be doing. The court clerk tells her to get her calendar number so the court clerk can mark that the tenant is in court.

- » Both tenants sit and wait in the courtroom.

11:30am: Tenant #1 finally hears the landlord's lawyer call out her name. They step out into the noisy hallway. Tenant #1 knows her rights, so after some conversation, she tells the landlord's attorney that she wants to speak to the court attorney or judge about her case. The landlord's attorney agrees, but tells Tenant #1 that he is going to "take care" of all his other cases first, and then leaves. Tenant #1 goes back into the courtroom to sit down and wait.

12:00pm: Tenant #2 finally hears someone calling her name. This person asks Tenant #2 to step into the hallway, and then begins to talk to Tenant #2 about her case. After several minutes of conversation, Tenant #2 realizes that she is talking to the landlord's attorney. Tenant #2 is scared, so she agrees to sign the agreement suggested by the landlord's lawyer, even though she doesn't understand it.

12:30pm: Tenant #2 waits until the court attorney calls her case. The court attorney reviews and approves the case in a quick, perfunctory manner, so Tenant #2 leaves court without fully understanding the stipulation that she signed.

- » 27% of tenants reported that no one explained the stipulation to them.

1:00pm: Court adjourns for lunch, but Tenant #1 is still waiting for her landlord's attorney to return. There isn't any food available in court, so Tenant #1 just waits in the hallway.

2:15pm: The courtroom reopens, so Tenant #1 goes back to the courtroom to sit and wait.

2:30pm: The landlord's attorney finally comes back. The judge calls Tenant #1's case. Tenant #1 and the landlord's attorney go before the judge. An adjournment is issued for Tenant #1's case. A new court date is set.

- » 41% of tenants never spoke to a judge about their case.

3:00pm: After spending the entire day in Housing Court, Tenant #1 finally leaves.

This day in court is based on an average day for two single, English-speaking people who can easily get around. What if...

A tenant has a child?

- » If the child is in a stroller, the tenant waits an additional 10 minutes once inside Housing Court to use the elevator.
- » If the child makes any noise in the courtroom, the court clerk asks the tenant to leave, so the tenant misses the first time the landlord's attorney calls out their name to negotiate.

A tenant is in a wheelchair or is unable to walk up the many stairs?

- » The tenant must wait an additional 10 minutes once inside Housing Court to use the elevator.

A tenant is a non-English speaker?

- » Since all the signs are in English it takes the tenant an extra 20 minutes to figure where to go in court.
- » If the tenant is Spanish-speaking, an additional 30-60 minute wait is necessary for an interpreter to be available at the same time as the landlord's attorney.
- » If the tenant speaks a language other than English or Spanish, they must get an adjournment for another court date so that the court can arrange for an interpreter. The tenant will lose another day of work and much-needed income.

III. METHODOLOGY

To identify concrete issues tenants face in Housing Court and necessary policy changes, CASA launched a research project in partnership with the Community Development Project (CDP) at the Urban Justice Center. Utilizing a participatory action research model, CASA involved tenants who have been in Housing Court in every stage of the research process: planning the research, developing research instruments, collecting data, analyzing data and developing policy solutions. CASA collected a mix of complementary qualitative and quantitative data through the following research instruments:¹

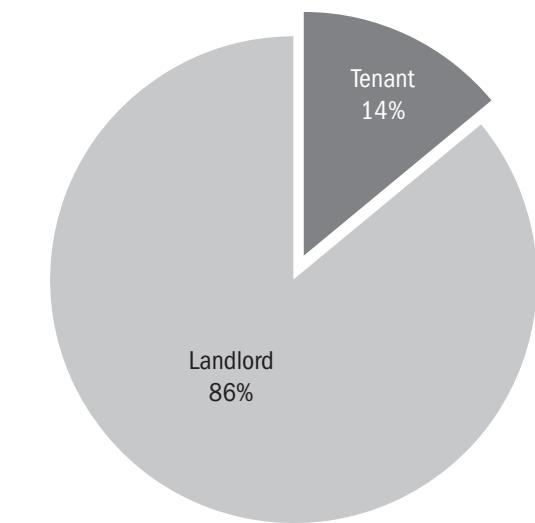
- 1. 1,055 surveys:** This short survey focused on collecting detailed data on tenants' experiences in Housing Court. Questions focused on why tenants were in Housing Court, how they navigated the Court system and the outcomes of their cases (see Appendix A for a copy of the survey). The surveys were collected in an interview-style format by members of CASA during early summer 2012. Most of the surveys were collected from tenants waiting in line to enter Housing Court or inside Housing Court, but some of the surveys were collected at tenant association meetings, community fairs and other public events. Thus, the survey provides a fairly rigorous view of the average Housing Court experience for tenants.

Table 1: Housing Court Outreach Tenant Survey

| Demographics | | Percentage of Respondents (Based on 1,055 surveys) | Percentage of all Bronx Residents (Census Data) ⁴⁸ |
|--|-----------------|---|--|
| Zip Code (N = 903) | 10452 | 22% | 5% |
| | 10453 | 9% | 6% |
| | 10456 | 11% | 6% |
| | 10457 | 17% | 5% |
| | 10458 | 5% | 5% |
| | Other Zip Codes | 36% | 72% |
| Do you belong to a Tenant Association? (N = 773) | Yes | 14% | N/A |
| | No | 86% | N/A |
| Gender (N = 903) | Male | 19% | 47% |
| | Female | 81% | 53% |
| Language (N = 871) | English | 64% | 43% |
| | Spanish | 36% | 46% |

The following figures include other data collected about survey respondents to give a fuller picture of who responded to our survey and give a initial glimpse into why tenants are in Housing Court.

Figure 6: Who is Initiating the Case?



¹ See Appendix A for a copy of the survey. Contact CASA to see copies of the judge observation or the focus group guide.

Figure 7: How many times have you been to Housing Court?

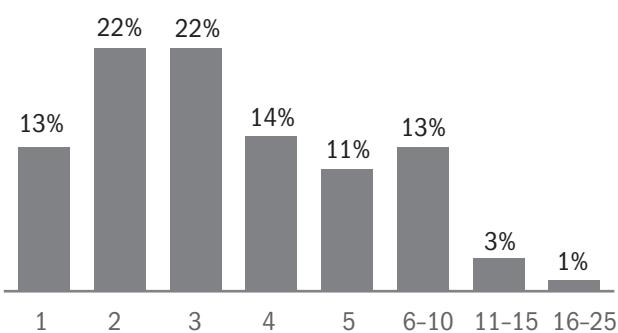
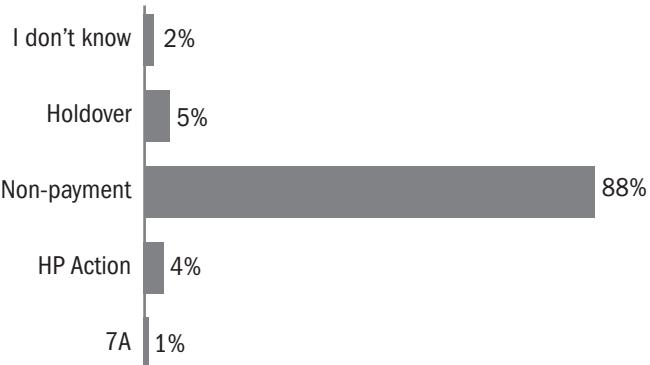


Figure 8: What type of case are you in Housing Court for?



2. 15 judge observations: In September 2012, CASA members and organizers also conducted three sessions of observing a random sample of five Resolution Part judges in order to collect quantitative and qualitative data about what actually happens in courtrooms and to identify differences between various courtrooms. CDP assisted in the development of the observation protocol.

3. 3 focus groups with 25 tenants: In August 2012, CASA conducted three focus groups with a total of 25 tenants who have been through Housing Court. The focus groups aimed to collect stories about what it is like to be a tenant in Housing Court, including interactions with judges, hallway deals, why tenants are in Housing Court and landlord harassment tactics. CDP helped to develop the focus group questions and trained CASA members on focus group facilitation. Seventy-two percent of focus group participants were female. Sixty-one percent reported English was their primary language; 33% reported Spanish as their primary language. Most focus group participants were 56 or older (74%). Participants had an even distribution of education levels; some had not finished high school, while others had completed college. Most focus group participants (65%) identified as Hispanic, and the other 35% identified as Black/African-American.

4. Secondary Research: CDP performed an analysis of current literature and data on NYC's Housing Court in general, and the Bronx Housing Court specifically. This included a legal review of issues in Housing Court and the implications of legal representation for tenants, and secondary data collection from resources like Housing Court Answers (a non-profit that advocates for tenants and compiles data about Housing Court).



CASA planning meeting.

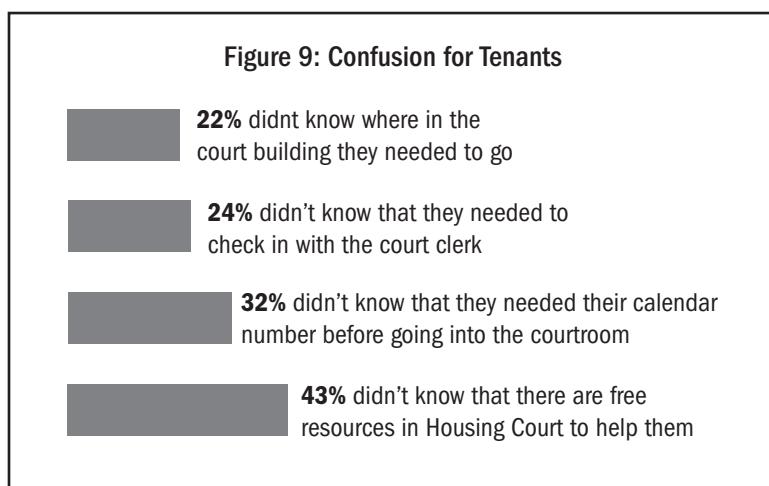
IV. RESEARCH FINDINGS

These findings are the result of CASA's extensive research. The data shows that, despite its original goals and intentions, unrepresented tenants are systematically disadvantaged in Housing Court. As Housing Court currently operates, it fails to provide a balanced justice system where tenants can go to ensure their rights are upheld, defended and respected. Almost all tenants lack legal representation, which drastically impacts their experience in Housing Court. Without a lawyer, tenants, many of whom are low-income people of color and some of whom don't speak English, are forced to navigate the court alone. The data shows that current court protocols and policies are insufficient to level the playing field for these unrepresented tenants in Housing Court.

Finding 1: Housing Court is confusing and difficult to navigate for most tenants.

An overwhelming number of tenants find Housing Court protocols confusing. Many tenants are unsure where to go or what to do in court. This is particularly true the first time a tenant is in Housing Court, but usually persists throughout the court process. As one focus group participant said:

"You go in there and first of all you don't even know where you go or what, or who you're gonna see or anything at all." – Focus Group Participant #8



The fact that so many tenants don't know about basic court procedures (e.g. checking in with the clerk) highlights how little information they receive about what to do. This greatly disadvantages tenants compared to landlords, most of whom have lawyers with years of experience in Housing Court. Navigating Housing Court, particularly for a first-timer, is an impossible task without instructions and resources.

Tenants are often unsure of not only procedures, but also the identity and roles of those in court. As focus group participants explain below, many tenants are unable to decipher who works for the court and who doesn't, which can have disastrous consequences for a tenant's case:

"[Landlords' Attorneys] don't identify who they are. And not knowing all that information, you don't know what deck of cards you're playing with so it's kind of confusing." – Focus Group Participant #11

"I was in the courtroom but instead of doing it [the negotiation] in the hallway, the lawyer did it right directly in front of the judge at the desk, at the table. In other words, when he called me up and started writing some papers, turning the papers, I thought he was a court assistant. Then he asked me to sign it and then I said, 'By the way, are you my lawyer?' I thought the court had appointed me a lawyer... It was then I found out that he was the lawyer for the landlord." – Focus Group Participant #8

A lack of English proficiency amplifies the confusion for many tenants:

“The problem for me is the language, because I don’t speak English...I was disoriented and I did not know what to do.” – Focus Group Participant #1

Lack of Assistance from Court Personnel

In their confusion, tenants usually turn to court personnel for assistance, but more often than not, court personnel do not help tenants to understand court protocols. As a matter of law, court personnel are constrained in their interactions with unrepresented tenants by their obligation not to provide legal advice.⁴⁹ However, there remains significant confusion among court personnel about what type of activity crosses the line into impermissible advice giving. Observations at Housing Court have revealed that some court personnel invoke the prohibition of legal advice as “an easy way to ‘get rid of’ an unrepresented tenant seeking assistance.”⁵⁰ It is clear that simply conveying facts to tenants, like explaining court procedures and informing tenants of various court resources, is lawful. However, our data shows many court personnel are failing to provide even this basic procedural information to tenants. According to survey respondents:

- » 54% of tenants were NOT helped by court personnel to get to the proper place in the court building;
- » 53% of tenants reported that court personnel, including judges, did NOT explain rules or court procedures to them;
- » During judge observations, two-thirds of the courtrooms did not have any rules and procedures posted.

Court officers are usually the first people tenants encounter in court; in fact, of the tenants we surveyed who *did* get help in court, about 70% got the assistance from court officers. However, surveyed tenants described court officers as harsh, rushing people through the line and refusing to answer questions. One tenant said, *“They just told me to keep walking when I asked questions.”* Another focus group participant explains how frustrating the lack of help can be:

“You feel completely helpless in there. You don’t know what is going on and no one tells you anything that you can do. There is no help at all.... I asked some people that are supposed to be there to help but they didn’t help. They couldn’t orient me in what I should do.” – Focus Group Participant #12

Without the assistance of court personnel, tenants are left to decipher the intricacies of Housing Court themselves, often with detrimental consequences, as one tenant explained:

“I went in there unarmed... I didn’t know my options and I didn’t know how to proceed.... I left there not knowing what my next step is.” – Focus Group Participant #10

Negative Court Experience

The lack of information, combined with little assistance from court personnel, makes Housing Court a very



Security at the Bronx Housing Court.

harrowing experience for tenants. When asked to describe their feelings about being in Housing Court in one word, about 80% of surveyed tenants responded with negative words, including “horrible,” “frustrated,” “depressed,” “scared,” “nervous” and “stressed.” Focus group participants described their experiences:

“For me the Housing Court has a hallway they call the hallway of justice, but it should be the hallway of terror! Everyone who goes to Housing Court suffers stress and this in turn create a lot of problems with their family, job and everything; especially when you are taken to court for injustices by the landlord.” – Focus Group Participant #19

“You come into the court system, it’s intimidating.” – Focus Group Participant #8

Finding 2: The vast majority of tenants in the Bronx do not have legal representation in Housing Court to help them navigate the system.

The operation of Housing Court has been described as an “eviction mill,” a system created “to work in a landlord’s favor.”⁵¹ Indeed, the confusing nature of court as previously discussed favors any litigant with a lawyer, which most landlords can afford and most tenants cannot. In our survey, 83% of tenants reported that they did not have legal representation (these litigants are commonly referred to as *pro se*). Numerous outside sources confirm that about 90% of New York tenants are unrepresented, while about 98% of New York landlords do have legal representation.⁵² This imbalance of power seems to be the worst in the Bronx; one study comparing Housing Court in all five boroughs found Bronx tenants the least likely to be represented and Bronx landlords the most likely to have legal representation.⁵³

Unfortunately, rates of representation are tied to overarching socioeconomic factors. One study of NYC Housing Court found that women of color are more likely to be *pro se* litigants than their white and male counterparts.⁵⁴ As one focus group participant explains, most tenants simply are unable to hire a private lawyer to help them with their cases:

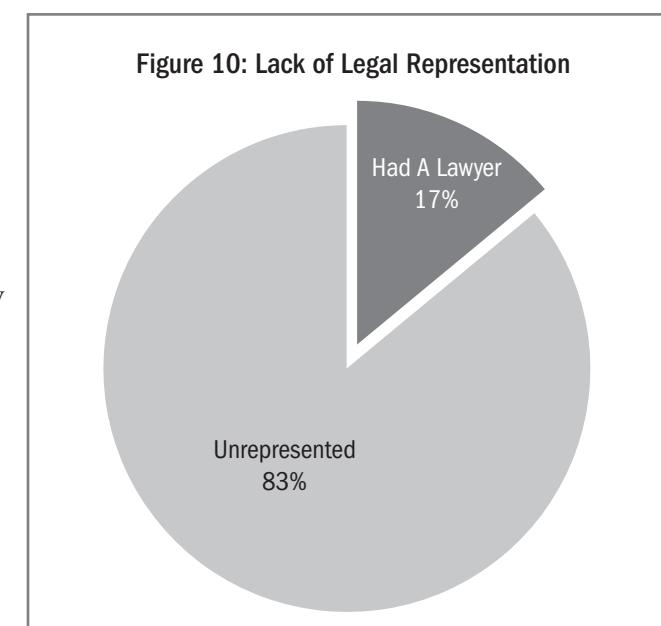
“I didn’t have money or the resources to hire a lawyer.” – Focus Group Participant #10

Limited Legal Services Resources

There are legal services agencies, like Legal Services NYC-Bronx and the Legal Aid Society, that work tirelessly to represent tenants, but with limited funding and capacity they are only able to take a very small percentage of tenants who qualify. In fact, it is estimated that between 50% and 60% of tenants in Housing Court are eligible for Legal Aid Services.⁵⁵ But in an average year, legal services organizations are “forced to turn away eight out of every nine New Yorkers seeking civil legal assistance” due to funding constraints.⁵⁶ As focus group participants explain, legal services are usually the only place for tenants to get legal representation:

“I didn’t have a lawyer but I tried to get one. Every time I went to the places [where they offer legal services] they must have been really busy. There are few lawyers that represent tenants. There are few, very few, I would say that for every one million tenants there are ten lawyers.” – Focus Group Participant #19

“We did try for the lawyers that they have up in the third floor.... They gave us some things to do and they told us to pay the rent and that that day he had too many cases. That’s the reason I didn’t have a lawyer.” – Focus Group Participant #4



A small minority of tenants do hire private attorneys, but as one focus group participant commented, tenants often struggle to find the funds to pay for the services:

“The sacrifices are that I have to borrow from Peter to pay Paul when you are paying for a private attorney. And what that means is that some things go unpaid to cover that cost or you have to barter.”
– Focus Group Participant #11

Finding 3: Pro se (unrepresented) tenants are at a huge disadvantage in Housing Court.

In general, studies show that tenants with legal representation are more likely to have favorable stipulations, win at trial and are less likely to default.⁵⁷ Lack of legal counsel presents a significant disadvantage to the vast majority of tenants in court. Even when tenants have the substantive law on their side, they lose in Housing Court with “stunning regularity,” in part due to their inability to articulate their claims and defenses in the cryptic rules of the adversarial court system.⁵⁸ By contrast, many landlords are absent and detached from Housing Court proceedings, as they generally can afford lawyers to appear in their place. More importantly, these lawyers offer their landlord clients the benefits of their past Housing Court experience in terms of legal precedent and tactics, as well as the benefit of their relationships with court personnel, all of which can impact cases in court.⁵⁹

Documented Impact of Legal Representation on Court Outcomes

Not surprisingly, studies have shown the positive impact of legal representation on the outcome of housing cases. In one national study, tenants were anywhere from 3 to 19 times more likely to win a case with representation.⁶⁰ In NYC, Carroll Seron’s 2001 randomized study of Housing Court cases, researched in conjunction with the Legal Aid Society of New York, found that judgments of evictions were issued for half the unrepresented tenants, compared to only a third of tenants with legal representation.⁶¹ In 2008, a second study of civil and housing cases confirmed that “representation by a lawyer played the largest role in affecting case outcome.”⁶² According to the study, this was especially true when cases were routine, indicating that the very presence of an attorney encouraged the court to follow protocol exactly and lent weight to the validity of the tenant’s case.⁶³

Tenants are aware of the importance of legal representation. One focus group participant reflected on how having representation would have affected the outcome of their case:

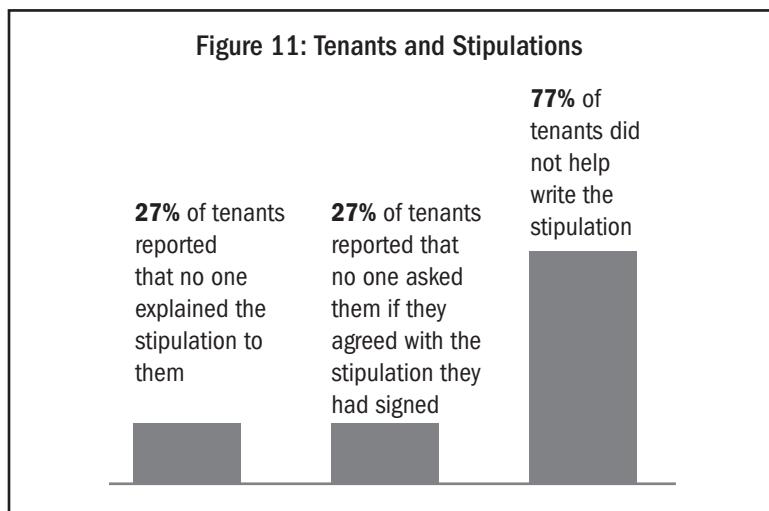
“I think my repairs would’ve been done properly and an inspector would’ve gone from the court house... They only won because the landlord got my money... It was not something that I didn’t have the total amount. To the penny I had all my money. If a lawyer was there, I think it would’ve been a different experience for all of us.” – Focus Group Participant #4

Court Assistance to Pro Se Tenants

In the last decade, New York City Housing Court has started using various tools to expand access to justice for unrepresented litigants as a part of the NYS Court Access to Justice Program. Some of these changes aim to increase the accessibility of court through simplified court procedures, advice-only hotlines, pro se clerks’ officers and help desks, form pleadings, self-help manuals, information sheets, booklets and websites. Other changes center around personal assistance to tenants, such as court clinics staffed by law students, “lawyers-for-the-day” programs, unbundled legal services and the Guardian Ad Litem (GAL) program, through which judges can appoint someone to help tenants in Housing Court deemed incapable of advocating for themselves.⁶⁴ Despite the existence of these programs, unrepresented litigants rarely receive the continued assistance throughout the course of their proceeding that is essential for winning cases. Additionally, most of these tools are limited in that they can only provide technical assistance, not actual legal advice.⁶⁵ Lawyer-for-the-day programs do provide legal advice, but of a limited and rushed nature that still falls far short of full representation.

Stipulations

Stipulations are legal agreements made between landlords and tenants to settle their differences. Typically, these agreements are discussed in the hallways of Housing Court. Most stipulations are initially drafted by the landlord's attorney and thus often include terms favorable to the landlord. Not surprisingly, a study by Russell Engler, law professor at New England Law, found that unrepresented tenants often sign stipulations they do not understand or agree with, and which have terms that are much more favorable to the landlord.⁶⁶ Our survey results confirm that many tenants do not understand the stipulations that they sign.



Worse yet, our survey results showed that not only do tenants not understand the stipulations; many do not even understand their basic rights as tenants:

- » 85% of tenants reported that no one told them that they had the right to object to legal fees;
- » 56% of tenants reported that no one explained their options if the landlord did not make repairs as promised in the agreement.



Outside the Bronx Housing Court.

Different Treatment for Tenants and Attorneys

Focus groups participants and survey respondents repeatedly cited a culture of hostility and disrespect towards tenants exhibited by many court personnel. A recent Make the Road NY report on Brooklyn's Housing Court confirmed this trend, saying that "court staff frequently use curt language with unrepresented tenants and that it is not uncommon for clerks to lose patience with tenants who make mistakes or fail to understand something."⁶⁷ As one focus group participant explained:

"Being in court is not only frustrating, but I am dismayed at the treatment that I personally received. There is a perception by the court and its employees that all people of color fit a certain criteria and we don't. And the assumptions that they make, make me feel very uneasy. You leave there feeling humiliated, you leave there feeling degraded." – Focus Group Participant #11

This stands in stark contrast to the often friendly or helpful way court personnel treat landlord lawyers, which only deepens the power imbalance in court. In extreme cases, court personnel have been friendly with landlords' attorneys to the point of calling to remind them of court dates or even falsely checking in lawyers who are not even in the building.⁶⁸ Survey respondents and focus group participants consistently reported the divergent treatment of tenants and landlord attorneys by court personnel:

"They [court personnel] talk very nicely and very polite to the attorneys; to the tenants they talk like we are nobody." – Focus Group Participant #15

Hallway Deals



Litigants discuss stipulations in the hallways of Bronx Housing Court.

Tenants' lack of knowledge and understanding about the court process is especially disadvantageous in unmonitored hallway negotiations with landlord attorneys. Tenants are usually grossly underprepared to negotiate with landlord attorneys, who in addition to their legal training have years of Housing Court experience as well as friendly relationships with court personnel. In hallway negotiations, landlord attorneys use manipulation, argument, appeals, threats and promises to get tenants to sign stipulations that are generally favorable to the landlords.⁶⁹ Sometimes these attorneys go as far as giving legal advice to tenants, a tactic that is prohibited by legal professional conduct ethics. Often this legal advice is presented to the tenant as objective information. New England Law Professor Russell Engler argues the line between objective information and legal advice is crossed when the lawyer begins the process of persuasion (for example, making statements that predict what the court will do or statements that assert a certain amount of rent is owed).⁷⁰

Unrepresented tenants, moreover, are sometimes confused about the role of the landlord attorneys with whom they are negotiating, and do not question the authority of these attorneys.⁷¹ Some tenants mistakenly think their landlord's attorney works for the court, or worse yet, is representing them as a tenant. The use of pre-printed stipulations by landlord attorneys often compounds the confusion, as "when a pre-printed stipulation is used, unrepresented tenants are more likely to think that the language included is 'standard' or that the agreement is a court pro forma."⁷²

Landlord attorneys exploit tenants' inexperience and confusion to pressure them to sign agreements, usually by convincing tenants that signing a stipulation is their only option. Focus group participants explain:

"They try to scare you: if you don't do this, if you don't sign here, they are going to put you out, you're going to get evicted. I used to sign it in the beginning but once I said I want to see the judge, they get really aggressive. The landlord's lawyer gets really aggressive." – Focus Group Participant #15

"And even before I went into the courtroom he was talking deals with me and I felt like I was forced to sign that stipulation. Not knowing how to go about it, I ended up signing it and was bound by that stipulation. When he approached the judge, and the judge says, 'Well you knew you would have to stick to this stipulation.' It was very forceful... I felt like there wasn't any room for negotiation, so I felt obliged to sign those stipulations... I didn't feel as if I had any other options."

– Focus Group Participant #10

Other factors further complicate negotiations with landlords' attorneys and place greater burdens on tenants to sign agreements that are not in their favor. A parent attempting to keep watch over her children will be unable to give her full attention to the negotiations. A tenant not fluent in English will have difficulty understanding and communicating their settlement terms to the landlord's attorney. A low-wage worker, who is losing much-needed income to be in Housing Court, may try to speed up the negotiation process in order to return to work as soon as possible. Even a hungry tenant, who has been unable to leave court to get food, will be distracted in negotiations. All of these factors only further incentivize tenants to sign stipulations with unfavorable and sometimes even unjust terms.

Finding 4: Judges have the ability to do more to even the playing field for tenants.

Despite the above findings, the court does have a built-in mechanism to make sure that tenants, particularly those without representation, understand agreements and are not grossly disadvantaged by unfair stipulations. Judges in the Resolution Part are supposed to fulfill this role⁷³ by overseeing negotiations, reviewing stipulations of settlement and ensuring that all parties fully understand the terms and consequences of signing the stipulation.⁷⁴

Role of Judges

A recent amendment to New York State laws goes further by requiring judges to "fully describe the terms of the stipulation" to pro se litigants.⁷⁵ However, the law fails to explain what it means to "fully describe" the stipulations, resulting in varying judicial practices. Typically judges just read the stipulation and ask if the pro se litigant has any questions, though there are some judges who go further.

The Office of Court Administration (OCA) does have some oversight on judicial practices and efforts have been made to encourage judges to improve and standardize the allocution (i.e. a verbal review) of stipulations with litigants. Indeed, a 2007 Advisory Notice issued by the Chief Administrative Judge clearly delineates that judges should not approve stipulations unless they are convinced that the tenant understands the terms, and that judges should determine whether a tenant's claims or defenses are adequately addressed prior to approving any stipulation.⁷⁶ According to the Advisory Notice, judges should at a minimum ascertain the following issues:⁷⁷

1. *The identity of the parties;*
2. *The authority of the signatory to the stipulation, if the named party is not present;*
3. *If the pro se litigant understands and agrees to the terms of the stipulations;*
4. *If the litigant understands the effect of non-compliance of the stipulation by either side;*

5. Whether the litigant understands that he or she may try the case if an acceptable stipulation cannot be negotiated;
6. Whether the litigant understands all available options in light of their claims and defenses;
7. If the litigant indicates that he/she intends to apply for public assistance benefits that an appropriate rent breakdown is included in the stipulation;
8. If the litigant understands the implication of a non-satisfied judgment and the legal requirement that the petitioner provide a satisfaction upon payment.

This advisory notice attempts to encourage Housing Court judges to even the playing field for tenants by making sure tenants have all the information they need. It also is an attempt to standardize the quality of allocutions that can vary widely among judges. However, these recommendations merely encourage judges to take these steps, since the Chief Administrative Judge does not have the power to dictate specific judicial practices. Disturbingly, our survey results show that judges often fail to meet even these basic standards recommended by the OCA:

| OCA Advisory Notice Suggestion | Relevant Survey Data |
|---|---|
| 3. If the pro se litigant understands and agrees to the terms of the stipulations. | <ul style="list-style-type: none"> » 1 in every 4 tenants reported that no one explained the stipulation to them; » 1 in every 4 tenants reported that no one asked them if they agreed with the stipulation they had signed. |
| 4. If the litigant understands the effect of non-compliance of the stipulation by either side. | <ul style="list-style-type: none"> » 56% of tenants reported that no one explained their options if the landlord does not make repairs as promised in the agreement. |
| 7. If the litigant indicates that he/she intends to apply for public assistance benefits that an appropriate rent breakdown is included in the stipulation. | <ul style="list-style-type: none"> » In most of the observations, the judge seldom let the tenant know that if they are applying for rental assistance, a rent breakdown of what they owe can be given to them in court. |

Other studies of Housing Court explain that this protocol gap is a result of judges who are “better” than others at ensuring that tenants understand stipulations and their rights.⁷⁸ This means a tenant’s chances of fully understanding their stipulations and rights remain subject to their judge’s personal predilections, highlighting the need for consistent standards. Focus group participants confirmed the inconsistency amongst judges:

“So we went from the one (judge) that does everything to the one that did nothing. Every court is handled differently and the outcomes and results can be impacted by that. It’s hit-or-miss depending on the judge.” – Focus Group Participant #11

Tenants find judges helpful, but few tenants speak to them

- » 3 of every 4 tenants who spoke to a judge found it helpful;
- » However, 41% of tenants never spoke to a judge about their case;
- » Over half of tenants were pressured by their landlord’s lawyer to make an agreement before speaking to a judge.

The administrative advisory detailed above is based on the assumption that tenants interact with judges in Housing Court. Often this is not the case; in our survey, 40% of tenants never spoke to a judge about their case. Usually, since tenants are expected to negotiate with their landlord’s attorney before talking to the judge or court attorney, tenants have already signed detrimental agreements before even consulting with someone who can explain their rights and defenses. In our survey, 53% of tenants were asked to pay the rent they owed or make a settlement in the hallway *before* even entering the courtroom.

Nevertheless, many tenants who were able to speak to judges had a positive experience; 74% of tenants found talking to the judge helpful. Some tenants reported that judges explained what the agreement required of the tenant, and even gave them more time to pay their back rent. Focus group participants explained how judges can create a positive environment for tenants in Housing Court:

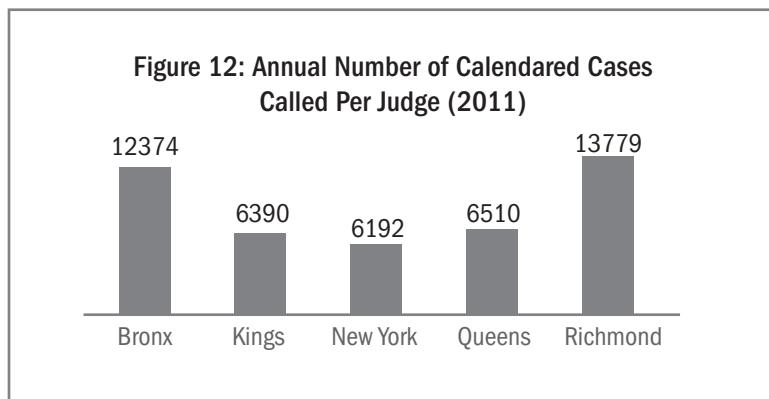
“When I went up to the judge, she saw that I was upset and angry and everything, so she said ‘I understand and I’m not going to even let you sign the stipulation. I’m going to just sign right down on the folder that I’m going to allow them access to do the heating system and the electrical system.’But she didn’t force me to sign...She was pretty decent.” – Focus Group Participant #3

“With the judge I felt she was very fair and showed respect and seemed like she was a people person. She had this kind of human relationship and knowing that we are experiencing difficult financial time and you know she gave a lot of leeway when it comes to that.” – Focus Group Participant #9

Judges Have High Case Loads

Unfortunately, Housing Court judges face a daunting number of cases every day and are realistically unable to personally attend to every case on their calendars. Our observations show the average Bronx Housing Court judge has about 58 cases on the calendar per day, though this number can vary widely in different Housing Court Parts. An analysis of the annual number of calendared cases called (cases that are actually seen in court by the judge or court attorney) shows that Bronx Housing Court judges have to deal with more cases than most judges in the city (see Figure 12).⁷⁹ In fact, Bronx Housing Court judges see about twice the number of cases as their counterparts across the city, with the exception of the lone Richmond County judge. While this difference can partly be attributed to a difference in the number of cases that make it to trial in the different boroughs, court statistics make it clear that Bronx Housing Court judges have incredibly high case loads. This busy schedule impacts the amount and quality of oversight on individual cases. Unfortunately, judge oversight is most needed in the Bronx, since Bronx tenants are the least likely to have legal representation.⁸⁰ One participant explained how the high volume of cases in Court affected their individual case:

“I would like to mention that the judge also rushed me through the entire process. It seems like he knew what the motions were going to be.... He looked at the paperwork; he knew where to proceed next and didn’t give me the opportunity to explain my situation or the case.” – Focus Group Participant #10



Judges can do more to inform tenants of their rights

The inconsistency among judges in following protocol may be attributed to certain judges’ concerns that a more active role will appear to violate or actually violate their duty of impartiality.⁸¹ As mentioned previously, judges do face real limitations on time, energy and resources that prevent them from taking a more active role.⁸² Our research reveals some key practices that are clearly within the confines of judges’ duties and that would not take up much time, and

yet are not being acted upon in court. Each of the following situations represents a missed opportunity for judges to proactively ensure tenants are fully exercising their rights under the law:

- » In most of the observations, observers reported that “about half the time” the judge asked if the tenant had any repairs that needed to be completed;
- » 85% of tenants reported that no one told them they had the right to object to legal fees;
- » During observations, no judge introduced her/himself or gave an overview of how the courtroom would be run;
- » By case law, judges are able to refuse to so order stipulations signed by tenants, if the judge believes the stipulation is “unduly harsh or one sided,” but in practice this rarely happens;⁸³
- » 1 in 4 tenants reported that no one explained the stipulation to them, even though judges are required to fully allocate the stipulation, highlighting the confusion over what “fully allocuting” means in practice.

This data suggests that judges play an integral role in a tenant’s experience of Housing Court. Judges are by far the most prominent players in Housing Court, and many tenants have a clear understanding of a judge’s role. Tenants go to court expecting to appear before a judge and many are upset if they do not. Therefore, judges are uniquely positioned to make a positive impact on the Housing Court process for tenants.



Litigants wait in the Bronx Housing Court hallways.

Conclusion

This research shows unequivocally that Housing Court does not present an even playing field for tenants and landlords. Consequentially tenants are systematically disadvantaged in court. The findings indicate:

- » **Lack of Information and Guidance:** There is little information that explains tenants’ rights and few court personnel to explain the court rules, procedures and options to tenants.
- » **Lack of Assistance:** Many court personnel are reluctant to help tenants with even basic procedural information.
- » **Pro Se Tenants:** Almost all tenants do not have an attorney to represent them, putting them at a huge disadvantage in Housing Court.
- » **Hallway Deals:** Stipulations are negotiated in hallways away from the eyes and ears of judges and other court personnel who could be providing oversight.
- » **Judges:** Most tenants don’t talk to a judge or court attorney until after they have signed a stipulation, when information about their rights as tenants comes too late.

As a result, most stipulations favor landlords and many tenants are evicted from their homes through this unjust process. Thus, today’s Housing Court needs significant and drastic improvement to live up to its basic mission of providing a “mechanism for providing safe, decent, and habitable housing.”⁸⁴

V. POLITICAL CONTEXT



CASA tenants demand building repairs.

In the past several years, many people and organizations have recognized that the current Housing Court System isn't working and have suggested changes to improve the system. In 2005, the New York County Lawyers' Association held a conference and made several recommendations.⁸⁵ The Office of Court Administration (OCA) and Chief Justice Lippman created the NYS Courts Access to Justice Program, and more recently the Task Force to Expand Access to Civil Legal Services in New York that regularly offers recommendations for improvements.⁸⁶ For many years now, the non-profit Housing Court Answers has helped pro se litigants navigate the court system and successfully advocated to improve Housing Court. More recently, Make the Road New York wrote a report about the inadequacies of the Brooklyn Housing Court.⁸⁷ Thanks to all these efforts, Housing Court is better than it used to be. However, our research shows the struggle for justice continues as tenants remain systematically disadvantaged and that bolder, more immediate action must be taken to level the playing field.

Office of Court Administration

As noted in the *Background* section of this report, the OCA has broad authority to set the policies and procedures in each housing court. At the state level, Chief Justice Jonathan Lippman, with input from the Administrative Board of the Courts, sets administrative procedures and court rules, including the Judicial Code of Conduct.⁸⁸ Since becoming Chief Justice, Judge Lippman has attempted to increase resources for pro se litigants through volunteer lawyer programs, increasing resources for legal services and requiring lawyers entering the bar to complete pro bono hours.⁸⁹ More recently, in his 2013 State of the Courts Address, Judge Lippman announced an initiative to test equipping qualified non-lawyers to assist pro se litigants in simple legal matters.⁹⁰ This program has the potential to help pro se litigants in all civil courts.

At the City level, the central NYC Housing Court OCA office, led by Judge Fern Fisher, can make decisions affecting all of the Housing Courts, while a Supervising Judge at each Housing Court branch may impact policies and procedures at the local level. Judge Jaya Madhavan is the Supervising Judge in the Bronx Housing Court. Many of the problems laid out in this report could be fixed or at least mitigated by simple administrative changes (i.e. where signs are posted, etc) well within the scope of OCA's power. Indeed, in the past OCA has led efforts to improve the court experience for tenants through help desks, information sheets and simplified court procedures (see page 15). These efforts have been led citywide by Judge Fisher and in the Bronx by Judge Madhavan. However, as our data shows, these initial efforts by OCA, while a step in the right direction, have fallen short of what tenants need.

Unfortunately, these initially positive changes are also subject to the political will and ability of whoever holds primary OCA positions and their interpretation of the power of those positions. Thus, while an important first step, administrative changes need to be followed by institutional reform to permanently implement practices that level the playing field for tenants.

REAL ESTATE LOBBY INFLUENCE

Notably absent from this report thus far is the recognition of the huge influence of landlords and the real estate lobby on Housing Court policies and procedures. Historically, landlords have exerted their power through the NYC Housing Court Advisory Council. Landlords have worked behind the scenes to help appoint and reappoint judges that are friendly to landlords. Landlords and their lawyers are also able to influence judge and court personnel practices, simply because they are in Housing Court every day and are able to build friendly relationships with court personnel. In this way, the real estate lobby has been able to influence not just Housing Court policies, but also put pressure on judges and court personnel to make decisions and act in favor of landlords. These seemingly small acts have a huge influence on tenants' cases, homes and lives.

This report and research lifts up the voices of tenants with the hope of balancing out the influence of the landlords. Tenants need a similarly strong influence over the court system to ensure a truly just system.

Advisory Notices

Office of Court Administration (OCA) staff also release advisory notices several times a year with specific suggestions for judges. However, these notices are simply recommendations, not requirements; OCA does not have the authority to dictate the actions of judges. Some of these advisory notices attempt to encourage judges to “level the playing field” by making sure that unrepresented tenants “understand the court process, are aware of options, have a meaningful opportunity to explain their claims or defenses . . . and have meaningful understanding of the terms of the stipulation.”⁹¹ These advisory notices are a part of OCA’s responsibility to make sure that judges comply with state laws requiring judges to “fully describe the terms of the stipulation” to pro se litigants.⁹²

However, these recommendations appear to merely encourage judges to engage in the most basic due diligence (“ascertain the identity of the party,” “ascertain that the litigant understands and agrees to the stipulation”). Furthermore, Housing Court judges must be repeatedly encouraged to take even these most basic steps. Advisory Notice AN-1 LT-10, issued in 2007 and referenced in the findings section in this report, delineated the issues that judges should discuss with pro se litigants. This advisory notice was simply a reiteration of Advisory Notice AN LT-10, issued ten years earlier in 1997. The need to reiterate these basic steps highlights OCA’s lack of influence in mandating specific actions from judges. Clearly, more drastic measures are needed.



Litigants line up outside Bronx Housing Court.

VI. POLICY RECOMMENDATIONS

Our research and findings suggest that Bronx Housing Court does not currently operate as a place where tenants can access justice, but rather as a place where tenants are brought to court and evicted at a disturbing and unprecedented rate. The following are recommendations that can and should be implemented to shift the balance of power away from landlords in order to create an impartial and fair court system. Ultimately, full legal representation for tenants is the only way to completely and fairly balance the system. However, this is a long-term goal and in the short term, stopgaps must be put in place.



Litigants wait in the halls of the Bronx Housing Court.

Immediate Recommendations: Level the Playing Field

There are several changes that if implemented by the Office of Court Administration (OCA) would make Housing Court a bit more manageable for unrepresented tenants. These recommendations could be implemented in the short term, until full representation for tenants is brought to fruition. We call on the OCA to:

1. Streamline court processes.

- » **Require all court personnel to wear clear and visible court IDs** so tenants can easily identify who works for the court and who does not. This will help clear up the confusion many tenants have about whether landlord attorneys are employed by the court.
- » **Schedule cases at 11 a.m.** so mornings are more efficient. This would reduce the line outside Housing Court, reduce congestion in court hallways and reduce unnecessary wait-times for tenants, since they would know what time their case would be handled.
- » **Ban pre-printed stipulations** that many tenants mistakenly believe are court-approved.
- » **Increase advertisements of how to submit complaints about court personnel.** This information should be available in English, Spanish and French.

2. Improve the quality of language access for non-English speakers.

- » **Translate every court document and sign** (including the new materials suggested in this report) into Spanish and French.

3. Improve information given to tenants about the court process and their rights.

- » **Require judges to give a standardized presentation of court procedures and tenants' rights** at the beginning of each session to the full courtroom. During this time, judges should introduce themselves and the court personnel and explain the court procedures.
- » **Create a short information sheet** for tenants on the judicial process and what to expect in Housing Court. This information sheet should be translated into Spanish and French. OCA and court clerks should distribute this information sheet to tenants at key points in the Housing Court process, specifically when tenants submit answers, when tenants are in line waiting to get into Housing Court, at the clerks' counters and at the information desk.
- » **Improve content and number of information posters.** Current Housing Court posters don't have enough content, nor is the content easy to understand. Current information posters are not posted at easily visible and accessible locations, thus making it difficult for tenants to locate them. These posters should be on every floor and in places where tenants can easily find them as they walk through court.

- » **Create and post a large sign** with a list of tenants' rights and resources at the court entrance and next to the directory on every floor.
- » **Hold Know-Your-Rights trainings and information sessions for tenants during the Thursday evening hours at Housing Court.** On Thursday evenings, tenants should be able to go to Housing Court to use the computers and access the resource center to get information about their rights. In addition, court personnel, judges and community agencies should provide Know-Your-Rights trainings specifically for unrepresented litigants.

4. Increase information resources for tenants.

- » **Create a well-staffed and well-resourced center with computers.** Currently, there are a few computers in the hallway for tenants to use; however, they are antiquated machines in a crowded space. These computers should have internet access so tenants can access databases maintained by the Department of Buildings, the Department of Housing Preservation and Development, and the Department of Finance to do research about their landlord and their building. Tenants could use these computers to do their own research, but court personnel should be available to answer tenants' questions, provide referrals and help tenants find the information they need.
- » **Play an informational video on repeat in each courtroom.** Housing Court has already created a video that explains tenants' basic rights and court procedures, but it hasn't played in Housing Court in years. The video should be updated and alternate between spoken English with Spanish subtitles and spoken Spanish with English subtitles. The video should play when the courtroom opens, and the court clerk should announce that the video is beginning.
- » **Set up a help desk on the first floor** to provide resources about court to tenants. Housing Court Answers has long provided excellent advocacy services in Housing Court; however, the role of looking up index numbers, directing people where to go and providing basic information should not rest solely on the shoulders of a nonprofit organization. Housing Court should be providing this type of information to litigants. Court personnel should be trained to staff the information desk, not to give advice but to direct tenants where they need to go. Information desk staff should be, at a minimum, bilingual in Spanish and English.

5. Improve litigants' experiences in Housing Court.

- » **Lift the ban on bringing food into the court building.** Other courts, including other Housing Courts in New York City, allow litigants to bring food into the building though not into courtrooms. Bronx Housing Court should lift the ban on food in court and designate a place where tenants may eat.
- » **Provide childcare.** In the past, Bronx Housing Court provided free childcare, but this service was eliminated in 2011 due to budget cuts.⁹³ Free childcare services ensure that litigants are able to focus on their case, which is critical given the high-stakes nature of the Housing Court process. This funding needs to be restored immediately.

Intermediate Recommendations: Strengthen the Role of Court Personnel

OCA also has the power to define the responsibility of court personnel to ensure that tenants understand their rights and the issues related to their court case. Each court role should be strengthened to require court personnel to more proactively assist unrepresented litigants. Some of these recommendations will take longer to implement since most require an increase in court funding. Specifically, the OCA should:

- 6. Require court attorneys to be present at the beginning of negotiations between tenants and landlord attorneys.** The court attorney should meet with the tenant and landlord attorney to go over the issues and the framework of the discussion. Only after this initial meeting may the tenant and the landlord attorney begin to negotiate and draft a stipulation. Then both parties must return to complete and vet the stipulation with the court attorney. Dealings between court attorneys and unrepresented tenants should be on record.
- 7. Hire an additional court attorney for each resolution part** to enable court attorneys to be a more meaningful part of each case.

8. Amend the New York's Code of Judicial Conduct section on a judge's role in ensuring pro se litigants are heard fairly, as OCA has already proposed.⁹⁴ The amendment would add new language to section 100.2 (B)(12), clarifying that “*It is not a violation of this Rule for a judge to make reasonable efforts to facilitate the ability of unrepresented litigants to have their matter fairly heard.*”⁹⁵ Based on the American Bar Association Model Judicial Code Rule 2.2, this amendment was originally championed by the Task Force to Expand Access to Civil Legal Services and has already been implemented in 25 other states.⁹⁶

Long-Term Recommendations: Increase Resources for Tenant Representation and Strengthen Enforcement

The power of OCA has its limits and some changes that would most help tenants would need to come from the city and state legislatures, including the right to legal representation and additional consequences for landlord harassment. We call on the City and State legislatures to pass measures to:

9. Increase Resources for Tenant Representation. The Gideon ruling gave citizens a right to a court-appointed attorney in criminal cases, but this right does not exist in civil cases like those in Housing Court.⁹⁷ As many studies show, legal representation has an overwhelmingly positive impact on tenants’ cases, lowering eviction rates from approximately 51% of unrepresented tenants to 22% of those with legal representation.⁹⁸ Therefore, the New York State Legislature should:

- » **Pass legislation giving all tenants the right to a court-appointed attorney** if they cannot afford one themselves. These additional lawyers could be funded by fines paid by landlords or through the Department of Homeless Services Homelessness Prevention Program or even through “social impact bonds” from banks. Additionally, one analysis estimates that New York State could actually save \$67 million in shelter costs by providing an attorney to low-income tenants facing eviction.⁹⁹ This prediction was confirmed by a South Bronx pilot program in which 1,300 families were given legal assistance.¹⁰⁰ The program cost the City \$450,000 but saved more than \$700,000 in shelter costs.¹⁰¹ Despite start-up costs, this initiative would actually save public monies.

10. Pass legislation to create a Repair Enforcement Board. Currently, the Housing Maintenance Code is the only health and safety code that uses a judicial model, which makes it difficult to effectively enforce the Housing Code. Therefore, the City Council should transform this system into an administrative model, with power to assess fines given to the Repair Enforcement Board. This simple change will not only increase the quality of life for many tenants, but also decrease congestion in Housing Court and increase fine revenue for the City.

11. Pass Legislation requiring HPD to increase fines for landlords. Half of the fines should be distributed directly to the tenants who are affected by repair issues. Currently all fines collected by the court go back to city agencies. Diverting just a portion of this funding to tenants would begin to compensate tenants for the physical and emotional toll of being unjustly taken to housing court as well as deter landlords from ignoring the timelines for repairs.

12. Require judges to fully allocate stipulations before they are signed or so-ordered in a manner that meets the requirements of RPAPL 746 and Advisory Notice AN-1 (LT-10).¹⁰² Judges should be required to ask standardized and comprehensive questions regarding the terms of the stipulation to make sure the tenant fully understands the stipulation and its consequences. In order to determine whether pro se litigants understand the terms and consequences in the stipulations, judges should ask the pro se litigant to explain the terms and conditions in their own words, rather than merely asking yes or no questions.

13. Amend RPAPL 741 to require landlords to include the OCA-developed information sheet when they serve a Petition on a tenant. Alternatively, this requirement could be added into Sec. 110 of the NY City Civil Court Act.

VII. CALL TO ACTION

This report documents the high stakes nature of Housing Court and the systematic disadvantage that unrepresented tenants face on a daily basis. We are at a critical point. Forty years after Housing Court opened its doors and after many valiant attempts at reform, this report shows that the need for improvement is vast and urgent.

It could not be clearer that we need systemic change: tenants are being evicted because they don't understand what they are signing, because they agree to sign a document against their interest out of fear, or because they simply lack the right to counsel to defend their homes and livelihood. These evictions affect mostly low-income communities of color and occur at such a massive scale that entire communities can be impacted. Children have to change schools, jobs are at risk, belongings are lost and communities are uprooted. The volume is too great and the need too important to dismiss this phenomenon to irresponsibility or poverty. Our city deserves better.

We cannot be deterred by issues of capacity, resources, space or volume because the stakes are simply too high and because if we work together, we can overcome these issues. The recommendations included in this report include specific administrative and policy changes, rooted in tenants' direct experiences that would go a long way to raise the standards of how Housing Court operates to ensure tenants' rights are respected and upheld.

We call on the Office of Court Administration (OCA) and our city and state elected officials to adopt the recommendations in this report and to work with advocates, community organizations, and community members to implement them. We recognize the difficult work ahead, but we have faith that together we are capable of reforming Housing Court to meet the needs and rights of tenants, to be a place that is equitable and fair, and to make sure that our City's courts do not cater to any one group's interest, but instead arbitrate justice.



CASA members demand building repairs.

VIII. APPENDIX A: SURVEY

CASA-New Settlement's Housing Court Reform Campaign

Housing Court Outreach Tenant Survey

| | |
|---|---|
| Date: _____ | Gender: _____ |
| Zip code: _____ | How do you feel about going into Housing Court? |
| Language: <input type="checkbox"/> Eng <input type="checkbox"/> Spa <input type="checkbox"/> Other: _____ | (In one word) _____ |

Questions

1. Is this your first time at housing court? Yes ___ No ___

If YES only answer Part 1. If NO answer both Part 1 and Part 2!

PART 1

a. Is your landlord bringing you to court or are you bringing your landlord to court? Tenant ___ Landlord ___

i. What kind of case are you here for?

- | | |
|--|---|
| <input type="checkbox"/> 7A | <input type="checkbox"/> Non-payment (saying the tenant owes rent) |
| <input type="checkbox"/> HP (Housing Part) | <input type="checkbox"/> Holdover (any other non-rent related case, such as non-primary residence, breach of lease, subletting, etc.) |
| <input type="checkbox"/> I don't know | |

b. Do you know where in the court building you need to go? Yes ___ No ___

Why/How? _____

c. Do you have a lawyer representing you today? Yes ___ No ___

If yes: Private Lawyer Legal Aid/Legal Services Lawyer

d. Do you know that there are free resource services in Housing Court to help you?

Yes ___ No ___

If yes, check all that apply: Translators Information Desk One Shot Legal services

If Childcare were available in housing court, would you use it? Yes ___ No ___

PART 2

2. How many times have you come to housing court? # ___ Have you had a trial? Yes ___ No ___

3. How long would you say you generally wait on line outside to enter the courthouse?

5-10 minutes 10-20 minutes 20-40 minutes more than 40 minutes

4. Did the Court Officers treat you in a respectful manner as you went through the metal detectors?

Yes ___ No ___ If no, describe: _____

5. Did any court personnel help you get to where you needed to go in the court building?

Yes ___ No ___ If yes, who? _____

Did you ask for help? ___ Did they Volunteer to help? ___

6. Did you know that before going into the courtroom you needed your calendar number, and where to find it? Yes__ No__ N/A__

7. Did you know that you need to check-in with the court clerk? Yes__ No__ N/A__

8. Before going into the courtroom did anyone ask you to pay the rent that you owe or make a settlement in the hallway outside of the courtroom? Yes__ No__ N/A__

If yes: Did you pay "anyone" the rent that you owe or make a settlement?

Yes__ No__ N/A__ If yes, who and why? _____

9. Once inside the courtroom did the courtroom staff or the Judge explain the rules and procedures of the courtroom to you?

Yes__ No__ If yes, how? _____

10. Did you get to speak to the Judge about your case? Yes__ No__ N/A__

If yes, Was the Judge helpful to you in dealing with the case? Yes__ No__ N/A__

Explain: _____

11. Did you get to speak to the court attorney about your case? Yes__ No__ N/A__

If yes, was the court attorney helpful to you in dealing with the case? Yes__ No__ N/A__

Explain: _____

12. Did you sign an Agreement (Stipulation)? Yes__ No__

If yes: Did you help write it? Yes__ No__

Did anyone explain what it means to you? Yes__ No__ If yes, who? _____

Did anyone ask you if you agreed with it? Yes__ No__ If yes, who? _____

13. Did anyone tell you that you have a right to object to legal fees?

Yes__ No__ If yes, who? _____

14. If you needed repairs, did anyone explain your options if the landlord does not make repairs as promised in the agreement? Yes__ No__ If yes, who? _____

15. Did you request an interpreter? Yes__ No__

If yes: Was one provided to you? Yes__ No__

How long did it take for the interpreter to arrive? _____ mins/hrs

Do you think the interpreter did a good job? Yes__ No__

15. What other services do you think should be available for tenants in the Bronx Housing Court? List here:

1. _____

Signs

More interpreters

2. _____

Childcare

Cafeteria

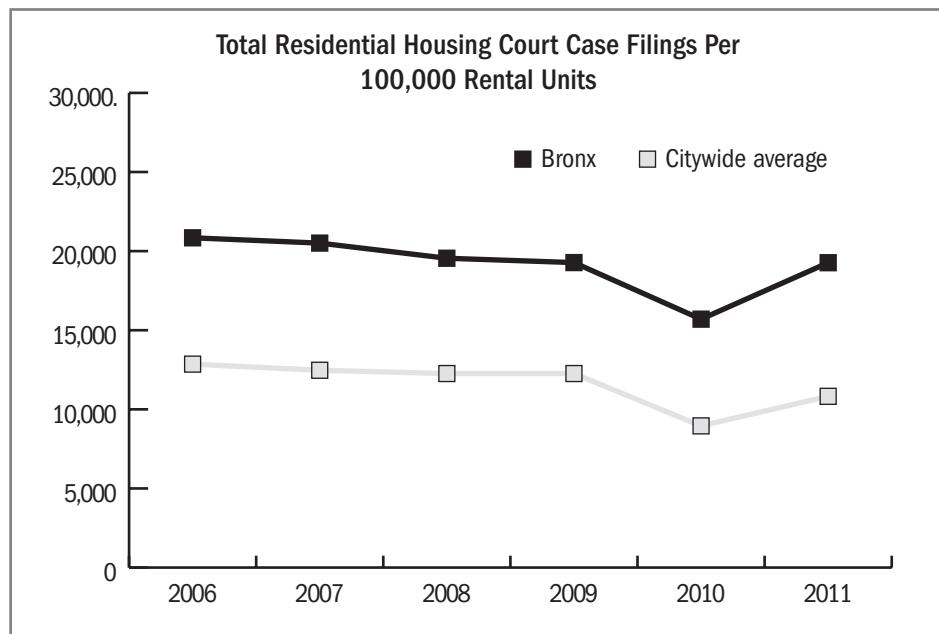
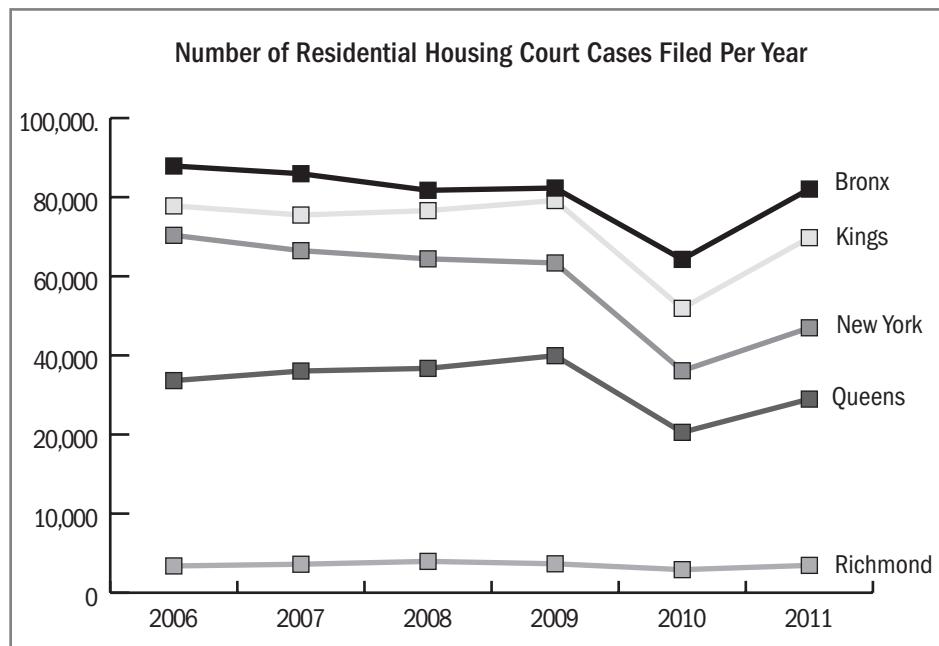
3. _____

More Chairs

More Bathrooms

16. Do you belong to a Tenant Association? Yes__ No__

IX. APPENDIX B: ADDITIONAL FIGURES



X. ENDNOTES

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- ² Krenichyn, Kira and Nicole Schaefer-McDaniel, *Results From Three Surveys in New York City Housing Courts*. (Center for Human Environments, Graduate Center of the City University of New York. 2007) <http://www.policyarchive.org/handle/10207/bitstreams/8683.pdf> Note: the sample here focused on tenants that were being taken to court by their landlord and not all housing court cases (though most tenants are taken to court by their landlord).
- ³ Engler, Russell. "Connecting Self-Representation to Civil Gideon: What Existing Data Reveal about When Counsel is Most Needed." *37 Fordham Urb. L.J.* 37 (February, 2010): 77.
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- ¹⁰ Id.
- ¹¹ Fisher, Judge Fern. "Allocutions of Stipulations in Landlord and Tenant Cases." *The Civil Court of New York. AN-1 LT-10*. April 6, 2007. <http://www.nycourts.gov/courts/nyc/SSI/directives/AN/allocutions.pdf>
- ¹² NYS Unified Court System. "New York City Civil Court, Housing Part, Court Hours." Accessed February 2013. <http://www.nycourts.gov/courts/nyc/housing/courthours.shtml>
- ¹³ Some definitions from the Association of the Bar of the City of New York, Housing Court Public Service Projects Committee and the Civil Court of the City of New York. "A Tenant's Guide to The New York City Housing Court." (2006). Accessed February 2013. <http://www.nybar.org/pdf/report/tenantsguide.pdf>
- ¹⁴ Tracy, Ryan. "From the Bustle of Bronx Housing Court, Deals Emerge." *The Bronx Ink*. February 17, 2010. <http://bronxink.org/2010/02/17/4125-from-the-bustle-of-bronx-housing-court-deals-emerge/> Also Unified Court System, New York. "Award Recipients Text. 2007." Accessed February 2013. <http://www.nycourts.gov/ip/qualityservice/qsaward/2007/12%20JD.shtml>
- ¹⁵ Housing Court Answers. "Evictions Marshalls Documents." Accessed February 2013. <http://www.cwtfhc.org/for-researchers/eviction-marshall>.
- ¹⁶ Paula Galowitz, "The Housing Court's Role in Maintaining Affordable Housing" in *Housing and Community Development in New York City: Facing the Future*. State University of New York press. (Michael H. Schill ed., 1999).
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- ¹⁹ Memorandum of Assembly woman Rosemary Gunning: NY. City. Civ. Ct. Act 110 (1972), reprinted in New York State Legislative Annual 1972, at 217.
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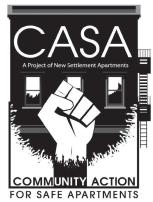
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A Report by New Settlement Apartments' Community Action for Safe Apartments (CASA) and the Community Development Project (CDP) at the Urban Justice Center



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