

WESTCHESTER

Westchester budgeted plan to give tenants lawyers in eviction cases, but action is slow

More than 830,000 New Yorkers are behind on rent, with an average debt of \$4,000, according to National Equity Access, a policy group connected with the University of Southern California.

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Story Highlights

In New York, people of color constitute 76 percent of those behind on rent, a national group says.

Before the COVID-19 pandemic, it's estimated that less than 10% of Westchester County renters had attorneys in eviction court cases, compared to more than 90% of landlords.

Westchester County is considering a proposal to provide tenants with attorneys during eviction court proceedings just ahead of sunseting moratoria that prevent landlords from removing people who can't pay rent because of the pandemic.

The county has already budgeted studying "right-to-counsel," a policy enacted in New York City and several other jurisdictions.

But little action has been taken even to examine the policy. Advocates and legislators say right-to-counsel can help save future costs involving homelessness and busing, and can help get owed money back to landlords.

"As a matter of justice, I do think everyone should have an attorney," said Jason Mays, director of litigation for the Hudson Valley Justice Center, a legal aid nonprofit.

Help on the way: New York state ready to give out \$2.7 billion in federal COVID-19 emergency rent assistance

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Mays also chairs the Westchester County Right to Counsel Coalition, a group of advocates lobbying to pass the program.

“At the bare minimum, we can do this study to find out how much it will cost, and potentially find out that it wouldn’t cost us very much at all,” he said.

It is unclear why no action has been taken, even while legislators and the county executive support the policy.

In 2019, city courts in Westchester saw more than 10,000 eviction cases, although town and village courts keep their own numbers, according to the Legal Services of the Hudson Valley. The legal aid nonprofit has a \$1.1 million contract with the county to represent 900 to 1,000 tenants annually.

Meanwhile, the Hudson Valley Justice Center has three attorneys to represent thousands of undocumented people in Westchester.

Those affected tend to be people of color and low-income tenants, Mays said.

In New York, people of color constitute 76% of those behind on rent, according to an analysis by National Equity Access, a policy group connected with the University of Southern California. Low-income households earning less than \$50,000 per year were 78% of rent-burdened people.

Rent is top of mind given eviction moratoria focusing on people’s inability to pay rent during the pandemic. However, advocates point to other issues that have spurred evictions, raising concerns about building conditions or domestic violence responses that landlords saw as causing disturbances.

Even with past-due rent, the state’s ban on evictions — which U.S. Supreme Court justices said was too far-reaching because it only required tenants to self-attest of their inability to pay rent — is set to end Aug. 31. More than 830,000 New Yorkers are behind on rent, with an average debt of \$4,000, National Equity Access found.

The U.S. Centers for Disease Control and Prevention's moratorium expires Oct. 3, but it only applies to areas experiencing high rates of COVID-19 transmission.

Blueprint to save money

There are blueprints to enact local right-to-counsel legislation. In 2017, New York City passed right-to-counsel based on income that phases in the program by ZIP code.

It's set to be fully implemented by 2022, but a study by the Community Service Society, a New York nonprofit, found the program has reduced evictions by as much as 29% where implemented. San Francisco, Baltimore and Monroe County, New York, including Rochester, also have right-to-counsel.

The New York State Senate also has a bill to enact right-to-counsel. The timeline to codify the statewide policy remains unclear, however.

With \$45,000 already budgeted by Westchester to study right-to-counsel locally, advocates have identified a firm that specializes in analyzing the policy's feasibility. Stout, a global investment bank and advisory firm, has done many studies used to pass legislation, and its managing director, Neil Steinkamp, said it's ready to respond to a request for proposal or start a study outright.

While right-to-counsel doesn't guarantee tenants stay in their homes when faced with evictions, it deters what Steinkamp calls "disruptive displacement" that creates longer-term costs for local governments. These include emergency shelters, rehousing families, foster care and transportation for students who've been forced to move.

For example, a Stout study in May of last year found that Baltimore's right-to-counsel program would save the city \$3.06 for every dollar spent on tenant legal services.

"In every jurisdiction that we've analyzed, the economic benefits associated with, and connected to, right-to-counsel always exceed the costs," he said. "It's a good thing."

Property owners don't object to the policy, in principle at least.

George Nukho, a realtor and board vice president of the Westchester Owners' Association, said his organization of approximately 100 landlords just wants money that hasn't been paid, even if it's through programs like the state's \$2.7 billion Emergency Rental Assistance Program, which has distributed funds slowly.

“It has to go back to the attorneys to be a solution and not more of a hindrance on delaying the process or finding reasons that landlords shouldn't get paid,” Nukho said. “They have to really make this a priority to try to help both sides. And then we try to move on, because right now both sides are suffering.”

Without the study, many lawmakers still appear willing to pass legislation.

Damon Maher, chair of the Board of Legislators’ committee on labor and housing, said it would be a good investment to pass right-to-counsel either as an act or through the budget, especially with expiring eviction bans.

“We don’t need the study to make this happen, but the study allows a more accurate guide for how much we need to do,” Legislator Christopher Johnson, of Yonkers, the Democratic majority whip, told The Journal News/lohud. “We know the issue is there.”

He pointed to more than 10,000 people facing evictions in Westchester cities prior to the spread of the novel coronavirus. With financial hardship caused by the pandemic, he said, “that number is going to explode.”

Still, it’s unclear what has caused the delay from the Board of Legislators.

In an Aug. 18 response email to advocates from Ben Boykin, chairman of the Westchester County Board of Legislators, he indicated support for studying right-to-counsel, but stopped short of pushing it locally.

“The Westchester County Board of Legislators and the County Executive believe that this is an issue best addressed at the state level and we have included as one of our Legislative Initiatives the ‘Support Right to Counsel for Evictions’ as part of our 2021 Joint State Legislative package,” Boykin's email said.

Boykin did not respond for comment as of Tuesday.

However, County Executive George Latimer said the county is working with advocates to draft right-to-counsel legislation.

“I don’t need a study to decide whether the policy is worthwhile,” he said. “I’m past that.”

Renters remain in limbo

In the meantime, residents remain in limbo.

On Aug. 17, Westchester County marshals evicted a 75-year-old Mount Vernon resident with a mental illness from his one-bedroom apartment after he didn't appear in court, according to Rachel C. Halperin, CEO of Legal Services of the Hudson Valley. He owed his landlord approximately \$3,000 in back rent for a subsidized apartment that costs about \$600 per month, which prompted the eviction proceeding.

As they removed his belongings, the tenant — who his attorneys declined to name out of privacy concerns — had a breakdown, resulting in a police response. He's since been placed in a mental hospital for treatment, Halperin said. Mount Vernon police referred his case to Legal Services.

Despite the moratorium and without counsel, the man was evicted because his disability prevented him from appearing in court, Halperin said.

On Tuesday morning, Mount Vernon City Court appointed the man a guardian, Halperin said. The landlord, meanwhile, agreed to not discard his belongings inside the apartment, and would work to get him back in the building once he was discharged from the hospital.

The man's case isn't unique, Halperin added.

“It should be a fair process,” she said. “If you're going to lose a basic human right, you should at least be afforded an attorney who can assert any defenses that you may have to help you hold onto your housing.”

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