

The logo for the New York City Bar, featuring the text "NEW YORK CITY BAR" in a serif font, centered between two horizontal blue bars.

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# STATE OF NEW YORK CITY'S HOUSING COURT

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*State of the Court and Responses from the Bar and Bench  
to the Special Commission on the Future of the  
New York City Housing Court*

*April 18, 2019*

## EXECUTIVE SUMMARY

New York City's Housing Court handles nearly a quarter million cases each year concerning landlord-tenant disputes from repairs to evictions. The Court is going through generational change. Groundbreaking reform has been inspired by recent proposals from the Special Commission on the Future of the New York City Housing Court ("Special Commission") and by the implementation of universal access to counsel for low-income tenants. Recognizing this change, the Housing Court Committee of the New York City Bar Association ("Committee") conducted a survey to ascertain practitioners' opinions on these reforms and proposals for future improvements. The data used in this report were obtained by an anonymous survey that was sent to judges, court attorneys, and litigators who work within Housing Court. The survey was administered from April 15, 2018 to May 31, 2018, receiving 198 responses.

Housing Court has come a long way in the last 46 years but respondents indicate that room for improvement remains. Respondents rated Housing Court from 1 to 5 with 5 being the best. No person gives Housing Court a 5, and the mean score is 2.32. After reviewing the responses, the Committee has the following recommendations:

1. Increase the number of Housing Court Judges. Nearly every respondent indicates that more than the current 50 Judges are needed to handle the nearly quarter million cases that come to Housing Court each year.
2. Increase the number of court attorneys, translators, clerks and guardians *ad litem* who are instrumental to the day-to-day running of the courts.
3. Continue with the implementation of e-filing. The Committee would be happy to assist with the educational component of training practitioners on use. We also wish to stress the importance of considering ways to reduce the risk to litigants' privacy and sensitive information. Other technological improvements such as e-notification to marshals and increasing the courts' access to government documentation are also widely seen as productive.
4. Allow for more communication and input concerning the moves for the Bronx and Brooklyn Housing Courts. Both courthouses are currently seen as major problems that do not reflect the dignity or provide the space needed for their intended use. The Committee stands ready to serve as a liaison connecting the bench and bar and to provide input to the New York City Department of Citywide Administrative Services to ensure that the future courts can be as successful as possible.
5. Many reforms by the Special Commission are viewed as successful; however, survey respondents express concerns about Civil Court Judges handling Housing Court trials, staggered court calendars, and scheduling orders to show cause in the afternoon, all of which the Office of Court Administration should carefully review as it evaluates these policies.



## INTRODUCTION

For nearly forty-six years New York City Housing Court has strived to be a “fair, effective and judicious forum within the Civil Court of the City of New York before which tenants, landlords and the City ... may bring the unresolved housing disputes of the City.”<sup>1</sup> Despite heroic efforts and good intentions, the Court does not always meet this standard. Throughout its history it has faced too many cases with too few resources. In 2018, the *New York Times* wrote, “[a]lmost no one is pleased with the court’s tortured workings.”<sup>2</sup> This echoes an article written in 1994 describing the court as having “the worst facilities in the judicial system, [having] degenerated into bewildering, volatile forums where landlords and tenants clash in hallways” and lamenting that “[i]t is rare to find anyone who believes justice is being served” due to the high volume of cases for judges.<sup>3</sup> In 1983, it was reported, “the landlords and tenants who use [Housing Court], as well as the legislators who created it, criticize it as chaotic and ineffective.”<sup>4</sup> This lack of resources has dogged the Court since its establishment, when Judge Edward Thompson warned that “the facilities ... were inadequate to handle the expanded workload and more personnel must be hired and space rented.”<sup>5</sup>

This is not to say that there haven’t been many significant improvements since Housing Court’s creation. Longtime practitioners before the Court fully admit that much has improved over the last four decades, but they also believe more needs to be done to address systemic challenges. The last major set of reforms for Housing Court occurred in 1997, in which Chief Judge Judith S. Kaye and Chief Administrative Judge Jonathan Lippman implemented many initiatives in their report, *Housing Court Program: Breaking New Ground*. Their report summarized the challenges of Housing Court as:

The combination of massive caseloads, litigants largely unfamiliar with the legal process and limited judicial resources has resulted in an environment that more closely resembles a hospital emergency room than a court. Courthouse decorum is notably lacking, with facilities ill-equipped to accommodate the large number of litigants that appear daily. ... [L]itigants, frequently accompanied by children, can wait hours for their cases to be called and the opposing party to appear.... Throughout the process, settlement negotiations take place in every corner of the courthouse – resulting in stipulated agreements that in many instances are not

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<sup>1</sup> Governor’s Memo approving L. 1972, ch 982, 1972 NY Legis Ann at 373.

<sup>2</sup> N.R. Kleinfield, *Where Brooklyn Tenants Plead the Case for Keeping Their Homes*, N.Y. Times (May 20, 2018).

<sup>3</sup> Jan Hoffman, *Chaos Presides in New York Housing Courts*, N.Y. Times (Dec. 28, 1994).

<sup>4</sup> E.R. Shipp, *Both Landlords and Tenants Criticize City Housing Court*, N.Y. Times (July 27, 1982).

<sup>5</sup> *Lack of Funds Said to Bar Organizing Housing Court*, N.Y. Times (Feb. 3, 1973).



honored and, as a consequence, tenants returning to Court for Orders to Show Cause to forestall evictions.<sup>6</sup>

Housing Court received renewed attention in 2017 when Chief Judge Janet DiFiore formed a Special Commission to “strengthen Housing Court operations and improve the efficiency and quality of the litigation experience.”<sup>7</sup> The Special Commission included judges, practitioners, and other appointed parties who met six times in 2017 to identify problems and propose solutions that balanced efficiency with just results.<sup>8</sup> The Special Commission drafted a 32-page report with recommendations, the implementation of which began in 2018. This implementation is occurring simultaneously with the City’s roll out of access to counsel where by 2022 all low-income tenants will have access to an attorney when facing eviction.

The New York City Bar Association’s Housing Court Committee (“Committee”) is one of the few forums in which tenant advocates, landlord attorneys, and members of the judiciary regularly meet to discuss their practice and find areas of consensus for the betterment of all. The Committee took advantage of its breadth of diverse experiences and connections to reach out to the members of the bar and bench to obtain evaluations regarding the many changes occurring in Housing Court. The goals of this report are to amplify the voices of those who work directly in Housing Court, to provide initial feedback on the results of the reforms, and to identify where there is room for further growth.<sup>9</sup>

## **METHODOLOGY**

The data used in this report were obtained by an anonymous survey that was sent to attorneys who regularly practice in Housing Court. The survey took place from April 15, 2018 to May 31, 2018 and received 198 responses.

While the data are limited by the response rate (survey participation was voluntary), the Committee believes this is the most comprehensive review of the current state of Housing Court. Respondents were promised anonymity, so we cannot provide the results for each of the 198 responses, but the general demographics are as follows.

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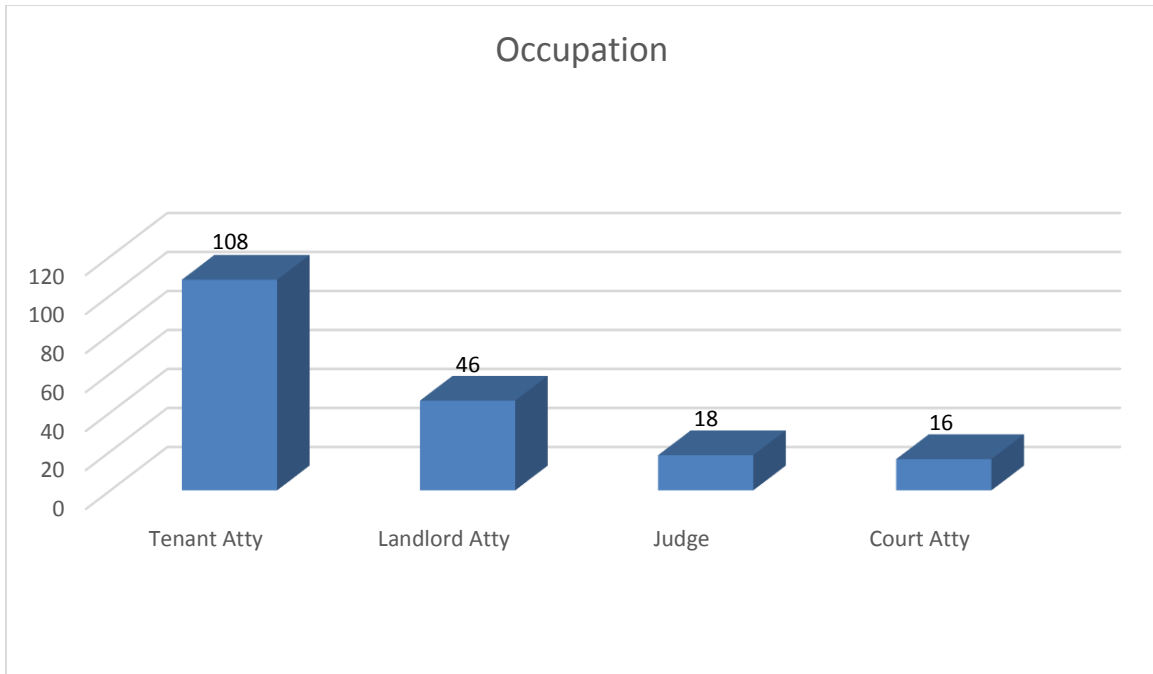
<sup>6</sup> New York State Unified Court System, HOUSING COURT PROGRAM: BREAKING NEW GROUND (1997), at 2.

<sup>7</sup> Chief Judge Janet DiFiore, THE STATE OF OUR JUDICIARY (2018), at 12.

<sup>8</sup> Special Commission on the Future of the New York City Housing Court, REPORT TO THE CHIEF JUDGE (Jan. 2018), at 3.

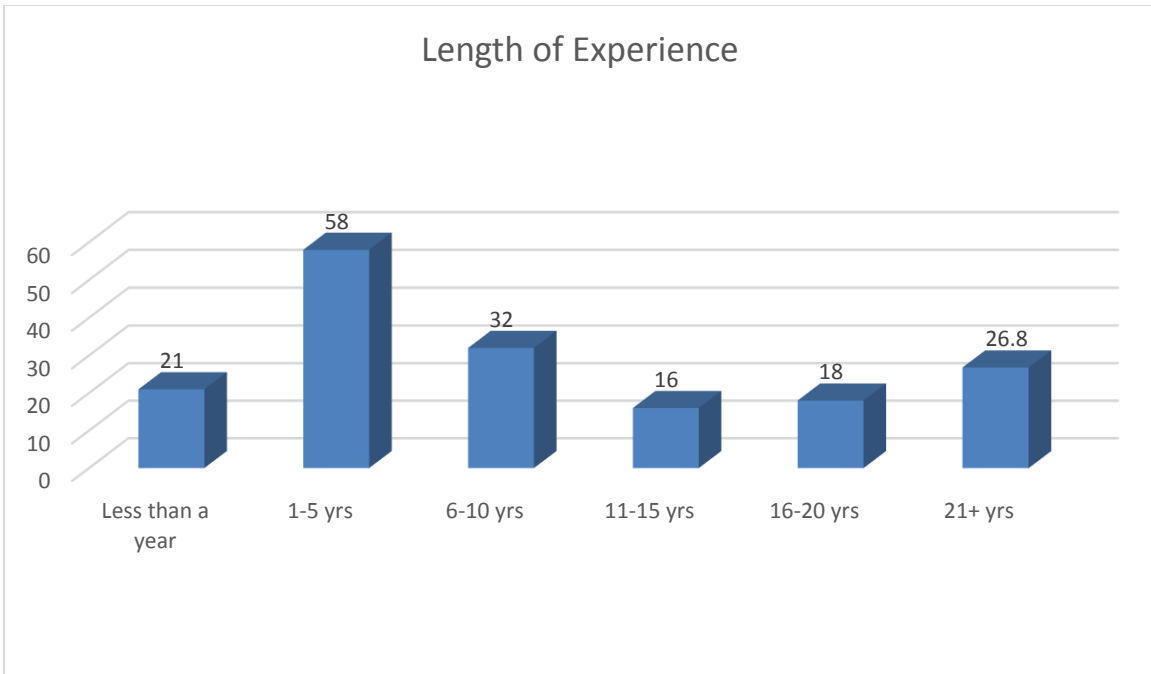
<sup>9</sup> The Committee thanks Eli Cohen of the New York City Bar Association for his invaluable assistance in reviewing and editing this report.



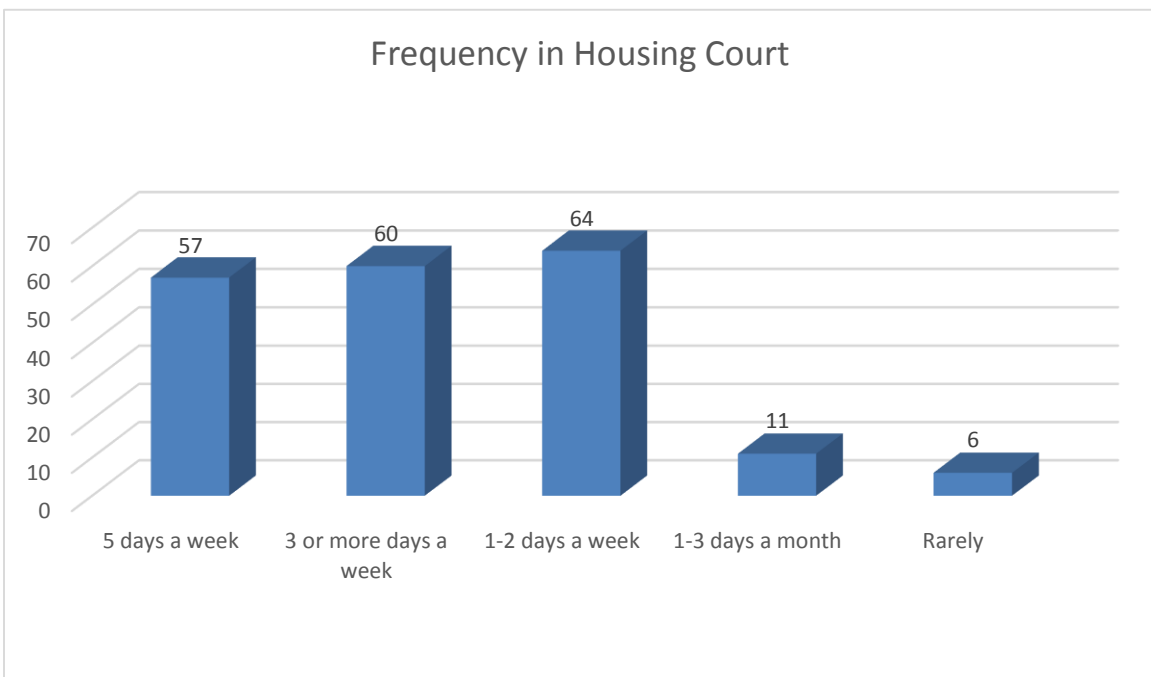


The majority of respondents fall into one of four categories. Tenant attorneys are defined as lawyers whose clients are 60% or more tenants. Tenant attorneys represent 54.5% of the total respondents. We take efforts to account for this overrepresentation by distinguishing when there are differences of opinion between landlord and tenant representatives. Landlord attorneys, representing 60% or more property owners, constitute 23.2% of the respondents. Judges make up 9.1% of the survey respondents and represent 36% of judges currently sitting in Housing Court. Court attorneys comprise 8.1% of respondents. The remaining 5.1% include government attorneys, guardians *ad litem*, equal landlord-attorney representatives, and miscellaneous others.

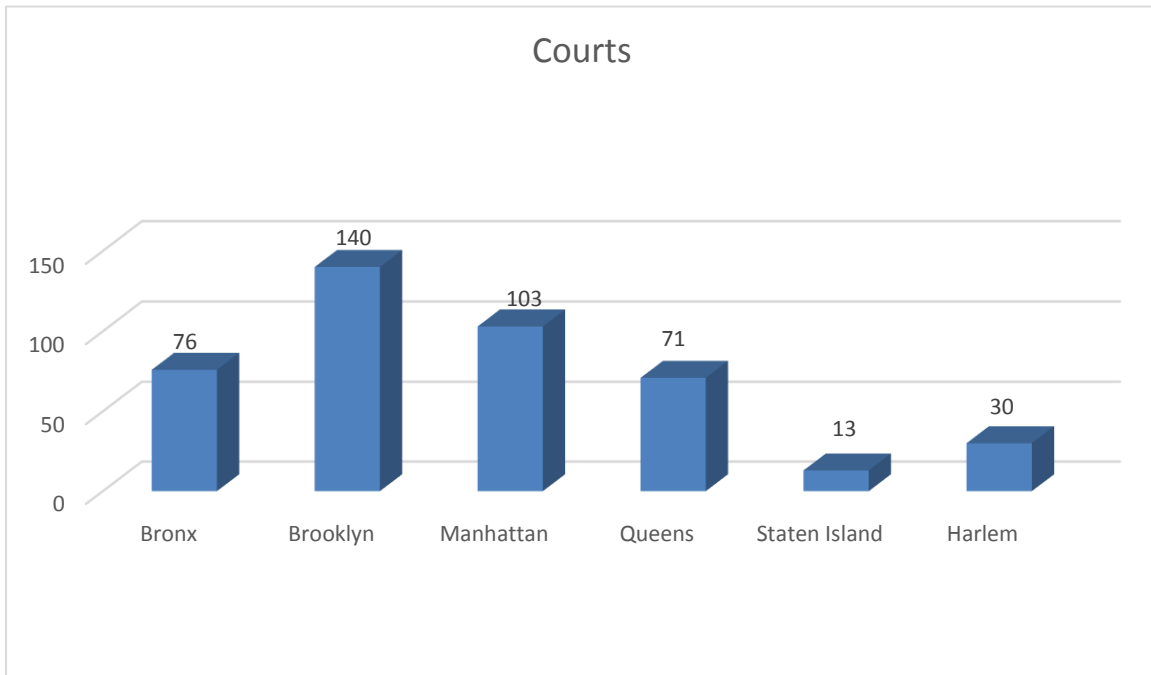




The majority of respondents (57.1%) have less than ten years' experience. As shown in the chart above, respondents' experience levels, by percentage, were: less than a year, 10.6%; 1-5 years, 29.3%; 6-10 years, 16.2%; 11-15 years, 8.1%; 16-20 years, 9.1%; and 21+ years, 26.8%. The slight over representation of those with ten-years-or-less experience is likely a consequence of the survey's electronic administration: senior litigators are less likely to be digital natives and implementation of access to counsel has led to a large increase in the number of tenant attorneys over the last three years.



The vast majority of respondents are in Housing Court multiple days per week with 91.4% making at least weekly appearances. On a percentage basis, the respondents' frequency in Housing Court were: 5 days/week, 28.8%; 3+ days/week, 30.3%; 1-2 days/week, 32.3%; 1-3 days/month, 5.6%; and 3% rarely.



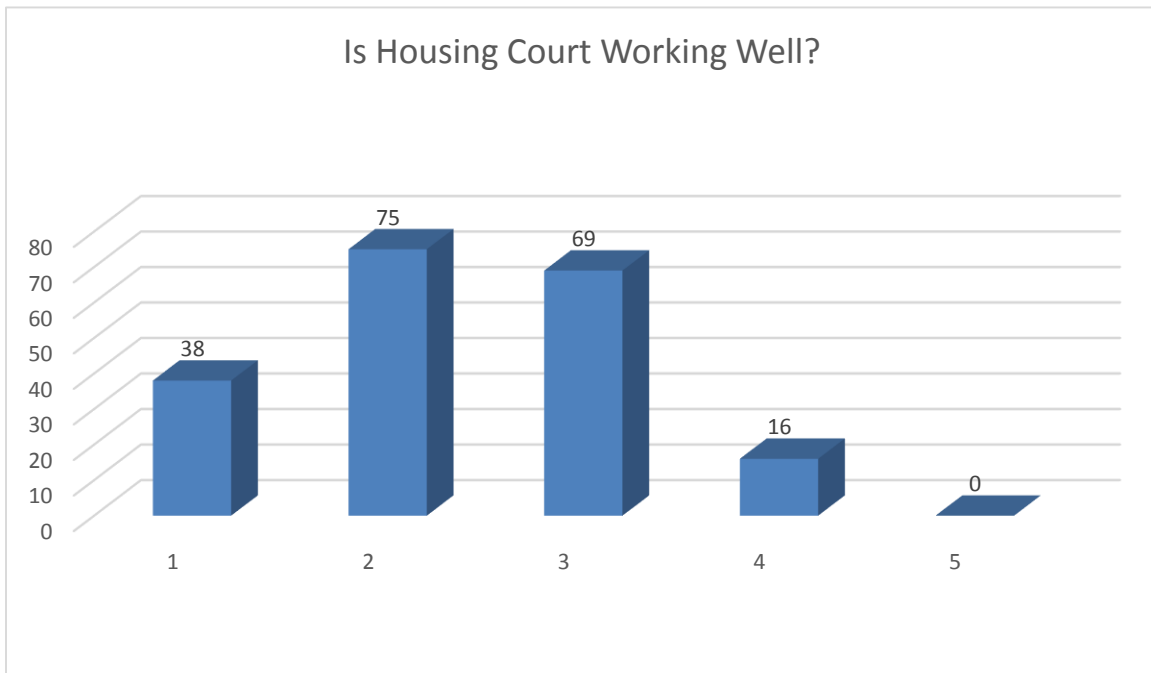
The survey also identifies which of the five courts (one for each borough) and two community justice centers (one in Harlem and one in Red Hook) respondents frequent. Respondents were allowed to pick multiple courts since practitioners and court officials often work in multiple locations. Respondents' experiences were reported as follows: Bronx 76; Brooklyn 140; Manhattan 103; Queens 71; Staten Island 13; Harlem 30; and Red Hook 4. The three busiest courts in volume of cases are Bronx, Brooklyn, and Manhattan so the distribution of responses appears relatively representative. However, while the Bronx is the busiest court it accounts for only one-third on our distribution, which may be an underrepresentation. This is likely a result of (1) the Bronx's disproportionately high volume of nonpayment proceedings, which may mean fewer attorneys handling a greater volume of cases, and (2) the fact that a disproportionate number of committee members practice in Brooklyn and Manhattan such that their networks include more people who practice within those boroughs.



## SURVEY RESULTS

### I. Is Housing Court Working Well?<sup>10</sup>

There are many topics on which the bench and bar agree. First and foremost is the broad consensus that Housing Court has room for improvement. Respondents were asked to rate Housing Court with 5 meaning “working very well” and 1 meaning “not working very well.”. Out of the 198 respondents not one person rates Housing Court a 5.



These predominantly negative results are concerning. We examined the ratings by demographics to see if there are any differences. The responses by occupation from lowest mean to highest: tenant attorneys 2.07; landlord attorneys 2.48; court attorneys 2.69; and judges 3.17. After finding the difference between bar and bench, we also investigated whether length of experience is a factor in the low rating and found there is a difference between those with less than 15 years of experience versus those with 16 years or more. The mean ratings based on experience are: less than one year 1.95; 1-5 years 2.21; 6-10 years 2.01; 11-15 years 2.25; 16-20 years 2.61; and 21 years or more 2.64. There are several possible causes of this generally negative perception, including a generational divide on expectations of Housing Court, greater diversity within the newest attorneys, varying experiences of Housing Court’s improvement since the 1998 and 2018 reforms, or complacency of a court doing the best it can with the resources it has.

<sup>10</sup> Respondents were asked “Do you think Housing Court is working well?”





## II. Court Facilities<sup>11</sup>

Respondents were given the opportunity to comment on the physical condition of Housing Court. The buildings receiving the most comments are those in Brooklyn and the Bronx. These also happen to be the two courts with the highest number of court cases. The Committee believes it is important that the public's interaction with the judicial system reflect the respect and dignity that is befitting a building of justice. The Committee also believes that the physical design of courthouses can enhance or obstruct the administration of justice.

### a. Brooklyn Housing Court

Brooklyn's Housing Court is a converted commercial building with a private owner who has previously been listed on the Public Advocate's "Worst Landlord" watchlist.<sup>12</sup> In 2014, an official at the Office of Court Administration ("OCA") freely admitted that Brooklyn is "a horrible courthouse."<sup>13</sup> Our respondents agree. The most common complaints include inadequate seating, unsanitary bathrooms, unreliable elevators, uncomfortable temperatures, lack of water fountains, and severely overcrowded hallways and courtrooms. Many practitioners mention the challenges to negotiating, drafting stipulations, and conducting confidential communications with clients in such tight confines. Those working for the court express concerns with the lack of private space for court officials to use the restroom or travel within the building, which present security issues.

The Committee recognizes that OCA has plans to move Brooklyn Housing Court from 141 Livingston Street to 210 Joralemon Street, but the plan—originally expected to take as little as five years<sup>14</sup>—has recently entered the fifth year with no expected end-date announced. The Committee is committed to providing input regarding the progress of the move and the design of the future space. We believe many problems that other buildings have experienced could be avoided if the practitioners most intimately familiar with the court have the chance to provide input on Brooklyn Housing Court's future needs.

### b. Bronx Housing Court

Many respondents recount how the Bronx Housing Court at 1118 Grand Concourse—a relatively new building—has proven to be completely inadequate to its task. The building suffers from chronic problems with its escalator, as well as its heating, and cooling systems. Most problematic is a lack of sufficient space, which results in shouted negotiations between parties in overcrowded hallways. Until recently, many trials in Bronx Housing Court were held in elevator

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<sup>11</sup> Respondents were asked "Are the court buildings adequate? Please state yes/no. If no, please state which court(s) and why inadequate."

<sup>12</sup> Mireya Navarro, *Brooklyn Housing Court, Like Many City Renters, Can't Find a New Home*, N.Y. Times (Apr. 3, 2014).

<sup>13</sup> *Id.*

<sup>14</sup> Mireya Navarro, *A Brooklyn Court May Have Found a New Home*, N.Y. Times (Dec. 3, 2014).



banks on the eighth and tenth floors, as there were not enough court rooms. The present plan being implemented is that all trials and New York City Housing Authority (NYCHA) cases will take place in the basement of 851 Grand Concourse and all others will be a half-mile away at 1118 Grand Concourse. This will continue for at least this year, with the hope that all of Housing Court will move to 851 Grand Concourse. We support OCA’s attempt to move to an appropriately-sized space, though we have concerns that the practice of holding trials in a different building will negatively affect small law firms, litigants with limited mobility, and litigants who have limited English proficiency. We also worry from the Brooklyn experience that there may be long delays and little opportunity for input. Finally, the current spaces in 851 Grand Concourse—as presently being used—have problems with accessibility and adequate space, so an appropriate buildout is essential to the move being successful.

**c. Other Court Facilities**

Respondents offered fewer comments regarding other courts. Several practitioners mentioned issues of inadequate space in Queens and of accessibility for litigants with disabilities in Staten Island. All the courthouses have struggled with providing intake space to protect confidential conversations between counsel and litigants. Finally, the Committee hopes that OCA and DCAS are considering the impact of universal access and the possibility of increasing the number of courtrooms when modifying or moving court buildings. This is especially important now that the two busiest courts are in the process of moving, which presents an ideal opportunity to build for the future.

**d. Accessibility<sup>15</sup>**

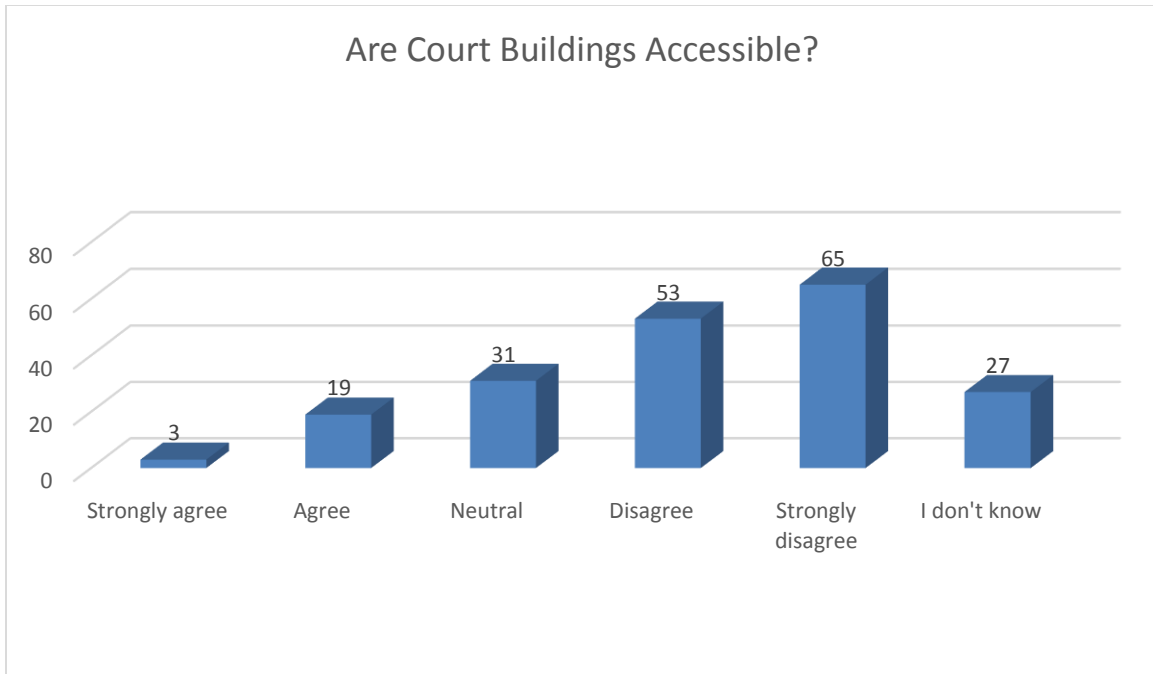
The survey asks about the accessibility of Housing Court buildings. The majority of respondents believe the courts are not sufficiently accessible to people with disabilities which confirms recent reports.<sup>16</sup>

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<sup>15</sup> Respondents were asked “Court buildings are sufficiently accessible to people with disabilities?”

<sup>16</sup> MFY Legal Services, BARRIERS TO JUSTICE (2016).





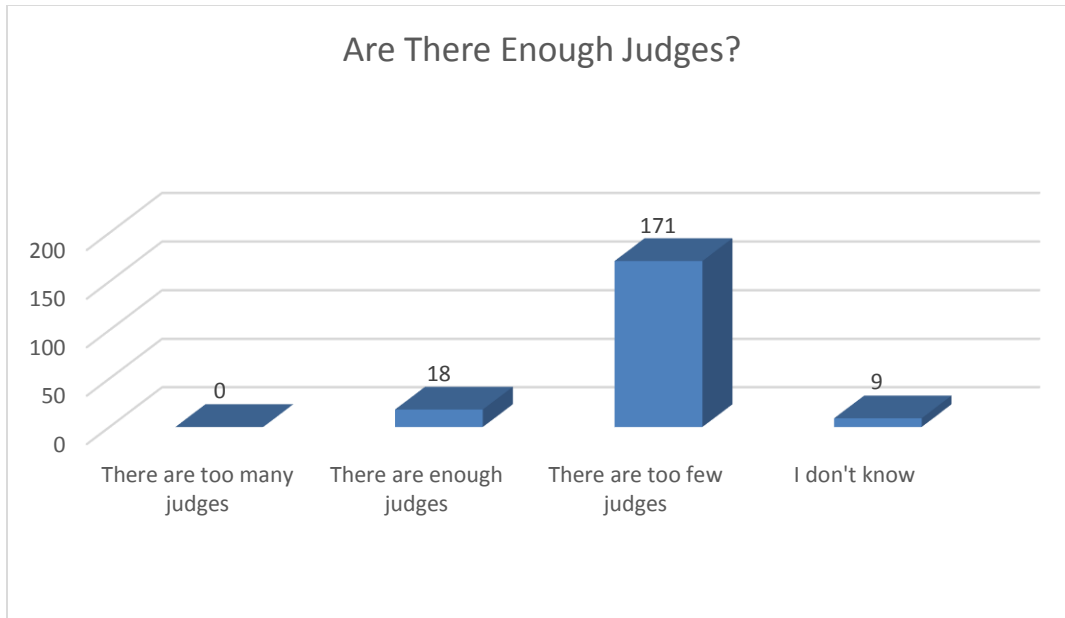
Tenant attorneys (75%) and judges (72%) feel strongly that the courts are not accessible; they strongly-disagree or disagree with the statement “court buildings are sufficiently accessible to people with disabilities.” A majority of court attorneys (56%) agree with that statement, while only 22% of landlord attorneys believe accessibility is an issue. Many of the responses specifically mention the challenges for people with mobility issues in confines that have little space and slow or unreliable elevators.

### III. Staffing<sup>17</sup>

Respondents exhibit the greatest agreement on issues of staffing. 86% call for more judges, 73% for more court attorneys, and 81% for more translators. It is widely believed that a lack of resources has plagued Housing Court since its inception. A majority of respondents also agree that additional clerks (51.5%) and guardians *ad litem* (56.1%) are needed.

<sup>17</sup> Respondents were asked the following questions: “Are there enough judges?”; “Are there enough court attorneys?”; “Are there enough clerks?”; “Are there enough translators?”; and “Are there enough guardians ad litem (GALS)?”





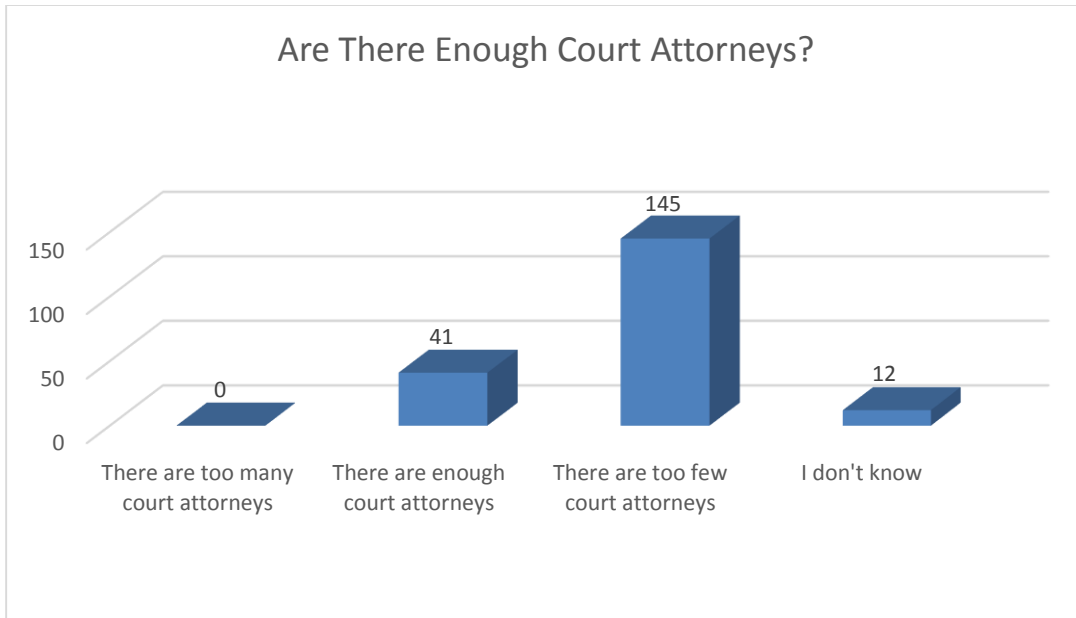
Currently, 50 judges are tasked with handling the 230-240,000 cases<sup>18</sup> a year that involve city, state, and federal law. Present trends indicate that orders to show cause are decreasing while motion practice is increasing, leading to more arguments entertained and decisions issued by the judges in the resolution parts. While many assume Housing Court works on relatively simple issues in the area of landlord-tenant law, in New York City these laws are anything but simple. In 1974, the New York Court of Appeals called the rent laws “an impenetrable thicket, confusing not only to laymen but to lawyers.”<sup>19</sup> The last four decades have only made this thicket denser.

There is no legislative limit to the number of Housing Court judges. OCA can unilaterally increase that number. The Court has previously increased the number to 50 in order to address prior crises and could do so again if provided additional funds or the reallocation of existing funds. Lack of space is a much harder challenge to address. Yet with the two busiest courts being in the process of moving, this is an opportunity to plan for the future. Increasing the number of judges is nearly universally seen by our respondents as a means to improve the efficiency of the court.

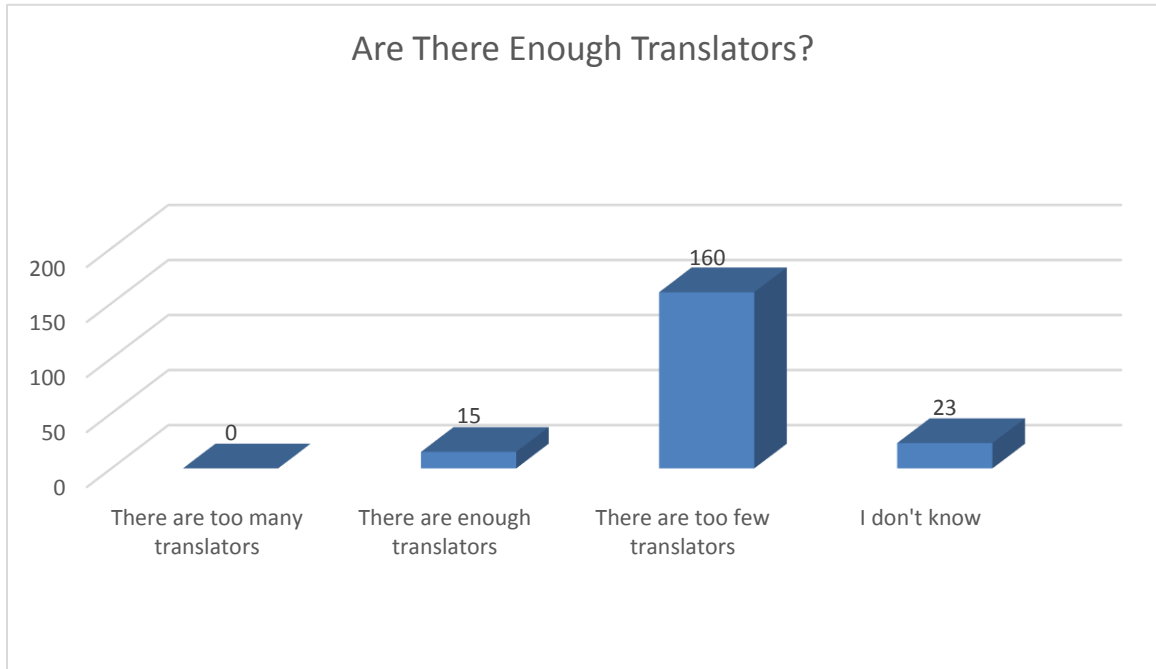
<sup>18</sup> Chief Judge Janet DiFiore, *THE STATE OF OUR JUDICIARY* (2019), at 17.

<sup>19</sup> 89 *Christopher Inc v. Joy*, 318 N.E.2d 776, 780 (N.Y. 1974).





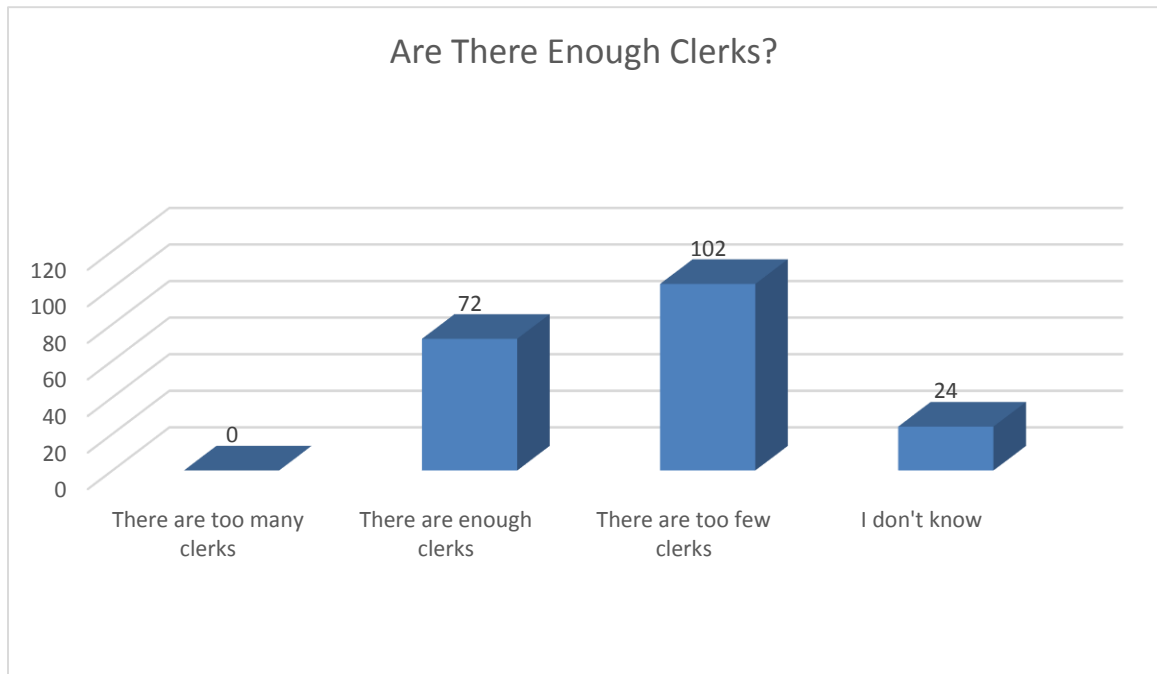
Since this survey was conducted, OCA has announced and hired 20 new court attorneys.<sup>20</sup> This is a positive step, although it does not return the court to the time when each judge had two court attorneys. Court attorneys provide essential assistance to Housing Court Judges in the management of the courtroom and docket.



<sup>20</sup> Chief Judge Janet DiFiore, THE STATE OF OUR JUDICIARY (2019), at 17.



Housing Court received scrutiny over the last few years regarding language access.<sup>21</sup> A lack of language access for Limited English Proficient (LEP) litigants threatens due process and is a cause for delay of litigation. The New York State Courts have expressed a deep commitment to ensuring access<sup>22</sup> and have implemented increased translation of *pro se* materials, televisions providing information in English and Spanish in courtrooms, and improved signage. However, according to our respondents, a lack of interpreters remains a problem in Housing Court. Many of our Committee members have experienced delays waiting for translators who are occupied with other cases or who fail to show up due to miscommunication or scheduling errors.

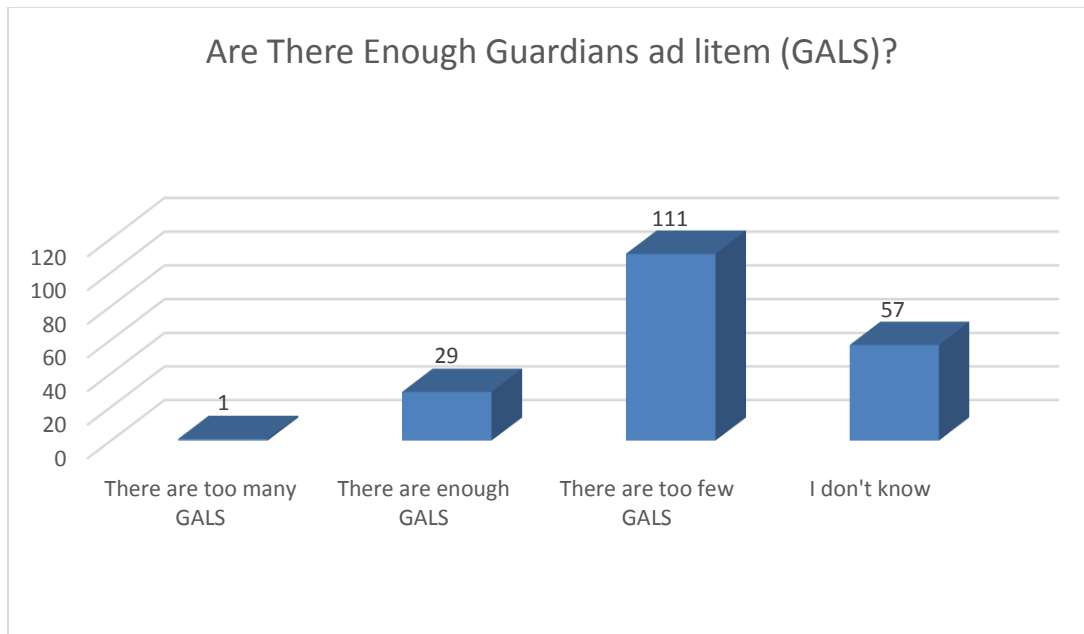


Clerks are instrumental to making sure the courthouse runs smoothly. The majority of respondents agree that there is a shortage of clerks in Housing Court.

<sup>21</sup> Scott M. Stringer, New York City Comptroller, *Language Access in New York City Housing Courts* (2015).

<sup>22</sup> Hon. Lawrence K. Marks, *ENSURING LANGUAGE ACCESS: A STRATEGIC PLAN FOR THE NEW YORK STATE COURTS* (2017).





Respondents overwhelmingly indicate that there are too few guardians *ad litem* (GALS). This is likely because too few GALS are found “needed” by Adult Protective Services (APS). APS provides the largest pool of funding for Article 12 guardians. The standard used by APS requires that GALS be appointed for adults who are unable to meet their essential needs, are in need of protection, and have no one available to assist,<sup>23</sup> but this does not necessarily reflect the requirements of the Court, which must appoint a GAL for any adult who is incapable of prosecuting or defending their rights.<sup>24</sup> When litigants need a GAL but are not approved for APS, the Court must find GALS who are willing to provide *pro bono* services, which is an even smaller pool of candidates.

#### IV. Technology<sup>25</sup>

Recently, the Court announced that e-filing will begin in 2019. The Committee appreciates OCA taking this important step to modernize Housing Court. While there will need to be procedures implemented to ensure the protection of personal information, this move has wide support. E-filing is used in most of the New York State courts but is not yet in effect in Housing Court. There is 79% support for it compared to 7% against. When enacted, e-filing will need to be optional for *pro se* litigants for the immediate future but appears it would be widely adopted by attorneys. It would also help with current problems such as copying files, late motion filings, and lost motions, which lead to delays and additional requests upon the court. There needs to be thought

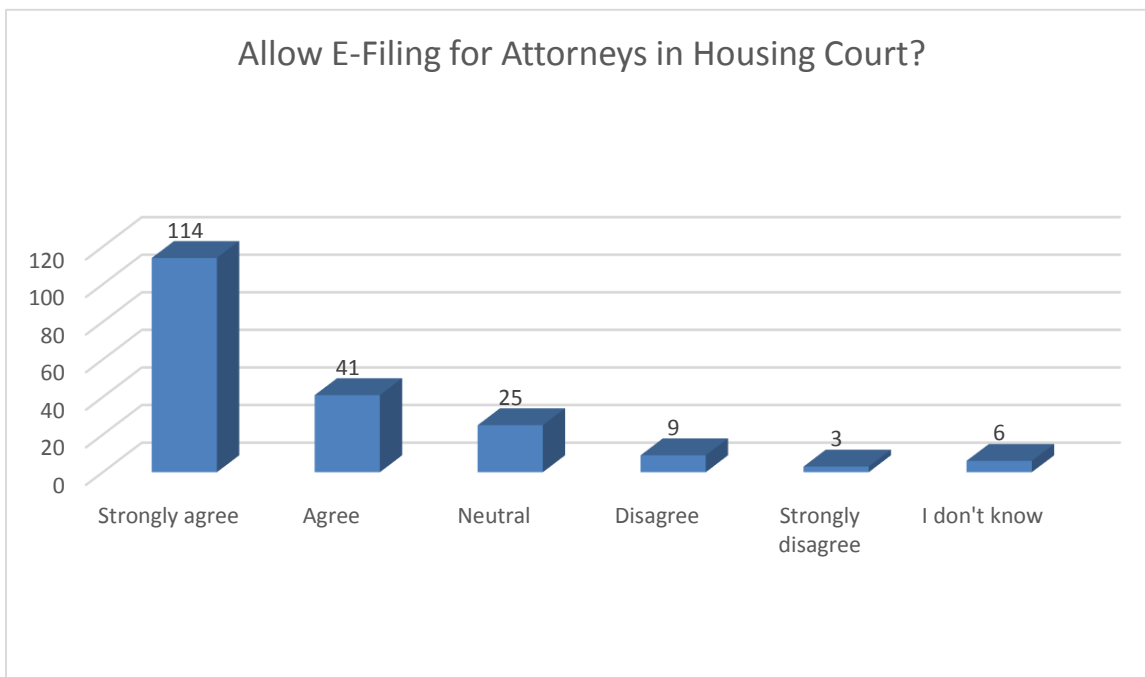
<sup>23</sup> 18 NYCCR § 457 and NY Social Services Law § 473.

<sup>24</sup> CPLR § 1201.

<sup>25</sup> Respondents were asked “Housing court should allow e-filing for attorneys?”; “The court should be able to view and print government records such as those from DHCR, DOB, and HPD?”; “The court should be able to e-notify city marshals of stays of eviction?”; and “The court should increase its videoconferencing capabilities?”



given to how much access is available to third parties and how to balance the need for accessibility with litigants’ privacy. At minimum, the Court will need to develop education initiatives for court personnel and litigators to ensure that litigants’ personal information is properly redacted since potentially sensitive information is often included in pleadings and motion practice. The Committee stands ready to assist with the educational component of this undertaking.



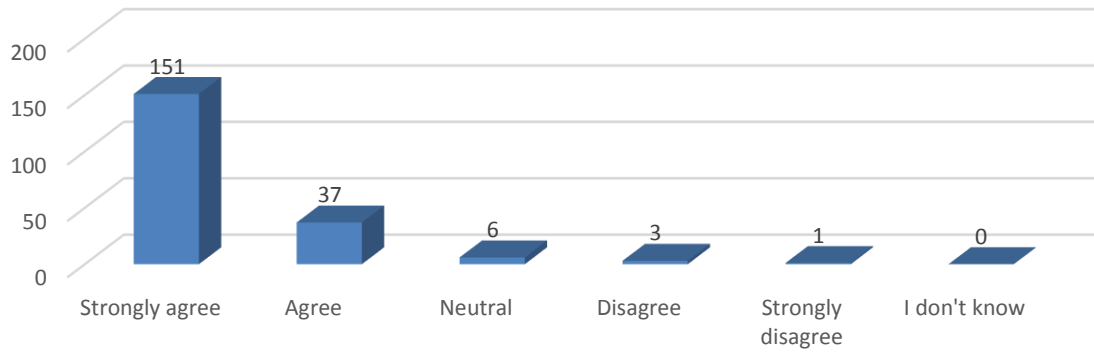
Other technological reforms that will make it easier for the Court to do its job would likely enjoy widespread support. Presently, in order to notify the Marshal’s office that a stay of eviction is in place, an employee of the Court has to call the office. E-notifications could reduce this busywork. The Court should also have easier access to government information that is pertinent to landlord-tenant law. Presently the Court has limited access to information such as DHCR records concerning rent regulation, but readier access to those records would enhance the Court’s ability to effectively and efficiently dispense justice. For publicly available records, the solution could be as simple as building a web portal like the tools created by JustFix.nyc.<sup>26</sup> There is also support for increasing videoconferencing capabilities, though there is a sizable group among respondents that is ambivalent on this issue.

<sup>26</sup> <https://whoownswhat.justfix.nyc/> (All websites cited in this guide were last visited on April 18, 2019.)

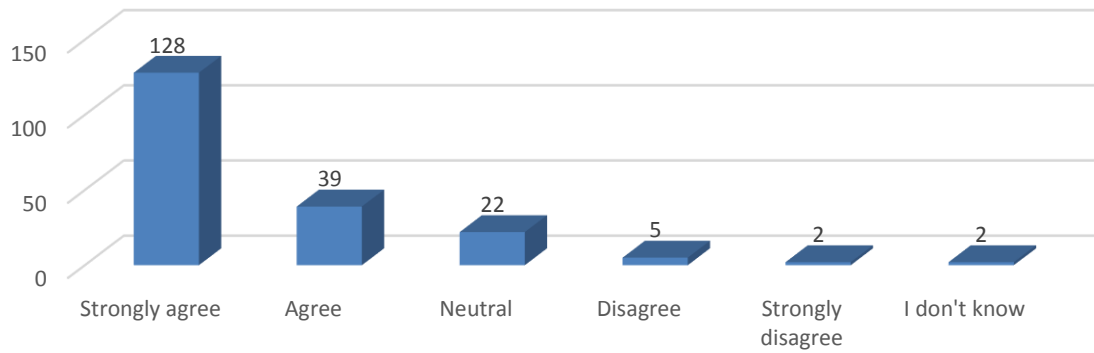


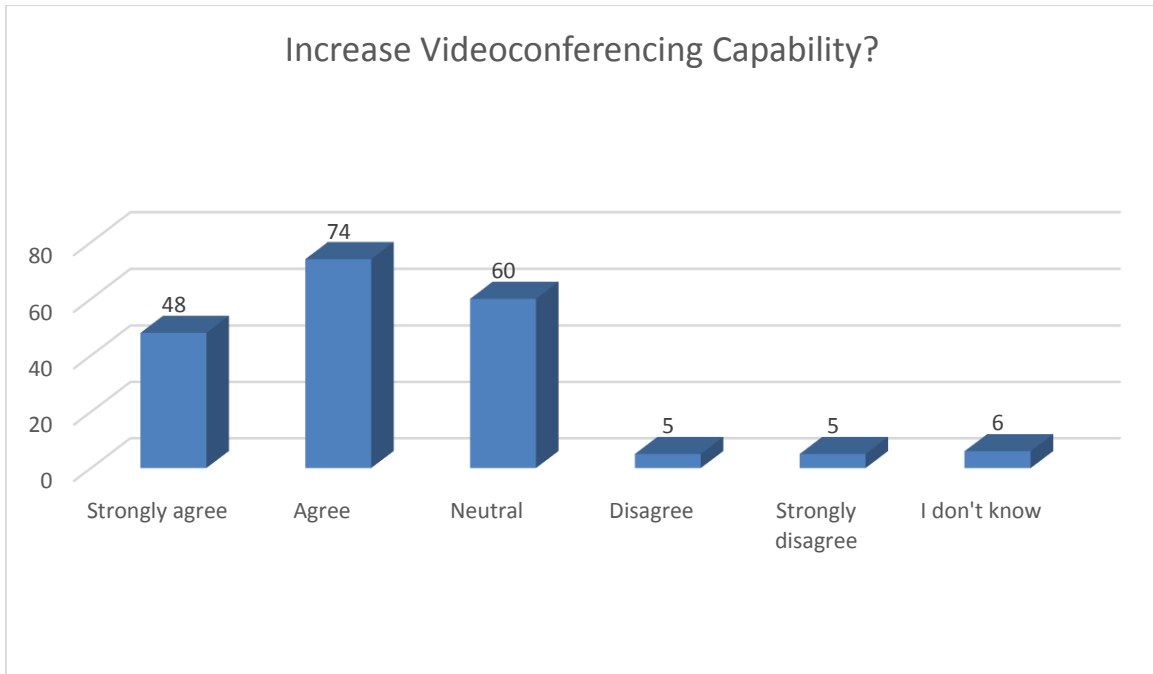


### Permit the Court to View and Print Government Records?



### Permit the Court to E-Notify Marshalls of Stays of Eviction?





## V. Proposed Reforms to Resolution Parts<sup>27</sup>

### a. Staggered Calendars<sup>28</sup>

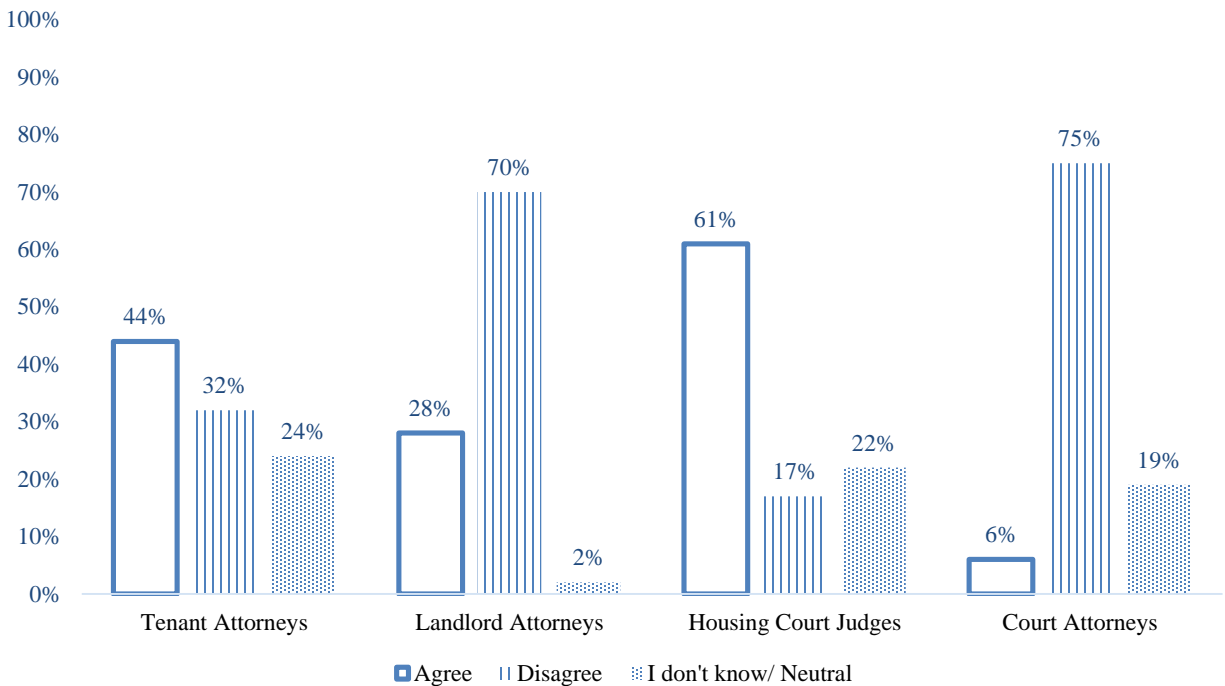
One of most contentious reforms has been instituting staggered calendars in resolution parts. This means parties must be present in the court by a certain time in order to resolve their case, or they must explain why they need additional time to take action such as pursuing a settlement or arguing a motion. The purpose of the reform was to prevent litigants from sitting in courts for hours while an opposing counsel was handling matters elsewhere and to more evenly distribute cases throughout the day to cut down on waiting and overcrowding. A plurality of tenant attorneys and a majority of judges support these measures, but there is strong opposition by landlord attorneys and court attorneys. The change has been especially difficult for smaller firms and organizations who may not have enough people to cover all the parts with staggered calendars. The initiative has been seen as an impetus for some smaller firms and solo practitioners to merge.

<sup>27</sup> Sections V – VIII of this report reference reforms that were proposed by the Special Commission in its January 2018 report and survey responses received in April and May 2018. At the time of the survey, some of the proposed reforms had been fully implemented while others had been only partially or not at all implemented. In general, the purpose of the survey was to gauge respondents’ reactions to the proposals in principle, not necessarily as implemented. However, given that some respondents were answering the survey questions based, at least in part, on their experiences with reforms already underway or being implemented, we sought to provide information that would be most useful to the reader.

<sup>28</sup> Respondents were asked “OCA should stagger court times such as 9:30; 10:30; and 11:30 start times?”



## OCA Should Stagger Court Times (by Occupation)

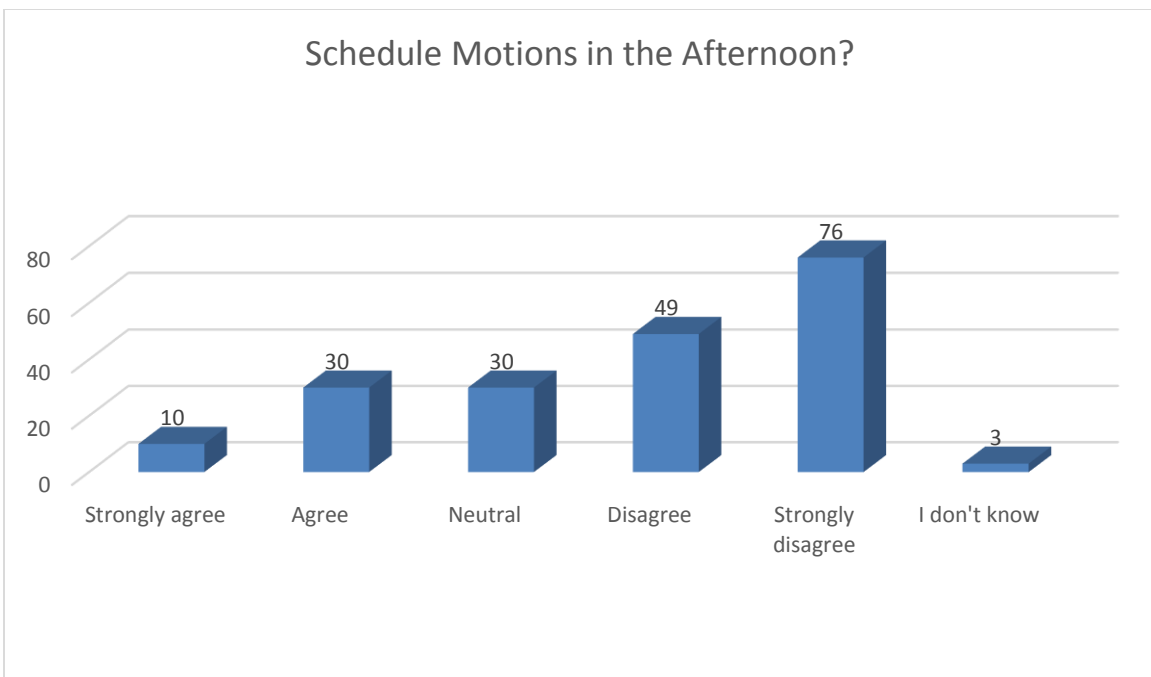
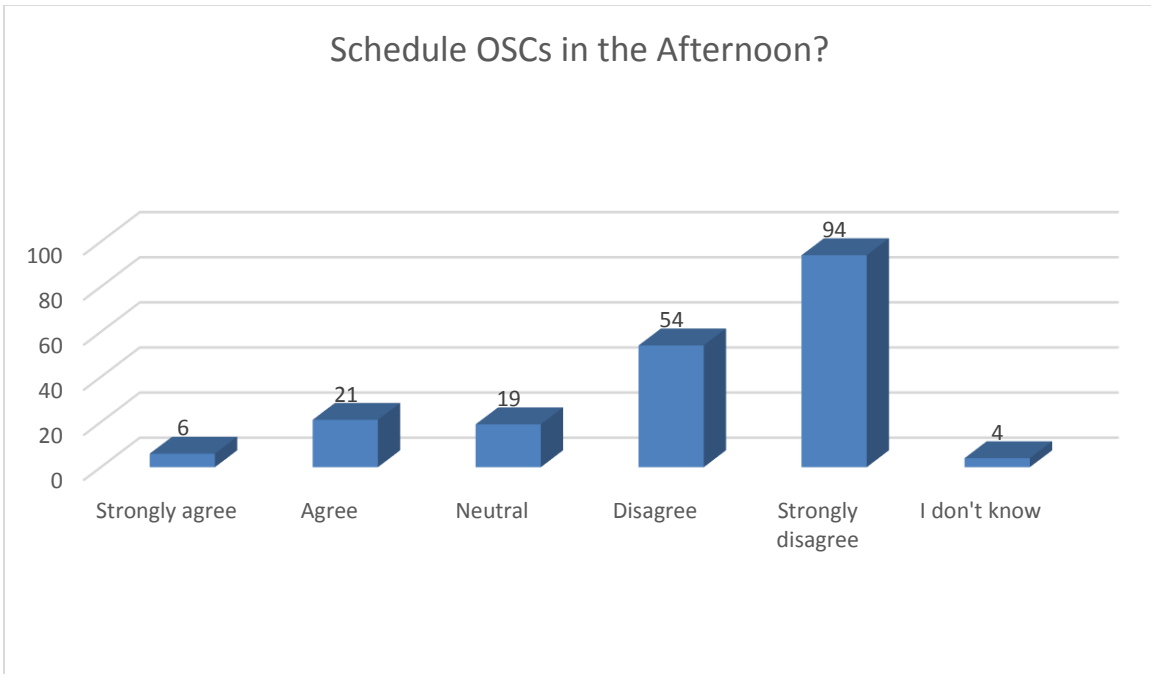


### b. Motions and Orders to Show Cause in Afternoons<sup>29</sup>

Also contentious is the change to schedule orders to show cause (OSCs) in the afternoon calendar as a way to balance the caseload for judges. Housing Court Judges still have discretion to hear OSCs in the morning, but it is no longer the default. The survey measured respondents’ opinions on both OSCs and motions being scheduled in afternoons. Both proposals had little support. Since this survey was conducted, many previous opponents have mentioned to members of the Committee that this change is less problematic than originally feared, though others still state that shifting to the afternoon prevents attorneys from returning to their offices and is especially detrimental to smaller firms and organizations.

<sup>29</sup> Respondents were asked “Order to show causes should be scheduled for afternoon hearings?” and “Motions should be scheduled for afternoon hearings?”





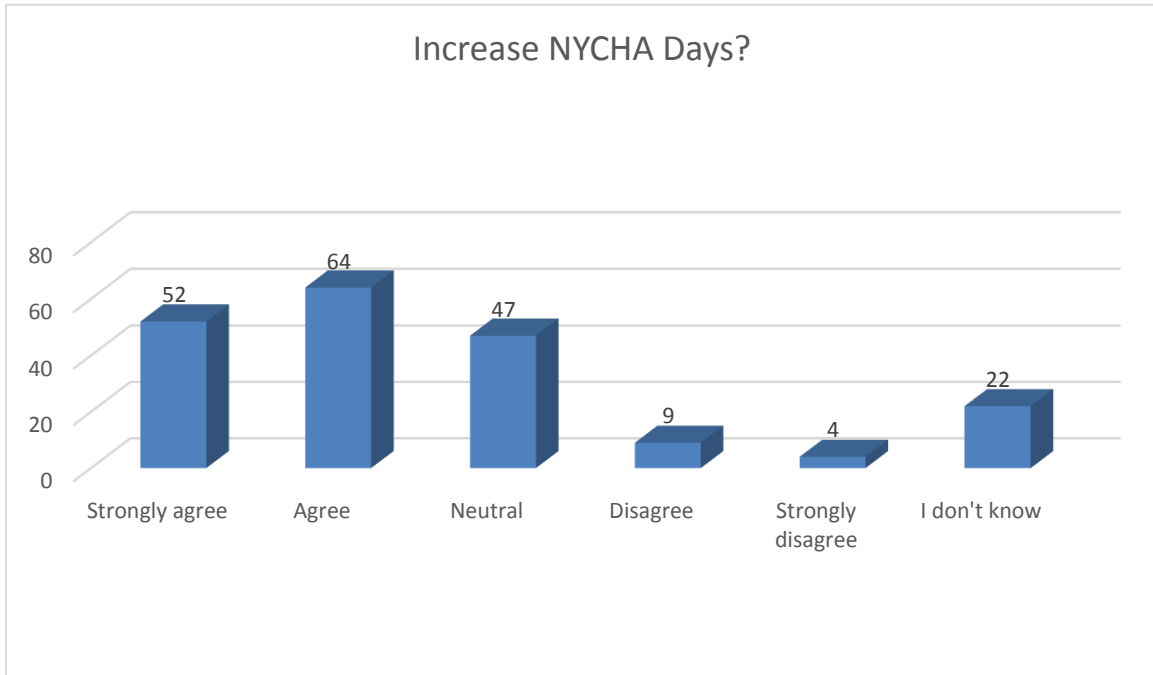
**c. Distribute NYCHA Cases Over More Days<sup>30</sup>**

Most Housing Courts have a single resolution part dedicated to public housing cases on certain days of the week. Before the reforms only one or two days each week were dedicated to

<sup>30</sup> Respondents were asked “There should be additional NYCHA days so the NYCHA Part won't be as busy?”



public housing, which then became the busiest court days with schedules of over one hundred cases to be heard. Most respondents agree that this caseload is too much for litigants and a single judge and that the caseload should be spread out. This change would require NYCHA to have attorneys and housing assistants in court more often, but the change is widely seen as a necessary tradeoff.

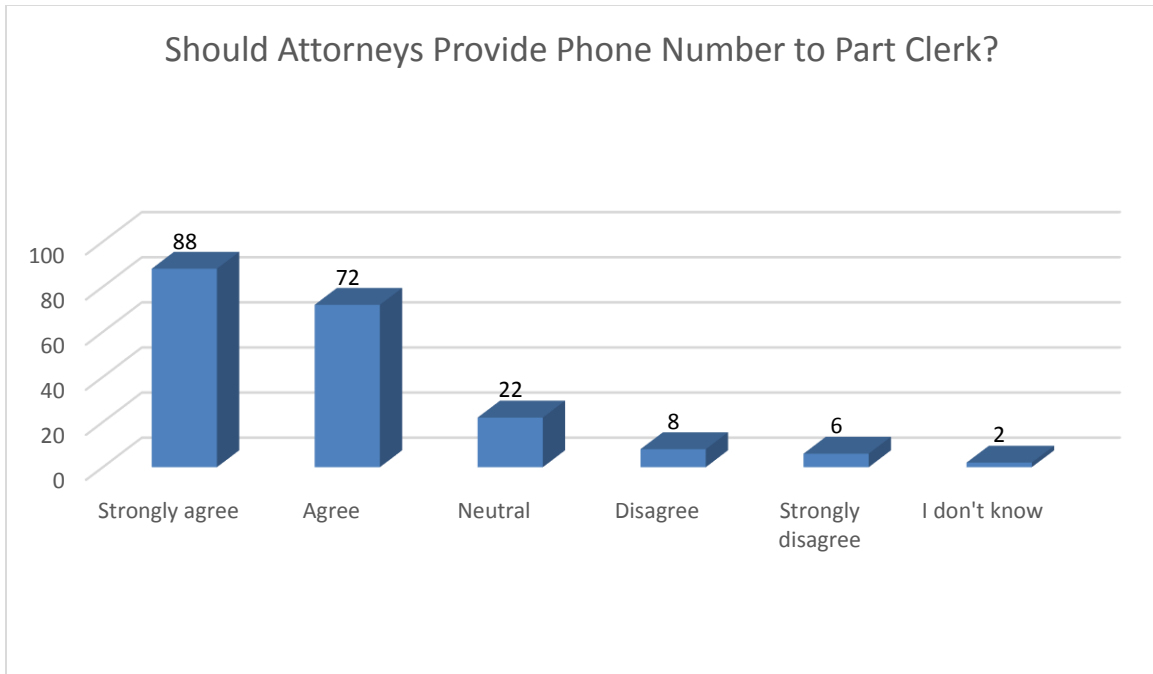


**d. Providing Phone Numbers to the Court<sup>31</sup>**

Most respondents do not have a problem providing their cell phone number to the resolution parts when they check-in for their cases. The purpose is to reduce waiting times and make it easier for parties to find opposing counsel in the courthouse.

<sup>31</sup> Respondents were asked “Attorneys should inform the Part Clerk of where they will be and share their cell phone number?”





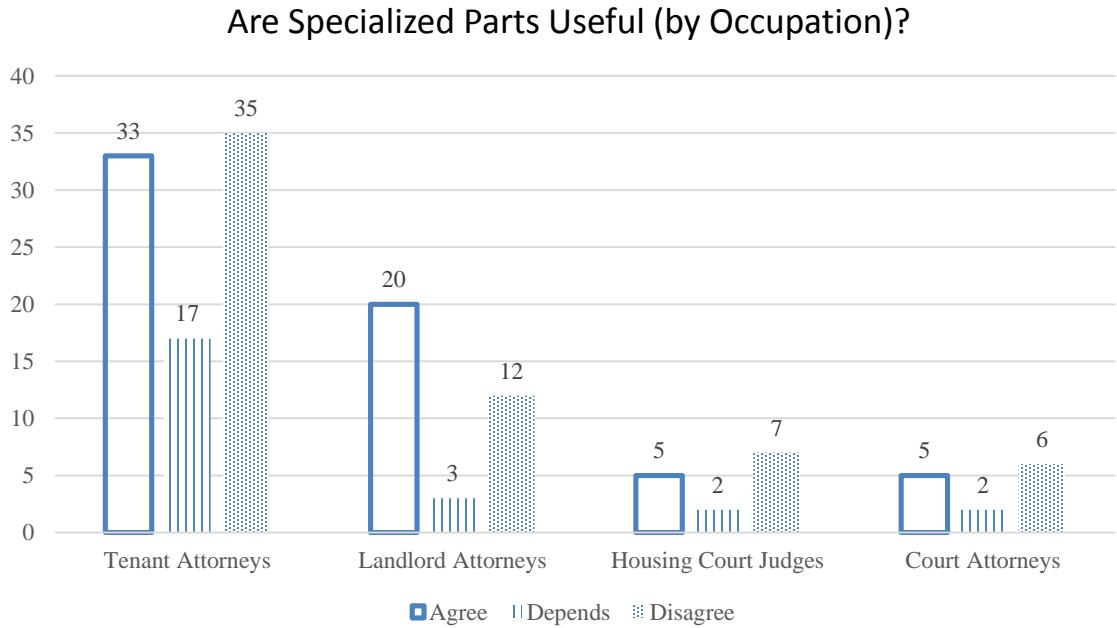
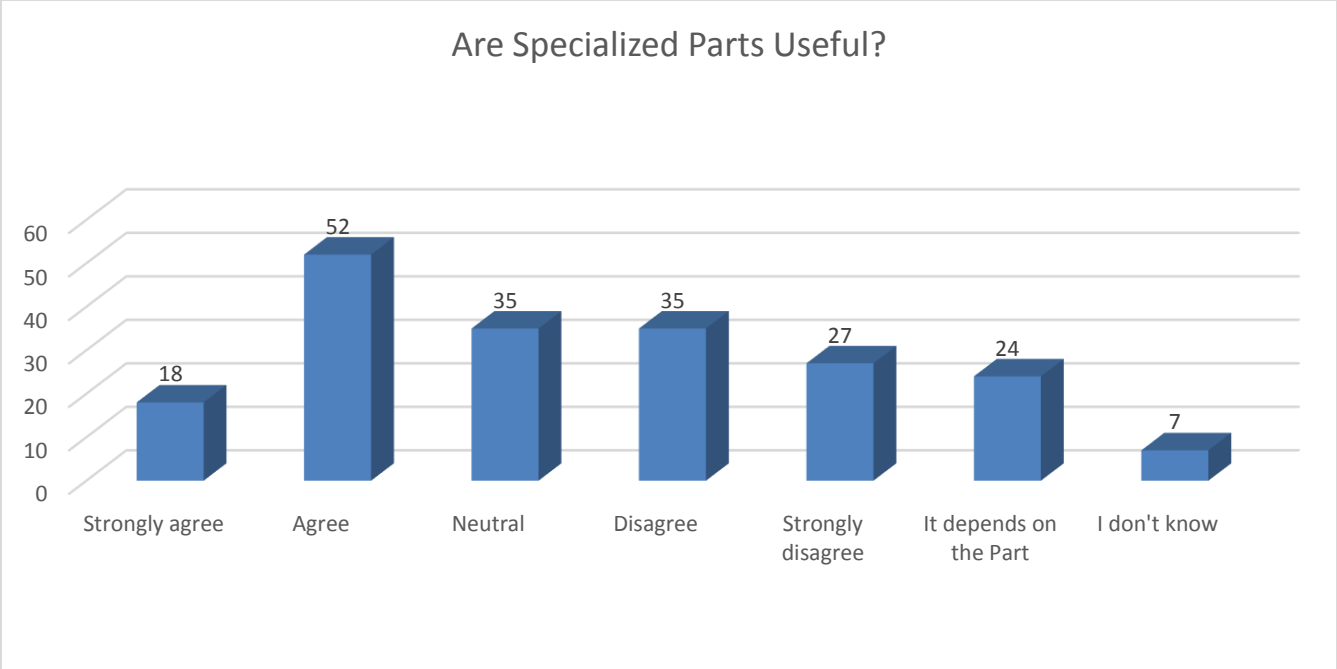
**e. Specialized Parts<sup>32</sup>**

Previously there were specialized resolution parts that would handle certain types of cases or litigant populations such as cooperative and condominium apartments, cases concerning military personnel, requests for a rent deposit, and narcotic evictions. The original idea was that these areas required specialized knowledge and that situating them in one part the court could facilitate efficient adjudication. The Special Commission recommended that these specialized parts, except for narcotic evictions, should be eliminated.<sup>33</sup> While most of the reforms instituted followed the Special Commission recommendations, OCA has eliminated all the special parts including narcotic evictions. It is unclear to the Committee why the court did not follow the Special Commission’s recommendation to keep the narcotic evictions parts. Survey respondents are mixed when asked if the special resolution parts were useful. The Committee parsed responses concerning the usefulness of specialized parts according to occupation: landlord attorneys are more likely to consider the specialized parts useful while tenant attorneys are more likely to think only certain parts are useful.

<sup>32</sup> Respondents were asked “Specialized resolution parts are useful? (ex: condo/coop, military, drugs, etc)”

<sup>33</sup> Special Commission on the Future of the New York City Housing Court, *Report to the Chief Judge* (Jan. 2018), at 14.





**f. Article 81 Innovative Part<sup>34</sup>**

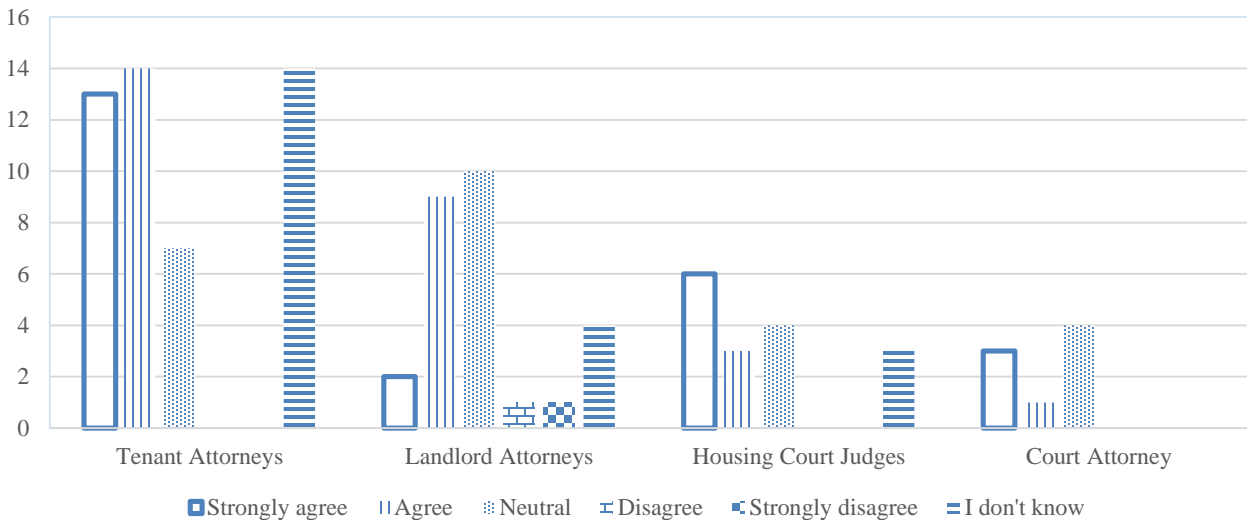
Since June 2008, the Innovative Part has combined the authority of the Housing Court with that of the Supreme Court over guardianship proceedings pursuant to Article 81 of the Mental

<sup>34</sup> Respondents were asked “New York County Innovative Part (Part I) for Article 81 Guardians should be expanded to other counties?”



Hygiene Law.<sup>35</sup> Overall, 35.9% of respondents state that they do not have sufficient knowledge to offer an opinion on whether the Innovative Part should be expanded and 20.7% were neutral towards expansion of the program. Since the pilot program is only in Manhattan Housing Court, the data was then examined looking at only those who claim to be familiar with the Manhattan court. This more relevant cohort shows there is support (52.58%) and little opposition (2.06%) to expanding the pilot program to other boroughs. OCA should consider formalizing the program and ascertain whether other boroughs would benefit from its expansion.

Manhattan Respondents on Whether the Innovative Part Should Expand (by Occupation)



## VI. Proposed Reforms to Housing Parts<sup>36</sup>

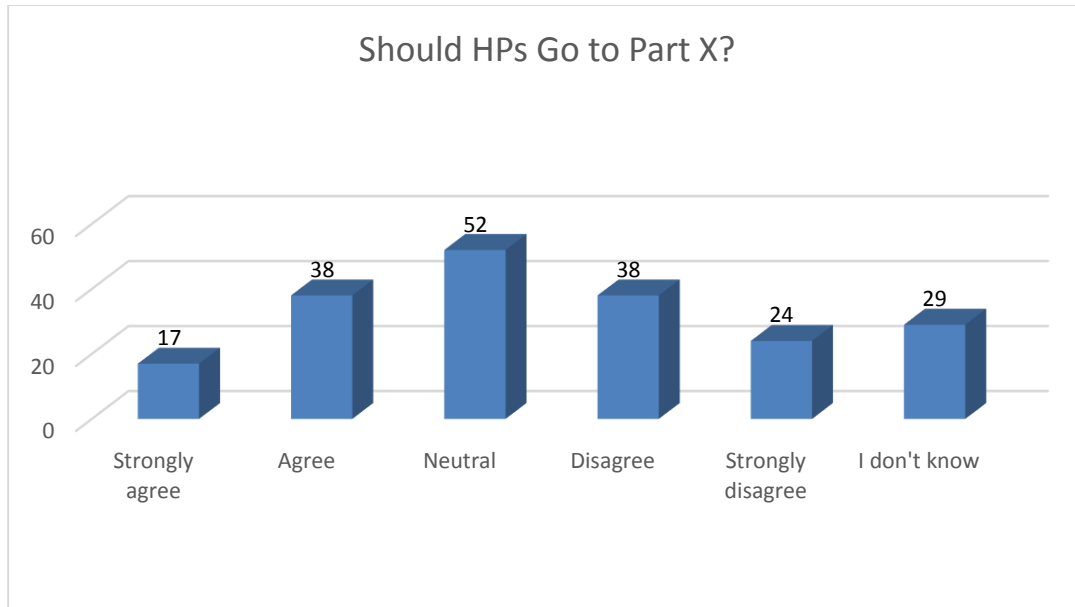
Housing Part (“HP”) cases primarily consist of tenants bringing cases against property owners. Claims generally concern repairs and/or harassment. HP cases are typically given their own part in which one judge handles both the resolution and, if necessary, the trial. They are kept separate from the rest of the Housing Court docket where eviction is sought. Respondents were asked if HP cases should be sent out to Part X for trial as part of the same procedure for other Housing Court cases. Respondents are evenly mixed in their responses on the efficacy of the proposal.

<sup>35</sup> Hon. Schlomo S. Hagler, *Innovative Part Integrates Guardianship and Housing Matters*, New York Law Journal (Jun. 22, 2011) at 4, col. 4.

<sup>36</sup> Respondents were asked “HP trials should go to Part X for assignment instead of staying in HP?”





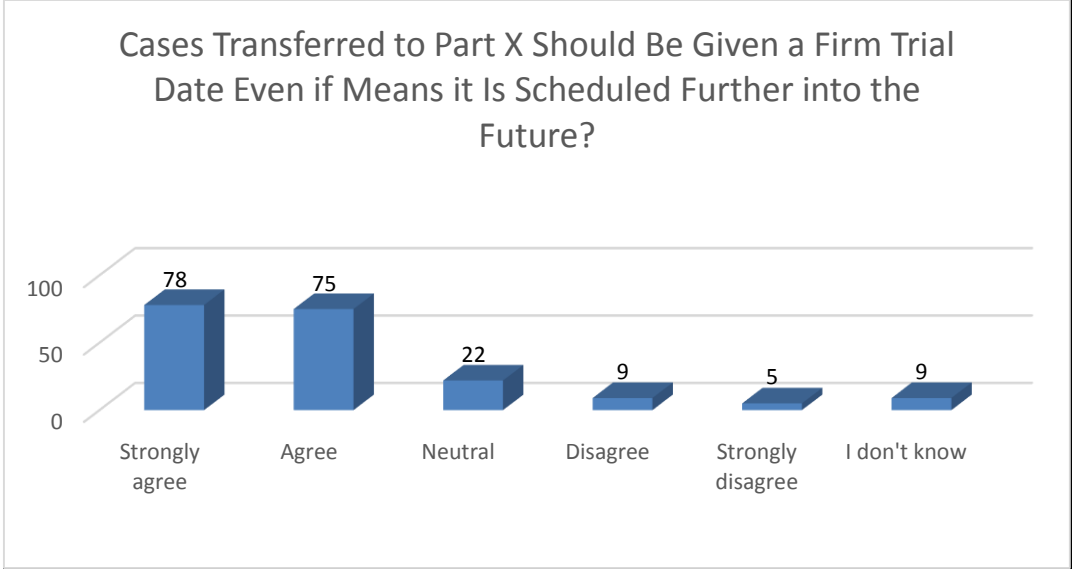


## VII. Proposed Reforms to Trial Parts<sup>37</sup>

The most recent and significant change to the trial part was the addition of firm trial dates (even though they may be further into the future). This change altered the prior practice of receiving short adjournments in Part X, which bore greater uncertainty as to whether (or when) a trial would occur. The vast majority of respondents agree with this recent change, though since the survey took place there have been discussions as to how to prevent trial parts from being overwhelmed.

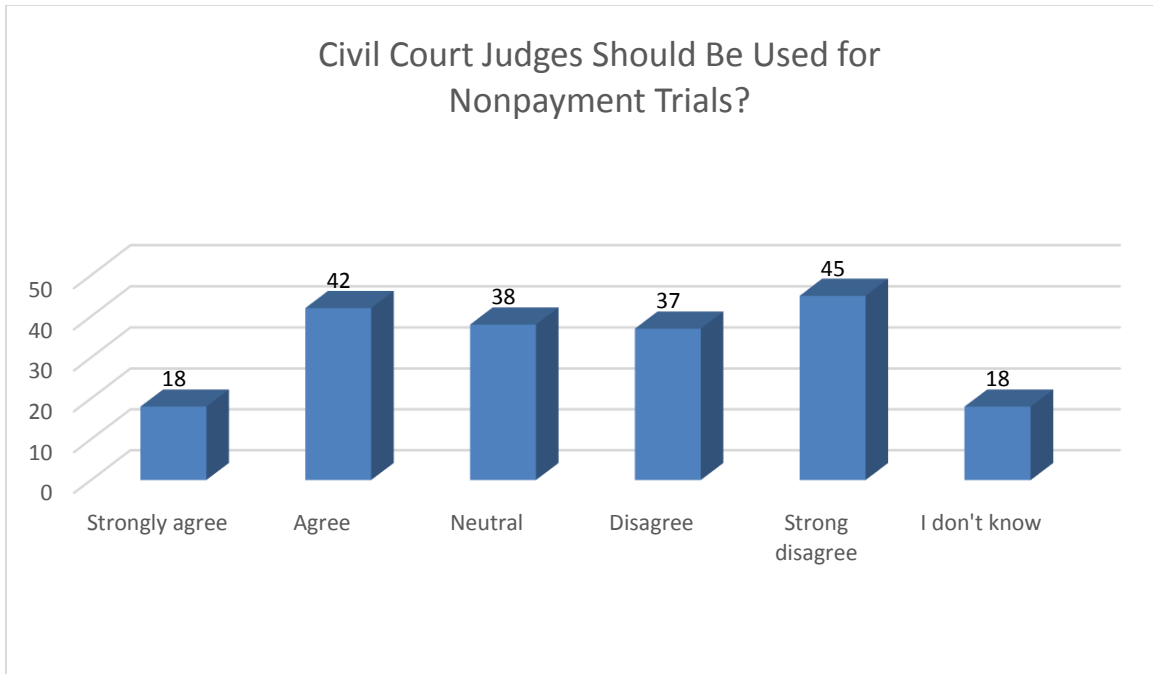
<sup>37</sup> Respondents were asked “Cases transferred to Part X should be given a firm trial date even if means it is scheduled further into the future?” and “Civil Court judges should be used for non-payment trials?”





The use of Civil Court Judges for nonpayment proceedings is a more divisive issue. The change purposes to reduce the backlog of trials by utilizing elected Civil Court Judges on what are perceived to be simpler cases. There have been two significant obstacles. First, the firm court date given by Housing Court is not followed by Civil Court Judges, meaning some cases sent to Part X and then sent to Civil Court will have trials that begin immediately. One of the advantages of the firm court date is that litigators can plan ahead on when to have witnesses available, which is especially helpful for those who work or live out of state. This certainty does not always happen for nonpayment cases. The second obstacle is the sheer complexity of nonpayment cases. Issues concerning rent regulation, intersection of various state and federal laws, or certificates of occupancy are familiar to Housing Court Judges but not necessarily to Civil Court Judges.





Overall, 30.3% of respondents approved and 41.41% disapproved of Civil Court Judges presiding over nonpayment trials. Responses vary according to occupation. There is strong support from judges (72.22%), but support is much more limited from court attorneys (31.25%); landlord attorneys (34.78%); and tenant attorneys (18.52%). We recognize the need to reduce the trial backlog and ask that this be stringently monitored as this reform has limited support.

### VIII. Proposed Reforms for Access to Justice<sup>38</sup>

On August 11, 2017, New York City became the first jurisdiction in the United States to guarantee an attorney to low-income tenants facing eviction. Access to counsel is being implemented as a five-year plan that will provide for representation for all tenants who meet income requirements by 2022.<sup>39</sup> 30% of tenants facing eviction were represented by counsel in the first year of universal access.<sup>40</sup> A large majority of the respondents (70.1%) support universal access.

There is a difference of opinion concerning universal access based on occupation. The approval - disapproval percentage was as follows: tenant attorneys (92.59% - 0.92%); landlord attorneys (19.57% - 52.17%); judges (83.33% - 0.06%); and court attorneys (56.25% - 0.06%).

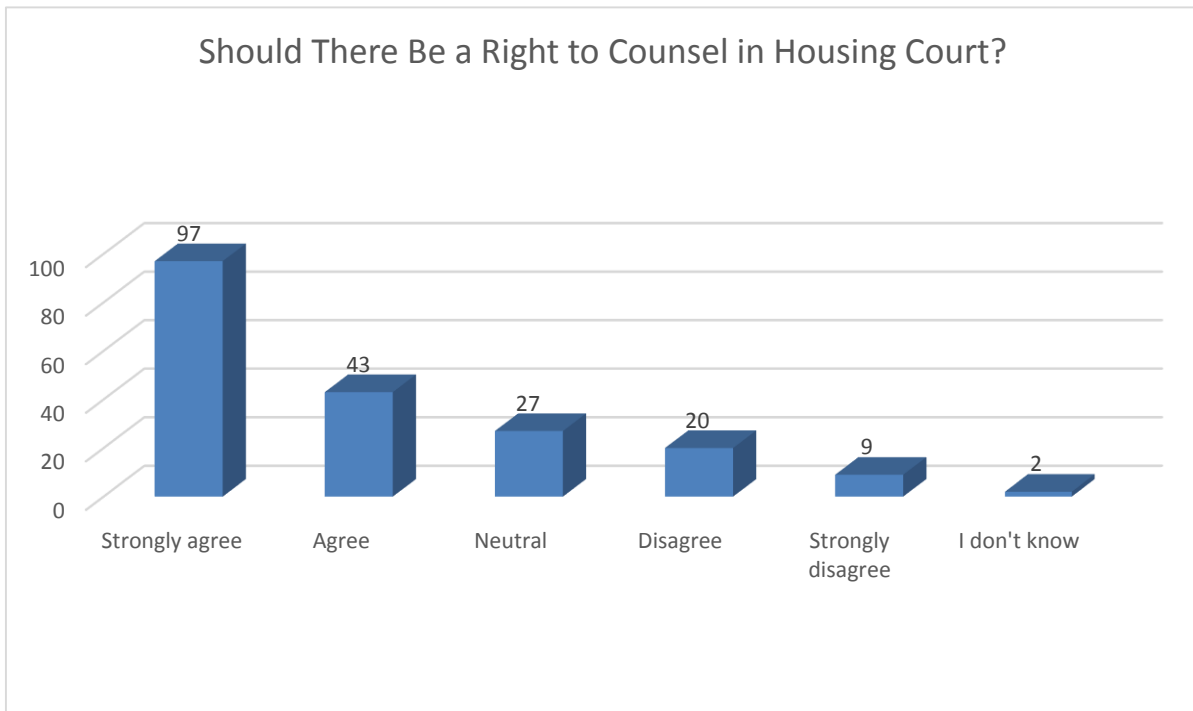
<sup>38</sup> Respondents were asked “There should be a right to counsel in Housing Court?” and “Non-attorneys such as paralegals and tenant advocates should be permitted to represent litigants?”

<sup>39</sup> Erin Durkin, *Tenants Facing Eviction Will Get Lawyers Paid For By The City*, New York Daily News (July 20, 2017).

<sup>40</sup> Office of Civil Justice, New York City Human Resources Administration, *UNIVERSAL ACCESS TO LEGAL SERVICES 4* (Fall 2018).



The survey did not ask for the reasons behind respondents' opinions but landlord attorneys and, to a lesser extent, court attorneys are less likely to support the law.

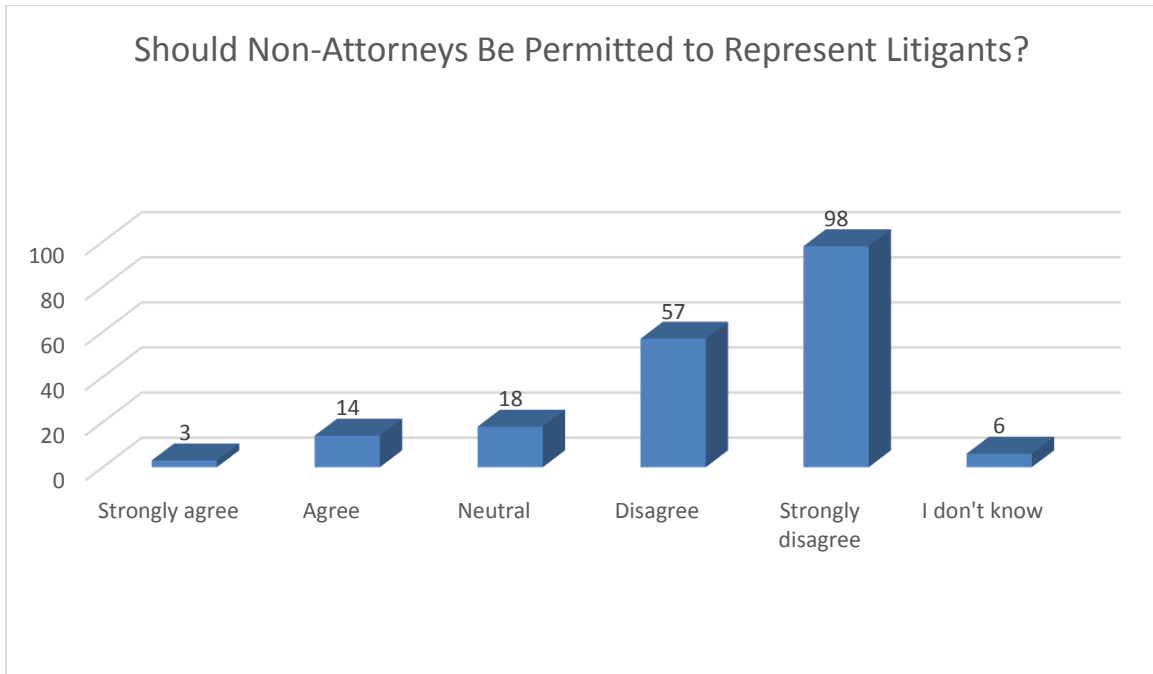


Another way to increase access to justice is to allow non-attorneys to offer limited representation for discrete tasks. This is an issue that the New York City Bar has examined as a way to narrow the justice gap.<sup>41</sup> Respondents were asked whether non-attorneys such as paralegals and tenant advocates should be permitted to represent litigants in Housing Court. Only 9% of respondents support the use of non-attorney advocates.

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<sup>41</sup> New York City Bar Association, Committee on Professional Responsibility, NARROWING THE "JUSTICE GAP": ROLES FOR NONLAWYER PRACTITIONERS (June 2013).





### **IX. Selection of Housing Court Judges<sup>42</sup>**

The final issue examined was the selection of Housing Court Judges. Judges are appointed by the Administrative Judge for the Civil Court from a list of candidates found qualified by the Advisory Council to the Housing Part of the Civil Court.<sup>43</sup> Judges serve five year terms, and reappointment is at the discretion of the Administrative Judge.<sup>44</sup> Respondents were asked about possible impediments to qualified candidates applying to become judges and were allowed to choose more than one option.

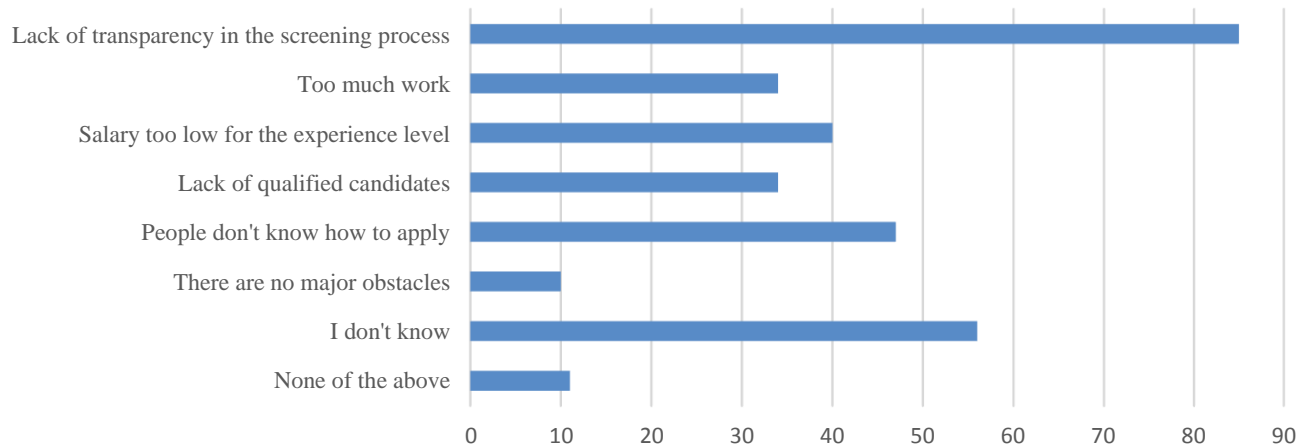
<sup>42</sup> Respondents were asked “What do you think are obstacles preventing more candidates from applying to become judges?”

<sup>43</sup> N.Y. City Civil Court Act § 110(f).

<sup>44</sup> Id. at § 110(i).



## Obstacles to Applying to Become a Housing Court Judge



The most selected response by a significant margin is the lack of transparency in the screening process. This is of particular significance because, at the time this report is being drafted, 27 of the current 50 judges are in their first term of service. Going forward, consideration should be given to increasing transparency and outreach as a way to encourage more candidates to apply for the important position of judge.

### CONCLUSION

The Committee appreciates the attention and commitment shown in improving the operations of Housing Court over the last year. Change is never easy, but is very much necessary. Based on the survey, many concerns about the operation of Housing Court are shared among attorneys for landlords and tenants, court attorneys, and judges. These shared concerns are specifically focused on resources, facilities, and implementation of new procedures.

The Committee firmly believe that fostering communication and transparency will benefit both the litigants and the attorneys who work for and within the Court. Many of the obstacles identified by our respondents are not new and cannot be changed overnight. It will take increased resources (such as judges), planning, and cooperation of government agencies and local stakeholders to work together to address these systemic deficiencies. We hope this survey amplifies the voices of those most intimately familiar with Housing Court to add to the ongoing dialogue of how to ensure that the court operates as the fair, effective, and judicious forum that New York City needs it to be.

Housing Court Committee  
Justin R. La Mort, Chair  
[jlamort@mfjlegal.org](mailto:jlamort@mfjlegal.org)  
(212) 417-3882

