



NEW YORK
CITY BAR

**COMMITTEE ON PRO BONO
& LEGAL SERVICES**

February 24, 2022

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Hon. Eric Adams
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**Re: Policy Recommendations Concerning Pro Bono Civil Legal
Services and Access to Justice**

Dear Mayor Adams:

We write on behalf of the New York City Bar Association's Pro Bono and Legal Services Committee to introduce ourselves and to share with you our policy recommendations regarding pro bono civil legal services and access to justice.

As attorneys who work at public interest and pro bono legal services organizations, civil rights organizations, or who direct pro bono efforts at law firms and corporate legal departments, we write to express our hope that your administration (the "Administration") will direct significant attention and resources towards addressing the civil legal needs of low-income individuals and families in New York City. When indigent individuals are forced to navigate complex legal systems without representation, it is nearly impossible for them to experience a fair and just legal system. We ask that the Administration prioritize access to justice and strive to implement new and innovative policies and programs to ensure that all New Yorkers can access the protections and benefits of the law on equal footing.

Increasing funding and resources for legal services as we describe below will generate economic benefits that far exceed the costs of providing such services. Reducing the number of unrepresented litigants by providing low-income New Yorkers with competent representation offers an exponential return on investment, as it can help to keep families together, in their homes, and receiving the benefits they need to thrive and contribute to the City's economy. Increasing access to justice is critical to helping low-income communities recover from the pandemic, which has disproportionately impacted the most vulnerable New Yorkers. It is also essential for

About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has approximately 24,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.

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advancing racial justice and ending systemic inequities, and for the fair and effective administration of our laws and public programs.

We respectfully urge your Administration to keep these critical needs in mind as it begins to implement funding and programmatic priorities. In particular, we would like to highlight the following issues as priorities for the new Administration:

- **Implement policy reform** to prioritize directing resources toward issues affecting vulnerable communities – namely, immigration, housing, family court matters, domestic violence, incarceration, and consumer debt issues. Recognizing that these issues disproportionately affect communities of color, we urge the Administration to reform policies in a way that promotes racial equity in the law.
- **Increase support and resources to low-income immigrants** by expanding already-existing legal services for noncitizens and directing City agencies to seek to recognize and address the full range of legal needs immigrant communities face.
- **Ensure that New York City remains a leader in advancing the right to counsel for low-income civil litigants** by continuing to strengthen and adequately fund the right to counsel for low-income tenants facing eviction, and by seeking ways to expand the right to counsel in other types of civil proceedings.
- **Seek meaningful input and advice from the pro bono and legal services community** so that we may offer input on how prospective policies across the City will impact the low-income communities we serve.

I. RIGHT TO COUNSEL

New York City’s passage of legislation in 2017 guaranteeing a right to counsel for low-income tenants was a monumental step toward equal justice. The right to counsel for tenants is leveling the playing field in court, giving New Yorkers a fighting chance to assert their legal rights, and sending a message that the lives and homes of low-income households are entitled to be treated with dignity and respect. It is helping to preserve low-income housing, stabilize low-income communities, and reduce the incidence of homelessness and its concomitant human and governmental costs.¹

Since New York City passed this landmark legislation, at least six additional localities have adopted the right to counsel modeled after New York City’s law, including Newark, San Francisco, Cleveland, Philadelphia, Boulder, and Baltimore. Cities that have enacted the right to counsel have

¹ For details on the success of New York City’s right to counsel program, including increased representation rates in housing court, reduced evictions and better facilitated resolutions, *see* Universal Access to Legal Services A Report on Year Three of Implementation in New York City, Office of Civil Justice of the NYC Human Resources Administration (Fall 2020), https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ_UA_Annual_Report_2020.pdf. For more information on the City Bar’s support for right to counsel, visit <https://www.nycbar.org/member-and-career-services/committees/civil-right-to-counsel-task-force-onn> (all websites last visited Feb. 24, 2022).

reaped major benefits: in New York City, 86% of represented tenants have remained in their homes and the eviction filing rate has dropped by 30%; in San Francisco, two-thirds of represented tenants have remained in their homes and the filing rate dropped 10% in just one year; and in Cleveland, 93% of represented tenants have avoided eviction or an involuntary move.² At least eight state legislatures (including New York) and more than a dozen additional cities have had legislation introduced or have campaigns underway to secure a right to counsel for tenants who face eviction.

We urge the Administration to ensure that New York City remains a leader in this area of civil legal services. This is especially critical in the coming year, as the COVID-19 eviction moratorium will be lifted and many low-income tenants will find themselves in Housing Court. We appreciate the Administration's recent efforts to educate tenants in New York City regarding their legal rights, including the right to counsel,³ and hope that the Administration will continue to support the right to counsel program in other ways, including by making sure that the program receives sufficient funding.

In addition, given the successes of the right to counsel program, the Administration should consider expanding the right to counsel to cover other kinds of housing cases as well as other kinds of civil proceedings that involve basic human needs such as shelter, safety, sustenance, health, and child custody. We ask the Administration to ensure that New York City continues to lead the way in providing meaningful access to justice for many more low-income New Yorkers.

II. LEGAL NEEDS OF IMMIGRANTS⁴

We commend the Administration on recognizing the importance of protecting immigrant communities, and understanding the inequities they experience. We appreciate that the Administration has prioritized expanding language access and improving equity and representation for immigrant community members. We also appreciate that your voting record and public statements as Brooklyn Borough President and State Senator demonstrate support for immigrant communities through backing efforts such as providing driver's licenses to undocumented residents, extending the right to vote, and condemning Immigration and Customs Enforcement arrests in the City.

We are in strong agreement with the Administration that it is necessary to increase funding for desperately needed legal services for noncitizens, many of whom cannot afford to hire attorneys. The City has acknowledged that 22.1% of foreign-born residents and 28.8% of

² See "Effectiveness of / need for right to counsel for eviction cases," National Coalition for a Civil Right to Counsel, June 16, 2021, https://www.aclu-de.org/sites/default/files/field_documents/nccrc_2021_eviction_rtc_talking_points3.pdf.

³ See Transcript: Mayor Adams Makes Announcement on Tenant Outreach Effort, Jan. 13, 2022, <https://www1.nyc.gov/office-of-the-mayor/news/028-22/transcript-mayor-adams-makes-announcement-tenant-outreach-effort>.

⁴ See also Letter to Mayor Adams, "Policy Recommendations for Supporting New York City's Non-citizen Residents," from the City Bar's Immigration and Nationality Law Committee dated Feb. 24, 2022.

undocumented New Yorkers live in or near poverty.⁵ You outlined in the WeRISE plan a path for increasing funding for the NYC CARES Act that would, among other things, boost legal services focused on fighting employment discrimination against immigrant communities, including cases of wage theft and harassment. We are in agreement with the Administration that funding these services is a critical equity measure.⁶

In addition to funding legal services to combat employment discrimination, we urge the Administration to recognize and support the full range of legal needs immigrant communities face. One of the most pressing issues for immigrant New Yorkers at present relates to secure housing, an area where immigrants remain especially vulnerable. Noncitizens who lost employment amid the COVID-19 crisis were not eligible for federal stimulus checks and state unemployment benefits to enable them to continue to pay rent. Undocumented residents who are subjected to eviction threats by their landlord often fear going to housing court due to their immigration status, and cannot afford an attorney to counsel them. Despite eviction moratoriums, there has been a demonstrated increase in homeless undocumented immigrants in New York City during the COVID-19 pandemic. As discussed in greater detail above, strengthening a right to counsel for tenants who face eviction—regardless of immigration status—would serve a critical need.

Although one in five noncitizen residents in New York City serves as a frontline essential worker during the COVID-19 pandemic, the global health crisis has served to exacerbate existing inequalities for the 3.1 million immigrant community members in New York City. The Administration should consider strengthening the support available to immigrant New Yorkers across the board, recognizing both the human rights concerns and the undeniable role immigrants play in the fabric of New York City. As Joseph J. Salvo, the City’s chief demographer for 30 years remarked upon his retirement, “If you ask me what the real threat to the city is, I will tell you the real threat is that we stop attracting immigrants.”⁷ We hope that the Administration’s support of immigrant communities will expand and provide a model for other cities to embrace.

* * *

Thank you for giving these important matters your time and attention. We look forward to discussing these issues in more depth and collaborating with you and your Administration to achieve access to justice for all New Yorkers.

⁵ See “An Economic Profile of Immigrants in New York City 2017,” <https://www1.nyc.gov/assets/opportunity/pdf/immigrant-poverty-report-2017.pdf>.

⁶ See also “Legal Steps to Implementation of Campaign Policy Proposals,” New York City Bar Association (Dec. 2021), <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/legal-steps-to-implementation-of-mayor-elect-adams-campaign-policy-proposals> (City Bar’s New York City Affairs Committee issued a report addressing campaign proposals, including the We Rise Plan, and “explain[ing] where we believe the legal authority lies to turn each major campaign proposal into reality”).

⁷ See Annie Correal, “How N.Y.C.’s Population Expert Says the City Will Bounce Back,” N.Y. Times, April 1, 2021, <https://www.nytimes.com/2021/04/01/nyregion/nyc-population-pandemic-recovery.html>.

Respectfully,

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Pro Bono & Legal Services Committee

Jessica M. Klein, Co-Chair
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Cc: Manny Castro, Commissioner, Mayor's Office of Immigrant Affairs
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