

**Testimony in Support of a Civil Right to Counsel in Housing Cases in New York City
Intro. 214-A
The New York City Council**

By

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Thank you for the opportunity to support the civil right to counsel in housing cases as set forth in Intro. 214-A.

I am the executive director of the National Center for Access to Justice (NCAJ) at Fordham Law School. NCAJ is the academically affiliated law and policy nonprofit organization that relies on data to achieve policy reform on behalf of vulnerable people in the civil and criminal justice systems in the United States.

I support Intro. 214-A because, as NCAJ has recognized and maintains in the Justice Index, www.justiceindex.org, the right to counsel is essential to basic fairness in civil legal matters in which an individual's or family's ability to stay in their home is in jeopardy.

I founded and directed for 12 years the Justice Program of the Brennan Center for Justice at NYU Law School. During my tenure, the City Council appropriated funds to Brennan that we dedicated to financing three surveys of people in the Housing Court. These surveys found that, among other things:

More than two-thirds of tenants facing eviction in New York City Housing Court have no legal representation when they go before the court. Additionally, the study finds that most people facing eviction have children in the household, that people facing eviction are disproportionately African-Americans, and that many of them are low-income senior citizens.

See Results from Three Surveys in New York City Housing Courts, Center for Human Environments, Graduate Center of the City University of New York (February 2007) (<https://www.brennancenter.org/publication/results-three-surveys-tenants-facing- eviction-new-york-city-housing-court>).

At NCAJ, we created the Justice Index, www.justiceindex.org, a national web-based resource that relies on thousands of data points, more than 100 indicators, and the tools of data analytics to rank the performance of states on whether they have adopted best practices for assuring access

to justice. The definition of access to justice in the Justice Index at www.justiceindex.org is the following:

At minimum, a person should be able to learn about her rights and then give effective voice to them in a neutral and nondiscriminatory, formal or informal, process that determines the facts, applies the rule of law, and enforces the result.

The Justice Index is used by government. For example, see *Language Access in the State Courts*, Civil Rights Division, US Department of Justice (September 2016) (<https://www.justice.gov/crt/file/892036/download>). It is also relied on in the press. For example, see *News Coverage of the Justice Index Launch*, NCAJ Blog (May 2016) (<http://ncforaj.org/2016/05/15/coverage-of-the-justice-index-2016-launch>).

The Justice Index includes the housing right to counsel as an essential element of access to justice in light of the preceding definition and on the strength of expert opinion. Passing Intro. 214-A would make New York City the first jurisdiction in the country to recognize this right.

The inclusion of the housing right to counsel as an essential element of access to justice is aligned with common sense. City Council members will appreciate that were they ever to be confronted by hard times, facing the prospect of losing a home, the personal importance of the right to counsel would be undeniable. Every person can appreciate the difficulty in representing himself or herself, especially when facing eviction proceedings driven by improper goals, such as raising the rent beyond what the law allows or selling property at an inflated price. Every person can appreciate that the complexity of the law and the facts, combined with the high stakes, make it impossible for all but a very few to remain calm, strong and well organized when responding to parties with superior resources and private counsel.

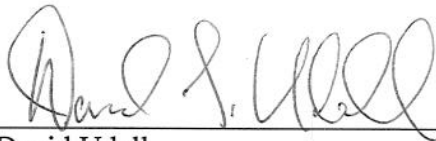
The inclusion of the housing right to counsel as an essential element of access to justice is also aligned with the interests of the courts and society. Having a lawyer serves not only to protect the rights of the client, but also to increase the accuracy of proceedings, accelerate the pace of their resolution, and conserve the resources of the court for matters in which greater resources will be needed. These impacts flow naturally from the activities of counsel in organizing and presenting factual materials and legal arguments, helping clients to understand why a proposed outcome that is not obvious is in fact good, or rebutting improper arguments advanced by the other side.

In recent years, world opinion has come to insist on access to justice as essential to the global campaign to end extreme poverty by 2030. The UN's 2030 Sustainable Development Agenda, at "Goal 16", asks all countries to assure the provision of access to justice to their residents. NCAJ is helping to lead work with U.S. executive agencies to identify "indicators" of access to justice in the states that the federal government should track. See *White House Legal Aid Interagency Roundtable and Goal 16 – One Year on*, Courtesy of Principal Deputy Associate Attorney General Bill Baer, U.S. Department of Justice Blog (September 21, 2016) (<https://www.justice.gov/opa/blog/white-house-legal-aid-interagency-roundtable-and-goal-16-one-year>).

In recommending specific Goal 16 indicators, NCAJ has urged inclusion of the housing right to counsel since the right is so closely aligned with the United Nation's call to countries to assure access to justice as a means of ending extreme poverty. The role of counsel in stabilizing a home is critical to keeping children in school, parents in employment, and families safe, healthy and able to pay their bills. Counsel can enable a person to remain in a home instead of homeless, and to remain free and clear of the criminal justice system instead of incarcerated. Stabilizing the lives of individuals and families in their homes also stabilizes entire neighborhoods by slowing gentrification where it is a threat, and by reducing abandonment and desolation where they are a threat.

For all these reasons, I support Intro. 214-A to establish a housing right to counsel in New York City.

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