

TO: HONORABLE BOARD OF
LEGISLATORS COUNTY OF WESTCHESTER

Your Committee recommends passage of "A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 187 relating to the creation of the Office of Housing Counsel."

Your Committee is informed that according to the 2020 Annual Homeless Assessment Report (AHAR) to Congress by the U.S. Department of Housing and Urban Development, New York State has the highest rate of homelessness in the country, with 92,000 New Yorkers experiencing homelessness. Moreover, as stated in a 2016 report by Stout Risius Ross, a global advisory firm, a staggering 1.2 million households are behind on rent and landlords are actively trying to evict more than 236,000 tenants statewide. According to the Right to Counsel NYC Coalition, 220,000 evictions are pending in New York courts, including town, village, and justice courts.

Your Committee is further informed that currently, low-income tenants in Westchester County do not have guaranteed access to legal counsel in eviction proceedings. Across the state an overwhelming majority of landlords are represented during eviction proceedings, whereas most tenants are not. According to the Westchester County Right to Counsel Coalition ("WCRTCC"), in normal years, when more than 10,000 eviction proceedings are filed in Westchester County Courts, 93% of landlords are represented by counsel, while only 7% of tenants have attorneys. Programs that provide legal counsel at no cost to low income tenants, have proven to be very successful at preventing evictions and protecting tenants' rights. This program is needed in the county, especially now, given the number of residents facing eviction and that an ever-growing number of people who are housing insecure has increased since the onset of the COVID-19 pandemic. Eviction judgments are made on average in about 4 minutes, and settlements are often reached in a court hallway, away from the judge. Without representation, tenants are often evicted on false premises of lease violations they didn't commit or excess rent that they do not legally owe.

Your Committee is advised that in 2017, New York City became the first city in the country to pass legislation requiring legal counsel be provided to tenants in eviction proceedings. Since then, as stated in the New York City Office of Civil Justice 2020 Annual Report, landlords are suing tenants less and 86 percent of tenants who had a lawyer provided to them won their case and were able to remain in their homes. The Stout Risius Ross 2016 Report also indicates that New York City, San Francisco, Newark, Cleveland, Philadelphia, Boulder and Baltimore have created programs that provides legal counsel to tenants and have seen up to a 77 percent reduction in evictions. Across the country, movements for statewide legislation to provide legal counsel to tenants are gaining traction. Washington State, Connecticut, and Maryland have recently passed such legislation while states such as Minnesota, Nebraska, and Delaware are seriously considering similar action. There is currently a bill pending in the New York State legislature to establish a Right to Counsel in eviction proceedings within the state.

Your Committee is further advised that the WCRTCC has indicated that an eviction is a stigma which follows a family forever by cutting off access to safe, stable housing from reputable landlords and perpetuating the cycle of poverty for generations. Evictions make it harder to rent another apartment and cause psychological trauma especially for children who lose the security of believing their parents can provide a home. Eviction proceedings are complex processes that are nearly impossible to navigate alone. The Right to Counsel NYC Coalition reports that evictions disrupt children's education, tear apart entire communities, and have other traumatic consequences. Moreover, evictions disproportionately impact black and brown tenants, with women facing the greatest burdens. The WCRTCC further states that feasibility studies have routinely shown that programs providing attorneys at no cost to low-income tenants in eviction proceedings are significantly less expensive than expected, sometimes even saving the jurisdiction money. Studies have shown that programs that provide legal counsel to tenants save public money that would be otherwise spent on shelter and emergency room costs and homeless services.

Your Committee is informed that according to the WCRTCC, programs that provide legal counsel to tenants reduce the number of eviction filings, which in turn reduces the strain on local courts. In addition, attorneys can help connect low-income tenants to financial assistance

when necessary and help tenants raise defenses based on poor housing conditions. This ensures that financial assistance does not go towards delinquent landlords who do not maintain their properties, thereby reducing the financial assistance needed to keep tenants housed, and compelling necessary repair to help preserve the housing stock. Attorneys for tenants can ensure that landlords do not overcharge tenants. All Westchester County residents should have equal opportunities for safe and stable housing which an access to counsel program can provide.

Your Committee is further informed, that this proposed legislation, if enacted, will establish an Office of Housing Counsel within the County Department of Social Services to be administered by a Director, responsible for provision of an access to counsel program in Westchester County. Six months after being hired, the Director will be required to issue an implementation plan for establishment of a county-wide program to provide access to legal services for income-eligible tenants and occupants (a person whose household income is at or below 300 percent of the federal poverty guidelines or 60 percent of the County Area Median Income), who has legal standing in a covered proceeding. A covered proceeding is any proceeding in any court in the County or any administrative agency administering housing programs which involves: the eviction of a covered individual, challenges to rent increases based upon a landlord's failure to provide proper notice, maintaining or restoring a covered individual's occupancy of a residential rental premises, possession of a residential premises for the non-payment of rent or a holdover; restoration or maintenance of essential services; an administrative proceeding which would result in the termination of tenancy, rental subsidy, or other rental assistance; and any appeal of the foregoing.

Your Committee is advised that the legal services provided to covered individuals pursuant to this program will be at no cost to the not-for-profit organizations or qualified professionals selected by the County pursuant to the County procurement process. In addition, the Director will undertake community engagement and education to inform tenants of their ability to access legal counsel in covered proceedings. Annual reports on the implementation of this program and efforts at community engagement and education will be required as well. As many Westchester residents are at risk of losing their homes, especially now in the aftermath of the pandemic, it is critical to establish a county-wide access to legal counsel program in .

Westchester.

Your Committee is further advised that the proposed project does not meet the definition of an action under New York State Environmental Quality Review Act ("SEQRA") and its implementing regulations 6 NYCRR Part 617. Please refer to the memorandum from the Department of Planning, dated January 14, 2021, which is on file with the Clerk of the Board of Legislators. Your Committee concurs in this conclusion.

Your Committee, after careful consideration, recommends adoption of this Local Law.

Dated: April 17, 2023
White Plains, New York

Margaret A. Cyio (WOP)

Robert J. L.

[Signature]

Manuella
[Signature]

Legislation

Cathy [Signature]

COMMITTEE ON

Manuella
Senell-John John
[Signature]
[Signature]

Housing

Dated: April 17, 2023
White Plains, New York

The following members attended the meeting remotely and approved this item out of Committee with an affirmative vote. Their electronic signature was authorized and is below

Committee(s) on:

Legislation



Housing



FISCAL IMPACT STATEMENT

SUBJECT: Office of Housing Counsel

☐ NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

(To be completed by operating department and reviewed by Budget Department)

A) ☒ GENERAL FUND ☐ AIRPORT ☐ SPECIAL REVENUE FUND (Districts)

B) EXPENSES AND REVENUES

Total Current Year Cost \$ 250,000 Full year salary and benefits of director

Total Current Year Revenue \$ _____

Source of Funds (check one): ☒ Current Appropriations

☐ Transfer of Existing Appropriations ☐ Additional Appropriations ☐ Other (explain)

Identify Accounts: Personal and Contractual Services within DSS

Potential Related Operating Budget Expenses: Annual Amount \$ _____

Describe: _____

Potential Related Revenues: Annual Amount \$ _____

Describe: _____

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: _____

Next Four years: At full implementation, the Office of Housing Counsel and its associated activities

will increase County share net expenditures by approximately \$15-20 million annually. the estimate

is reflective of the costs of the Office and its mission, reduced by estimated local share savings related activities within DSS.

Prepared by: William Olli

Title: Assistant Budget Director

Department: Budget

Reviewed By: _____

Budget Director

4/17/23

If you need more space, please attach additional sheets.

A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 187 relating to the creation of the Office of Housing Counsel.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. A new Chapter 187 is hereby added to the Laws of Westchester

County to read as follows:

Chapter 187

OFFICE OF HOUSING COUNSEL

Sec. 187.11. Short Title.

Sec. 187.21. Purpose.

Sec. 187.31. Definitions.

Sec. 187.41. Director, Appointment, Term.

Sec. 187.51. Director, Powers and Duties.

Sec. 187.61. Provision of Legal Services.

Sec. 187.71. Annual Report.

Sec. 187.81. Rules and Regulations.

Sec. 187.91. Severability.

Sec. 187.101. Reverse Preemption

Sec. 187.11 Short Title.

This Chapter shall be known as and cited as “The Office of Housing Counsel.”

Sec. 187.21 Establishment, Purpose

There shall be a program known as the Office of Housing Counsel located within the Department of Social Services, the purpose of which is to provide legal counsel to individuals in housing matters involving covered proceedings. The provision of housing counsel will guarantee that qualified individuals in covered proceedings are provided high quality legal representation at the County’s expense, except where the state of New York, the federal government, or any other outside entity has already made funds available to provide legal representation to qualified individuals in covered proceedings. This program will enable tenants and occupants facing covered proceedings to be given a fair chance

to access legal protections and stay in their homes. The Office of Housing Counsel will ensure that tenants and occupants involved in covered proceedings will be provided with professional client centered legal representation.

Sec. 187.31 Definitions.

- a. Brief legal assistance. Individualized legal assistance provided in a single consultation by a designated organization or qualified professional to a covered individual in connection with a covered proceeding.
- b. Designated community group. A not-for-profit organization that has the capacity to conduct tenant outreach, engagement, education and information provision, as determined by the Director.
- c. Covered individual. A tenant or occupant of residential rental premises located within the County including any tenant or occupant in a building operated by a public housing authority who has legal standing in a covered proceeding.
- d. Covered proceeding. Any proceeding in any of the courts in the County or before any administrative agency administering housing programs which involves:
 - i. the eviction of a covered individual;
 - ii. any action, proceeding or challenge to a rent level based upon a landlord's failure to provide proper notice of a rent increase as required by the New York State Housing Stability and Tenant Protection Act of 2019 and any amendments thereto;
 - iii. maintaining a tenant or occupant in possession of their residential premises or restoring a tenant or occupant to occupancy of their residential rental premises;
 - iv. possession of residential premises for the non-payment of rent or a holdover;
 - v. restoration and/or maintenance of essential services, the deprivation of which has caused or may cause the client to vacate the residential rental premises;
 - vi. an administrative proceeding conducted by a public housing authority or other administrative agency which would result in the termination of tenancy, rental subsidy, or other rental assistance; or
 - vii. an appeal of any of the foregoing.

- e. Department. The Department of Social Services.
- f. Designated organization. One or more not-for-profit organizations or associations that have the capacity to provide legal services and have been designated by the County to provide legal services pursuant to the County procurement process and any other County laws and procedures related to County contracts.
- g. Director. The person who administers the Office of Housing Counsel and reports to the Commissioner of Social Services.
- h. Full legal representation. Ongoing legal representation provided by any designated organization or qualified professional to an income-eligible individual and all legal advice, advocacy and assistance associated with such representation. Full legal representation includes, but is not limited to, the filing of a notice of appearance on behalf of the income-eligible individual in a covered proceeding.
- i. Housing court. Any court located in Westchester County in which covered proceedings are adjudicated.
- j. Income-eligible individual. A covered individual whose annual gross household income is not in excess of either 300 percent of the federal poverty guidelines as updated periodically in the federal register by the United States Department of Health and Human Services pursuant to subsection (2) of section 9902 of title 42 of the United States code or 60 percent of the county AMI (Area Median Income) as updated periodically by the United States Department of Housing and Urban Development, whichever is higher.
- k. Legal services. Either brief legal assistance or full legal representation.
- l. Occupant. A person, other than a tenant or a member of a tenant's immediate family, occupying residential rental premises with the consent of the tenant or tenants.
- m. Qualified Professional. Lawyers with experience handling landlord tenant matters and who have been designated by the County to provide legal services pursuant to the County procurement process and any other County laws and procedures related to County contracts.
- n. Tenant. A person occupying or entitled to occupy a residential rental premises who is either a party to the lease or rental agreement for such premises.

Sec. 187.41. Director; appointment, qualifications, term

- a. The County Executive shall appoint a Director. The following qualifications shall be preferred in the appointment of the Director: possession of a license to practice law in the State of New York, administrative experience, knowledge and experience in covered proceedings, and commitment to ensuring quality representation in landlord tenant matters;
- b. The Director shall serve full time and shall not engage in the private practice of law during their appointment;
- c. The Director shall report to the Commissioner of Social Services.
- d. The position of Director shall be designated in the exempt class for purposes of civil service jurisdictional classification

Sec. 187.51. Director; Powers and Duties

In addition to the requirements set forth in Sections. 187.61, 187.71, 187.81, and 187.101 of this Chapter, the Director shall:

- a. be the administrative head of the office, and shall have the duty to ensure that all covered individuals and income eligible individuals are provided with quality legal representation as soon as practicable in a covered proceeding;
- b. develop and monitor policies, standards and operational procedures of the Office of Housing Counsel regarding preparation of a Request For Proposals (RFP) to obtain designated organizations or qualified professionals, for the provision of legal counsel including but not limited to: qualifications for attorneys providing legal counsel, number of attorneys required at each housing court or any administrative proceedings, limitations on attorney caseloads, method of payment for attorneys, supervision and review of attorney caseloads and quality of legal representation;
- c. in consultation with the Commissioner of Social Services, the Budget Director and the Commissioner of Human Resources, identify the staffing needs necessary to administer the Office of Housing Counsel program;
- d. recommend to the Commissioner of Social Services and designated organizations and qualified professionals to provide legal services to covered individuals in covered proceedings based upon the response to the RFP and ensure that any contracts for designated organizations and qualified professionals are approved by the appropriate body or board;
- e. meet regularly with appropriate persons from the designated organizations and qualified professionals to review cases, attorney work

product, caseloads and case outcomes;

- f. prepare an annual Budget proposal for the Office of Housing Counsel as part of the Budget for the Department for submission to the County Budget Department pursuant to County law and policy;
- g. maintain records of accounts and expenditures of the Office of Housing Counsel in compliance with all applicable law and County policy;
- h. serve as an information resource;
- i. establish procedures for submission, investigation and resolution of complaints from clients, client family members, co-counsel, opposing counsel and the Judiciary regarding legal representation;
- j. ensure compliance with County laws, policies and procedures;
- k. make application for other sources of state and federal funding or from any other funding resources to meet the budgetary and programmatic needs of the Office of Housing Counsel;
- l. prepare an Annual Report regarding the housing counsel program for submission to the County Executive and County Board of Legislators. The Annual Report shall also be posted online;
- m. undertake community engagement and education regarding access to counsel by working with designated community groups to educate and inform tenants and occupants about their rights in covered proceedings, including but not limited to holding know your rights education sessions, distributing written information to tenants and occupants and facilitating referrals of tenants and occupants to designated community groups.
- n. meet regularly with the Supervising Judge of the Ninth Judicial District, local courts, and any other appropriate Court personnel to discuss Court procedures and any other programmatic issues related to the provision of counsel in covered proceedings; and
- o. any other duties necessary to carry out the purposes of this Chapter.

Sec. 187.61 Provision of Legal Services.

- a. No later than six (6) months following appointment of a Director, the Director shall produce an implementation plan for establishment of a County-wide program to provide access to legal services for covered individuals in covered proceedings through designated organizations or qualified professionals. Such program shall ensure that:

1. all covered individuals receive access to brief legal assistance as soon as practicable in a covered proceeding; and
 2. all income-eligible individuals receive access to full legal representation as soon as practicable in a covered proceeding.
- b. The Director shall comply with all County budgetary procedures and submit estimates for the operation of the Office of Housing Counsel for the ensuing year to the Commissioner of the Department of Social Services for submission as part of the Department's proposed Budget.
 - c. The Director shall provide updates to the County Executive and the Chairperson of the County Board of Legislators on the development of a County-wide implementation plan upon request of either the County Executive or Chairperson of the County Board of Legislators.
 - d. The County shall annually review the performance of designated organizations and qualified professionals.
 - e. Any legal services performed by a designated organization and qualified professionals pursuant to this chapter shall not supplant, replace, or satisfy any obligations or responsibilities of such designated organization and qualified professionals pursuant to any other program, agreement, or contract.
 - f. Nothing in this Chapter or the administration or application thereof shall be construed to create a private right of action on the part of any person or entity against the County or any agency, official, or employee thereof.

Sec. 187.71 Reporting.

- a. Following implementation of any part of a program to provide legal services to covered individuals pursuant to this Chapter, the Director shall prepare an Annual Report which shall be submitted to the County Executive, the County Board of Legislators and shall be posted online, no later than December 31st of each year containing information for the preceding 12 months of each year;
- b. The Annual Report shall contain, to the extent such information is available, a review of the program established by this Chapter and information regarding implementation of such program and shall include but not be limited to:
 1. The estimated number of covered individuals;
 2. The number of individuals receiving legal services, including the following characteristics of such individuals;

- i. City and postal code of residential rental premises;
 - ii. Household size;
 - iii. Estimated length of tenancy or occupancy;
 - iv. Approximate household income;
 - v. Type of legal services provided.
3. Outcomes immediately following the provision of full legal representation, as available, subject to applicable privacy and confidentiality restrictions, including but not limited to, the number of:
 - i. Case dispositions allowing individuals to remain in their residential rental premises;
 - ii. Case dispositions requiring individuals to be displaced from their residential rental premises;
 - iii. Instances where the attorney was discharged or withdrew;
4. The number of non-payment and holdover petitions filed in housing court, warrants of eviction issued in housing court, and residential evictions conducted by marshals;
5. Expenditures for the program established pursuant to this Chapter;
6. Community engagement and education activities conducted pursuant to this Chapter detailing metrics from designated community groups, including but not limited to:
 - i. number of buildings in which outreach was conducted;
 - ii. number of know your rights education sessions held;
 - iii. number of attendees at education sessions;
 - iv. number of people referred to nonprofits for legal assistance;
and
 - v. number of community forums conducted.

Sec. 187.81. Rules and Regulations

The Director shall establish rules and regulations for the administration of the Office of Housing Counsel.

Sec. 187.91. Severability

If any clause, sentence, paragraph, subdivision, section, or part of this ordinance or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this ordinance, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Sec 187.101. Expiration.

This Local Law shall expire four (4) years after the implementation plan produced by the Director pursuant to Section 187.61(a) has been submitted to the County Board of Legislators. By December 31st of year three (3) after the implementation plan produced by the Director pursuant to Section 187.61(a) has been submitted to the County Board of Legislators, the Director of the Office of Housing Counsel shall forward a report to the County Executive and County Board of Legislators containing a comprehensive review of the establishment and implementation of the program to provide access to legal services relating to evictions and other housing related issues as delineated in this Local Law, throughout the County of Westchester.

§2. This Local Law shall take effect thirty (30) days after enactment.