

USING ADR TO HELP RESOLVE NYC’S EVICTION CRISIS SINCE THE TERMINATION
OF THE TENANT SAFE HARBOR ACT

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In a post-pandemic world, describing New York City Housing Court as “time-consuming” would be a drastic understatement. New York City faces a staggering backlog of at least 70,000 eviction cases, causing some to linger for more than four years.¹ The backlog is due to a shortage of judges, pandemic-instituted moratoria, an influx of new cases, and a myriad of other reasons.² New York City’s Tenant Safe Harbor Act was introduced at the start of the pandemic on March 7th, 2020, but has since been terminated on January 15th, 2022.³ The act protected tenants who could not pay rent due to Covid-19 financial hardships.⁴ Though the act removed a financial burden to many, the termination of this act has since increased the number of eviction cases brought to Housing Court, intensifying an already strained relationship between many landlords and tenants.⁵ With the Safe Harbor Act in place the city barely saw any evictions,⁶ but since its expiration, residential evictions have increased dramatically.⁷

From January 2023 through October, there were close to 106,000 eviction filings in New York City, but only about 10,000 evictions were carried out.⁸ About 89,000 of those cases were

¹ Suzannah Cavanaugh, *Justice Delayed: The Endless Frustration of Housing Court*, THE REAL DEAL (July 27, 2022, 7:00 AM), <https://therealdeal.com/new-york/2022/07/27/justice-delayed-the-endless-frustration-of-housing-court/> [https://perma.cc/4233-CMAD].

² Joseph Strasburg & Olga Someras, *The Shortage of Judges in NY’s Housing Court is Causing Massive Pain For Both Tenants and Landlords*, N.Y. POST (July 18, 2022, 6:47 PM), <https://nypost.com/2022/07/18/the-shortage-of-judges-in-nys-housing-court-is-causing-massive-pain-for-both-tenant-s-and-landlords/> [https://perma.cc/JTD8-KL2Z].

³ *Covid-19 Eviction Protections For Tenants*, N.Y. ST., <https://hcr.ny.gov/covid-19-eviction-protections-tenants#:~:text=The%20Tenant%20Safe%20Harbor%20Act,hardship%20due%20to%20COVID%2D19/> [https://perma.cc/L6E2-23MR] (last visited Mar. 14, 2024).

⁴ *Id.*

⁵ *Id.*

⁶ *NYS Eviction Crises Monitor*, RIGHT TO COUNSEL N.Y.C. COAL., <https://www.righttocounselnyc.org/evictioncrisisonitor> [https://perma.cc/XY86-3ZD8] (last visited Mar. 14, 2024).

⁷ See Strasburg & Someras, *supra* note 2.

⁸ *Housing Court Mediation Program Could Address Backlog, Provide Quick Relief And Resolve Tenant Arrears*, MEDIUM (Nov. 27, 2023),

for tenant nonpayment.⁹ Tenants are struggling to pay their rent, and landlords seeking to evict are forced to undergo a long and tiresome process just to even get their case into Housing Court.¹⁰

State legislators have proposed new acts to help mitigate the growing backlog and eviction problem.¹¹ Specifically, a recently proposed legislation known as the “winter moratorium on evictions act of 2023” was introduced.¹² This act would prohibit the execution of any eviction from November 1st to April 15th, of each year.¹³ However, this proposal only delays the issue, it does not solve it. Pausing the ability to execute an eviction only causes more of a backlog for the courts. Once the suspension would be lifted there would be an influx of new cases, and the problem will still persist.

Implementing negotiations and mandatory mediated discussions between landlords and tenants could be a more seamless and efficient resolution to common eviction cases and could help solve the backlog in Housing Court. Mediation, unlike the traditional court process, involves a neutral third party who facilitates the resolution between the landlord and tenant.¹⁴ This method expedites the decision-making process,¹⁵ allows for more creative resolutions,¹⁶ and therefore would significantly reduce the burden on an already overwhelmed Housing Court

<https://medium.com/@CHIPNYC/housing-court-mediation-program-could-address-backlog-provide-quick-relief-and-resolve-tenant-95ea29e982a6#:~:text=The%20Community%20Housing%20Improvement%20Program,track%20relief%20to%20tenants%20and> [<https://perma.cc/BWX4-S3SC>].

⁹ *Id.*

¹⁰ *Id.*

¹¹ Jacob Pramuk, *Rep. Bush, Sen. Warren Introduce Bill to Reinstate Federal Eviction Moratorium*, CNBC (Sept. 21, 2021, 6:26 PM), <https://www.cnbc.com/2021/09/21/eviction-moratorium-cori-bush-elizabeth-warren-want-to-reinstate-ban.html> [<https://perma.cc/2GSH-E4KU>].

¹² *Assembly Bill A4093*, N.Y. ST. SENATE, <https://www.nysenate.gov/legislation/bills/2023/A4093> [<https://perma.cc/TET4-C3RD>] (last visited Mar. 14, 2024).

¹³ *Id.*

¹⁴ *Mediation*, CORNELL L. SCH., <https://www.law.cornell.edu/wex/mediation> [<https://perma.cc/7Q8R-X7BV>] (last visited Mar. 14, 2024).

¹⁵ *Id.*

¹⁶ *Id.*

system. Landlords and tenants could benefit from a more personalized approach to conflict resolution, fostering a sense of understanding and collaboration rather than the adversarial nature often associated with court proceedings. Hawaii, Indiana, New Jersey, Maryland, and Philadelphia have already created their own versions of eviction diversion programs.¹⁷ In particular, Philadelphia’s program requires landlords and tenants (who owe less than \$3,000) undergo 30 days of either mediated discussions or direct negotiations before the landlord can file for eviction.¹⁸ Between 2012 and 2018, Philadelphia averaged more than 25,000 eviction cases per year.¹⁹ Since the inception of their eviction diversion program, that number has now dropped to fewer than 15,000 cases per year.²⁰ With this precedent, New York City should be encouraged to explore their version of an eviction diversion program and implement mediated discussions. A preemptive approach to eviction disputes would help prevent conflicts from reaching the courtroom, alleviating the strain on the Housing Court.

The closest thing that the New York City Housing Court system has to an eviction diversion program, is their Resolution Part.²¹ A Resolution Part is where the landlord and tenant can discuss their differences before a judge to see if an agreement can be reached to settle the dispute.²² It is presided over by a judge, who is assisted by two court attorneys, a clerk, and a court officer.²³ However, oftentimes, the landlord and tenant cannot come to an agreement in the Resolution Part, and the case will move to trial.²⁴ Furthermore, the system does not help prevent

¹⁷ MEDIUM, *supra* note 8.

¹⁸ Aiden Gardiner, *How Philadelphia Kept Thousands of Tenants From Being Evicted*, N.Y. TIMES (July 17, 2023), <https://www.nytimes.com/2023/07/13/headway/philadelphia-tenants-eviction.html> [<https://perma.cc/9WLB-Y2G9>].

¹⁹ Aaron Moselle, *A Free Program in Philly Continues to Limit the Number of Eviction Filings in the City*, WHY (Aug. 11, 2023), <https://why.org/articles/philly-eviction-diversion-program-housing/> [<https://perma.cc/G927-DGL2>].

²⁰ *Id.*

²¹ *Resolution Part*, N.Y. UNIFIED CT. SYS., <https://www.nycourts.gov/courts/nyc/housing/resolutionpart.shtml> [<https://perma.cc/TQ2T-RJUH>] (last visited Mar. 14, 2024).

²² *Id.*

²³ *Id.*

²⁴ *Id.*

the backlog in Housing Court since the Court's resources are being expended. Mediated discussions between landlords and tenants have the potential to avoid the Court altogether.