



NYC RIGHT TO COUNSEL

First year results and potential for expansion

by Oksana Mironova | March 2019



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NYC Right to Counsel: First year results and potential for expansion

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Evictions are a major cause of housing instability among low-income New Yorkers and a contributor to the city's homelessness crisis. After years of advocacy, New York became the first city in the country to launch Right to Counsel (RTC) in late 2017. This law will give all low-income tenants¹ facing an eviction in housing court access to an attorney by 2022. Today, RTC is active in [20 zip codes](#). The law's implementation is fueled by a major public resources commitment. The city's FY 2018 budget included \$15M for the first phase of the program.²

In addition to RTC, the city has launched other anti-harassment/anti-displacement legal services programs since 2014, like the [Tenant Harassment Assistance](#) program. The major difference is that in RTC zip codes, access to an attorney is a right for any low-income tenant facing an eviction. In non-RTC zip codes, legal services are a benefit for some low-income tenants.

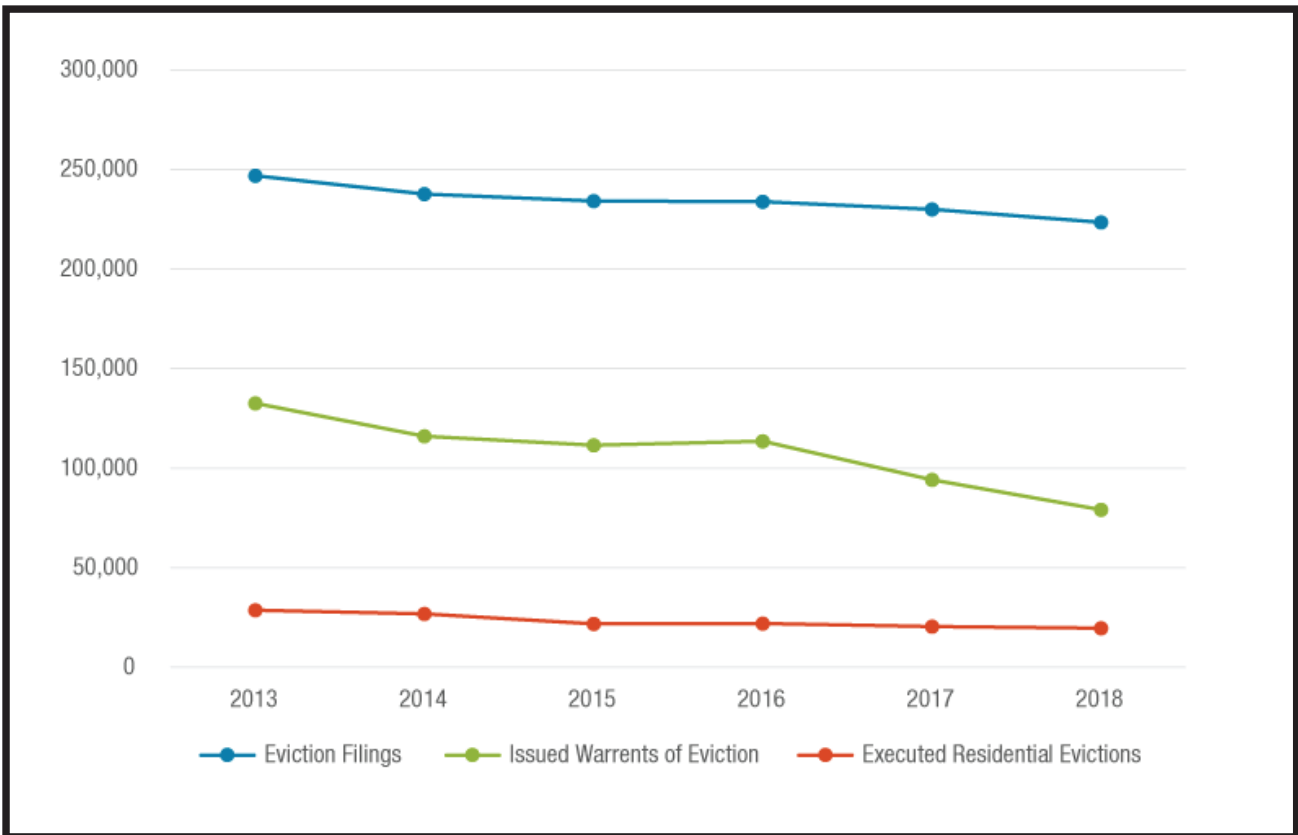
During the last quarter of FY 2018, 56 percent of tenants facing an eviction in RTC zip codes had an attorney.

Tenant representation in housing court has increased citywide. In FY 2013, only 1 percent of tenants had an attorney, while in the last quarter of FY 2018, 30 percent of tenants did. The NYC Office of Civil Justice's (OCJ) analysis of RTC data shows even larger gains: During the last quarter of FY 2018, 56 percent of tenants facing an eviction in RTC zip codes had an attorney.

There is consensus among legal scholars and academics that access to an attorney (in conjunction with other policies like rent regulation, just cause eviction laws, and code enforcement) reduce evictions and increase housing stability.³ Among the approximately 22,000 New Yorkers represented by OCJ-funded attorneys in FY 2018, 84 percent were able to remain in their homes.⁴

Are evictions decreasing in RTC zip codes?

Figure 1: Eviction filings, eviction warrants, and executed evictions have decreased since 2013



Source: Office of Civil Justice 2016 and 2018 reports; DOI eviction data.

The city has seen a [noticeable reduction in eviction filings](#), eviction warrants, and executed evictions since 2013 (see Figure 1). These trends are likely a result of a confluence of factors, including tenant organizing, new anti-harassment and anti-displacement programs, and actions taken by the NYS Housing and Community Renewal’s Tenant Protection Unit and the [Tenant Harassment Prevention Task Force](#). RTC has contributed to this trend, but has only been in effect in portions of the city since late 2017.

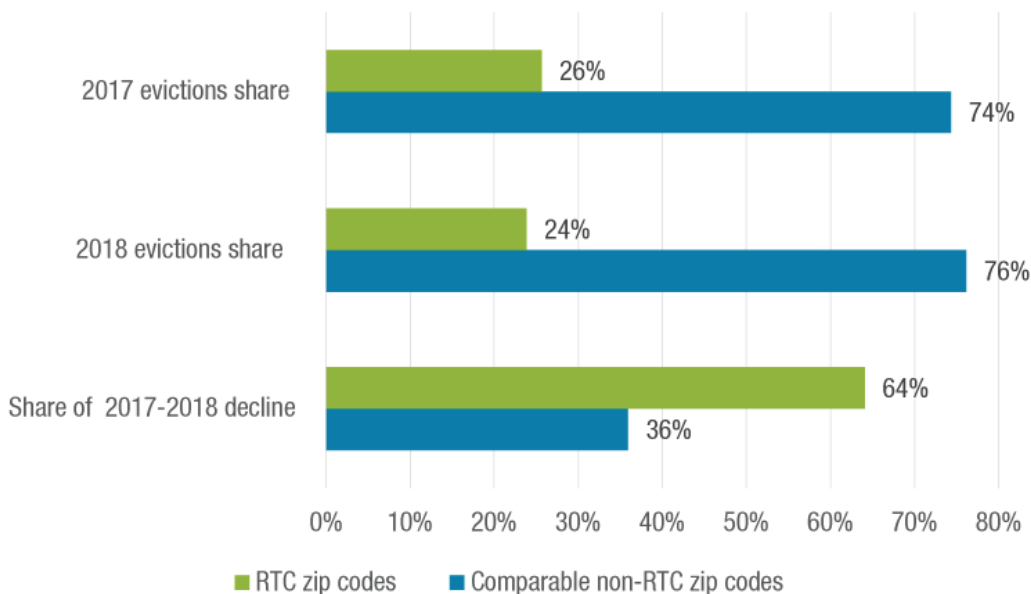
Figure 2: Evictions are declining faster in RTC zip codes

	2017	2018	2017-2018 change	percent change
RTC zip codes	4,563	4,051	-512	-11%
Comparable non-RTC zip codes	13,219	12,932	-287	-2%
Total	17,782	16,983	-799	-4%
RTC zip codes as share of total evictions	26%	24%	64%	

Source: DOI data. Analysis included 20 RTC zip codes and 80 comparable non-RTC zip codes. Please see the methodology statement below for more details.

Tenants were three times more likely to receive legal services in RTC zip codes than in non-RTC zip codes with comparable rates of poverty, evictions, and rental units.⁵ Our analysis of 2017 eviction data (before RTC fully went into effect) and 2018 eviction data (after RTC went into effect) supports the theory that tenants are less likely to be evicted if they have access to an attorney. From 2017 to 2018, evictions declined by 11 percent in RTC zip codes and by 2 percent in non-RTC zip codes (see Figure 2). With the law in effect for just over a year, evictions are declining faster in RTC zip codes than in similar non-RTC zip codes.

Figure 3. The majority share of the citywide eviction decline occurred in RTC zip codes



RTC zip codes accounted for a little over a quarter of total evictions in 2017 (see Figure 2). However, as illustrated in Figure 3 above, the majority share of the citywide decline in evictions between 2017 and 2018—64 percent—can be attributed to RTC zip codes.

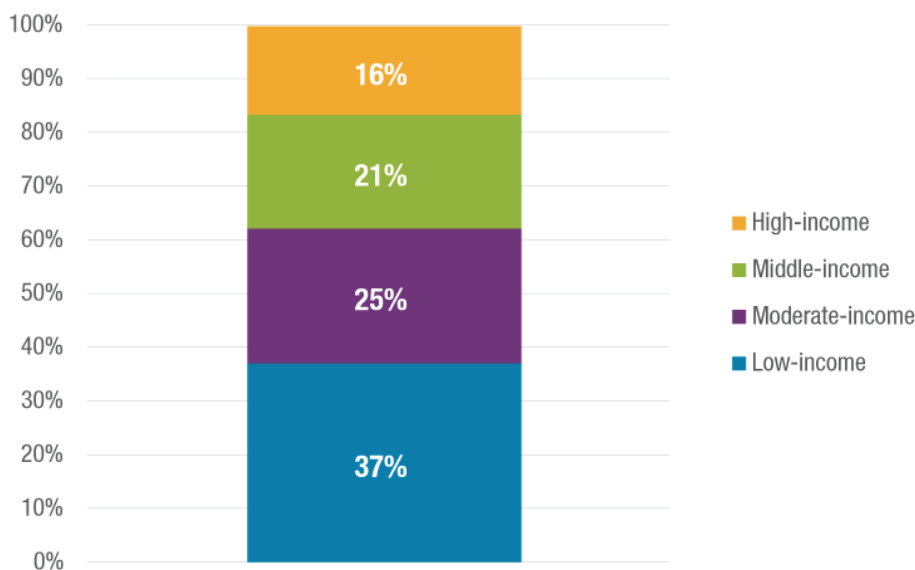
Potential Impact of RTC Expansion

While New York was the first city in the United States to pass RTC, San Francisco and Newark have both adopted similar legislations in the past year. Both programs are poised to reach a higher share of tenants than New York City’s: San Francisco’s RTC is not income tested, while Newark’s covers appeals.

Councilmembers Levine and Gibson, together with the Right to Counsel Coalition, are advocating for an expansion of RTC in New York City, including:

- Increasing the income threshold to 400 percent of the federal poverty level (FPL);⁶
- Expanding RTC to include administrative hearings for Mitchell-Lama residents; certain supreme court ejection cases; and Housing Development Fund Corporation (HDFC) cases and appeals;
- Funding tenant organizing to ensure tenants are aware of their rights before they arrive in housing court.

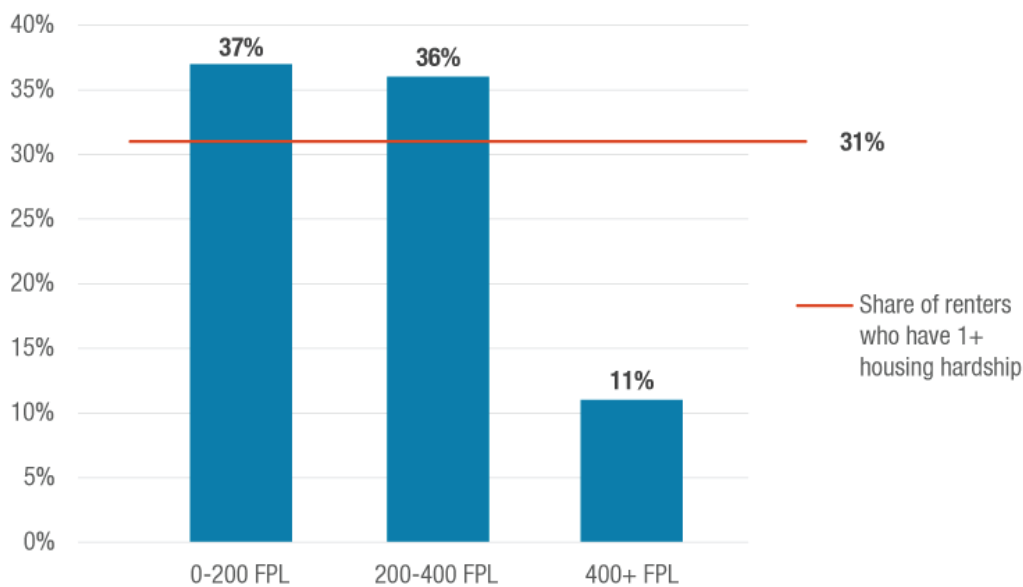
Figure 4: Tenant households by poverty threshold




Source: 2017 NYC HVS

By 2022, RTC will be available to the 784,000 tenant households in the 0-200 FPL category (37 percent of total), who experience the highest rent burdens and greatest vulnerability to evictions. However, we find that the 527,000 tenant households in the 200-400 FPL category (25 percent of total) also experience housing instability and are thus also vulnerable to evictions. In 2018, the 400 FPL income threshold was a little under \$81,000 for a family of three. The majority of households in the 200-400 FPL category work in healthcare, education, and social services or in retail, hospitality, and food service.⁷ Sixty one percent live in regulated or unregulated housing and do not receive any form of housing assistance, such as Section 8.⁸

Figure 5: Tenants in the 0-200 FPL and 200-400 FPL categories experience housing hardships



Source: 2018 Unheard Third survey data



[CSS's 2018 Unheard Third survey](#) findings show that more than a third of tenants in the 0-200 FPL and 200-400 FPL categories experience one or more housing hardships, including falling behind on rent, being threatened with eviction, and moving in with other people. Additional Unheard Third data shows that about a third of tenants in both income categories think that their neighborhood will become unaffordable to them over the next five years. There is a stark difference in experience with housing hardships among tenants under 400 FPL and those over 400 FPL, and a striking similarity between the 0-200 FPL and 200-400 FPL groups. Once the rollout of RTC is completed, the law should be extended to cover the 200-400 FPL income band.

How many people will be served by RTC expansion?

In 2016, the NYC Human Resources Administration (HRA) conducted [a study](#) of unassisted tenants in housing court, finding 24 percent were in the 200-300 FPL category, and 14 percent were in the 400+ FPL category.⁹ Based on HRA's survey findings, we estimate that about 31% of unrepresented tenants in the court may fall in the 200-400 FPL category, a slightly higher proportion than the overall tenant population (25 percent, see Figure 4). Applying these percentages to 2018 eviction filings data (see Figure 1), expansion of RTC may help between 56,000 – 70,000 households facing evictions in housing court.

Our analysis of available data shows a greater decline in evictions in RTC zip codes compared to similar non-RTC zip codes. This suggests that the program is effective in helping low-income New Yorkers stay in their homes. We also find that households in the 200-400 FPL income bracket experience housing hardships that can result in evictions, making a strong case for expanding RTC to a broader income range.

Note on Methodology:

2017 & 2018 eviction estimates: Eviction data in NYC is published by the Department of Investigation (DOI) on the [NYC Open Data portal](#). This dataset includes executed commercial and residential evictions (it does not include eviction data filings or eviction warrants issued).

Evictions are chaotic and stressful for tenants, and this is reflected in the data - this dataset includes duplicate entries and incorrect and non-existent addresses. To de-duplicate the dataset, a researcher has to develop their own guidelines about what constitutes a duplicate, based on imperfect information. For example, multiple evictions occurring at the same address on the same day could be construed as one duplicated eviction or multiple households evicted from an informally subdivided residential unit.

To verify the addresses, a researcher has to geocode the data (or, to match the address with geographic coordinates like latitude and longitude). There are multiple geocoding services available from [New York State](#), [New York City](#), and [private sources](#). Another layer of complexity is added by the fact that zip codes are not a form of geography, but rather a [collection of mail delivery routes](#) with shifting boundaries. Depending on which geocoder a researcher uses, the number of unmatched addresses and the aggregation of evictions into zip codes will differ slightly.

In addition to the data available on the Open Data portal, DOI also publishes [housing court summary statistics](#) on the New York State Unified Court System's website. These 2017 and 2018 residential eviction estimates differ from CSS's (and the [Public Advocate's](#)). The summary chart statistics for residential evictions in [2017](#) and [2018](#) were 21,074 and 18,152, respectively. After de-duplicating, CSS's figures were closer to 20,700 and 19,900 respectively. While DOI does not make its data collection and data cleaning processes public, the difference may be attributed to different approaches in geocoding, deduplication, and aggregation.

Choosing comparable non-RTC zip codes: RTC is being rolled out over a five-year timeline, starting with zip codes with high rates of evictions, shelter entries, rent regulated units, and poverty. As a result, the 20 RTC zip codes differ from the 180 non-RTC zip codes where residential evictions occurred in 2017 and 2018. Eviction rates, poverty rates, and the share of rental households were all higher in RTC zip codes. For our analysis, we removed all non-RTC zip codes that had eviction, poverty, and rental share rates that were lower than the minimums in the RTC zip codes. We performed our comparison using the remaining 80 non-RTC zip codes.

Endnotes

1. In 2018, the 200 federal poverty threshold was \$40,424 for a family of three.
2. NYC Office of Civil Justice, *Universal Access to Legal Services: A report on year one of implementation in New York City*, Fall 2018; Fiscal years are from July 1 to June 30.
3. See, for example, National Law Center on Homelessness and Poverty, [Protect Tenants, Prevent Homelessness](#), 2018; Risa E. Kaufman, Martha F. Davis & Heidi M. Wegleitner, The Interdependence of Rights: Protecting the human right to housing by promoting the right to counsel, *Columbia Human Rights Law Review*, 2014; Matthew Desmond, *Evicted: Poverty and Profit in the American City*, 2016.
4. This calculation includes both Right to Counsel tenants and tenants that met various criteria of other anti-displacement/anti-harassment programs in non-RTC zip codes. Comparable data for tenants without counsel is unavailable.
5. To calculate legal services coverage, we took zip code level statistics in the "Legal Services for Tenants Facing Eviction in Housing Court: Boroughs and ZIP Codes" Appendix of the OCJ *Universal Access to Legal Services* report and divided them by occupied rental unit statistics from the 2017 ACS 5-year Estimate. See our methodology statement above for how we selected non-RTC zip codes for analysis.
6. In 2018, the 400 federal poverty threshold was \$80,848 for a family of three.
7. 7 CSS analysis of the 2017 US Census ACS 5-year Estimate.
8. CSS analysis of the 2017 NYC HVS.
9. NYC Office of Civil Justice, Annual Report, 2018.