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BY ELECTRONIC MAIL

Senator Lydia Edwards
Senate Chair
Joint Committee on Housing

Representative James Arciero
House Chair
Joint Committee on Housing

Re: S. 864, An Act promoting access to counsel

Dear Chair Edwards and Chair Arciero:

My name is Joel Feldman and I have been a legal aid and a civil rights attorney for 35 years. For the last 25 years, I have represented tenants, consumers, victims of discrimination and employees in a private firm, using a model that seeks attorney's fees from the other party and requires no advance payment from our clients. I am submitting this written testimony to support the access to counsel bill, S.864.

The numbers of eviction cases brought in Massachusetts are staggering. Prior to the pandemic (to cite a "normal" year), there were 40,000 eviction cases filed in the Commonwealth in 2018. Of those, 30,000 were evictions filed in the Housing Court, and almost 5800 of those were in western Massachusetts, almost the same as in Boston's division. Even more remarkable and disheartening are the number of litigants who can obtain the services of attorneys. **In 2018 more than 70% of landlords had attorneys in eviction cases; fewer than 8% of tenants had counsel. This has become worse in 2022-2023 when almost 90% of landlords had attorneys and about 10% of tenants had attorneys.** And, of all the cases going to a final judgment in the Housing Court, the Access to Attorneys committee of the Supreme Judicial Court's Access to Justice Commission found in a survey of part of the Housing Court over seven years that a shocking **98% of judgments were for the landlord.**

This is the normal background facing tenants. We are now in abnormal times. My clients cannot find housing at almost any price, and the rents available are often higher than their monthly income. Evictions now lead inevitably to homelessness, even more surely than in the past.

Our homelessness crisis, already an "emergency" according to Governor Healey, will become worse unless tenants are given a level playing field as part of a plan to provide them housing stability. We cannot find housing for immigrants and the poor as it is now. Yet, we may allow another almost 40,000 tenants to face the complex and quick Massachusetts eviction process alone, potentially resulting in their homelessness.

Eviction cases are complicated and the cases are moved through the courts at the equivalent of lightning speed compared to other civil cases. A relatively recent Supreme Judicial Court case (*Adjartey v. Central Division of the Housing Court Department*, April 20, 2019) summarized succinctly the background of these cases:

Specifically, we note that summary process cases are complex [and] fast-moving...It leaves little room for error... The challenges inherent in navigating a complex and fast-moving process are compounded for those individuals who face summary process eviction without the aid and expertise of an attorney. ...The result, in most cases, is that the landlord has an attorney who understands how to navigate the eviction process and the tenant does not.

My clients cannot understand “discovery” rules, how to file an answer or how to evaluate their eviction case on their own. No lawyer for a tenant means a 98% chance that if judgment enters, it will be to remove them from their homes.

I ask the Committee to pass this important bill. And as part its review of the bill, I encourage Committee members to spend some time in the Housing Courts across the Commonwealth on any given day. The vast majority of eviction cases have always consisted of landlords with lawyers drafting agreements to move out the tenants/homeowners, and the tenants/homeowners agreeing to move out, being ignorant of their rights. At times, the current system feels less like justice and more like machinery designed to physically remove tenants and homeowners from their homes simply because of their lack of knowledge of the law. Tenants have legal rights in Massachusetts but almost all of the time cannot advantage themselves because so few can obtain the services of a knowledgeable attorney.

It does not have to be this way. This bill would establish a program so that hundreds of tenants will actually understand their rights and perhaps even remained housed during this intense housing crisis. We have an opportunity to change the incredibly imbalanced eviction results, and our ability to house our citizens depends on this.

The Committee and the Legislature can rebalance the scales of justice and redress the radical imbalance that exists. Please put the Committee on record saying that the Commonwealth wants actual justice to be administered in the Housing and other Courts. **A system designed for lawyers should actually have lawyers and not depend on the ignorance of parties, leading to unjust results.** I ask that the Committee support the bill and vote it out of committee with a favorable result.

Sincerely,

/s/Joel Feldman