

Massachusetts Right to Counsel Coalition

July 1, 2020

The Honorable Charlie Baker
Governor
Commonwealth of Massachusetts
State House, Room 360
Boston, MA 02133

Dear Governor Baker,

On behalf of the Massachusetts Right to Counsel Coalition, we ask for your support to create an emergency right to counsel program for low-income residents to be ready for the tsunami of evictions expected to hit when the state's eviction moratorium ends.¹

The Coalition represents more than 130 organizations including community groups, housing and legal aid advocates, large property owners, municipalities, women's organizations, teachers, and many more. We urge you to **dedicate \$6 million from the state's Coronavirus Relief Fund (CRF) to implement a statewide right to counsel pilot program** so that vulnerable tenants can have a lawyer in their corner.

It is urgent.

Black and Latino households have been disproportionately hit by the pandemic's housing, health, and economic impacts, and will similarly be disproportionately vulnerable to eviction and homelessness. In the seven weeks between the state of emergency in March and the start of the moratorium in April, over 78% of all evictions filed in Boston were in census tracts where the majority of residents are people of color.²

When the eviction moratorium ends, courts will be flooded with eviction cases. Landlord organizations and the Housing Court are estimating 15,000 - 20,000 new evictions will be filed. Frontline non-profits and legal aid organizations have been flooded with calls from tenants who have lost their jobs or have significantly reduced hours and are unable to pay their rent; applications for emergency rental assistance payments are off the charts.

In Massachusetts more than 90% of tenants face eviction without legal representation, while 70% of landlords have lawyers - an imbalance that will likely be felt even more when the moratorium ends.³

To stay ahead of the coming eviction crisis, Massachusetts needs a comprehensive eviction

¹ 'tsunami of evictions' threatens to strike Boston (The Boston Globe, June 28, 2020) at <https://www.bostonglobe.com/2020/06/28/metro/tsunami-evictions-threatens-strike-boston/>

² *Evictions in Boston: The Disproportionate Effects of Forced Moves on Communities of Color*, Report by City Life Vida Urbana in partnership with researchers at the Massachusetts Institute of Technology (June 2020) at: <https://www.bostonevictions.org/>

³ Massachusetts Court System, Housing Court Department, "Percent of Self-Represented Litigants in Summary Process Cases Disposed in FY 2019 by Division," at <https://www.mass.gov/doc/2019-housing-court-self-represented-represented-litigants-by-court-location/download>

prevention response that includes rental assistance, building the capacity of non-profits to prevent evictions before court, and full legal assistance in court to navigate complicated procedures which in this **new era of Zoom hearings will present even more challenges to unrepresented people whose housing is at stake.**

Three weeks ago, State Senator Sal DiDomenico filed emergency legislation S. 2785: *An Act promoting housing stability and homelessness prevention through a right to counsel pilot program in Massachusetts in response to the COVID-emergency.*⁴ S.2785 has been reported to the Joint Committee on Housing and we are hopeful that the Committee will consider it quickly. Consistent with the principles adopted by the Right to Counsel Coalition, S. 2785:

- Provides full legal representation to tenants and owner occupants in eviction proceedings whose incomes do not exceed 200% of poverty.
- Legal representation would be provided by designated non-profit organizations with expertise in housing law and experience representing low-income people.
- Pilots would be statewide within each of the Housing Court's six divisions with geographic locations to be determined by indicators that capture the devastation COVID is having on renters and low-income homeowners.
- The program would be established at the Office of Housing and Economic Development with clear guidelines and quick time frames for rapid implementation.
- Funding for a pilot must come from **new funding** that does not impact state funding for civil legal aid or housing stabilization and affordable housing programs.

According to a study released last week by the Boston Bar Association (BBA), **for every \$1 invested in full representation for eviction prevention, Massachusetts can save \$2.40 in shelter, health care, and foster care costs associated with homelessness.**⁵ Right to counsel programs have proven to secure better outcomes for tenants lowering eviction rates overall. In New York City, since right to counsel legislation was passed, 84% of tenants with full legal representation have remained in their homes and eviction filings have significantly decreased. The BBA's study further estimates that on average the legal cost for each eviction case is \$1,151. Based on this figure and an estimated \$500,000 in staffing costs, **a \$6 million investment in the pilot program could provide full representation for approximately 4,800 Massachusetts households.**

Across the country states are using Coronavirus Relief Funds to fund a range of rental assistance and eviction prevention programs to ensure that communities hit hard by the pandemic can help residents to remain stable in their homes. CRF funds were designed to provide a flexible response to urgent needs during this pandemic. An emergency statewide right to counsel eviction prevention pilot program is consistent with the allowable uses of CRF funds as: 1) a necessary expenditure that is due to this public health emergency, 2) a program that was not in the state's most recently approved budget, and 3) as an expenditure that can be incurred by December 30, 2020 - **if swiftly allocated.**⁶

⁴ <https://malegislature.gov/Bills/191/SD2971>

⁵ *Investing in Fairness, Justice, and Housing Stability: Assessing the Benefits of Full Legal Representation in Eviction Cases in Massachusetts* (June 2020) at: <https://bostonbar.org/docs/default-document-library/rtc-report-for-web-or-email.pdf>

⁶ Coronavirus Aid, Relief, and Economic Security Act" or the "CARES Act," TITLE VI—CORONAVIRUS RELIEF FUND, SEC. 601. CORONAVIRUS RELIEF FUND, (d) USE OF FUNDS.—A State, Tribal government, and unit of

The Right to Counsel Coalition urges you to send the Legislature a message that you stand ready to **dedicate \$6 million from the state's Coronavirus Relief Fund - approximately 0.003% of the state's remaining CRF allocation of \$1,958 billion - to implement an emergency right to counsel eviction program in areas highest hit by COVID.**⁷ Given the realities of the Commonwealth's projected budget deficit, funding for this pilot must come from new sources that do not impact critically needed state funding for civil legal aid, housing stabilization and affordable housing programs.

Thousands of people in our communities will be facing eviction when the moratorium ends. People are very scared. Without legal counsel, the next step for some households will be shelter, while others will be forced to double up with family members and friends, moving from one couch to another. We need to make sure that vulnerable low-income tenants and homeowners can have a lawyer in their corner.

We hope that members of the Right to Counsel Advisory Committee can meet with your staff on this matter as soon as possible. Please contact Annette Duke at the Massachusetts Law Reform Institute at ADuke@MLRI.org or 978-337-6383.

On Behalf of Massachusetts Right to Counsel Advisory Committee:

*Annette Duke, Massachusetts Law Reform Institute
Sheila Dillon and Domonique Williams on behalf of Boston Mayor Walsh
Ellen Shachter and Susan Chimene on behalf of Somerville Mayor Curtatone
Gladys Vega and Norieliz DeJesus, Chelsea Collaborative
Kelly Turley, Massachusetts Coalition for the Homeless
Eric Shupin and Ryan Dominguez, Citizens' Housing & Planning Association
Chris Norris and Steven Farrell, Metro Housing|Boston
Zoe Cronin, Greater Boston Legal Services
Nicole Summers, Harvard Legal Aid Bureau
Pamela Schwartz, Western Massachusetts Network to End Homelessness
Laura Rossi and Jayna Stafford, Housing Families
Cindy Rowe, Jewish Alliance for Law and Social Action
Vincent Wisniewski, HomeStart
Jack Cooper, Massachusetts Union of Public Housing Tenants*

Attached:

Organizations Supporting a Right to Counsel in Massachusetts
Guiding Principles Adopted by Massachusetts Right to Counsel Coalition

local government shall use the funds provided under a payment made ... to cover only those costs of the State, Tribal government, or unit of local government that—(1) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19); (2) were not accounted for in the budget most recently approved as of the date of enactment of this section for the State or government; and (3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

⁷ The federal Coronavirus Relief Fund payment to the Commonwealth is \$2,460 billion of which the State has earmarked \$502 million for cities and towns, with \$1,958 billion remaining. A \$6 million allocation for a right to counsel pilot program would represent 0.003% of the remaining \$1,958 billion, which must be spent by December 30, 2020. Source: Citizen Housing and Planning Agency.

Organizations Supporting a Right to Counsel in Massachusetts

- Action, Inc.
- AIDS Action/Fenway Health
- Alliance of Cambridge Tenants
- Allston/Brighton Community Development Corporation
- Amherst Municipal Affordable Housing Trust
- Amherst Town Council
- Arise for Social Justice
- Beacon Communities
- Beacon Residential Management
- Berkshire County Regional Housing Authority
- Black Economic Justice Institute
- Boston Bar Association
- Boston Tenant Coalition
- Brockton Interfaith Community
- Casa Myrna
- Cathedral Church of St. Paul
- Catholic Charities Worcester County
- Charter Street Tenant Association
- Chelsea Collaborative
- Chelsea City Manager, Tom G. Ambrosino
- Chelsea Police Department
- Center for Human Development
- Children's HealthWatch
- Children's Services of Roxbury
- Chinese Progressive Association
- Citizens' Housing & Planning Assoc
- City Life/Vida Urbana
- City Mission Boston
- City of Boston
- City of Cambridge
- City of Northampton
- City of Springfield
- Community Action Agency of Somerville
- Community Action Pioneer Valley
- Community Health Network for North Central Mass
- Craig's Doors - A Home Association
- De Novo Center for Justice and Healing
- DOVE (Domestic Violence Ended)
- Easthampton Affordable and Fair Housing Partnership
- Eliot Community Human Services
- Elizabeth Freeman Center
- Episcopal Diocese of Massachusetts
- FamilyAid Boston
- Father Bill's & MainSpring
- Fenway Community Development Corp
- Food Bank of Western Massachusetts
- Greater Boston Legal Services
- Greater Lawrence Community Action Council
- Grow A Strong Family
- HarborCOV: Communities Overcoming Violence
- Harvard Legal Aid Bureau
- Heisler, Feldman & McCormick
- Holland & Knight LLP
- HomeStart
- Homes for Families
- Housing Families
- Immigrant Service Providers Group/Health
- Jane Doe, Inc.
- Jewish Alliance for Law and Social Action
- Jewish Community Relations Council of Greater Boston
- Jewish Family & Children's Service
- Justice Center of Southeast Massachusetts
- Law Office of Laura M. Unflat
- Lawyers Clearinghouse
- Lawyers for Civil Rights in Boston
- Lawrence Community Works
- Legal Services Center of Harvard Law School
- Lexington Housing Partnership Board
- Local Initiatives Support Corporation - Boston
- Lynn United for Change
- Maloney Properties, Inc.
- Mass Alliance of HUD Tenants
- Mass Appleseed Center for Law & Justice
- Mass Association of Community Development Corporation
- Mass Association of Community Health Workers
- Mass Communities Action Network
- Mass Fair Housing Center
- Mass Senior Action Council
- Mass Coalition for the Homeless
- Mass Housing and Shelter Alliance, Inc.
- Mass Law Reform Institute
- Mass Public Health Association

- Mass Smart Growth Alliance
- Mass Teachers Association
- Mass Union of Public Housing Tenants
- Mayor Joseph A. Curtatone, Somerville
- Medical-Legal Partnership|Boston
- Metro Housing|Boston
- Metropolitan Area Planning Council
- [Metropolitan Mayors Coalition](#)
- MetroWest Legal Services
- National Assoc of Social Workers, Mass. Chapter
- National Lawyers Guild, Mass. Chapter
- NeighborWorks Housing Solutions
- Northampton Survival Center
- Northeast Justice Center
- NuLawLabs at Northeastern University School of Law
- Nuestra Comunidad Development Corporation
- One Family
- Our Father's House
- Progressive Democrats of Massachusetts
- Project Hope
- Regional Housing Network of Mass
- Residents Council for the Senior & Disabled Tenants of Quincy Housing Authority
- Right to the City Boston
- Rosie's Place
- Senior Residents Council
- ServiceNet
- Springfield Dementia Friendly Coalition
- Springfield No One Leaves
- Springfield Partners for Community Action, Inc.
- Society of St. Vincent de Paul Boston
- Solidarity Lowell
- St. Francis House
- Stop Bullying Coalition
- Temple Sinai of Sharon
- Tenant Advocacy Project at Harvard Law School
- The Neighborhood Developers
- Three Pyramids
- Trinity Financial
- Urban Edge
- United Food and Commercial Union Local 1445
- United Way of Massachusetts Bay and Merrimack Valley
- Way Finders
- WATCH Community Development Corp
- Western Massachusetts Network to End Homelessness
- WinnCompanies
- Womanshelter/ Compañeras
- Women's Fund of Western Mass
- Worcester County Food Bank
- 123 Up And Adam, Inc.

Guiding Principles Adopted by Massachusetts Right to Counsel Coalition

Housing Stabilization and Homelessness Prevention

Whereas housing is a basic fundamental human need, access to legal and housing stability services are necessary to prevent homelessness, stem the tide of displacement, and stop unjust evictions.

Fairness in the Legal System

The vast majority of tenants who face eviction are unrepresented. In contrast, most landlords are represented by counsel. The result is a process that can be unbalanced and unfair.

Assistance Can Make a Difference

Access to the right assistance can prevent families from the trauma of eviction and displacement, and create a path to housing stability.

Upstream Solutions

Pre-court eviction help, proactive education and outreach, and housing stabilization are needed to prevent tenants from losing subsidized housing. “Upstreaming” will save landlords, tenants, and courts time and money and better facilitate the resolution of cases.

Community Engagement

Development of an implementation plan must provide a process to allow for input from all stakeholders on the multitude of issues to consider.

Build Upon and Strengthen the Existing Institutions

Implementation must build upon the work of existing organizations with a proven track record of effectiveness in the areas of landlord/tenant legal assistance, homelessness prevention and housing stabilization.

Collaboration

Collaboration is needed among legal services, social services, community organizers, municipalities, courts, educational institutions, and other organizations to create a continuum of impactful assistance.

Funded with New Money

The right must be funded with new money and cannot be effective by reallocating existing legal assistance and housing stabilization resources.

Outcomes

Oversight and assessment of the program should be designed in a way to insure measurable outcomes, data collection, and public reporting.

Tied to Other Systemic Housing Solutions

The right to counsel is one component of a necessary housing stability strategy that must include other initiatives to preserve and expand the supply of affordable housing for low and moderate income people.