



THE HOUSING JUSTICE ALLIANCE

Investing in the Community by Providing Tenants the Right to Legal Counsel

Chris Patno

“You have the right to an attorney” — everyone is familiar with the Miranda right thanks to television crime shows. Our constitution ensures access to no-cost legal counsel when someone is accused of a serious crime and cannot afford an attorney. Yet many do not realize there is no such constitutional right to legal counsel in housing cases — even if the cases lead to homelessness.

Picture a young mom living in poverty, working hard to make ends meet to provide for her family, to keep them healthy and safe. Now, imagine just one thing goes wrong, and that one thing changes the course of her life — her landlord files an eviction. She can't afford to hire a lawyer to defend her family; she has no voice, no right to counsel, in a system that is not designed to be navigated alone. She loses her home, ends up having to move — a lot, falling deeper and deeper into poverty by moving into substandard housing. They may even end up homeless. The situation becomes unstable, unsafe, mom loses her job, she becomes depressed, the kids change schools and fall behind. Eventually they end up dropping out. Her children see that the system doesn't work for people like them.

The removal of the stable housing card causes all to begin to collapse.

But what if mom got the legal help she needed, what if someone who understood the system intervened for her family? How would their future change?

The stakes are extremely high in eviction cases. A household can lose so much and it happens very quickly. Yet, standing before the judge, landlords are usually represented by counsel, and tenants almost always are not. The trial lasts five minutes. Most tenants lose. When tenants lose, their families and society often lose. Much of this loss may be avoidable if legal counsel is available to tenants.

Consequences of Evictions

Research shows that evictions lead to:

- Employment loss (missed work due to attending trial and moving)
- Health problems — greater hospitalizations, depression, other illnesses
- Lower achievement and higher drop outs for children in school
- Increased use of all social service systems
- Less stable communities

An eviction can be devastating to a family's overall wellbeing. A 2018 Boston Medical

Center study found that unstable housing circumstances are associated with adverse health outcomes for caregivers and young children. Specifically, the strain of homelessness, multiple moves and even being behind on rent is linked with maternal depression, increased child hospitalizations, and poor overall health for both children and caregivers.¹

Furthermore, a 2016 Harvard University study showed that workers were 11 to 22% more likely to lose jobs if they were recently evicted or otherwise forced from their homes.² For many, an eviction spurs a spiral into deeper poverty, creating lasting inequity for every member of the evicted family.

And once a tenant has an eviction on their record, that eviction cannot be erased. This makes it much harder for tenants to find future housing.

In Cleveland, the hypothetical mother described above would normally face the eviction process alone. She is one in about 9,000 — 10,000 evictions that are filed every year in the City of Cleveland. And, of those 9,000 evictions, only 1–2% of tenants are represented in court by an attorney. In stark contrast, 90% of landlords nationally are represented by an attorney.

Historically, the 1 to 2% of tenants have been represented by Legal Aid. The attorneys at Legal Aid have been able to stop issues from escalating into more expensive community problems. Founded in 1905, Legal Aid is the only nonprofit specifically addressing the civil legal needs of Northeast Ohio's poor, marginalized and disenfranchised. Its 45 staff attorneys and 35 support staff members provide high-quality civil legal service where and when people need it most. With more than a century of expertise in poverty law and housing advocacy, Legal Aid is poised to halt the cascade of consequences that inevitably flow from eviction and homelessness.

The Housing Justice Alliance

Legal Aid is working to invest in the community by providing tenants a right to legal counsel through Legal Aid's Housing Justice Alliance. Home is the center of life. And, every tenant at risk of losing their home should be represented by an attorney.

The progression of the Housing Justice Alliance is divided into three parts: the preliminary phase, Phase 1 (partial implementation) and Phase 2 (full implementation).

In the preliminary phase (pre-phase 1) of the project, Legal Aid housing attorney Hazel Remesch was chosen to participate in the Sisters of Charity of Cleveland's Innovation Mission Fellowship, an initiative to incubate and make ready for implementation innovative solutions to improve the lives of those living in poverty in Cleveland.

The research phase of the fellowship has included visits to already active right to counsel programs in Washington, D.C., and New York City. From those viable programs Legal Aid learned how critical it is that we have a comprehensive understanding of the landscape of evictions and the downstream effects of eviction in our communities in Cleveland. Therefore, Legal Aid has initiated a study with Case Western Reserve University to determine the effects of eviction in Cleveland.

In Phase 1 of the program, anticipated to begin in mid-2019, Legal Aid will focus on providing enhanced legal assistance to residents facing eviction and whose incomes are below 200% of federal poverty guidelines. Legal Aid will not be able to represent every tenant and therefore will collect data to show the social and monetary impact of no-cost legal counsel as compared to tenants without legal assistance. Residents in eviction cases for whom we are not able to provide services will have access to a tenant eviction help desk at the housing court, providing information and resources for *pro se* representation.

Evaluation of Phase 1 will help launch Phase 2 in three to five years. In Phase 2, the Program will launch an actual right to counsel in Cleveland Housing Court, where all residents facing eviction who meet the financial eligibility requirements will have the option of being represented by an attorney at their eviction trials.

Studies show that tenants who received full legal representation in eviction cases were more likely to stay in their homes and save on rent or fees. For this reason,

The Housing Justice Alliance will focus on providing tenants with full legal representation in Cleveland housing court to ensure that tenants participate meaningfully in the eviction process.

A Community-Wide Effort

I am proud to sit on the advisory committee for the Housing Justice Alliance alongside:

- Cleveland City Councilman Tony Brancatelli
- Ian Friedman, Esq., President-Elect, Cleveland Metropolitan Bar Association
- Delores Gray, Community Representative
- Cleveland City Council President Kevin Kelley, Esq.
- Jennifer Heinert O'Leary, Esq., Special Counsel, Cleveland City Council
- Tom Mlakar, Esq., Legal Aid
- Gladys Reed, Community Representative
- Hazel Remesch, Esq., Legal Aid
- Steven Rys, Special Assistant to Council, Cleveland City Council
- Abigail Staudt, Esq., Legal Aid
- Ken Surratt, Deputy Director of Housing and Community Development, Cuyahoga County

Our work together will create a right to counsel which will preserve all of our other community investments. New York City is the first city in the country to provide a right to counsel for tenants facing eviction. There evictions have dropped by 24%. And, the city is expected to save \$250 million because of an increase in tenant representation in eviction cases. San Francisco is following suit, by recently passing similar legislation.

Now, what if we could do that in Cleveland? How would the lives and our community change? That young mother might be able to maintain a stable home, stay out of the shelter system, keep her job, and keep her children in school.

All of our community investments to educate, feed, and employ will continue to

be in vain if we cannot stabilize housing. A right to counsel in eviction cases is a way to protect not only housing stability, but also the hundreds of other community investments to ensure our growth.

Our work will tip the scales for those who cannot afford a lawyer when their homes are at risk. By establishing a right to free, high-quality legal representation, the Housing Justice Alliance will secure safe, affordable and stable housing for Cleveland families living in poverty. This community effort will extend justice and help Cleveland grow and thrive.

¹ Megan Sandel, Richard Sheward, Stephanie Ettinger de Cuba, Sharon M. Coleman, Deborah A. Frank, Mariana Chilton, Maureen Black, Timothy Hereen, Justin Pasquariello, Patrick Casey, Eduardo Ochoa and Diana Cutts, *Unstable Housing and Caregiver and Child Health in Renter Families*, 2 PEDIATRICS 2018, Jan. 22, 2018, <http://pediatrics.aappublications.org/content/141/2/e20172199>.

² Matthew Desmond and Carl Gershenson, *Housing and Employment Insecurity among the Working Poor*, 0 SOCIAL PROBLEMS 2016, Jan. 11, 2016, https://scholar.harvard.edu/files/mdesmond/files/desmondgershenson_sp2016.pdf?m=1452638824.

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The Cleveland Academy of Trial Attorneys (CATA) is an organization made up of lawyers representing injured people in all areas of personal injury law, including medical malpractice, workers' compensation, and product liability law. CATA was founded in 1959 by a dedicated group of Cleveland attorneys with the goal of helping trial lawyers better represent their clients through educational programs and information. CATA remains committed to that goal today.

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