

# 2011

## New York City Council Human Rights Report Card

# Issue Brief: ACCESS TO CIVIL LEGAL SERVICES

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A publication of the Human Rights Project  
at the Urban Justice Center



### About Our Issue Briefs

This issue brief on access to civil legal services is derived from information in the [2011 New York City Council Human Rights Report Card](#) (Report Card) published by the [Human Rights Project at the Urban Justice Center](#). The Report Card evaluates the human rights records of individual council members and the Council as a legislative body, and documents the roadblocks that human rights legislation encounters in the struggle for passage. These issue briefs draw from and expand on the full Report Card to give a detailed look at how a particular human rights issue was addressed in City Council.

### Civil Legal Services and Justice Denied in New York City

For an increasing number of low-income New Yorkers, access to civil legal services and in turn, access to justice, is out of reach. Tenants facing eviction in New York City Housing Court disproportionately constitute poor, black and elderly tenants without legal representation.<sup>1</sup> Defendants in consumer credit cases in City Civil Court are often economically disadvantaged and without an attorney.<sup>2</sup> As a result, poor New Yorkers in a wide array of civil legal matters including evictions, foreclosures, child support matters, and consumer credit disputes, lack legal representation.

This inequitable access to civil legal services compromises the human rights of New Yorkers. For example, without an attorney, the human right to housing and, in turn, other human rights are at risk. As of 2010, 99% of tenants in eviction cases in New York City were not represented by legal counsel.<sup>3</sup> These tenants, lacking representation, struggle to navigate the Housing Court system, have unequal bargaining power against landlords regularly represented by attorneys, and are consequently likely to sign agreements they do not fully understand.<sup>4</sup> They may end up homeless and in City temporary housing shelters, compromising their right

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<sup>1</sup> Brennan Center for Justice at New York University School of Law. (2007, February). Results from Three Surveys in New York City Housing Courts. [http://brennan.3cdn.net/fe2a4234ce30fddaf3\\_8rm6v2aup.pdf](http://brennan.3cdn.net/fe2a4234ce30fddaf3_8rm6v2aup.pdf) (Retrieved 12/5/11).

<sup>2</sup> New York State Unified Court System. (2010, November). The Task Force to Expand Access to Civil Legal Services in New York: Report to the Chief Judge of the State of New York. <http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-TaskForceREPORT.pdf> (Retrieved 12/19/11).

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

to decent housing, and impacting their right to decent work and their disrupting their child's human right to equal access to education.

This disproportionate access to representation in civil proceedings is in contradiction to human rights law to which the United States is legally bound.<sup>5</sup> In 1994, the U.S. ratified the Convention on the Elimination of All Forms of Racial Discrimination (CERD).<sup>6</sup> Several provisions of CERD, including Articles 5 and 6, address fair judicial procedures and require signatories such as the U.S. to take positive steps to ensure access to State judicial systems, as well as other human rights such as housing.<sup>7</sup>

*The Convention on the Elimination of All Forms of Racial Discrimination requires the U.S. to address racial discrimination in judicial procedures, but black New Yorkers are overrepresented among tenants facing eviction*

## **Civil Legal Services and New York City Council**

Two human rights bills in the [2011 New York City Council Human Rights Report Card](#) address access to civil legal services. Both bills would enhance access for a particularly vulnerable group of New Yorkers in the event of a housing crisis, low-income seniors. Thousands of seniors appear in New York City Housing Court each year, many without an attorney,<sup>8</sup> and a 2007 survey found that the majority of seniors in housing court were black or Latina/o.<sup>9</sup> These tenants, in addition to having physical and mental limitations that compromise their ability to contest an eviction, may also be parents or caregivers to their grandchildren, and consequently require additional resources to provide stability for a second generation of tenants.<sup>10</sup> The two bills highlighted in the 2011 Report Card are:

### **Legal Counsel for Senior Citizens Subject to Eviction, Ejectment or Foreclosure (Int 0090-2010)**

This bill would require the Commissioner of the Department of Homeless Services to appoint a civil justice coordinator who would be responsible for establishing a program of legal services for eligible senior citizens facing eviction, ejectment or foreclosure proceedings.

### **Evictions of Elderly Tenants (Int 0475-2011)**

This bill would require the Department of Housing, Preservation and Development, upon receiving notification of an impending eviction of an elderly tenant, to provide the tenant with a list of legal services available to eligible low-income head of households.

<sup>5</sup> International Convention on the Elimination of All Forms of Racial Discrimination. <http://www2.ohchr.org/english/law/cerd.htm> (Retrieved 1/10/12).

<sup>6</sup> United Nations Treaty Collections. Status of Treaties. [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg\\_no=IV-2&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-2&chapter=4&lang=en) (Retrieved 1/10/12).

<sup>7</sup> National Coalition for a Civil Right to Counsel. International Perspectives. [http://www.civilrighttocounsel.org/about\\_the\\_issue/international\\_perspective/](http://www.civilrighttocounsel.org/about_the_issue/international_perspective/) (Retrieved 1/10/12).

And Northeastern University School of Law Program on Human Rights and the Global Economy. (2007, December 10). Access to Civil Justice: Racial Disparities and Discriminatory Impacts Arising from Lack of Access to Counsel in Civil Legal Cases. [www2.ohchr.org/english/bodies/cerd/docs/ngos/usa/USHRN24.doc](http://www2.ohchr.org/english/bodies/cerd/docs/ngos/usa/USHRN24.doc) (Retrieved 1/11/12).

<sup>8</sup> MYF Legal Services. (2011, November 30). Testimony for an Oversight Hearing On: Examining How Existing and New Residential Housing Can Meet the Needs of Older New Yorkers. <http://www.mfy.org/wp-content/uploads/Meeting-the-Housing-Needs-of-Older-New-Yorkers.pdf> (Retrieved 1/18/12).

<sup>9</sup> Brennan Center for Justice at New York University School of Law. (2007, February). Results from Three Surveys in New York City Housing Courts. [http://brennan.3cdn.net/fe2a4234ce30fddaf3\\_8rm6v2aup.pdf](http://brennan.3cdn.net/fe2a4234ce30fddaf3_8rm6v2aup.pdf)

<sup>10</sup> Supreme Court of the State of New York – First Department. (2010, September 28). The Chief Judge's Hearings on Civil Legal Services. <http://www.nycourts.gov/ip/access-civil-legal-services/PDF/1st-Dept-Hearing-Transcript.pdf> (Retrieved 1/18/12).

Access to civil legal services was not a category in which council members received letter grades in the [2011 Report Card](#), but nine council members achieve notable distinction for sponsoring both [Int 0090](#) and [Int 0475](#). They are:



[Charles Barron](#)



[Melissa Mark-Viverito](#)



[Daniel Dromm](#)



[Jimmy Van Bramer](#)



[Helen D. Foster](#)



[Albert Vann](#)



[Letitia James](#)



[Brad Lander](#)



[Jumaane D. Williams](#)

It is also important to note that while [Council Member Rosie Mendez](#) did not co-sponsor both bills, she was the primary sponsor of Int 0090. Also, [Council Member Daniel R. Garodnick](#) co-sponsored Int 0090 and cited the restoration of civil legal services funding as a legislative priority in his Human Rights Questionnaire in the 2011 Report Card.

### **Insufficient and Waning Support in Council**

Despite the support of these nine council members, neither Int 0090 nor Int 0475 has majority Council support (26 council members). Int 0090, stuck in the Aging Committee since March 3, 2010, has 24 sponsors. Int 0475, delayed in the Housing and Buildings Committee since February 6, 2011, has 16 sponsors.

To date, 19 council members have not sponsored either Int 0090 or Int 0475. As Table 1 illustrates, these council members include two Manhattan council members, two Staten Island council members, three Bronx council members, six Brooklyn council members, and eight Queens council members. The lack of support by the Queens delegation (fewer than one-half of the 14 Queens council members have co-sponsored either bill) is noteworthy. From 2005 to 2009, foreclosure filings in Queens increased 217% (from 1,842 to 5,839).<sup>11</sup> In

*In Queens, despite a recent dramatic spike in foreclosure filings, fewer than half of council members support the civil legal services bills.*

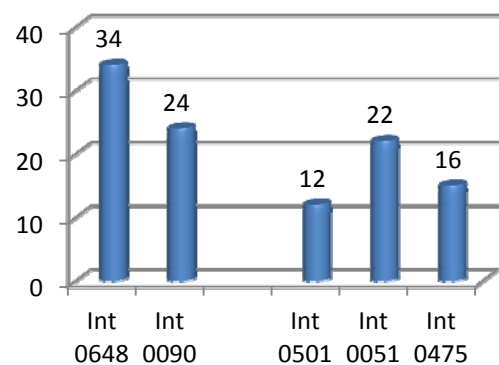
<sup>11</sup> New York State Unified Court System. (2010, November). The Task Force to Expand Access to Civil Legal Services in New York: Report to the Chief Judge of the State of New York. <http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-TaskForceREPORT.pdf> (Retrieved 12/19/11).

Queens in 2010, only 60% of the homeowners in foreclosure court conferences had representation, and many of those homeowners who were represented lacked the ongoing representation necessary to properly resolve their case.<sup>12</sup>

Moreover, both [Int 0090](#) and [Int 0475](#) have previously languished in Council, having died without hearings. Int 0090's predecessor, [Int 0648-2007](#), was introduced on November 15, 2007 by [Council Member Mendez](#). While it had 34 co-sponsors (a veto-proof majority) and the support of over 90 housing, senior citizen and other advocacy organizations, it died on December 31, 2009, without a hearing.<sup>13</sup> Int 0475 has two predecessors, [Int 0501-2004](#) and [Int 0051-2006](#), both introduced by [Council Member Barron](#). Int 0501 was introduced on November 23, 2004, and it died with 12 sponsors on December 31, 2005, without a hearing. Int 0051 was introduced on February 15, 2006, and it died on December 31, 2009; 22 council members supported it.

Bills supporting civil legal services seem to be losing Council support, despite the fact that poor seniors continue to lack access to civil legal services and that civil legal assistance generates considerable cost savings for state and local governments.<sup>14</sup> Whereas Int 0648 had 34 sponsors, Int 0090 has 24 sponsors. In addition, 10 council members who sponsored Int 0648 have withdrawn their support for Int 0090, despite the two bills being identical. Also, as illustrated in Table 1, whereas 22 council members supported Int 0051, only 16 council members currently support Int 0475. And, similar to Int 0090, 10 council members who sponsored either Int 0501 or Int 0051 have withdrawn their support for Int 0475, even though the three bills are identical.

Council Support for Int 0090 and Int 0475 Has Diminished



## Conclusion: New Yorkers Must Demand the Human Right to Civil Legal Services

While many New Yorkers lack access to civil legal services and consequently have their human rights compromised, there are two bills in the City Council, which would enhance access for a particularly vulnerable group, low-income seniors. It is up to each New Yorker to put pressure on their council member to support these bills. [The Human Rights Project](#) encourages each New Yorker to examine their council member's grades in the [2011 Report Card](#), as well as the information on the council member pages of the [New York City Council website](#), and contact their council member to urge them to support these two bills.

<sup>12</sup> Ibid.

<sup>13</sup> Abel, L. (2010, March 1). Toward a Right to Counsel in Civil Cases in New York State: A Report of the New York State Bar Association. [http://sr.nelco.org/cgi/viewcontent.cgi?article=1177&context=nyu\\_plltwp&sei-redir=1&referer=http%3A%2F%2Fwww.google.com%2Furl%3Fsa%3Dt%26rct%3Dj%26q%3Dseniors%2520and%2520new%2520york%2520city%2520and%2520foreclosures%26source%3Dweb%26cd%3D14%26ved%3D0CHUQFjADOAo%26url%3Dhttp%253A%252F%252Fsr.nelco.org%252Fcgi%252Fviewcontent.cgi%253Farticle%253D1177%2526context%253Dnyu\\_plltwp%26ei%3D-UTmTrvHMTpJOAHx7KXQBQ%26usq%3DAFQICNGqCY8WShBea\\_6BlmMv8AWL8earWw#search=%22seniors%20new%20york%20city%20foreclosures%22](http://sr.nelco.org/cgi/viewcontent.cgi?article=1177&context=nyu_plltwp&sei-redir=1&referer=http%3A%2F%2Fwww.google.com%2Furl%3Fsa%3Dt%26rct%3Dj%26q%3Dseniors%2520and%2520new%2520york%2520city%2520and%2520foreclosures%26source%3Dweb%26cd%3D14%26ved%3D0CHUQFjADOAo%26url%3Dhttp%253A%252F%252Fsr.nelco.org%252Fcgi%252Fviewcontent.cgi%253Farticle%253D1177%2526context%253Dnyu_plltwp%26ei%3D-UTmTrvHMTpJOAHx7KXQBQ%26usq%3DAFQICNGqCY8WShBea_6BlmMv8AWL8earWw#search=%22seniors%20new%20york%20city%20foreclosures%22) (Retrieved 12/12/11).

<sup>14</sup> New York State Unified Court System. (2011, November). The Task Force to Expand Access to Civil Legal Services in New York: Report to the Chief Judge of the State of New York. [http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-2011TaskForceREPORT\\_web.pdf](http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-2011TaskForceREPORT_web.pdf) (Retrieved 1/18/12).

## About the Human Rights Project at the Urban Justice Center

The Human Rights Project (HRP) works to improve the lives of New Yorkers living in poverty with a particular focus on women and people of color. We do this by monitoring and advocating for government compliance with universal human rights standards, especially the human rights to employment, housing, health, food, education and other economic and social rights.

HRP has been at the forefront of the U.S. human rights movement for the past several years, demonstrating new models of applying human rights in the U.S., and in particular in New York City, to effectively advocate for the City's most vulnerable across a range of issues. The U.S. Constitution falls short in guaranteeing the right to health, housing, education, standard of living and other rights necessary to live in dignity. In combination with a legacy of structural discrimination, particularly through race and gender, and limits on rights that are protected, those most vulnerable in society have little recourse. The human rights framework and tools bring new possibilities in the face of limited remedies, and hope where there is despair.



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**Table 1: Vote Sponsorships of Access to Civil Legal Services Bills**

	Int 0648-2007	Int 0090-2010	Int 0501-2004	Int 0051-2006	Int 0475-2011
	Introduced 11/15/07 and Died 12/31/09	Introduced 03/03/10	Introduced 11/23/04 and Died 12/31/05	Introduced 02/15/06 and Died 12/31/09	Introduced 02/06/11
# of Sponsors	34	24	12	22	16
Arrovo	s	s		s	
Barron	s	s	PS	PS	PS
Brewer	s	s		s	
Cabrera	Not in Council		Not in Council	Not in Council	
Chin	Not in Council	s	Not in Council	Not in Council	
Comrie, Jr.	s			s	
Crowley	Not in Council		Not in Council	Not in Council	
Dickens			Not in Council		
Dilan		s	s		
Dromm	Not in Council	s	Not in Council	Not in Council	s
Eugene			Not in Council		
Ferreras		s	Not in Council		
Fidler					
Foster	s	s	s	s	s
Garodnick	s	s	Not in Council		
Gennaro					
Gentile	s	s		s	
Greenfield	Not in Council		Not in Council	Not in Council	
Gonzalez	s		s	s	
Halloran	Not in Council		Not in Council	Not in Council	
Ignizio			Not in Council		
Jackson	s			s	s
James	s	s	s	s	s
Koo	Not in Council	s	Not in Council	Not in Council	
Koppell	s	s		s	
Koslowitz	Not in Council	s	Not in Council	Not in Council	
Lander	Not in Council	s	Not in Council	Not in Council	s
Lappin	s	s	Not in Council		
Levin	Not in Council		Not in Council	Not in Council	s*
Mark-Viverito	s	s	Not in Council	s	s
Mealy	s		Not in Council		s
Mendez	PS	PS	Not in Council	s	
Nelson	s	s		s	
Oddo					
Palma	s		s		s
Quinn					
Recchia	s				s
Revna	s				
Rivera	s				
Rose	Not in Council		Not in Council	Not in Council	s
Sanders, Jr.	s	s		s	
Seabrook	s				s
Ulrich			Not in Council		
Vacca	s		Not in Council		
Vallone					
Van Bramer	Not in Council	s	Not in Council	Not in Council	s
Vann	s	s	s	s	s
Weprin	Not in Council		Not in Council	Not in Council	
Williams	Not in Council	s	Not in Council	Not in Council	s
Wills**	Not in Council		Not in Council	Not in Council	

PS = Primary Sponsor s = co-sponsor Not in Council = not in Council until after Bill died

\* Sponsorship after publication of 2011 Report Card, during 2011-12 Legislative Session

\*\* New Council Member in 2010-11 Legislative Session