

Tenants facing eviction need legal representation. Let's give it to them.

So many parts of this state's crippling housing crisis seem impossible to solve. Here's something that works, and we can do right now.

By [Yvonne Abraham](#) Globe Columnist, Updated January 20, 2024, 2:19 p.m.



People attended housing court in the Edward W. Brooke Courthouse in Boston in 2020. PAT GREENHOUSE/GLOBE STAFF

On Thursday morning, in a courtroom on the fifth floor of the Edward W. Brooke Courthouse, the benches were stacked with tenants trying to hold off disaster.

They had all been called to housing court to answer eviction notices. Unlike the landlords trying to throw them out, only a couple of these tenants — there were 78 cases on the docket — had attorneys. The rest were flying blind on one of the most consequential

mornings of their lives. Two dozen more tenants had not made it to the courtroom at all by the time their names were called. Failing to appear in court means losing an eviction case by default, and that means a tenant can be forced out of their home within a couple of weeks.

“I had to drop off my kids,” said Marie Exantus, a single mother who had rushed into the courtroom just after her name was called, and had been found in default. “I am a single mother. I owe some back rent, I tried to get rental assistance, but my landlord refuses to speak to them.”

She had been sent to the third floor clerk’s office to try to undo the default, and was surrounded by dozens of other tenants, many waiting to see mediators who would oversee negotiations with their landlords’ attorneys. A health worker whose first language is Haitian Creole, Exantus had taken the whole day off work, losing pay to be here. She had no idea what she was supposed to do, and there was nobody to help her undo the default until an attorney from Greater Boston Legal Services, here representing another tenant, learned from a reporter about her situation.

“Every single person here could use a lawyer,” said Eloise Lawrence, deputy faculty director at the Harvard Legal Aid Bureau, surveying the crowded waiting room. “I’m sure they all have defenses to eviction.”

This is how it almost always goes when it comes to eviction proceedings. Close to 90 percent of landlords have attorneys, while less than 12 percent of tenants do. In non-payment cases, only 4.3 percent of tenants have attorneys.

And it costs them dearly. Attorneys are experts in housing law and the rules of evidence. In hearings, tenants representing themselves don’t know to object when a landlord’s attorney leads a witness, but those attorneys certainly stand up to object when a tenant does the same. Attorneys can skip lines and easily access records. They know the judges and court personnel, and often get the benefit of the doubt if they’re late, and they save their clients the trouble of having to appear early and spend days waiting downtown.

They do deals with tenants in hallways, deals which sometimes impose [impossible conditions that all but guarantee eventual eviction](#). They are paid to spend hours at the courthouse.

The imbalance is obscene, resulting in many evictions that could be avoided. Tenants with attorneys are simply far less likely to be ousted from their homes.

Eviction ruins lives. Eviction from subsidized and low-income housing does worse, because it can mean losing vouchers or other rental assistance — the only way many families can afford a roof over their heads. Losing subsidized housing can also make families [ineligible for emergency shelter for three years](#). Eviction is a cascading disaster, leaving families homeless or in crowded or unsafe living situations, in hotels or in the phenomenally overburdened emergency shelter system. It makes it harder to hold onto jobs, and more likely kids will end up in foster care. It compromises mental and physical health, scars kids, and compromises their schooling.

And it's only getting worse. With the end of pandemic programs that held off evictions, [we're seeing eviction filings spike even higher than pre-COVID levels](#).

“We are probably looking at the tip of the iceberg in the cases that could be coming the courts' way,” said Annette Duke, senior housing staff attorney at the Massachusetts Law Reform Institute. “And we have vulnerable, often elderly people, standing up there all by themselves, fighting for their homes.”

The stakes are enormously high — too high to leave low-income tenants without representation.

So let's give it to them. Duke and the Massachusetts Law Reform Institute have been leading a years-long effort [to give low-income tenants and landlord owner-occupants access to counsel for eviction proceedings](#).

And not just because it's the right thing to do, but also because it saves serious money. Phased in over five years, the proposal would offer access to counsel for tenants and owner-occupiers whose incomes fall below 80 percent of the area median income. Those backing the measure say it would cost about \$27 million per year, [but would keep more than 16,000 renters in their homes, and save the Commonwealth \\$63 million](#) in costs for emergency shelter, foster care, and health care. Beyond that, it would also make parents more likely to keep jobs, kids more likely to stay in their schools, and landlords less likely to see disruptions.

We know that [providing tenants with access to counsel works](#), because three other states and 15 cities [are already doing it](#). Connecticut has begun to phase in an access to counsel system like the one being proposed here, and an independent report found the state saved over \$6 million in 2022 as a result. In New York City, the first place in the country to pass a right to counsel bill in 2017, evictions fell by over 30 percent as of 2019, and default judgments dropped by some 34 percent.

An astounding 240 organizations, including lawyers, housing advocates, health care providers, social workers, municipal workers, and, tellingly, [large landlords](#), are backing access to counsel efforts. It's past time legislators made it into law. Better yet, they should include it in Governor Maura Healey's [giant housing bond bill](#), currently being considered on Beacon Hill.

So many parts of [this state's crippling housing crisis](#) seem impossible to solve, meaningful fixes many years and billions of dollars down the road. Here is something we can do, and right now. It's right, we know it works, and it will keep thousands of families in their homes.

Of all the no-brainer proposals before the Legislature right now, this has to be the no-brainiest.

[Show 62 comments](#)

©2024 Boston Globe Media Partners, LLC