



PROTECT TENANTS, PREVENT HOMELESSNESS

NATIONAL LAW CENTER
ON HOMELESSNESS & POVERTY

Today's Presenters

Tristia Bauman

National Law Center on Homelessness & Poverty

Aimee Inglis

Tenants Together

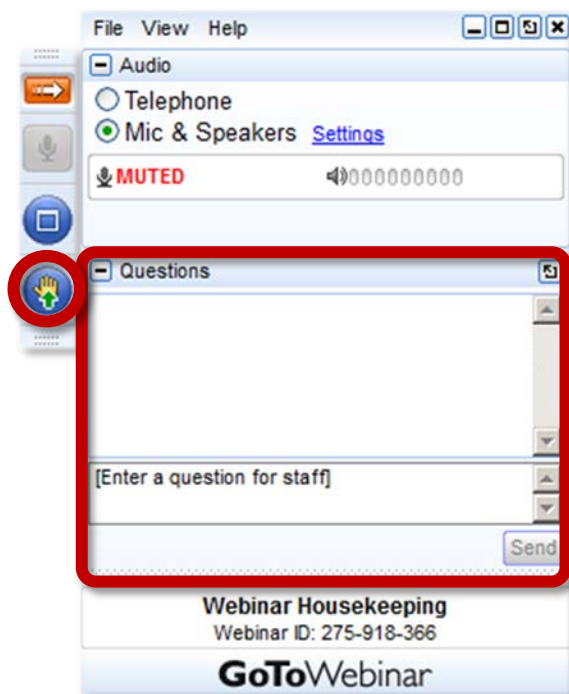
John Pollock

National Coalition for a Civil Right to Counsel

Eric Dunn

Virginia Poverty Law Center

Webinar housekeeping



Your Participation

- Please submit your text questions and comments using the Questions panel
- Please raise your hand to be unmuted for verbal questions.

Note: Today's presentation is being recorded and may be posted as a resource.

What is in the report?

- Explores links between housing instability and homelessness
 - Lack of affordable and available housing
 - Housing cost burdens
 - Eviction crisis
 - Housing instability
 - Risk of homelessness
- Legal protections can increase housing stability



**PROTECT TENANTS,
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Evictions Cause Homelessness

- Eviction is second leading cause of homelessness in NYC among families with children
 - 33% of families eviction
- 47% of families in NYC's homeless shelters experienced eviction within 5 years of entry
- 14% of homeless population in Santa Cruz counted in 2017 PIT count
- Nationally, **nearly two out of five people became homeless** through involuntary displacement from their housing



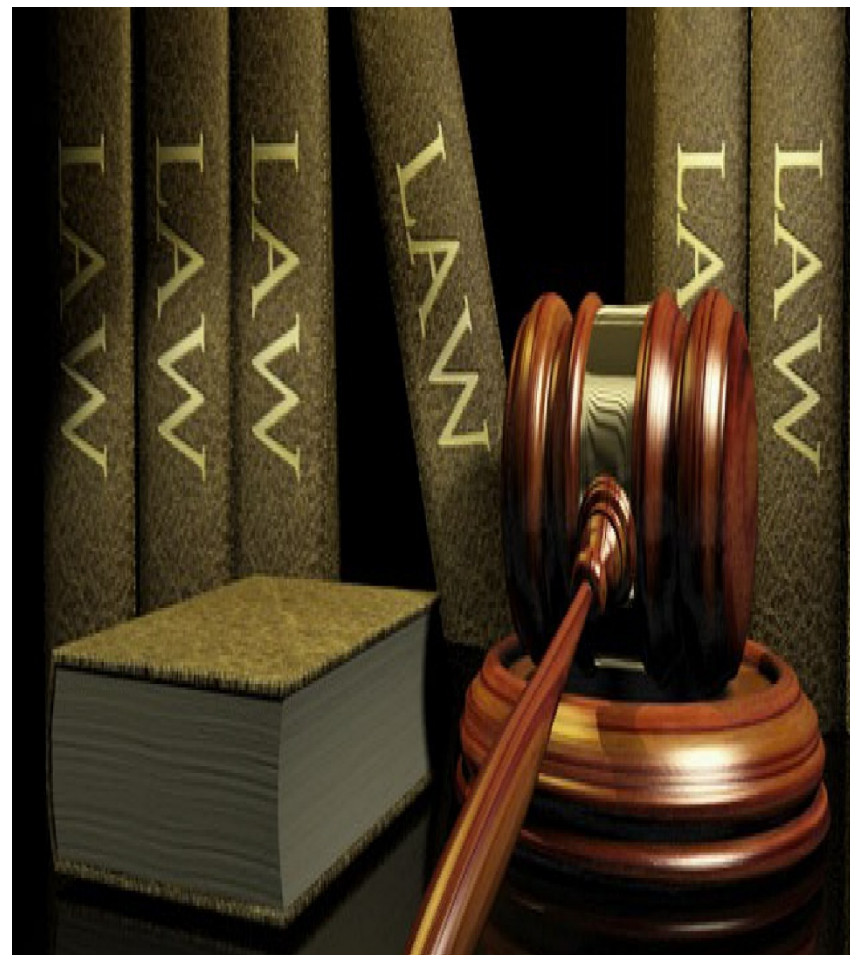
Impact on People of Color

- Approximately half of all renters are people of color
- Around 25% of Black and Hispanic households spend at least half of their income on housing costs (as compared with less than 20% of white households)
- People of color face disproportionate rates of eviction
- Contributes to a heavy overrepresentation of people of color in the homeless population
 - 39% of homeless population are black
 - 22% are Latinx
 - 3% are Native American



Do renters' rights prevent homelessness?

- NYC right to counsel would not only reduce evictions by an estimated 77%, but also save city \$251 million in reduced use of emergency shelters
- A 2010 NYC study found that providing counsel in housing cases prevented loss of housing for 91% of clients and also reduced homelessness
- Source of income protections increased renters' likelihood of locating housing by 12%
- PTFA was successfully used by 90% of surveyed legal services attorneys to halt or avoid eviction



Learn from the experts!

- Jessica Cassella of **National Housing Law Project** Eric Dunn of **Virginia Poverty Law Center**
- Aimee Inglis of **Tenants Together**
- Sandra S. Park of the **American Civil Liberties Union**
- John Pollock of **National Coalition for a Civil Right to Counsel**
- Philip Tegeler and Megan Haberle of **Poverty & Race Research Action Council**
- Marie Claire Tran-Leung of **Sargent Shriver National Center on Poverty Law**
- Elayne Weiss of the **National Low Income Housing Coalition**

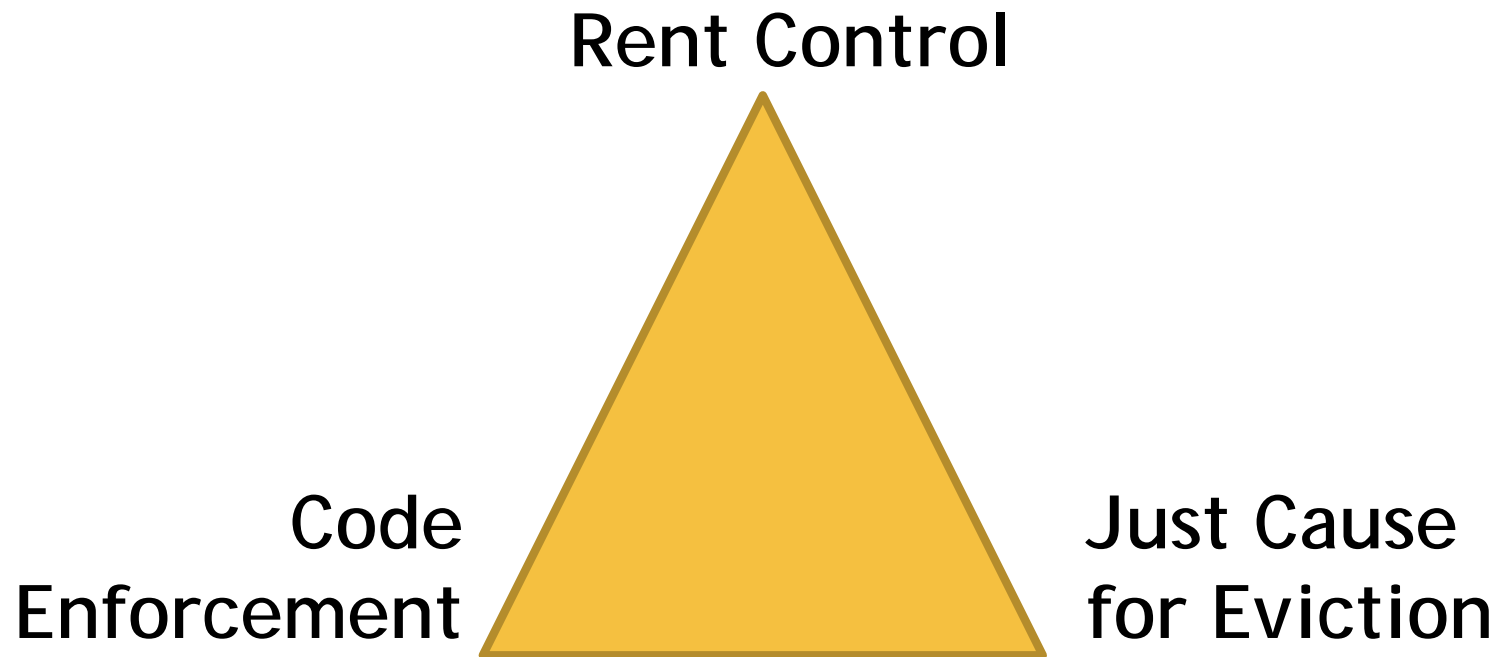


**PROTECT TENANTS,
PREVENT HOMELESSNESS**

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TENANTS' RIGHTS:
RENT CONTROL &
JUST CAUSE FOR
EVICTON
PROTECTIONS

GOLDEN TRIANGLE OF TENANTS' RIGHTS & ANTI-DISPLACEMENT



RENT CONTROL AND JUST CAUSE WORK

The purpose of Rent Control and Just Cause is to create stability for community members.

1. Children can stay in the school where they are thriving;
2. Families can afford to take care of their children;
3. Tenants can ask for repairs without fear of reprisals.

RENT CONTROL AND JUST CAUSE WORK

- ◉ Landlords continue to make fair returns on their investments
- ◉ Every ordinance has a process by which landlords can petition if they believe that they are not reaching a fair return
- ◉ 10% return is considered average and 20% great
- ◉ The report done in San Jose showed that on average landlords were looking at 80% returns. We need to ask ourselves if the rest of the economy can afford that.

RENT CONTROL AND JUST CAUSE PROTECTION POLICIES WORK

- ◉ It is a fair and measured solution
- ◉ Most tenants are low-to-middle income
- ◉ We cannot build our way out of housing crisis fast enough.
- ◉ Housing is highly regulated. We have regulated how we want our cities to grow, but we have not regulated rents. That has left tenants in a vulnerable position that has allowed essentially “crisis profiteers” to take advantage of this lack of regulation.
- ◉ We need a planned rental housing policy like any other aspect of our cities.

WITHOUT RENT CONTROL AND JUST CAUSE

- ◉ Families live in unsafe and unhealthy conditions **because tenants fear retaliation**
- ◉ Cities with no protections for tenants have far worse living conditions than tenants living in rent controlled units
- ◉ Tenants have to choose between feeding their children and paying their rent
- ◉ We will lose our teachers, child care providers and eventually our doctors and dentists.

WINNING RENT CONTROL & JUST CAUSE CAMPAIGNS

The first new rent control laws in 30
years!!!

RICHMOND RENT CONTROL

Faces of Richmond's Housing Crisis

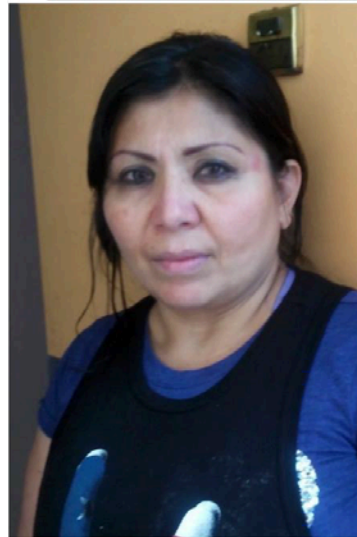


"After complaining about the conditions in my Richmond apartment, like cockroaches and problems with electricity and plumbing, I received a rent increase instead of repairs. There are so few City resources in Richmond for tenants who are taken advantage of by their landlords, so I found help through nonprofits and am forced to take my landlord to court to make sure necessary repairs are made. I support the Rent Control and Just Cause Eviction Ordinance because Richmond renters deserve more, like a Rent Board that can help educate renters about their rights. We deserve safe and healthy homes."

— Blanca Retano



Faces of Richmond's Housing Crisis



"I have been living in my Richmond apartment for the last 7 years. My landlord previously tried to increase my rent without making a single necessary repair in my unit, and after a lawsuit, the court ruled I would not have to pay any increase until my landlord made repairs. Since then, living in my apartment building has been incredibly uncomfortable and I live in fear of what my landlord could do next to evict me. I cannot afford to move to a different building, even though I feel discriminated against and helpless, because the rents in Richmond are so high right now. With Just Cause Eviction Protections and a Rent Board to turn to for information, Richmond tenants would feel less helpless."

— Yessenia

MOUNTAIN VIEW RENT CONTROL



ALSO...

- ◉ Union City just cause for eviction
- ◉ San Jose just cause for eviction
- ◉ Oakland rent ordinance improvements
- ◉ Beverly Hills improvements
- ◉ Santa Cruz rent increase moratorium

WHAT'S NEXT?

2018 CAMPAIGNS

- ◉ Ballot measures in Sacramento, Santa Rosa, Santa Cruz, Inglewood, Pasadena, Long Beach, Glendale.
- ◉ Campaigns in Concord, Santa Barbara, San Diego, National City, Chula Vista, Fremont/Union City/Hayward, Santa Ana, LA County unincorporated.
- ◉ National campaign launch for Rent Control for All through Homes for All/ Right to the City

Kinda Noisy on the Judicial Front: Recent rental housing access litigation

A PRESENTATION BY THE
VIRGINIA POVERTY LAW CENTER

BY: ERIC DUNN, HOUSING ATTORNEY
ERIC@VPLC.ORG (804) 351-5266



progress

service

advocacy

impact

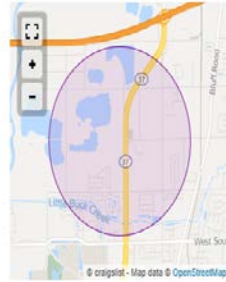
justice

community

Serving Virginia's legal aid
system by providing
advocacy, training, and
litigation support on civil justice
issues that affect low-income
Virginians

☆ \$575 / 2br - 900ft² - COME HOME TO HANNA BLUFF APARTMENTS (602 W Hanna Ave)

image 2 of 11



602 W Hanna Ave
(google map)

2BR / 1Ba 900ft² available now

apartment
no laundry on site
off-street parking

Move in special!! This unit is ready for new tenants today!! Super affordable 2 bedroom apartment. Hardwood floors throughout apartments. Spacious kitchen. Large bedrooms. Heat and water are paid!! Tenant only has to pay electricity. Plenty of parking! This unit will not last long! Call me today so we can sign a lease tomorrow!!

Date home is available for move in: Today
Date home is available to start showing: Today
Type of unit: Apartment

“No evictions or landlord judgments.”

☆ \$500 / 1br - 1 bedroom all electric \$500/mo (Indianapolis)

image 1 of 4



1 bedroom \$500/mo
Deposit \$500
Application \$20
No evictions

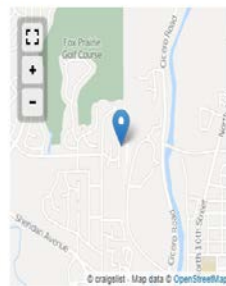
Tenant pays electric/water

Includes
Refrigerator
Stove
W&D Hookup

“No evictions.”

☆ \$1380 / 4br - 1957ft² - 4 bedroom/2.5 bath/ Noblesville Schools (Noblesville)

image 1 of 3



4BR / 2.5Ba 1957ft² available now

house
wild hookups
attached garage

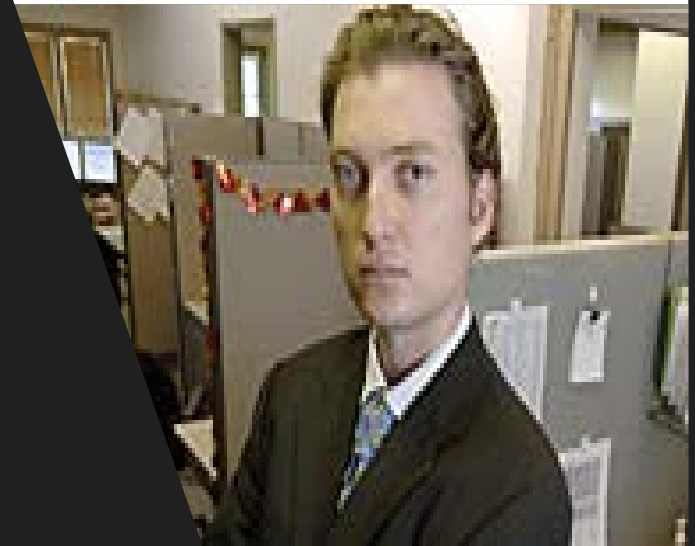


Gorgeous 4 bedroom, 2.5 bathroom rental home in Noblesville. Large two story home with 1957 square feet with large master bedroom with walk in closet. Must have proof of income with a 550 credit score or above, no eviction history or violent felonies.

“No eviction history or violent felonies.”

“It is the policy of 99 percent of our customers in New York to flat out reject anybody with a landlord-tenant record, no matter what the reason is and no matter what the outcome is, because if their dispute has escalated to going to court, an owner will view them as a pain,’ said Jake Harrington, a founder of On-Site.com...”

- Rogers, Teri Karush, “Only the strongest survive,” *New York Times* (Nov. 26, 2006)



“[A]bout 85 percent of landlords say they run an eviction report on all applicants. About 90 percent say they always run credit and criminal background checks.”

- Collatz, Andrea, “Landlord Survey: Optimism In Renting Your Property,” TransUnion Smartmove blog (June 6, 2017)

Tenant-screening reports: modern

CREDIT PLUS^{INC}
31550 Winklerpark Parkway, Salisbury, MD 21061
(800) 256-3484 • FAX (800) 256-3287

Date Received: 1/15/2019 Date Issued: 1/15/2019

Provided For: CREDIT PLUS
40-50 A
PCRSST

LANDLORD REFERENCE CHECK FORM

Form Number: 11/18
Customer Name: [REDACTED]
Current Address: [REDACTED]
Previous Address: [REDACTED]
Marital Status: [REDACTED]
Dependents: [REDACTED]

Employer: [REDACTED]
Position: [REDACTED]
Start Date: [REDACTED]
Verified By: [REDACTED]

CREDIT NAME: [REDACTED]
ACCOUNT NUMBER: [REDACTED]

TO:
Name: [REDACTED]
Address: [REDACTED]
City: [REDACTED]
My signature: [REDACTED]

Applicant/Tenant Sign: [REDACTED]

The individual names provided will be used for your prompt response.

BACKGROUND SUMMARY
Report Type: [REDACTED]
CRIMINAL HISTORY: [REDACTED]
VIOLENT / SEX OFF: [REDACTED]
IDENTITY TRACE: [REDACTED]
INTERNATIONAL S: [REDACTED]
CRIMINAL / SEX / VI: [REDACTED]
SSN: [REDACTED]
RULLIN: [REDACTED]
OFFENSE DESCRIPTION: [REDACTED]
CASE NUMBER: [REDACTED]
STATUS: [REDACTED]
DISPOSITION DATE: [REDACTED]
SENTENCE DATE: [REDACTED]
DISPOSITION: [REDACTED]
COMMENTS: [REDACTED]
OFFENSE DESCRIPTION: [REDACTED]
CASE NUMBER: [REDACTED]
STATUS: [REDACTED]
DISPOSITION DATE: [REDACTED]
SENTENCE DATE: [REDACTED]
DISPOSITION: [REDACTED]
COMMENTS: [REDACTED]
JURISDICTIONS SEARCHED: [REDACTED]
1. Did the resident [REDACTED]
2. How much rent [REDACTED]
3. Did you receive [REDACTED]
4. Did the resident [REDACTED]
5. Were the policies [REDACTED]
6. Does the resident [REDACTED]
7. Did the resident [REDACTED]
8. Did the resident [REDACTED]
9. Did the resident [REDACTED]

StarPoint
Tenant Screening
Nationalwide Eviction Search
Byrne, Jennifer

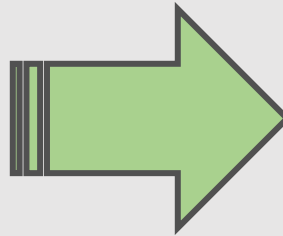
File #: 12370 Date: 06/10/2008 09:14
Customer: BlueCo Comprehensive User: A. Johnson

Records Found

RUNNING BROOK ASSOC. vs. BYRNE, JENNIFER
Case Number: 1700010007
File Date: 2008-10-20
Court: Superior Court
State: NJ
County: Essex
Result: EVICTION DISMISSED
Defendant: Byrne, Jennifer
Address: 11 Whitfield St. Apt. 1st Fl.
City, State, Zip: Caldwell, NJ 07006
Payoff#: Running Brook Assoc.

Records Found

RUNNING BROOK ASSOC. vs. BYRNE, JENNIFER
Case Number: 1700010007
File Date: 2008-10-20
Court: Superior Court
State: NJ
County: Essex
Result: EVICTION DISMISSED
Defendant: Byrne, Jennifer
Address: 11 Whitfield St. Apt. 1st Fl.
City, State, Zip: Caldwell, NJ 07006
Payoff#: Running Brook Assoc.



MY RENTAL HISTORY
Dashboard Address History Eviction

PREPARED FOR: James T. Kirk LOCATION: All States DATE: 8 January 2018 STATUS: Completed

Overview

The following information is used by Property Managers and Landlords.

There are 4 main components that are evaluated when assessing whether to rent a property: Home & Rental History, Eviction History, Criminal History, and Credit History

HISTORY Home & Rental
86/100

HISTORY Eviction
65/100

HISTORY Criminal
100/100

HISTORY Credit
52/100

Rental Score & Recommendation

Individuals	Factor	Importance
Ability to Pay Rent what's this?		
Minimum Monthly gross income-to-rent ratio	2.4	Extremely ▼
Monthly minimum net income (after rent and debt obligations)	a fixed amount: ▼ \$750.00	Extremely ▼
Credit History what's this?		
Maximum percentage of past due negative accounts	number of derogatory accounts: ▼ 25.0%	Moderately ▼
<input checked="" type="checkbox"/> Do not consider foreclosures, but cap the overall score. Score Cap: 6.9 <input type="checkbox"/> Do not consider mortgages in default, but cap the overall score. <input type="checkbox"/> Do not consider warnings, but cap the overall score.		
Maximum balance of unpaid collections (includes past due accounts)	\$500.00	Moderately ▼
Bankruptcy permitted	If Cleared ▼	Pass/Fail ▼
Residency History what's this?		
No landlord tenant court records or unpaid landlord collections	Any number ▼ Ever ▼	Pass/Fail ▼
<input checked="" type="checkbox"/> Ignore dismissed or satisfied records.		
Criminal History what's this?		
May not have had a misdemeanor conviction (Specify Exceptions)	Any number ▼ In the last 3 years ▼	Pass/Fail ▼
<input type="checkbox"/> Consider pending cases as well as convictions. (Not applicable in KY, CA, NM, NY, and WA)		
May not have had a felony conviction (Specify Exceptions)	Any number ▼ Maximum allowable by law ▼	Pass/Fail ▼
<input type="checkbox"/> Consider pending cases as well as convictions. (Not applicable in KY, CA, NM, NY, and WA)		
May not be a registered sex offender		Pass/Fail ▼

- Housing provider enters admission criteria using pull-down menus and check-boxes
- Software compares applicant background data to admission criteria to produce score and recommendation



US007376619B1

(12) **United States Patent**
Jones et al.

(10) **Patent No.:** US 7,376,619 B1
(45) **Date of Patent:** May 20, 2008

(54) **METHOD AND SYSTEM FOR RAPID
TENANT SCREENING, LEASE
RECOMMENDATION, AND AUTOMATIC
CONVERSION/TRANSCRIPTION OF DATA
INTO LEASE DOCUMENTS**

2004/0138997 A1* 7/2004 DeFrancesco et al. 705/38

OTHER PUBLICATIONS

SafeRent Upgrades Applicant Screening Service With New Features And Simplified Interface; Renovation Includes New Branding and Look/Feel, Mar. 1, 2001, p. 1-2.*

Gehrlein, William and Wagner, Bret. A two-stage least cost credit scoring model. *Annals of Operations Research* 74(1997) p. 159-171.*

Uhland, Vicky. SafeRent Take Guess out of Rental Approval. *Rocky Mountain News*, Mar. 11, 2001, p. 1-3.*

SafeRent Secures \$4.25 Million in Convertible Debt Financing; Investment Funds Total \$12 Million for 2000. Dec. 15, 2000. p. 1-2.*

* cited by examiner

Primary Examiner—James P. Trammell

Assistant Examiner—Jamie Swartz

(74) *Attorney, Agent, or Firm*—Dorsey & Whitney LLP

(21) Appl. No.: 10/040,961

(22) Filed: Dec. 28, 2001

(51) **Int. Cl.**
G06Q 40/00 (2006.01)

(52) **U.S. Cl.** 705/38; 705/35; 715/530

(58) **Field of Classification Search** 705/38,
705/1, 39, 10, 35; 703/2; 706/11; 715/530
See application file for complete search history.

(56) **References Cited**

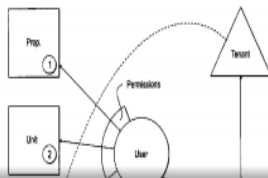
U.S. PATENT DOCUMENTS

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2001/0034700 A1* 10/2001 Foss et al. 705/38
2002/0023051 A1* 2/2002 Kunzle et al. 705/38
2002/0069230 A1* 6/2002 Schubert et al. 707/530
2004/0030640 A1* 2/2004 Mahnken et al. 705/39

(57) **ABSTRACT**

System, method, computer program and computer program product, and business model for rapid tenant screening, recommendation, and conversion of data to lease documents. Provides structure and method for entering data from application to rent real estate for rapidly acquiring credit and screening from servers for the prospective tenant, passing information through a computer program that evaluates financial criteria, and presenting decision whether or not to accept tenant. Manager enters information about property and terms of lease, and automatically converts tenant credit information into leasing for signatures that will serve as legal basis for tenancy. Lease and credit information are all stored on central computer, remotely accessible for both on-site and off-site management to view, and controlled by access security protocol. Tenant rent and lease information is automatically entered into tenant files, viewable remotely, so that there is a real-time view of tenant status for those with permission to access information.

28 Claims, 4 Drawing Sheets



A system for performing rapid tenant screening and lease recommendation... includes determining a value for each of said plurality of acceptance criteria [and] a score for each of said plurality of acceptance criteria based on said value [and] combining said scores into one composite score for a tenant by taking a weighted average of scores for said plurality of acceptance criteria according to the expression:

$$y = \sum i = n y_i [2 \pi^2 + (y_i - 7)^2] \sum i = n [2 \pi^2 + (y_i - 7)^2]$$

wherein i represents an index of said plurality of acceptance criteria, pi represents an importance rating for each acceptance criteria, yi represents a score for each acceptance criteria, and y represents said composite score; and determining said recommendation based on said composite score.

Admission “Recommendations”

- Three basic possible outcomes:
 - Admission
 - Admission with conditions
 - Cosigner
 - Increased security deposit
 - Denial



Unlawful detainer records: computer scoring

Residency History [what's this?](#)

No landlord tenant court records or unpaid landlord collections

Any number ▼ Ever ▼ Pass/Fail ▼

☒ Ignore dismissed or satisfied records.

- Choice points for housing providers:
 - Will certain unlawful detainer records disqualify applicants automatically? (Yes, if set to “pass/fail”)
 - Will UD records beyond a certain age be disregarded? (No, if set to “ever”)
 - *But note: 15 U.S.C. § 1681c(2) limits records to within 7 years or expiration of judgment*
 - How many UD records necessary to disqualify applicant? (Just one, if set to “any number”)
 - Will dismissed eviction suits be held against applicant? (Yes, unless “ignore” box checked)
 - Will satisfied (i.e., paid off) judgments be held against applicant? (Yes, unless “ignore” box checked)
- Computer can only sort by available criteria, will sort by chosen criteria

What if rental housing providers had to consider rental applicants with unlawful detainer records on an individualized basis, rather than just categorically deny them?

HUD, Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate- Related Transactions (Apr. 4, 2016)

- Denial or lease termination based solely on dismissed arrest (i.e., no conviction) violates Fair Housing Act
- Blanket exclusions are highly suspect
- “Individualized review” is appropriate
 - Relevant factors: Nature of crime, relationship to housing, time since the offense, evidence of rehabilitation, etc.



Criminal history exclusions: disparate impact analysis

- A policy or practice that disproportionately harms members of a protected class violates the fair housing act unlawful if:
 - The practice does not advance a substantial, legitimate interest of the housing provider; or
 - There is at least one equally effective alternative by which the housing provider could achieve the interest (while having less of a discriminatory effect)
- Denial of rental housing based on criminal history tends to disproportionately exclude African-Americans (as they are more likely to have criminal records)
 - The denial of housing to people with criminal records does not advance a substantial, legitimate interest of the housing provider unless the criminal records are predictive of violent, dangerous, or destructive future conduct (relevant to the housing); and
 - Considering applicants with criminal history on an individualized basis is at least equally effective in screening out genuinely dangerous or destructive applicants, while having less of a discriminatory effect on African-Americans.

UD history exclusions: disparate impact analysis

1. If persons belonging to a particular protected class are more likely to have unlawful detainer records, then the categorical denial of rental housing based on UD records would have a disparate impact on members of that class.
2. A housing provider would not be able to justify a disparate impact resulting from the categorical denial of rental housing to people with UD records because:
 - The denial of housing to people with UD records does not advance a substantial, legitimate interest of the housing provider when the UD records do not tend to predict an applicant's poor performance in meeting the obligations of a proposed tenancy; and
 - Considering applicants with UD history on an individualized basis is at least equally effective in screening out genuinely dangerous applicants, while having less of a discriminatory effect on members of the relevant protected class.

Some evidence of disproportionate effects:

- **Oakland, Cal. 2002:**
 - 78% of “30-day no cause” evictions were issued to “minority households”
- **Chicago, Ill. 1996:**
 - 72% of defendants appearing in eviction court were African American
 - 62% of defendants appearing in eviction court were women
- **Philadelphia, Penn. 2001:**
 - 83% of tenants facing eviction were “nonwhite”
 - 70% of tenants facing eviction were “nonwhite women”
- Other studies in Baltimore, NYC, and LA “have shown that those who are evicted are typically poor, women, and minorities.”
 - Hartman, Chester & David Robinson, “Evictions: The Hidden Housing Problem,” 14 Housing Policy Debate 461 (2003)

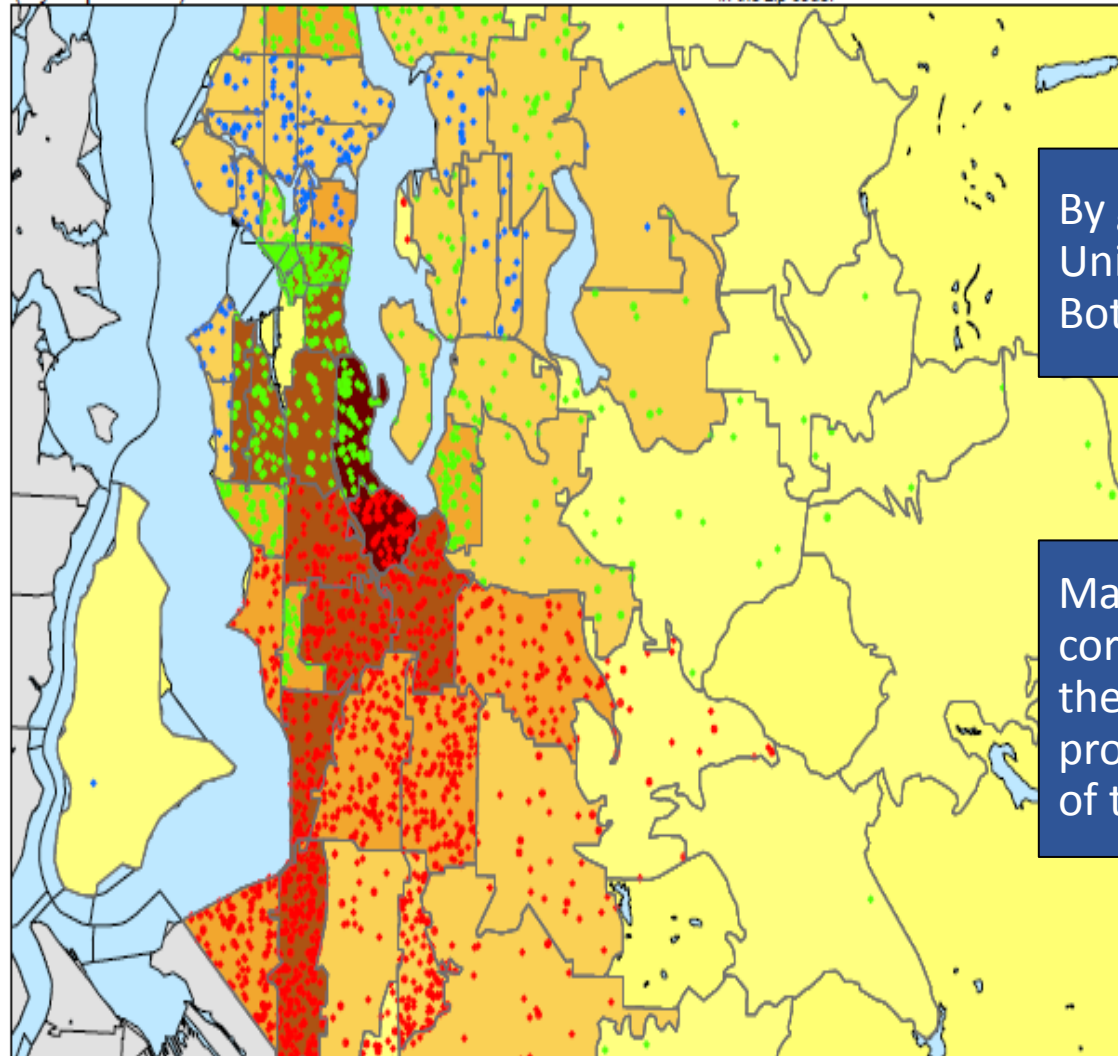
2009: Professor Matthew Desmond first reports findings that low-income African-American women especially single mothers, faced eviction at disproportionately higher rates in Milwaukee, Wisc.

- Desmond, Matthew, "Eviction and the Reproduction of Urban Poverty," Paper presented at the American Sociological Association Annual Meeting, San Francisco, CA (2009)



% of Renters in King County who are Black (by zip code)

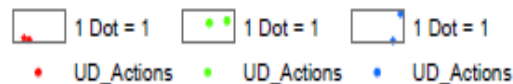
This map shows the relative distribution of racial/ethnic groups across King County zip codes and the number of UD actions in each zip code. The darker the color, the higher the percentage of renters who are Black in the zip code.



By graduate students at the University of Washington-Bothell, 2009

Maps eviction sites. Dots correspond to racial makeup of the ZIP Code in which the property is located. Actual race of the defendant(s) is unknown.

Legend



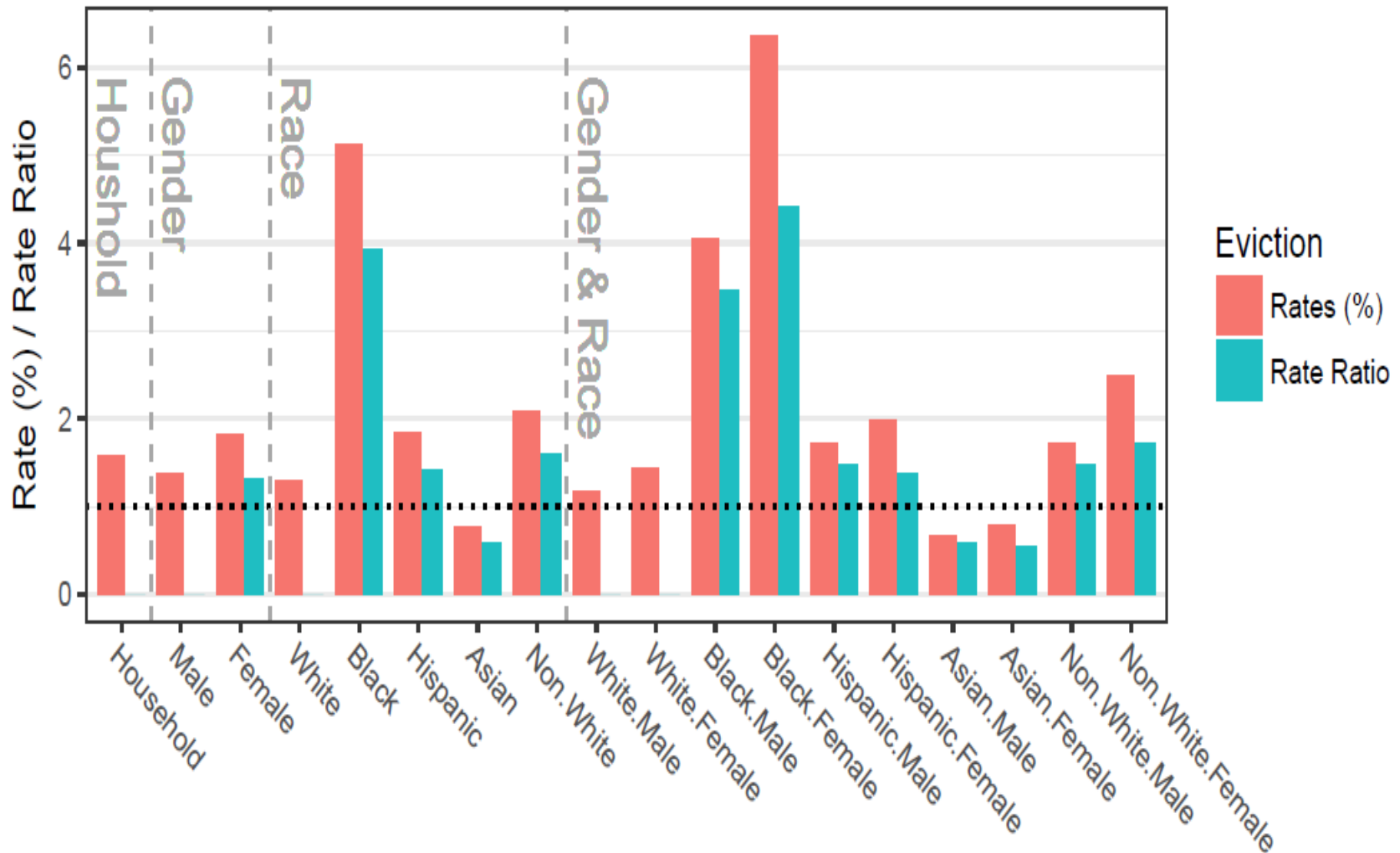
Blue markers indicate a UD action in a zip code that ranks in the bottom 25% of zip code UD rates (UD Rate $\leq 0.3\%$).
Green markers indicate a UD action in a zip code that ranks in the middle 50% of zip code UD rates (UD Rate between 0.3% and 1.3%).
Red markers indicate a UD action in a zip code that ranks in the top 25% of zip code UD rates (UD Rate $\geq 1.3\%$).

“Create the things you wish existed.”

--Unknown

- In the fall of 2015, the Northwest Justice Project hires a temporary employee to look up each of the 5,800+ unlawful detainer case filed in King County during the year 2013 using the free computer terminals at the King County Clerk's Office.
- The terminals provide free access to the filed complaints, which contain the addresses of the disputed premises. The temp is tasked with finding and recording each of the disputed property addresses.
- This takes over five weeks and costs about \$3,000, but produces a data set containing one year's worth of UD addresses for King County.

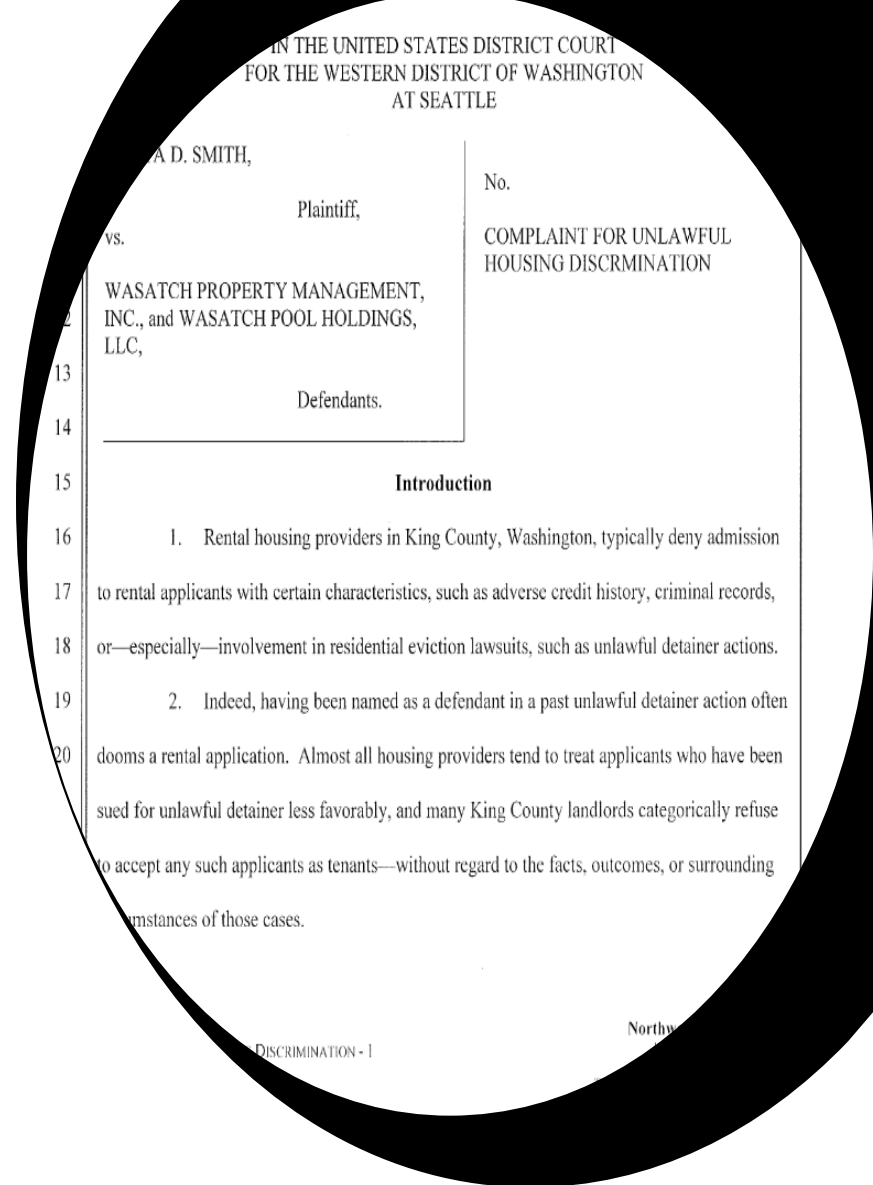
Figure 2: King County, WA Household Eviction Rates and Rate Ratios by Group



By: Tim Thomas, PhD
University of
Washington

Nikita Smith v. Wasatch Property Management, Inc.

- U.S. Dist. Ct. No. C17-501-RAJ (W.D. Wash.)
 - Filed March 31, 2017
- African-American woman denied rental housing at Renton, Wash. apartment complex in April 2015
- Denial was for 2012 UD (non-payment of rent)
 - UD case resulted in judgment for landlord
 - But tenant negotiated payment plan, continued living in the unit, and paid off the judgment
- Complaint alleged that automatically denying admission based on UD filings has disparate impact:
 - African-Americans sued for unlawful detainer in King County more than four times as often as whites
 - African-American women sued for unlawful detainer more than five times as often as white men
 - No legally-sufficient justification because (i) UD records do not always predict poor performance in future tenancy and (ii) individualized consideration is a less-discriminatory alternative



Smith v. Wasatch Hills: litigation dynamics

- Facts giving rise to the claim occurred in April 2015
 - Not able to file case until March 2017
 - Apartment complex was sold, property management firm changed
 - Tenant-screening company acquired by another company
 - Client's recollection of events had suffered
- Defense did not file motion to dismiss under Fed.R.Civ.P. 12(b)(6)
 - *Inclusive Communities Project v. Texas DHCA* case decided in 2015
 - Opted for a factual defense instead
 - Nikita Smith did not actually apply for an apartment
 - Wasatch Hills did not have a categorical policy of denying applicants with UD's
- Renton: central King County location
 - Available data limited ability to respond to contentions that applicant pool extended beyond King County borders

Settlement Agreement

2. Policy Regarding Prior Unlawful Detainer Actions. Wasatch will ensure that all prospective tenants of Wasatch's Washington properties are notified, in the manner prescribed by RCW 59.18.257(1)(a), of its policy regarding the admission of tenants with unlawful detainer records, under which all prospective tenants are encouraged to apply irrespective of their unlawful detainer history, prospective tenants with unlawful detainer records are not categorically denied without an opportunity to seek approval of an application by an authorized Wasatch representative, applicants with prior judgments may seek approval by an authorized Wasatch representative, and applicants who have settled an eviction, judgment, or collection action may be approved.
3. Payment. Wasatch will pay as follows: [REDACTED] by check payable to the Trust Account of Northwest Justice Project in trust for Nikita Smith; and [REDACTED] by check payable to Northwest Justice Project for costs and fees.

**THERE IS NO SUCH THING
AS FAILURE, ONLY
PARTIAL SUCCESS!**

SUZANNE YOCULAN

PICTUREQUOTES.COM

A Presentation By the Virginia Poverty Law Center

By: Eric Dunn, housing attorney
eric@vplc.org (804) 351-5266



The Right to Counsel in Housing Cases: Prevent Homelessness and Strengthen Protections

By John Pollock

Coordinator, Nat'l Coalition for a Civil Right to Counsel

How Does Right to Counsel Prevent Homelessness and Strengthen Housing Protections?

- Difference that counsel makes in outcomes
- Bringing meaning to substantive rights
- Providing equity in proceedings: imbalance of power
- Financial benefits of providing counsel

Housing Representation Research

State	Subject area	Funding source
California	Custody/DV, evictions, probate guardianship	Court fee increase
D.C.	Evictions	D.C. Council
Massachusetts	Evictions	1 st round: foundations 2 nd round: AG
Minnesota (Hennepin County)	Evictions	Legal aid and volunteer lawyers project
San Francisco	Evictions	City Council

Effectiveness of Counsel: MA Study

Measurement	Full representation	Limited-scope representation
Retained possession	66%	33%
Rent saved	9.4 months	1.9 months
Amount paid to landlords	\$0	\$617

Source: Boston Bar Association Task Force on Expanding the Civil Right to Counsel, *The Importance of Representation in Eviction Cases and Homelessness Prevention* (March 2012)

Effectiveness of Counsel: NYC info

- City's funding of eviction defense began in 2014.
- From 2014-2017:
 - 70,000 New Yorkers retained their homes.
 - Evictions dropped by 27%.

Procedural Justice Data: CA study

TABLE 6. METHODS OF CASE RESOLUTION

	Default judgment	Settlement	Court judgment	Voluntary dismissal	No resolution
No Legal Aid	51%	9%	7%	21%	12%
Unbundled Legal Aid	3%	53%	20%	18%	6%
Full Representation N! 421	0%	45%	25%	30%	0%

TABLE 8. ASSERTION OF COGNIZABLE VS. NON-COGNIZABLE DEFENSES

	Cognizable	Non-cognizable
No Legal Aid	59%	41%
Unbundled Legal Aid N! 149 ¹⁴⁷	97%	3% ¹⁴⁸

Source: Jessica Steinberg, *In Pursuit of Justice? Case Outcomes and the Delivery of Unbundled Legal Services*, 18 Geo. J. Pov. L. & Pol'y. 453 (2011)

Substantative Justice Data: CA study

**TABLE 9. OUTCOMES BASED ON COGNIZABLE VS.
NON-COGNIZABLE DEFENSES**

	Tenant awarded possession	Average number of move out days	Tenant pays landlord	Tenant pays landlord more than maximum liability
Cognizable	16%	51	68%	52%
Non-Cognizable N! 149 ¹⁴⁹	14%	52	57%	52%

Source: Jessica Steinberg, *In Pursuit of Justice? Case Outcomes and the Delivery of Unbundled Legal Services*, 18 Geo. J. Pov. L. & Pol'y. 453 (2011)

Substantive Justice Data: CA study

**TABLE 1. CASES RESOLVED WITH TENANT IN POSSESSION
OF UNIT¹³²**

No Legal Aid	14%
Unbundled Legal Aid	18%
Full Representation N! 137	55%

**TABLE 2. AVERAGE NUMBER OF DAYS FOR TENANT TO MOVE
OUT (WHERE TENANT LOSES POSSESSION)**

No Legal Aid	47
Unbundled Legal Aid	54
Full Representation N! 105	97

Source: Jessica Steinberg, *In Pursuit of Justice? Case Outcomes and the Delivery of Unbundled Legal Services*, 18 Geo. J. Pov. L. & Pol'y. 453 (2011)

Nat'l Metrics: Justice Index and CRTC

The Justice Index 2016



A Project of



National Center for
Access to Justice
AT FORDHAM LAW SCHOOL

ABOUT

FINDINGS

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SELF-REPRESENTATION ACCESS

Support for Self-Represented Litigants

The following states did not respond to requests for data: AR, IA, KS, MI, NY, ND, SD. (See methodology.)

Best Practices Table: Locations Where Specific Practices Are Present and Absent

Select a Jurisdiction

(All)

Select an Indicator

(All)

Filter Indicator by Finding

All

Hover over cells to see sources:

"Yes" means adoption of practice has been established

"No" means adoption of practice has not been established

"No*" means adoption of practice has not been established but information is provided

Does the state, through a statewide statute, rule, regulation, appropriation, or other written guidance:

		AL	AR	AZ	CA	CO	AK	CT	DC	DE	FL	GA	HI	IA	ID	IL
Q29	COLLECT DATA ON FREQUENCY OF RIGHT TO COUNSEL APPOINTMENTS. Collect data on how often counsel is appointed in any categories of civil cases in which there is a statewide right to counsel?	No	Yes	No	Yes	No	No	No	No	No	No*	No	No*	No	No	No
Q30	COLLECT DATA ON QUALITY OF RIGHT TO COUNSEL REPRESENTATION. Collect data on the quality of representation provided by attorneys who are appointed pursuant to a statewide right to counsel?	No	Yes	No	Yes	No	No	No	No*	No	No*	No	No*	No	No	No
Q31	COLLECT DATA ON FREQUENCY OF DISCRETIONARY APPOINTMENTS OF COUNSEL. Collect data on how often counsel is appointed in any categories of civil cases in which the state provides discretion to a decisionmaker to decide whether t..	No	No	No	No	No	No	No	No*	No	No	No	No*	No	No	No
Q32	RECOGNIZE A RIGHT TO COUNSEL IN HOUSING CASES. Require the appointment of counsel at public expense for indigent parties in any type of housing proceeding (e.g., eviction, foreclosure, discrimination, etc.)?	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No
Q33	RECOGNIZE A RIGHT TO COUNSEL IN ABUSE/NEGLECT CASES. Require the appointment of counsel at public expense to indigent accused parents in abuse/neglect/dependency proceedings where the state seeks to remove a child?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes

NYC's Housing Right to Counsel: The Perfect Storm

Precursor developments:

- Long-time housing right to counsel campaign (back to 1970s)
- Appointment of Jonathan Lippman as Chief Judge (2009)
- Election of Mayor Bill De Blasio (2014), and anti-homelessness pledges
- Continuous coverage of rise of homelessness by NY media (2014-2016)
- Appointment of Stephen Banks as Commissioner of the New York City Human Resources Administration / Department of Social Service (2014)

NYC's Housing Right to Counsel: The Perfect Storm

- Filing of Intro 214 (2014)
 - Eligible proceedings: eviction
 - Eligibility: 200% of poverty
 - Veto-proof majority of City Council
- CASA decision to focus on Intro 214 / formation of RTCNYC
- Support of City Comptroller, borough presidents, unions, legal aid programs, etc. (2014-2015)
- Release of NYC Office of Civil Justice Report showing results of \$53 million increase in civil legal aid funding (2016)
- Release of SRR report (2016)

Media Coverage

MotherJones

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New York Becomes First City to Guarantee Lawyers to Tenants Facing Eviction

Low-income New Yorkers will soon have legal protection against their landlords.



▶ New York Is Betting \$155 Million That It Can Cut Evictions



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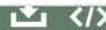


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ECONOMY

New York is betting \$155 million that it can cut evictions

By [Marielle Segarra](#)

October 02, 2017 | 6:44 AM

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Other NY Legislation: AB 5892

- Authorizes court to appoint counsel on behalf of senior citizen tenant who fails to appear in eviction proceeding
- Forbids court from entering default against tenant who is senior citizen without appointing counsel to protect tenant's interest

Legislation: Massachusetts (HB 968 / HB 3589 / SB 831) (2017/2018)

The Commonwealth of Massachusetts

PRESENTED BY:

Chynah Tyler

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act promoting homelessness prevention in Massachusetts.

Legislation: Massachusetts (HB 968 / HB 3589 / SB 831) (2017/2018)

- Scope: Limited to eviction defendants
- Eligibility: 200% of poverty, eligible for public benefits, or unable to pay for attorney without losing “necessities of life”
- Compensation rate: unknown
- Responsible for compensation: state
- Other: delays effective date by 2 years and creates implementation task force that produces report w/in one year

Potential Cost Savings for MA

- 45,000 evictions in 2012. Fewer than 6% of tenants represented
- Costs of homelessness: shelters, public health care system, foster care, policing, lowered earning potential for homeless youth
- “The monetary benefits of representing eligible beneficiaries in eviction and foreclosure proceedings far outweigh the costs of providing these services ... the total annual cost to represent all eligible beneficiaries in Massachusetts is \$28.48 million, while the annual savings from representing this population is \$76.52 million ... In other words, for every dollar spent on civil legal aid in eviction and foreclosure cases up to \$28.5 million, the Commonwealth stands to save \$2.69 on the costs associated with the provision of other state services, such as emergency shelter, health care, foster care, and law enforcement.”

Source: Boston Bar Association Statewide Task Force to Expand Civil Legal Aid in Massachusetts, *Investing in Justice: A Roadmap to Cost-Effective Funding of Civil Legal Aid in Massachusetts* (October 2014)

Legislation: D.C. (B22-0012) (enacted in 2017)

- Scope: Limited to evictions (was broader in early drafts)
- Eligibility: 200% of poverty
- Services provided: mixture of full scope, brief services, limited scope funded by Bar Foundation
- Funding: about \$4 million
- Other: not “right to counsel”; services provided until funding runs out

Need A Lawyer To Fight An Eviction? A New D.C. Program Provides One For Free

The committee has set aside \$4.5 million for a pilot program that offers low-income residents a lawyer free of charge for eviction proceedings in the city's landlord-tenant court. Last year, the court handled 33,000 eviction cases.

The bill creating the pilot program was [first introduced last year](#) by Council member Kenyan McDuffie (D-Ward 5), but despite a [public hearing](#) and support from the majority of the Council, it did not receive a vote before the end of last year's session. He re-introduced the bill in January, but also worked with Council member Charles Allen (D-Ward 6), who chairs the Judiciary Committee, to find money in the city's 2018 budget to implement the program starting in October.

Legislation: Philadelphia (Resolution 160988) (enacted in 2016/2017)

- Authorized Committee on Licenses and Inspections and Committee on Public Health and Human Services to conduct hearings on impact of evictions and solutions, including RTC.
- Findings:
 - WHEREAS, Unrepresented parties operate on an uneven playing field, with 80-85% of landlords having legal representation in Philadelphia landlord-tenant court while only 5- 8% of tenants have such representation;
 - WHEREAS, Reviews of Philadelphia Municipal Court data has shown that tenants with attorneys are far less likely to be evicted and more likely to assert their right to safe and habitable housing that meets code requirements; and
 - WHEREAS, Investing in a right to counsel for tenants is cost-effective, is one of the best measures to prevent evictions, housing instability, and homelessness, and is an essential tool in combating poverty and improving the health and wellbeing of the city's residents and communities.
- \$500,000 in funding









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NOW LIVE: Eyewitness News

Lawyers Could Ease Philadelphia 'Eviction Crisis,' Council Members Hear

March 20, 2017 5:43 PM By Pat Loeb




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Philadelphia City Council to Address City's 'Eviction Crisis' for Low-Income Renters

By Roy Aguilar


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Broken Clouds


The Philadelphia Tribune

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Eviction, tenants' right to counsel highlight at council hearing

San Francisco (ballot initiative) (2018)

- Purpose: Right to counsel in housing court
- Scope: Limited to evictions
- Eligibility: all tenants; **no income limit**
- Status: on ballot for June 2018

San Francisco (ballot initiative) (2018)

 CBS SF Bay Area

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San Francisco May Guarantee Evicted Tenants' Right To Legal Counsel

November 15, 2017 at 11:00 am

Filed Under: [Apartments](#), [Evictions](#), [LAWYERS](#), [Local TV](#), [Real Estate](#), [San Francisco](#), [Tenants](#)

San Francisco Chronicle

Group gets 21,000 signatures for measure on free legal counsel during evictions

By Dominic Fracassa | January 26, 2018 | Updated: January 26, 2018 4:29pm

Media coverage of growing movement



The screenshot shows the top of a web page from 'The Nation'. The logo is in red. Navigation links for Politics, World, Economy, Culture, and Take Action are in black. Below the navigation, there are three category tags: HOUSING AND HOMELESSNESS (in red), LAW, and CITIES RISING (in red). The main headline is 'These Cities Are About to Make It Harder for Landlords to Evict People' in a large, bold, black serif font. Below the headline is a sub-headline in italics: 'Their plan? Provide access to lawyers for as many low-income renters as possible.' Below that is the author's name 'By Jimmy Tobias' in a smaller, italicized serif font. At the bottom left of the article preview is the date 'AUGUST 28, 2017'.

THE Nation.

Politics World Economy Culture Take Action

HOUSING AND HOMELESSNESS LAW CITIES RISING

These Cities Are About to Make It Harder for Landlords to Evict People

Their plan? Provide access to lawyers for as many low-income renters as possible.

By Jimmy Tobias

AUGUST 28, 2017

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08.24.17 | WORLD CHANGING IDEAS

Cities Are Guaranteeing Tenants Access To A Lawyer To Help Them Fight Eviction

In eviction cases, 90% of landlords have a lawyer, and 90% of tenants do not. To fight gentrification and displacement, cities are trying to correct that imbalance.

Evicted and Right to Counsel

"Establishing publicly funded legal services for low-income families in housing court would be a cost-effective measure that would prevent homelessness, decrease evictions, and give poor families a fair shake ... The consequences of eviction are many — and so are its burdens on the public purse ... If America extended the right to counsel in housing court, it would be a major step on the path to a more fair and equitable society."

- Matthew Desmond, *Evicted: Poverty and Profit in the American City*

Seeing the latest developments: <http://www.civilrighttocounsel.org>

☒ Recent Activity

☐ Right to Counsel Status

☐ NCCRC's Work

☐ NCCRC Presence

Orange coloring indicates states with recent or relatively recent activity. Clicking on any state will pop up a list of the recent activity (if there is any) along with a link to all activity over time in the state.

Filters (optional)

Development Type

Legislation

Subject Area

Housing - Evictions

Massachusetts

[close](#)

01/23/2017: Legislation: Boston Mayor Walsh advances housing right to counsel bill

Boston Mayor Walsh backed a statewide bill that would guarantee counsel for indigent tenants in eviction cases.

[See all activity over time for Massachusetts.](#)



Legislation: civilrighttocounsel.org

2018 CIVIL RIGHT TO COUNSEL BILLS

Listed below are all of the 2018 bills that address the right to counsel in civil cases. The NCCRC monitors all such bills and regularly reports on their progress, and we also are involved with some of them.

Where 2017 bills are listed as "active", they are carryover bills into 2018.

- [Enacted Bills](#)
- [Pending Bills](#)
- [Dead Bills](#)
- [2017 Bills](#)
- [2016 Bills](#)

Enacted bills

State	Bill #	Sponsor	Description	Status
MD	HB 1 / SB 2	Numerous cosponsors for both bills	Create new termination of parental rights procedure where nonconsensual sexual conduct resulted in child, and requires appointment of counsel for these proceedings.	Signed by Governor on 2/13/18.
PA	HB 631	Numerous cosponsors	Requires appointment of counsel for person petitioning to be relieved of sex offender registration requirements.	Signed by Governor on 2/21/18.

Pending bills

State	Bill #	Sponsor	Description	Status
federal	HR 2043 / SB 2468 (Fair Day in Court for Kids)	Numerous cosponsors on both	Would guarantee counsel in immigration court for children and "vulnerable aliens" such as those with disabilities or who have	HB 2043 introduced and referred to Judiciary Committee on 4/6/17. Referred to Immigration and Border Security Subcommittee on 5/1/17.

Seeing the status:

<http://www.civilrighttocounsel.org>





☐ Recent Activity ☒ Right to Counsel Status ☐ NCCRC's Work ☐ NCCRC Presence

Select a subject area from the menu below to see which states provide for appointment of counsel for that subject area. The key explains meanings of the different colors of the states and a tally of the total number of states that fit each type of result. Clicking on any state will pop up a list of the developments on which we base our determination.

Select a subject area for which to compare all states,

OR

Select a specific jurisdiction to be taken to a separate page with all information for that jurisdiction.

Key	Total States
 Categorical Right To Counsel ?	1
 Discretionary Appointment Of Counsel ?	0
 Right Or Appointment Is Qualified ?	1
 No Such Proceeding ?	0


Massachusetts [close](#)

In this state, the right to counsel or discretionary appointment of counsel system is *qualified* with respect to Housing - Evictions. This determination is based on the following sources:

- [MA trial court issues historic right to counsel decision](#) (Litigation)
A Massachusetts trial court ordered the appointment of an attorney ad litem in a housing eviction case.

[See more about Housing - Evictions](#)

[See info for all subject areas for Massachusetts.](#)



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- + [ADA](#) (14 entries)
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 - + [Housing Eviction - Pilot Projects](#) (10 entries)
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 - [Housing Foreclosure - Media](#) (9 entries)
 - [Housing Foreclosure - Studies and Reports](#) (4 entries)
- + [Immigration](#) (171 entries)
- + [International Law](#) (38 entries)

Resources on Right to Counsel in Housing Cases

- ★ Boston Bar Association Task Force on Expanding the Civil Right to Counsel, *The Importance of Representation in Eviction Cases and Homelessness Prevention* (March 2012)
- ★ Risa E. Kaufman, Martha F. Davis, and Heidi M. Wegleitner, *The Interdependence of Rights: Promoting the Human Right to Housing by Promoting the Right to Counsel*, 45 Colum. Hum. Rts. L. Rev. 772 (Spring 2014)
- ★ John Pollock, *Lassiter Notwithstanding: The Right to Counsel in Foreclosure Actions*, 43 Clearinghouse Rev. J. of Poverty L. and Pol'y 448 (Jan.-Feb. 2010)
- ★ Andrew Scherer, *The Price of Equal Justice: How Establishing a Right to Counsel for People Who Face Losing Their Homes Helps Tackle Economic Inequality*, Impact Center for Public Interest Law, New York Law School, Vol 1 at 29 (2015)
- ★ Carroll Seron, et al. *The Impact of Legal Counsel on Outcomes for Poor Tenants in New York City's Housing Court: Results of a Randomized Experiment*, 35 Law & Soc'y Rev. 419 (2001)

Feedback Polls

As a result of this webinar, do you have a better understanding of the connection between renters' rights issues and homelessness?

Are you likely to use what you learned today in your work or advocacy?

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