



December 10, 2021

Via Overnight Mail and Email

The Honorable Judge Janet DiFiore
Chief Judge
Office of Court Administration
25 Beaver Street
New York, NY 10004

RE: Reopening housing courts in New York City

Dear Chief Judge DiFiore:

We the undersigned are attorneys and members of the housing bar in this state who have dedicated our professional lives and careers to representing owners, landlords, and management companies in a wide array of matters concerning their properties and livelihoods. Our clients literally house New York, and in New York City alone there are over one million renter occupied-housing provided by private owners. Just like every other sector of our local economy, the real estate industry has been hard-hit by the pandemic and ensuing restrictions on business. While these restrictions were necessary when the pandemic was raging, we are now thankfully in a very different place than we were in 2020 and the earlier part of 2021. As per the most recent numbers provided by Governor Hochul, over 90 percent of all adults 18 years of age and older have been administered at least one vaccine dose. Moreover, New York has fully reopened, with virtually no more restrictions on any public spaces, including large venues such as sports stadiums and concert halls. Preparations are even underway in New York City for the annual New Years' Eve celebration at Times Square. Finally, every judicial and nonjudicial employee in the New York City Housing Court system is subject to a vaccine mandate and must be vaccinated. Clearly business is back to normal.

This however, is not the case in Housing Court, where notwithstanding any eviction moratorium related stays, court function and business are not back to normal. In most housing parts in New York City prior to the pandemic, when appearances were solely in-person, an average of 80-120 cases were handled by any given part on any given day. Even though judicial staff, court officers, and other court employees are now back to working full time in courthouses throughout the city, there are still an extremely limited number of in-person appearances, and the courtrooms and hallways are completely empty. Moreover, the shift to virtual appearances only has resulted in those same parts handling an average of 20-25 cases a day, which means that it is almost

impossible that the looming backlog of housing court proceedings will ever be dealt with. This is evident in the fact that even though e-filing opened up to housing court matters in July 2020, many cases that were filed online in 2020 that are not subject to the eviction moratorium have still not received initial court dates. Many pre-pandemic cases that are not subject to the eviction moratorium have also not yet been restored to a court calendar so that they may be dealt with. In cases where there are virtual appearances, the disposition by the court is either perpetual adjournments or discontinuance.

What many of our frustrated clients and property owners have come to realize is they cannot seek justice in housing court for any one of a number of harms that have befallen them at the hands of their tenants. Pre-pandemic nuisance and breach of lease holdover proceedings are languishing off calendar, as are many pre-pandemic nonpayment proceedings. Despite the fact that nuisance cases were, throughout the pandemic, to be handled expeditiously, many have still never been calendared and when we question that we are told that the court is not up to those cases yet. In the meantime, landlords are expected to continue paying real estate taxes, paying heating costs, and making repairs, even as they find themselves on the brink of financial ruin. Moreover, housing courts act as a liaison between landlords and tenants in conflict, issuing guidance and connecting tenants or landlords with the appropriate services or financial help. By failing to reopen housing courts in an effective and efficient way, a number of these mediating functions that are served by housing court have been greatly diminished. This is truly an untenable situation, exacerbated by the lack of a cohesive and concrete plan by OCA to reopen housing court. To the extent that the push to move all appearances to virtual ones has diminished the court's ability to hear cases by roughly 75-85%, we urge you to step in and re-examine the course that courts are currently on.

Additionally, as a result of the virtual nature of these appearances, which has greatly limited the volume and disposition of housing court cases generally, we respectfully offer that housing court proceedings that are not already stayed are perpetually adjourned, and overall these cases have lost their sense of urgency. It is a foregone conclusion that every case is going to languish for an unspecified number of months or years, and there is no real limit on adjournments or timetable for disposition in these cases. There has been a total shift in the culture of housing court, which again is tied to the shift to virtual proceedings. This is evident when comparing New York City housing courts to their counterparts in neighboring counties, such as Nassau and Westchester, where cases are proceeding in-person and in the experience of our clients and colleagues are resulting in settlements and adjudication on the merits. We believe that the New York City Housing Court is doing the best it can with the resources available to it, but the resources it has are simply not enough to support a fully or mostly virtual housing court venue in New York City.

Lastly, we believe OCA could and should be more fully participating in connecting building owners with tenants, especially those experiencing Covid-related difficulties paying their rent, and to the extent that the eviction moratorium has precluded housing court judges from acting as a liaison between landlords, tenants, and the many statewide and local services available to assist them, OCA could and should be advocating against any continued moratorium since it only serves to stifle this essential role. Inasmuch as additional ERAP/LRAP funds are needed to assist

the many struggling landlords and tenants who were unable to qualify or apply previously, we also believe OCA should be advocating for more funds to be allocated by the federal and state government, thereby dramatically reducing the backlog of cases caused by the pandemic.

We welcome a meeting with Your Honor at your earliest convenience to explore possible solutions, which includes the formulation of a plan moving forward.

Thank you for your consideration.

Sincerely,

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cc: Hon. Lawrence K. Marks
Chief Administrative Judge of the State of New York

Hon. Carolyn Walker-Diallo
Administrative Judge of the Civil Court of the City of New York

Hon. Jean T. Schneider
Citywide Supervising Judge, New York City Housing Court