

Proposed Local Law Number 13 Of 2023

County Of Ulster

A Local Law Amending The Administrative Code For The County Of Ulster, (Local Law No. 10 Of 2008), To Establish The Office Of Housing Counsel

BE IT ENACTED, by the County Legislature of the County of Ulster, New York, as follows:

SECTION 1. LEGISLATIVE INTENT.

The Ulster County Legislature hereby finds and determines that it is necessary to establish and maintain a division of Housing Counsel, known as the Office of Housing Counsel, located within the Department of the Public Defender. The purpose of the Office of Housing Counsel is to provide legal counsel to qualified individuals in housing matters involving covered proceedings. The provision of housing counsel shall guarantee that qualified individuals in covered proceedings are provided with high quality legal representation at the County's expense, except where the State of New York, the Federal Government, or any other outside entity has already made funds available to provide legal representation to qualified individuals in covered proceedings.

The New York State Senate and Assembly are currently considering A1493 and S2721, which would establish the civil right to counsel in eviction proceedings in New York state; create the New York State Office of Civil Representation to protect that right, and require that covered individuals be given notice of their right to counsel.

The Ulster County Legislature supports A.1493/S.272 and encourages the New York State Legislature to pass, and the Governor to sign such measures to provide access to legal services in eviction proceedings. Providing legal assistance to households who are at risk of housing instability not only adds a layer of protection but it saves public funds that could otherwise be spent on shelters or services for people who are experiencing homelessness.

The Ulster County Legislature finds that the program provided for in this Local Law will enable tenants and occupants facing covered proceedings to be given a fair chance to access legal protections and stay in their residences. The Office of Housing Counsel will ensure that tenants and occupants involved in covered proceedings will be provided with professional client centered legal representation.

The Ulster County Legislature finds that the adoption of this law is an appropriate exercise of its powers under Municipal Home Rule Law §10[1].

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SECTION 2. The Administrative Code is hereby amended to read as follows by adding the following sections thereto:

Article A18-5 Office of Housing Counsel

A. Definitions

- 1) Brief legal assistance. Individualized legal assistance provided in a single consultation by a designated organization or qualified professional to a covered individual in connection with a covered proceeding.
- 2) Designated community group. A not-for-profit organization that has the capacity to conduct tenant outreach, engagement, education and information provision, as determined by the Director.
- 3) Covered individual. A tenant or occupant of residential rental premises located within the County including any tenant or occupant in a building operated by a public housing authority who has legal standing in a covered proceeding.
- 4) Covered proceeding. Any proceeding in any of the courts in the County or before any administrative agency administering housing programs which involves:
 - a. the eviction of a covered individual;
 - b. any action, proceeding or challenge to a rent level based upon a landlord's failure to provide proper notice of a rent increase as required by the New York State Housing Stability and Tenant Protection Act of 2019 and any amendments thereto;
 - c. maintaining a tenant or occupant in possession of their residential premises or restoring a tenant or occupant to occupancy of their residential rental premises;

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- d. possession of residential premises for the non-payment of rent or a holdover;
 - e. restoration and/or maintenance of essential services, the deprivation of which has caused or may cause the client to vacate the residential rental premises;
 - f. an administrative proceeding conducted by a public housing authority or other administrative agency which would result in the termination of tenancy, rental subsidy, or other rental assistance, or an appeal of any of the foregoing.
- 5) Office. The Office of Housing Counsel.
- 6) Designated organization. One or more not-for-profit organizations or associations that have the capacity to provide legal services and have been designated by the County to provide legal services pursuant to the County procurement process and any other County laws and procedures related to County contracts.
- 7) Director. The person who administers the Office of Housing Counsel and reports to the County Executive and County Legislature.
- 8) Full legal representation. Ongoing legal representation provided by any designated organization or qualified professional to an income-eligible individual and all legal advice, advocacy and assistance associated with such representation. Full legal representation includes, but is not limited to, the filing of a notice of appearance on behalf of the income-eligible individual in a covered proceeding.
- 9) Housing court. Any court located in Ulster County in which covered proceedings are adjudicated.
- 10) Income-eligible individual. A covered individual whose annual gross household income is not in excess of either 300 percent of the federal poverty guidelines as updated periodically in the federal register by the

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United States Department of Health and Human Services pursuant to subsection {2) of section 9902 of title 42 of the United States code or 60 percent of the county AMI {Area Median Income) as updated periodically by the United States Department of Housing and Urban Development, whichever is higher.

- 11) Legal services. Either brief legal assistance or full legal representation.
- 12) Occupant. A person, other than a tenant or a member of a tenant's immediate family, occupying residential rental premises with the consent of the tenant or tenants.
- 13) Qualified Professional. Lawyers with experience handling landlord tenant matters and who have been designated by the County to provide legal services pursuant to the County procurement process and any other County laws and procedures related to County contracts.
- 14) Tenant. A person occupying or entitled to occupy a residential rental premises who is either a party to the lease or rental agreement for such premises.

B. Director of Housing Counsel

- 1) Appointment and qualifications: There shall be an Office of Housing Counsel under the direction of the Director of Housing Counsel, who shall be appointed by the County Executive, subject to confirmation by the County Legislature, and serve at the pleasure of the County Executive. The Director of Housing Counsel shall be duly licensed to practice law in the State of New York, have administrative experience, knowledge and experience in covered proceedings, and commitment to ensuring quality representation in landlord tenant matters.
- 2) Term. The Director shall be appointed to a four-year term and shall work full time. The Director shall not engage in the private practice of law during their appointment.

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- 3) Powers and duties. The Director of Housing Counsel shall be the chief administrative officer of the Office of Housing Counsel and shall report to the Public Defender. The Director shall:
 - a. have the duty to ensure that all covered individuals and income eligible individuals are provided with quality legal representation as soon as practicable in a covered proceeding:
 - b. develop and monitor policies, standards and operational procedures of the Office of Housing Counsel regarding preparation of a Request For Proposals (RFP) to obtain designated organizations or qualified professionals, for the provision of legal counsel including but not limited to: qualifications for attorneys providing legal counsel, number of attorneys required at each housing court or any administrative proceedings, limitations on attorney caseloads, method of payment for attorneys, supervision and review of attorney caseloads and quality of legal representation:
 - c. in consultation with the Public Defender, identify the staffing needs necessary to administer the Office of Housing Counsel program:
 - d. meet regularly with appropriate persons from the designated organizations and qualified professionals to review cases, attorney work product, caseloads and case outcomes:
 - e. prepare an annual Budget proposal for the Office of Housing Counsel as part of the Budget for the Department for submission to the County Budget Department pursuant to County law and policy:
 - f. maintain records of accounts and expenditures of the Office of Housing Counsel in compliance with all applicable law and County policy:

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- g. establish procedures for submission, investigation and resolution of complaints from clients, client family members, co-counsel, opposing counsel and the Judiciary regarding legal representation:
- h. ensure compliance with County laws, policies and procedures:
- i. make application for other sources of state and federal funding or from any other funding resources to meet the budgetary and programmatic needs of the Office of Housing Counsel:
- j. undertake community engagement and education regarding access to counsel by working with designated community groups to educate and inform tenants and occupants about their rights in covered proceedings, including but not limited to holding know your rights education sessions, distributing written information to tenants and occupants and facilitating referrals of tenants and occupants to designated community groups.
- k. meet regularly with local courts, and any other appropriate Court personnel to discuss Court procedures and any other programmatic issues related to the provision of counsel in covered proceedings; and
- l. any other duties necessary to carry out the purposes of this Chapter.

C. Provision of Legal Services

- 1) No later than six (6) months following appointment of a Director, the Director shall produce an implementation plan for establishment of a County-wide program to provide access to legal services for covered

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individuals in covered proceedings through designated organizations or qualified professionals. Such program shall ensure that:

- a. all covered individuals receive access to brief legal assistance as soon as practicable in a covered proceeding; and
 - b. all income-eligible individuals receive access to full legal representation as soon as practicable in a covered proceeding.
- 2) The Director shall provide updates to the County Executive and the Chairperson of the Legislature on the development of a County-wide implementation plan upon request of either the County Executive or Chairperson of the Legislature.
 - 3) The County shall annually review the performance of designated organizations and qualified professionals.
 - 4) Any legal services performed by a designated organization and qualified professionals pursuant to this chapter shall not supplant, replace, or satisfy any obligations or responsibilities of such designated organization and qualified professionals pursuant to any other program, agreement, or contract.
 - 5) Nothing in this Chapter or the administration or application thereof shall be construed to create a private right of action on the part of any person or entity against the County or any agency, official, or employee thereof.

D. Reporting

- 1) On or before March 1 of each year, the Director of Housing Counsel shall make and submit an annual report to the County Legislature and County Executive for the immediately preceding calendar year, covering generally the work of the Office. The Director of Housing Counsel shall make such other reports at such times as may be required by the County Legislature, County Executive or any applicable law. Copies of all reports shall be filed with the Clerk of the County Legislature and the County Executive.

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- 2) The Annual Report shall contain, to the extent such information is available, a review of the program established by this Chapter and information regarding implementation of such program and shall include but not be limited to:
- a. The estimated number of covered individuals;
 - b. The number of individuals receiving legal services, including the following characteristics of such individuals;
 - c. City and postal code of residential rental premises;
 - d. Household size;
 - e. Estimated length of tenancy or occupancy;
 - f. Approximate household income;
 - g. Type of legal services provided.
 - h. Outcomes immediately following the provision of full legal representation, as available, subject to applicable privacy and confidentiality restrictions, including but not limited to, the number of: Case dispositions allowing individuals to remain in their residential rental premises; Case dispositions requiring individuals to be displaced from their residential rental premises; Instances where the attorney was discharged or withdrew;
 - i. The number of non-payment and holdover petitions filed in housing court, warrants of eviction issued in housing court, and residential evictions conducted by law enforcement;
 - j. Expenditures for the program established pursuant to this Chapter;

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E. Rules and Regulations

- a. The Director shall establish rules and regulations for the administration of the Office of Housing Counsel.

SECTION 3. SEVERABILITY.

In the event that any portion of this local law is found to be invalid, such finding will not have any effect on either the remaining portions or applications of this local law or any provisions of the Ulster County Charter or Code, all of which shall remain in full force and effect.

SECTION 4. EFFECTIVE DATE.

This local law shall take effect on January 1, 2024.