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The Decline in Landlord–Tenant Summary Proceedings: Do We Even Need a Housing Court?

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Comparison of multiple sources of relevant statistics (discussed *infra*) reveal that the number of filings of summary proceedings since the onset of COVID (if not earlier) is at a relative all-time low. To what extent may have changes in the applicable laws been responsible for such a dramatic change and what does that portend for the Housing Court?

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How We Got Here

There was a time when there was no Housing Court. First, there was the Civil Court of the City of New York which was established on Sept. 1, 1962 as a result of the merger of the City Court and the Municipal Court of the City of New York. "This merger was part of a statewide court reorganization in response to Governor Thomas E. Dewey's Tweed Commission, which issued its recommendations in 1958." In 1973, the Civil Court established the Housing Part, with specific hearing officers, now called Housing Court Judges.

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The matters that the Housing Court primarily heard originally came from proceedings that evolved from the promulgation of Article 7 of the Real Property Actions and Proceedings Law (RPAPL). Those proceedings initially fell into one of two primary categories, depending on the relationship between the parties; either nonpayment or holdover proceedings.

The latter was broken down into two subgroups; those commenced pursuant to RPAPL 711, where there was a landlord-tenant relationship between the parties (e.g., breach of a substantial obligation of tenancy, expiration of lease, failure to provide access, nuisance, etc.), or, those commenced pursuant to RPAPL 713, where there was no landlord-tenant relationship

between the parties (e.g., squatters, licensees, terminated employees, etc.).

Article 7 itself was the result of "an endeavor to avoid encumbering the CPLR with provisions directed only to real property actions—of which numerous had evolved over the years. The old Civil Practice Act's formidable allotment of those provisions was transferred into a separate compilation called the Real Property Actions and Proceedings Law, commonly known and officially citable as RPAPL." Siegel, NY Practice Sec. 571, citing RPAPL 101.

Siegel points out that while the RPAPL became effective at the same time as the CPLR (i.e., Sept. 1, 1963), its contents are a "mixed bag," which he describes as "supplementary provisions for some of the real property actions," adding that "the CPLR still governs in those actions, the mission of the RPAPL being principally to supply detail for only certain aspects of some of them." *Id.*

From its inception, the Housing Court heard and decided disputes between residential landlords and tenants in New York City. Over time, the types of cases were expanded beyond nonpayment and holdover proceedings to include proceedings to enforce housing maintenance standards, and allow a tenant to bring a case against a property owner to force them to make repairs and provide essential services, like heat and hot water.

An amendment in 1965 enacted Article 7-A "to permit one-third or more of the tenants occupying a multiple dwelling in the city of New York" to bring a proceeding for the appointment of an administrator to operate the building. *Artis v. City of NY*, 509 NYS2d 734 (Civ. Ct., NY County 1986), citing *Matter of Himmel v. Chase Manhattan Bank*, 262 NYS2d 515 (Civ. Ct., NY County 1965).

Unquestionably, much of the landlord-tenant related legislation that has been promulgated in the last 50 years has been intended to protect tenants. For example, the passage of Administrative Code 27-2009.1 in 1983 was intended "to protect tenants from unscrupulous landlords seeking to evict them for improper reasons," such as attempting to enforce a "no pet" provision of a lease where the tenant has openly and notoriously harbored that pet for a period of more than 90 days. *Seward Park Housing Corp. v. Cohen*, 287 AD2d 157 (First Dept., 2001).

As discussed *infra,* statistics reveal that from its inception, the case docket of the Housing Court increased rapidly. However, when COVID hit, lawmakers concerned with the impact it might have on tenants worked to enact an eviction moratorium, what one tenant advocacy group referred to as "a set of state and federal laws that provide residential tenants and homeowners various protections against evictions and foreclosures based on financial and/or medical hardship."

In addition, the Center for Disease Control and Prevention (CDC) issued an order temporarily halting evictions (the CDC order) for certain renters. According to the U.S. Dept. of Housing and Urban Development, the CDC issued the order to protect public health and prevent further spread of COVID-19.

Thus, when the moratorium hit, the Housing Court essentially shut down evictions. In response, some lawyers turned to the New York State Supreme Court to bring their landlord-tenant cases, while others turned to the U.S. Supreme Court to enjoin the eviction ban. See, *Chrysafis v. Marks*, 594 US__(2021).

What has happened since the end of COVID has been surprising because statistics show that the number of eviction cases that are being filed have not only failed to return to the pre-COVID numbers, but according to at least one source, the number of eviction case filings are actually down by roughly 50% compared to the pre-pandemic numbers.

Specifically, while in 2019 there were 262,165 eviction filings statewide, those numbers dropped to 108,928 in 2020.

To What Do We Attribute the Changes To?

To put it in perspective, let us look at some of the legislative considerations that were proposed, deliberated upon, and resulted in significant changes in the law since 2007.

In October 2007, the New York City Council's Committee on Housing and Buildings examined the harassment of tenants and remedies for such conduct. Less than six months later the Council enacted a local law "to amend the Administrative Code in relation to the duty of an owner to refrain from harassment of tenants and remedies for the breach of such duty."

According to The New York Times, that law, also known as the New York City Tenant Protection Act of 2008 (Local Law 7), gave "tenants the right for the first time to sue their landlords in Housing Court for making threats against them, disrupting essential services and using other tactics that qualify as harassment to force them out of their apartments."

The creation of this law provided tenants with new substantive rights. In terms of impact on the courts, the legislation resulted in scores of never-before-seen cases involving hotly contested factual allegations that required resources to resolve. For example, court attorneys who might typically be expected to conference nonpayment and holdover proceedings now had to deal with these additional cases (and similarly, those cases appearing on the docket took up a fair amount of the judges' time, as well).

One year later, in reviewing and assessing the new law's impact, the Council (in 2009) concluded that "since the bill was enacted, there have been approximately 350 claims filed—33 were decided in the tenant's favor and 113 were decided in the owner's favor. There have been close to 90 rulings that have provided for a civil penalty."

The significance of 350 additional claims in a single year may not, at first blush, appear to be substantial, until you factor in considerations relating to (1) the number of tenants involved in a single case (often times they involve a multitude of tenants from a single building); and (2) the time required to dispose of these types of cases.

Theoretically, this should result in a substantial increase in the payment of civil penalties. For example, if the respondent/landlord fails to correct the conditions or violations as required by an order to correct, the petitioner/tenant or the New York City Department of Housing Preservation and Development (HPD) can restore the case to the calendar by order to show cause for a compliance hearing and assessment of civil penalties.

Typically, harassment cases are fact-intensive, requiring a lot of time to commence, litigate, and try, if necessary. The Legal Aid Society recommends that "the more specific and detailed your evidence, the stronger your case will be," and lists over a half dozen items that tenants should utilize in order to demonstrate what a landlord has done to rise to the level of "harassment," including records or logs kept of the harassment; letters or emails from or to the landlord; records of complaints to the landlord; records of complaints to government agencies; violations placed by government agencies; pictures or videos of harassment.

In 2012, the Chief Judge's Task Force to Expand Legal Services was charged with a mission, and that was to "(1) study, analyze, and develop recommendations on all aspects of civil legal services to low-income New Yorkers; (2) issue recommendations for improvement; and (3) collaborate on access-to-justice issues.

The Task Force prepared and submitted their report on Nov. 5, 2012 to address the difficulties faced by tens of thousands of litigants in summary proceedings and to generate practical recommendations to improve access to justice."

One of the Task Force's primary recommendations related to providing increased availability

of legal services for tenants facing possible eviction. In March 2014, the New York City Council's Committee on Courts and Legal Services focused and addressed the issue head-on, culminating in the Council's historic passage in August 2017 of a Local Law to amend the Administrative Code in relation to providing legal services for tenants who are subject to eviction proceedings.

New York City was the first city to guarantee lawyers to tenants facing eviction. The result was a marked increase in the number of landlord-tenant cases where both sides were represented by counsel, which, naturally, resulted in clogged court calendars. Note, that the City's program was be phased in over a five-year period. The effect of the foregoing can be seen from a comparison of "first available dates" being given out by the Housing Court judges throughout the City. Before the law's enactment, one could routinely expect to receive a two-week adjournment of a case; since the law's passage the length of an adjournment has steadily grown to the point where it is not unusual to see a one- or two-month adjournment of a Housing Court case. Thus, it appears that although the number of active filings is below what it was pre-COVID, the cases are taking significantly longer to work their way through the system.

The pinnacle of this century's legislation intended to expand tenant protections was, of course, the 2019 Housing Stability and Tenant Protection Act (HSTPA). [The NYS Homes and Community Renewal provided an overview of some of the most significant changes and their impact on rent-regulated tenants]. The Cardozo Law Review has stated that "the passage of the HSTPA was the realization of long-fought-for goals by New York's Democratic lawmakers and tenants' rights advocates, which were, among other things, to "provide permanent rent regulation protections to covered buildings" and "extend tenant protections statewide."

The New York State Bar Association, in a multi-part article (penned by the Hon. Gerald Lebovits, John S. Lansden, and Damon P. Howard) referred to the legislation as "as a tectonic shift in New York rent regulation and landlord-tenant law and procedure, a shift that alters the balance of power between landlords and tenants."

One of the major provisions of the HSTPA was the regulation that repealed the "sunset provision" (the date by which the legislature was required to renew the rent laws in order to prevent their automatic expiration). In Part II of their article, the authors observed that, "for tenants, repeal of the sunset provision eliminates a perpetual, existential threat to rent regulation and is justified by New York's long-lasting shortage of affordable housing.

For many tenant advocates, the sunset provision allowed landlords to water down protections in each renewal by leveraging tenants' fear that the law would not be renewed." They also note that tenants maintain that "for those who have a rent-stabilized apartment, the limitations on rent and prohibitions on being evicted without just cause are a matter of survival." Viewed from the tenant perspective, these laws were long-overdue and essential.

While the three judges writing the State Bar articles concluded that the impact that the HSTPA has had on landlords and tenants is undeniable, what might be fairly debatable is whether that impact had the desired effect. For example, a survey jointly produced by the Real Estate Board of New York (REBNY), the city's leading real estate trade association and the Rent Stabilization Association (RSA) produced a report highlighting the "disastrous effects that the HSTPA has had on NYC's rent-stabilized housing stock." Another organization, buildingtheskyline.org, concluded that while "the law was intended to help renters, it is, in fact, harming them; HSTPA is driving the slow but inexorable decay of the low-income housing stock."

While Forbes reported that "Six years after New York State passed the Housing Stability and Tenant Protection Act (HSTPA), owners of rent stabilized buildings are struggling with rising expenses, declining income, falling values and increasing distress," others maintain that the law did not go far enough.

For example, the Community Service Society (a group that has "worked with and for New Yorkers since 1843 to promote economic opportunity and champion an equitable city and state") contends that "landlord harassment persists in rent stabilized buildings, suggesting more enforcement and ongoing organizing are necessary," and according to their surveys, not only is knowledge about rent laws declining among tenants, but "tenants unaware of their rights under HSTPA are more vulnerable to unlawful rent hikes, harassment, and displacement."

From 2009 through 2019, the New York State Unified Court System kept track of all civil court case load activity, including, specifically, Housing Court, evictions, and summary proceedings. For the period from 2019, the newly created Division of Technology and Court Research (DTCR) began recording and tracking court data and statistics. Review of the statistics provided by the DTCR show that while in 2019, there were 262,165 eviction filings statewide, during COVID, those numbers dropped to roughly 108,928 in 2020, 69,313 in 2021, gradually rose to 216,654 in 2023, and dropped in 2024 to 200,596. Unquestionably, that is a large number of eviction proceedings, and a significant drop. What was the cause of the drop?

The statistics are somewhat conflicting, depending on whose source you reference. For example, according to a May 2 blog from New York City Comptroller Brad Lander, "eviction rates have returned to levels comparable to before the pandemic and contributed directly to the City's ballooning shelter population." Lander states that "following the expiration of the eviction moratorium in January 2021, the number of active eviction cases in New York City rose 440%, from approximately 33,000 cases to 177,000 cases.

However, based on information provided by the Legal Services Corporation, the Eviction Lab ("a team of researchers, students, and website architects who believe that a stable, affordable home is central to human flourishing and economic mobility"), has provided statistics suggesting that the downward trend in eviction filings has actually continued. Their numbers, based on 2025 year-to-date filings (last updated July 1), reveal a 14% decline in the average number of eviction filings for the same period across 2023 and 2024; they also concluded that there were 113,852 eviction filings over the past 12 months, representing what they characterized as a 10% drop for the same period across 2023-2024.

Statistics provided by the Furman Center (a joint center of the New York University School of Law and the Robert F. Wagner Graduate School of Public Service established in 1995, that "advances research and debate on housing, neighborhoods, and urban policy" supports the conclusion that even before COVID, there was a marked decline in eviction filings. Specifically, not only did eviction filings in New York City decline each year from 2013 through 2019, but that they "decreased by about one third in New York City between 2013 and 2019, with the largest annual decrease occurring between 2018 and 2019." They state that "between 2013 and 2019, total filings fell about one third from 198,283 filings in 2013 to 139,614 filings in 2019.

Another example: pursuant to the NYC Fair Chance Act Housing Law (Local Law 24), as of Jan. 1 certain housing providers are prohibited from considering most parts of a criminal record

at any time during the housing application process. The Coalition for the Homeless hails the Act as "a victory for housing equity in NY."

As indicated, *supra*, the passage of the HSTPA in 2019 was significant. But the biggest change in the last five years was the Good Cause Eviction law (Real Property Law Article 6-A) that went into effect on April 20, 2024. As prominently stated on the city›s website, "under this law, landlords cannot evict tenants without a valid reason ("good cause") and tenants can challenge unreasonable rent increases in Housing Court if they are evicted for nonpayment of rent. Tenants covered by the Good Cause Eviction law also have the right to renew their leases, and landlords cannot end a tenancy without a legitimate reason for doing so."

And finally, one must consider that an unintended result of some of the amendments is that landlords have effectively been disincentivized from commencing eviction proceedings against a tenant who is paying their rent, but who may be in violation of their lease or the law (e.g., the tenant is illegally subletting or they no longer maintain the apartment for their own use as their primary residence).

Previously, if a tenant violated their lease and the owner succeeded in evicting that tenant there was the opportunity to renovate a rent stabilized unit and increase the rent and obtain a vacancy increase. The statutory elimination of both the vacancy increase and the incentive to improve units has been eliminated.

As such, there is no economic incentive to enforce a lease violation unless, for example, the tenant's conduct impacts upon the other tenants' ability to use and enjoy the premises, or it creates a dangerous condition that jeopardizes the life, safety, health, or well-being of the building's occupants. Otherwise, there is no reason for a landlord to expend the money to get a vacancy and then lose rent during the turnover period for what would essentially be a de minimis rent increase.

While tenant groups may laud the net effect, it overlooks the unintended impact, which is that it results in no investment in rent stabilized apartments (a fact which is demonstrated by the huge decrease in value of rent stabilized buildings since the elimination of both the individual apartment improvement ("AIA") increases and vacancy lease increases).

So, Where Does That Leave Us?

While eviction and homeless rates steadily climbed during the 2000s (peaking at 29,000 court-ordered evictions in 2013), according to an Annual Report issued by the New York City Office of Civil Justice, June 2016, and actual eviction numbers appear to be down, there is no shortage of landlord-tenant disputes, and the Housing Court seemingly has more than enough cases to keep its judges and staff busy.

The available alternatives to Housing Court are the Civil Court and Supreme Court, two forums where the summary nature provided for under Article 7 of the RPAPL does not come into play. Thus, the Housing Court remains the go-to venue of choice for the speedy resolution of many, if not most, simple landlord-tenant related cases. Summary proceedings, at least theoretically, afford both landlords and tenants swift and effective adjudication of their disputes. Indeed, Article 7 of the RPAPL was specifically formulated with this goal at the heart of its purpose. So, regardless of the decline in the total number of eviction proceedings filed, there remains a need for the expeditious and relatively inexpensive resolution of landlord-tenant disputes, and that place is still the Housing Court.