

The \$132k idea that could reduce Bangor's eviction problem



Gabor Degre | BDN

Melissa Newbury is the director of the Ecumenical Food Cupboard at the Hammond Street Congregational Church in Bangor. Newbury said that she has been evicted in the past, and about two-thirds of the people coming to the food cupboard have been in similar situations. She is pictured Sept. 10.

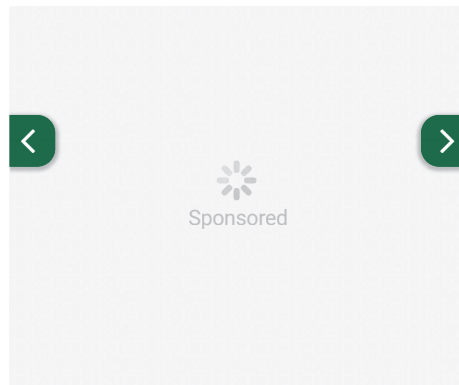
By **Alex Acquisto** and **Erin Rhoda**, BDN Staff

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A young woman who owed \$1,500 in back rent was losing a showdown with her landlord's lawyer. She stood facing him in the hallway outside a courtroom at the Penobscot Judicial Center in Bangor on May 7.

The lawyer was pushing to evict the single mother of a 2-year-old if she didn't pay in 10 days. She wouldn't have the money in that time, she told him, but she could pay the sum in 14 days when she would receive a paycheck from her job as a restaurant hostess.



“That’s not going to work for us,” the lawyer said.

The woman started to cry. Her landlord stood nearby, watching silently. Groups of people filled the hallway, having similar discussions about the fate of their homes.

That’s when Erica Veazey, a staff attorney with the legal aid group Pine Tree Legal Assistance who was on hand to help tenants, got word of what was happening with the young woman and walked over to introduce herself. They stepped into a nearby library to talk in private but allowed a BDN reporter to observe the conversation.

Unlike the vast majority of people facing eviction, the young woman now had a lawyer.

In other states, providing attorneys to tenants in eviction cases has been shown to reduce the likelihood they will be evicted. Bangor has not formally discussed the idea, though it has started to grapple with housing issues through a new committee tasked with drafting potential solutions by the end of the year.

Within minutes, Veazey created a plan for her newest pro bono client that would let her stay in her apartment for three weeks, through the end of her lease. The landlord would keep her security deposit, but she wouldn't pay back rent.

All Veazey had to do was get the landlord's attorney to agree. For a few anxious minutes, the young woman waited while Veazey left to talk with him.

She returned with good news: He had accepted the deal. The young woman would still have to leave, but she had more time to find a new place and avoid becoming homeless.

Veazey knows well the difference legal representation can make for tenants as they go up against relatively moneyed landlords.

“Defendants who have representation in an eviction case, generally speaking, come out with a more favorable judgment,” she said.

Bangor has seen a higher eviction rate than the rest of the state for nearly two decades. And for the past decade, the city has had the dubious distinction of having an eviction rate that exceeds the nation's, according to data from the Eviction Lab at Princeton University.

But when residents are being evicted, they have no right to a lawyer in court, and Pine Tree Legal's budget allows it to handle only a small portion of eviction cases.



In fiscal year 2016, the legal aid group said it represented tenants in 14 percent of eviction cases in Maine. Meanwhile, at least 75 percent of landlords have lawyers representing them in eviction proceedings, according to the group.

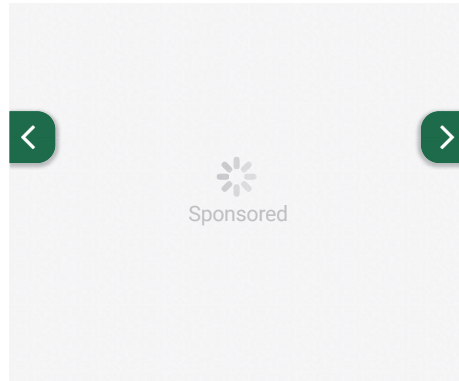
“The pertinence of an attorney helps in some cases to continue the tenancy and thereby stabilize the housing market,” said Judson Esty-Kendall, an attorney with Pine Tree Legal, which is partially funded with public money. Attorneys can “also just help with the transition [if] an eviction is going to occur,” he said.

People are better served in court when they have an attorney, but the court benefits, too, said Joe Baldacci, a Bangor attorney who has represented both tenants and landlords, and is himself a landlord. That's because the unrepresented party often doesn't understand the procedure and slows down the judge.

“Obviously I think representation would be beneficial not only to the party but the overall system,” he said.

But Baldacci, a former city councilor, questioned who would pay.

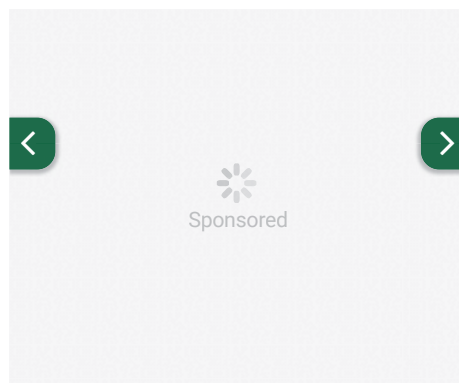
If Bangor wanted the same percentage of tenants to have legal representation in eviction cases as landlords, it would cost about \$132,000 per year for Pine Tree Legal to provide it. That’s based on 2016 eviction filings recorded by the Eviction Lab, which tracks cases by city, and Pine Tree Legal’s anticipated compensation for attorney time.



To guarantee counsel in 75 percent of cases in Bangor District Court, which also handles evictions beyond city limits, it would cost about \$349,000 per year. For Penobscot County, it would cost about \$405,000, and for the state as a whole it would cost about \$2.6 million. Those totals are based on fiscal year 2018 eviction caseloads recorded by Maine’s judicial branch, which tracks cases by court.

Cathy Conlow, Bangor city manager, questioned whether the money would be better spent directly helping people cover their rent or find a good job.

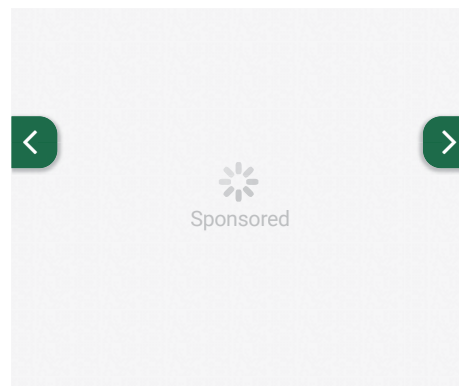
“Before I would go to the eviction end, how do I keep people in the home to begin with?” she said. It would be more feasible as a state-level policy, she said, questioning whether Bangor had the resources.



“Ultimately, it is not fair to ask all the property taxpayers of Bangor to bear the burden of supporting social programs that serve an entire region and state,” she said.

The bottom line is that the city needs more high-quality, affordable housing, said John Karnes, a property manager and developer in Bangor. He tries to work out payment plans with tenants to avoid evicting them, he said, both to protect his family’s livelihood and keep tenants housed.

“There is the feeling that the landlord is always the evil bad guy,” Karnes said. More time should be spent on teaching tenants money management and job searching skills, and “less on trying to get the eviction thrown out due to a technicality or trying to get the tenant three more weeks,” he told the housing committee on Sept. 19.



Attorneys can’t prevent all evictions, but delaying them can buy tenants time to find alternative housing and avoid homelessness, Esty-Kendall said. Other times attorneys can work out rent repayment agreements with landlords who wouldn’t offer the option otherwise.

Attorneys can also make sure tenants know their rights. For instance, tenants may not know that it generally takes nine days from the date of the court order to be evicted. An attorney might offer a deal of 10 days, Veazey said, but that’s only one more day than the tenant is already entitled to.

“There’s a value in trying to keep people housed,” Veazey said. “That benefits society as a whole, when families are in safe and stable housing.”

Evictions have profound consequences on people’s wellbeing. One study from 2015 found mothers who were evicted the previous year experienced higher levels of parenting stress, were more likely to suffer from depression, and were more likely to say their health and their children’s health was poor, compared with their peers who avoided eviction.

The repercussions were long-lasting, with mothers experiencing significantly higher rates of depression at least two years after their eviction, the study by two professors, from Harvard University and Rice University, found. Eviction “may fundamentally redirect their way, casting them onto a different, and much more difficult, path,” they wrote.

That was the case for Melissa Newbury, who has lived in the Bangor area since 1986 and is director of the Ecumenical Food Cupboard in the basement of the Hammond Street Congregational Church.

She and her two children, 8 and 9, were most recently evicted in April after she couldn’t make her \$900-a-month rent, which she subsidized with general assistance money, she said. It was just after Thanksgiving, and Newbury was tied up at work. She missed her general assistance appointment and started to fall behind after losing the financial help.

By March, Newbury wasn’t able to make up for the lack of general assistance on her own. A month later, without a lawyer, she was evicted.

Desperate to keep a roof over her family’s head and wanting to disrupt her kids’ lives as little as possible, Newbury, who’s also a trained personal care assistant, took an in-home care job with a patient just outside Bangor where she and her kids live for free.

For her kids’ sake, she has tried to minimize the interruptions that an eviction brings, she said.

“Even if you lose normal, you still try to make a normal. You create their life around them,” Newbury said. “Dinner is still at 5:30 p.m.; quiet time is still at 7 p.m. and bedtime at 8 p.m.”

Bangor’s problem isn’t that the city’s rental rates are exorbitant, she said. It’s that many people don’t earn enough money to pay the rent.

“When you’re poor, you have to piecemeal,” Newbury said. “When you’ve got kids to feed, and you have to make a decision between, ‘OK, am I going to feed them this week, or am I going to put rent into play,’ which one’s going to happen?”

“You’re going to feed your kids,” she said.

The numbers back up her point: Last year Bangor was rated less affordable for renters than Portland, not necessarily because the average rent is high but because the average income dropped.

[The Bangor neighborhoods where people can't afford their rent]

No municipality in Maine guarantees the right to counsel for evictions, but a handful of cities across the country have started to do so over the last few years. The 1963 Gideon v. Wainwright Supreme Court case granted people the right to representation in state-level criminal cases, but not civil cases such as evictions.

Given that most tenants being evicted do not have attorneys, while most of their landlords do, supporters see the idea as one of parity.

“The playing field is uneven, lopsided because the tenant has no idea how to navigate the system,” Jonathan Lippman, the former chief judge of the New York State Court of Appeals, told The New York Times in 2016.

New York City became the first jurisdiction to guarantee lawyers in eviction cases in August 2017 after labor unions, the New York City Bar Association, tenant rights advocates and, ultimately, New York City Hall supported the idea. Residents are eligible if their incomes don't exceed 200 percent of the federal poverty level.

The Maine State Bar Association said it has not taken a position on the issue of guaranteeing lawyers for tenants.

The New York City program is rolling out in phases and likely won't be complete until 2022. But it was preceded by years of increased funding for legal assistance and other services for New York City residents, from \$6 million in fiscal year 2013 to more than \$77 million in fiscal year 2018.

City workers have also gone door to door to find tenants who aren't getting essentials such as heat or hot water; in those cases the city has done the repairs and billed the landlord, according to The New York Times. They have also intervened in cases where landlords were threatening tenants with illegal evictions.

In the 10 ZIP codes where legal services were expanded, 48 percent of tenants had legal representation in 2017, up from 16 percent in 2015.

Evictions also declined substantially, according to the city: By 2017 they had decreased 27 percent compared with 2013, representing 70,000 New Yorkers remaining in their homes. Before 2013, evictions had grown every year since 2005.

An independent advisory firm estimated that, though providing lawyers might cost the city more than \$200 million per year, the move would ultimately save it more than \$300 million annually, such as by keeping families out of shelters and preserving rent-regulated affordable housing.

No one has analyzed whether providing attorneys in Maine would save money overall. But MaineHousing has found that the average annual cost of services per homeless person is \$26,986 in the greater Portland area and \$18,949 for the rest of Maine when considering each person's physical and mental health care, emergency room costs, jail and ambulance use, and police time.

Many people facing eviction don't realize they're not entitled to an attorney and often don't know where to look for help, said Helen Meyer, Pine Tree Legal's development director. And there's no guarantee the group can pick up eviction cases on the fly at court.

Back in May, neither Veazey nor Esty-Kendall, who was also present for eviction court that day, had planned to add on additional cases. Between the two of them they already had five. But they ended up taking on two more pro bono because of the compelling circumstances at hand and because there was no one else to mount a defense.

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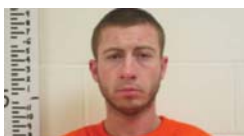
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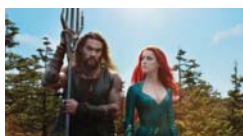
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