

No. GFC (AS) 1st Reading

AUG 08 2010

Ordinance

Date to Mayor DEC 20 2010

No. Public Hearing DEC 19 2010

of the

Date Returned

No. GFSFL 2nd Rdg. and Final Passage

City of Newark, N.J.

Date Resubmitted to Council

Date Advertised 1st Reading

No. Reconsidered

Final Reading

Approved as to Form and Legality on Basis of Facts Set Forth

Factual contents certified to by

[Signature]
Corporation Counsel

[Signature]
Title Deputy Mayor & Director EHO

Council member [Signature] presents the following Ordinance:

1 AN ORDINANCE TO AMEND AND SUPPLEMENT TITLE XIX, OF THE REVISED
2 GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS
3 AMENDED AND SUPPLEMENTED, BY CREATING A NEW CHAPTER, WHICH
4 ESTABLISHES ACCESS TO FREE LEGAL REPRESENTATION TO NEWARK'S
5 LOW-INCOME RESIDENTS FACING EVICTION IN LANDLORD TENANT COURT
6 BY CREATING THE OFFICE OF TENANT LEGAL SERVICES.
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10 WHEREAS, the Governing Body of the City of Newark does hereby declare
11 that an emergency exists, within the City of Newark, where numerous residents are
12 homeless, or are at the risk of homelessness, and/or reside in uninhabitable living
13 conditions due to a shortage of affordable housing and a lack of awareness of tenants'
14 rights; and
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17 WHEREAS, this emergency has been created, in part, by the filling of frivolous
18 and/or retaliatory eviction actions by landlords renting residential property in the City
19 of Newark, and this emergency has been further exacerbated by the deterioration of a
20 substantial portion of the existing housing stock, insufficient construction of affordable
21 housing units, increasing costs of construction, financing, and the fact that a
22 substantial portion of current Newark residents rely on fixed or stagnating incomes.
23 These issues have led to excessively high rents and have caused a substantial and
24 increasing shortage of rental housing accommodations for families of low and
25 moderate income; and
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28 WHEREAS, according to the 2016-2017 United States Census Bureau data,
29 approximately 78.2% of Newark residents rent their homes; and
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31

32 WHEREAS, providing Newark residents with access to free legal services, in
33 landlord-tenant court, will mitigate the aforementioned emergency and reduce the
34 serious threats to the public health, safety and general welfare of the citizens of the
35 City of Newark that said emergency has created; and
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38 WHEREAS, a lack of knowledge and awareness of a tenant's legal rights, the
39 fear of being evicted without good cause and being forced to seek housing in a limited
40 housing market, discourages many Newark tenants from fighting eviction actions as
41 well as reporting substandard housing conditions; it is this fear that contributes to
42 homelessness, and warrants legislative action by the Governing Body; and
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45 WHEREAS, this housing emergency is exacerbated by the fact that each year,
46 approximately 40,000 residential eviction actions are filed in Essex County Superior
47 Court, of which approximately 50 percent involve low to moderate income Newark
48 residents; and
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51 WHEREAS, this housing emergency destabilizes families and neighborhoods,
52 especially the most vulnerable among us, resulting in homelessness, and harm to
53 social tranquility and the general welfare of the City of Newark; and
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55 WHEREAS, due to a lack of resources and an inability to obtain legal
56 representation, Newark's most vulnerable residents are frequently evicted by
57 landlords represented by competent counsel; and
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59 WHEREAS, the Governing Body of the City of Newark does hereby declare
60 that these conditions pose a serious threat to the public health, safety and welfare of
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1 the residents of the City, as well as to the City's economic stability, viability and
2 growth; and
3

4 **WHEREAS**, N.J.S.A. 40:48-2, allows a municipality to make ordinances, rules,
5 regulations, and by-laws, as the municipality deems necessary and proper for the
6 order, good government, and protection of its residents and for the protection of the
7 health, welfare and safety of the municipality and its residents; and
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9

10 **WHEREAS**, pursuant to these aforementioned police powers, in order to
11 protect the health, safety and welfare of the citizens of the City of Newark, it is
12 necessary to provide access to legal services to tenants who are subject to eviction
13 proceedings.
14

15 **NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF**
16 **THE CITY OF NEWARK, NEW JERSEY, THAT:**
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18

19 **Note:** Additions are shown in bold and underlined and deletions are shown as
20 ~~strikethrough~~.
21

22 **Section 1. Title XIX entitled Rent Control of the Newark Municipal Code is**
23 **hereby supplemented and amended by adding a new chapter, Chapter 3,**
24 **entitled Provision of Legal Services in Eviction Proceedings:**
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27 **DECLARATION OF PUBLIC NECESSITY.**
28

- 29 a. The Governing Body of the City of Newark does hereby declare that an
30 emergency exists, within the City of Newark, where many of its residents
31 are homeless or are at risk of homelessness and/or reside in uninhabitable
32 living conditions due to a shortage of affordable housing and a lack of
33 knowledge and awareness of tenants' rights; and
34
- 35 b. This emergency was created, in part, by the filing of frivolous and/or
36 retaliatory eviction actions by landlords renting residential property in the
37 City of Newark; and
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- 39 c. A landlord will be less likely to file a frivolous lawsuit if she/he is aware that
40 her/his tenant will be assisted by legal counsel in preparing and asserting
41 available legal defenses to the tenant's eviction action; this will mitigate the
42 aforementioned emergency and reduce the serious threats to the public
43 health, safety and general welfare of the citizens of the City of Newark
44 created by said emergency; and
45
- 46 d. A lack of knowledge and awareness of their legal rights, the fear of being
47 evicted without good cause, and being forced to seek housing in a limited
48 housing market, discourages many Newark tenants from fighting eviction
49 actions and to complain about substandard housing conditions; it is this fear
50 that contributes to homelessness as well as to the harmful, uninhabitable
51 conditions in which many Newark tenants live; this warrants legislative
52 action by the Governing Body; and
53
- 54 e. The Governing Body of the City of Newark does hereby declare that these
55 conditions pose a serious threat to the public health, safety and general
56 welfare of the residents of the City of Newark, particularly the approximately
57 78.2% of Newark residents who, according to 2016-2017 U.S. Census
58 Bureau data, are renters. N.J.S.A. 40:48-2, allows any municipality to make
59 ordinances, rules, regulations, and by-laws, as the municipality deems
60 necessary and proper for the good government, order and protection of its
61 residents and for the protection of the health, welfare and safety of the
62 municipality and its residents; and
63
- 64 f. Pursuant to these aforementioned police powers, in order to protect the
65 health, safety and welfare of the citizens of the City of Newark, it is
66 necessary to provide access to legal services to tenants who are subject to
67 eviction proceedings.
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19:3-1. Provision of Legal Services in Eviction Proceedings

19:3-1a. Definitions.

For the purposes of this Chapter, the following terms have the following meanings:

"Municipal Council" -The Governing Body of the City of Newark, New Jersey that comprises the legislative branch of the City of Newark, New Jersey's government.

"Covered Individual" - A single tenant or household of a rental dwelling unit located in the City of Newark whose income falls below the identified poverty level within this ordinance, and who is a respondent in a Covered Proceeding.

"Covered Proceeding" - Any summary proceeding in The Superior Court of New Jersey - Essex County seeking to evict a Covered Individual, including a summary proceeding to seek possession for the non-payment of rent, an alleged holdover.

"Designated Organization" - A not-for-profit organization, or a for profit legal services provider/association that provides Pro Bono legal representation, who has the capacity to provide legal services to low income individuals facing eviction in the Superior Court of New Jersey - Essex County.

"Legal Representation" - Ongoing legal representation provided by a designated organization to an income-eligible individual and all legal advice, advocacy, and assistance associated with such representation.

"Partner Attorney" - An attorney employed by or affiliated with a Designated Organization that agrees to provide legal representation to residents pursuant to this ordinance.

"Landlord-Tenant Court" - The Superior Court of New Jersey - Essex County.

"Income-eligible individual" - A covered individual whose annual gross household income is not in excess of 200 percent of the official federal poverty guidelines defined by the United States Office of Management and Budget pursuant to Subsection (2) of 42 U.S.C.A. § 9902.

"Legal services" - Legal representation to a Covered Individual.

"Mayor" - The Mayor of the City of Newark, New Jersey.

"Retainer agreement"- A contract between the Covered Individual and the Partner Attorney from the Designated Organization for the provision of legal assistance or services with regard to a Covered Proceeding.

19:3-2. Provision of Legal Services.

19:3-2a. There is established in the Department of Economic and Housing Development, the Office of Tenant Legal Services to establish a pilot program to provide access to legal services for Newark residents in eviction proceedings in the Superior Court of New Jersey - Essex County. Subject to appropriations, the City of Newark shall provide funding to be used exclusively to provide access to legal services and shall ensure that:

- 1. The Office of Tenant Legal Services be coordinated by a Director who shall, no later than April 1, 2019, establish a program to provide access to legal services for Newark residents in the Superior Court of New Jersey - Essex County; and**

- 1
- 2 2. The Director shall establish a program that utilizes the Request for
- 3 Proposal process to select non-profit organization to serve as
- 4 designated organizations that have the capacity to provide legal
- 5 services to Newark residents in eviction proceedings in the Superior
- 6 Court of New Jersey - Essex County; and
- 7
- 8
- 9 3. All income-eligible individuals shall receive access to full legal
- 10 representation no later than their first scheduled appearance in a
- 11 Covered Proceeding in the Superior Court of New Jersey - Essex
- 12 County, or as soon thereafter as is practicable.
- 13
- 14 4. The Director shall conduct annual reviews to establish key
- 15 performance indicators.
- 16
- 17 5. Any legal services performed by a Designated Organization pursuant
- 18 to this chapter shall not replace, or satisfy any obligations or
- 19 responsibilities of such designated organization pursuant to any other
- 20 program, agreement, or contract.
- 21
- 22 6. The Director shall submit a proposed annual budget to the Mayor to be
- 23 considered at a budget hearing to be conducted by the Mayor and/or
- 24 Business Administrator. Subject to appropriation, the Mayor and/or
- 25 the Business Administrator shall determine the level of funding for the
- 26 Office of Tenant Legal Services.
- 27
- 28
- 29 7. If authorized by State and Federal law, the creation of a Landlord
- 30 Tenant Fund, to receive funds to be used exclusively to provide legal
- 31 services to Newark residents in landlord-tenant proceedings in the
- 32 Superior Court of New Jersey - Essex County.
- 33

34 19:3-2b. Nothing in this chapter or the administration or application thereof
 35 shall be construed to create a private right of action on the part of any person or
 36 entity against the City or any agency, official, or employee thereof.

37 19:3-3. Reporting.

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39 19:3-3a. No later than sixty (60) days after the end of each RFP period, the
 40 Director of the Office of Tenant Legal Services shall submit to the Mayor and the
 41 Municipal Council, and post online, a review of the legal services program and
 42 information regarding its implementation, to the extent such information is
 43 available, including, but not limited to:

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- 46
- 47 1. The estimated number of covered individuals;
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- 50 2. The number of individuals currently receiving legal services and the
- 51 actual number of individuals who received legal services for that year,
- 52 disaggregated by the following characteristics of such individuals:
- 53
- 54 i. Ward and postal code of residence;
- 55 ii. Age of head of household;
- 56 iii. Household size;
- 57 iv. Estimated length of tenancy;
- 58 v. Approximate household income;
- 59 vi. Receipt of ongoing public assistance at the time such legal
- 60 services were initiated;
- 61 vii. Tenancy in rent-regulated housing; and
- 62 viii. Tenancy in housing operated by the Newark Housing
- 63 Authority;
- 64
- 65 3. Outcomes immediately following the provision of full legal
- 66 representation, as applicable and available, including, but not limited to,
- 67 the number of:
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- 69 i. Case dispositions allowing individuals to remain in their
- 70 residence;
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- ii. Case dispositions requiring individuals to be displaced from their residence; and
- iii. Instances where the attorney was discharged or withdrew.

4. Non-payment and holdover petitions filed in landlord-tenant court, and warrants of removal served by landlords.

19:3-4. Public Hearing.

19:3-4a. The Director of the Office of Tenant Legal Services shall conduct a public hearing each year, sixty (60) days before the end of an RFP period to receive recommendations and feedback about the program.

b. The Director shall provide notice of the public hearing within thirty (30) days of the hearing which shall be open to the public and shall be:

- 1. Posted in public area of the Essex County Landlord Tenant Court;**
- 2. Posted in all City of Newark social service offices, the Newark Rent Control Office, at organizations providing legal services through the existing RFP and sent to community organizations.**

c. Written and oral testimony may be submitted at the hearing.

d. The Director shall cause a transcript of the hearing to be produced and shall make the transcript available to the public in the Office of Landlord Tenant Services or through other available means available to the Director.

Section 2: If any provision of this ordinance or application thereof to any person(s) or circumstances is judged invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of the ordinance that can be given effect without the invalidated provision or application and to this end the provisions of this ordinance are declared severable.

Section 3: This ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

STATEMENT

This Ordinance amends and supplements Title XIX, of the Revised General Ordinances of the City of Newark, New Jersey 2000, amended and supplemented, by creating a new chapter which establishes access to free legal representation to the City of Newark's low-income residents facing eviction in Landlord Tenant Court by creating the Office of Tenant Services.

CERTIFIED TO BY ME THIS

DEC 24 2018

DO NOT USE SPACE BELOW THIS LINE

RECORD OF COUNCIL VOTE ON FINAL PASSAGE					RECORD OF COUNCIL VOTE FOR RECONSIDERATION									
Council Member	AYE	NAY	NV	AB	Council Member	AYE	NAY	NV	AB	Council Member	AYE	NAY	NV	AB
Amador	✓				Osborne	✓				Amador				
Gonzalez	✓				Quintana <small>Vice President</small>	✓				Gonzalez				
James	✓				Ramos, Jr.	✓				James				
McCallum, Jr.	✓				Crump	✓				McCallum, Jr.				
Mclver	✓				President					Mclver				

✓ - Indicates Vote

AB - Absent

NV - Not Voting

AUG 08 2018

Adopted on first reading at a meeting of the Council of the City of Newark, N.J., on

Adopted on second and final reading after hearing on DEC 19 2018

Approved _____
Rejected By _____
Mayor

Michael C. Crump
Council President

Kenneth
City Clerk

This Ordinance when adopted must remain in the custody of the City Clerk. Certified copies are available.