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December 10, 2014

Council Member Mark Levine
Council of the City of New York
250 Broadway, Room 1816
New York, NY 10007

Dear Council Member *Mark* Levine:

At your request, the Independent Budget Office (IBO) has estimated the cost of City Council Intro 214, which would provide free legal representation to individuals with incomes at or below 125 percent of the federal poverty level who are facing eviction and foreclosure proceedings in court, as well as the potential impact of the proposed legislation on spending on the city's homeless shelters. Our findings are summarized below and the enclosed memo details the data, assumptions, and methodology.

Assuming the per case cost of representation were in line with an existing city program providing legal and social services to seniors in housing court, IBO estimates that providing free legal services to eligible individuals in housing court due to eviction proceedings would cost \$173 million annually. Information from legal services groups provided by the City Council, however, suggests that the cost per case could be significantly higher, increasing the annual cost to as much as \$276 million, depending on the per case cost of representation. Given that the city has currently budgeted close to \$20 million for free anti-eviction legal services this fiscal year, the additional cost to the city attributable to this legislation would range from \$153 million to \$256 million a year. IBO's estimate is based on a number of variables, including the number of eviction cases brought in court, the share of those tenants who would qualify for free legal services based on their incomes, and the cost per case. Due to data limitations, however, our estimate does not account for the cost of providing counsel to low-income households facing foreclosure or ejection.

Providing legal counsel to households facing eviction could save \$143 million annually in homeless shelter costs, with about \$53 million of the savings in city funds (funding for homeless shelters are shared by the city, state, and federal governments). The shelter savings estimate is based on a number of variables, including the number of families and individuals entering homeless shelters each year due to eviction, the effectiveness of legal representation in preventing evictions and thereby averting shelter entries, and shelter costs. Because potential city funds savings for shelter costs fall short of the cost of providing legal services, IBO estimates the legislation would have a net annual cost \$100 million to \$203 million in city funds.

The cost to the city of providing legal services to households facing eviction could be reduced if federal or state grants were used to fund the legal services. Additionally, preventing evictions could generate savings in the city's budget beyond shelter spending, such as welfare cost savings through reductions in job loss due to displacement and school savings by decreasing educational disruptions for children. Moreover, there are benefits to reducing evictions that extend beyond the city's budget, such as the

potential for reducing turnovers of rent-regulated apartments, which would slow rent increases for those units, as well as avoiding the long term physical and mental health consequences associated with homelessness. While these are important factors to consider, quantifying them is outside the scope of our analysis.

If you have any questions or would like additional information, please feel free to contact me at ronniel@ibo.nyc.ny.us or 212-442-0225 or Elizabeth Brown who did the study, at elizabethb@ibo.nyc.ny.us or 212-341-6086.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronnie". The signature is stylized with a large, looped "R" and a cursive "onnie".

Ronnie Lowenstein

MEMORANDUM

DATE: December 10, 2014

TO: George Sweeting

FROM: Elizabeth Brown

SUBJECT: **ESTIMATE OF THE COST OF LEGAL COUNSEL IN HOUSING COURT AND POTENTIAL HOMELESS SHELTER SAVINGS DUE TO AVERTED EVICTIONS**

IBO estimated the fiscal impact of City Council Intro 214, which would provide free legal representation to individuals with incomes at or below 125 percent of the federal poverty level who are facing eviction, ejectment, and foreclosure proceedings in court, as well as the potential impact of the proposed legislation on spending on the city's homeless shelters.

The estimated cost of implementing Intro 214 depends on the number of clients likely to qualify for such services and, crucially, on the cost per case to deliver the service. Our analysis used two plausible, but quite different, reported cost per case figures. The gap between them likely reflects unobservable differences in the services provided under different models, and the ability of the city to extract lower costs when contracting for services. Because of this, IBO has chosen to provide a range of estimates that depend on the cost per case.

We estimate that the cost of providing free legal services to eligible individuals in housing court facing eviction would range from \$173 million to \$276 million annually, depending on the per case cost of representation. Because the city has already budgeted nearly \$20 million for free anti-eviction services this fiscal year, the additional cost to the city would range from \$153 million to \$256 million.¹ Such services could save \$143 million annually in homeless shelter costs, with about \$53 million of the savings in city funds (funding for homeless shelters are shared by the city, state, and federal governments). Therefore, IBO estimates the legislation would have a net annual cost of an additional \$100 million to \$203 million in city funds, depending on the cost per case. This memo provides the details of our analysis.

COST OF PROVIDING COUNSEL IN HOUSING COURT

Number of Eviction Cases. IBO estimated the number of eviction cases using data from New York City's housing court. In 2013, 156,941 eviction cases were heard in housing court. The majority of these cases, 82 percent, were for the non-payment of rent. The remaining 18 percent were holdover cases, when the landlord seeks to remove the tenant due to reasons other than the non-payment of rent. While all holdover cases result in court appearances, not all non-payment cases make it to court. For example, in 2013, there were 218,400 non-payment cases filed in housing court. If a case does not result in a court appearance, this may mean that it was resolved when the tenant received the notice of the housing court filing. These resolutions vary and may include the tenant paying the rent owed or the tenant moving out of the apartment.

If low-income tenants knew that an attorney were available to them and expected a more favorable outcome by using an attorney, it is possible the number of appearances in court would increase. However, there may also be a counterbalancing effect on the number of petitions filed if landlords knew that some tenants were more likely to have legal representation. Because these changes in behavior are

difficult to model with available data and may largely offset each other, IBO used the number of eviction cases heard in housing court in 2013 as the basis for our estimate of the cost of providing counsel.

Share of Tenants Eligible. According to the proposed City Council legislation, individuals facing eviction who earn no more than 125 percent of the federal poverty level (income of \$29,813 or less for a family of four in 2014) would be eligible for free legal counsel. Because the courts do not collect demographic data, information on the income of tenants facing eviction in housing court is limited. IBO relied on 1990 data from a survey of tenants waiting in line in housing court. The survey was part of a broader study by the Community Training and Resource Center and City-Wide Task Force on Housing Court (now known as Housing Court Answers), “Housing Court, Evictions and Homelessness: The Costs and Benefits of Establishing a Right to Counsel.”² According to the survey data, from 50 percent to 60 percent of tenants in housing court have incomes at or below 125 percent of the federal poverty level.

While this survey is dated, it is the best available source of information on the income of tenants in housing court.³ To determine whether the share of low-income tenants has changed significantly, IBO looked at the share of all renters in the city earning up to 125 percent of the federal poverty level, both when the survey data were collected and more recently. According to data from the 1991 New York City Housing Vacancy Survey (HVS), in 1990 approximately 33 percent of New York City renters had incomes below 125 percent of the poverty level.⁴ In 2010, according to the 2011 HVS (the most recent available) 28 percent of households had incomes below the 125 percent of the poverty level. Because the majority of housing court cases is due to nonpayment of rent, it is likely that tenants in housing court would be poorer than the average renter. Given that the share of low-income renters has not changed dramatically since survey data was taken, IBO uses the mid-point of the housing court survey range and assumes that 55 percent or 86,318 households would be eligible for free legal counsel.

Relatively few tenants in housing court have their own legal representation. Studies show that between 9 percent and 22 percent of tenants in housing court are represented by a lawyer.⁵ It is likely, however, that many of the tenants who retain a lawyer do so through non-profit legal services providers which assist low-income New Yorkers. Tenants who are able to hire private attorneys are more likely to have incomes above the eligibility range. IBO assumes that all tenants whose incomes make them eligible for legal representation in housing court would receive it.

Cost of Providing Counsel. The city currently reimburses contractors up to \$2,000 per case to provide free anti-eviction legal services (as well as some social service assistance) to senior citizens through the Assigned Counsel Program, with most contractors receiving the maximum amount.⁶ Legal non-profit groups estimate, however, that the full cost of providing representation in housing court could be up to \$3,200 a case, according to information provided by the City Council to IBO. Using these figures and given our estimate that 86,318 tenants would be eligible for free legal services, the projected cost of the program would be between \$173 million and \$276 million a year. This estimate also includes the cost for one city staff member to coordinate and oversee the program.

The city already provides funding for free legal services to some households facing eviction. The city has budgeted about \$20 million for these services in fiscal year 2015 through contracts administered by the Human Resources Administration. These programs target a variety of groups, including low-income families with children, low-and moderate-income tenants of single room occupancy buildings, and senior citizens. While some of the households that qualify for services under the city’s current programs may have incomes above 125 percent of the poverty level, it is likely that most would qualify for services under the proposed legislation. Therefore, the additional cost to the city would range from \$153 million to \$256 million.

IBO's Estimate of the Annual Cost to Provide Legal Services Ranges from \$153 Million to \$256 Million, Net Current Legal Services Spending

	Low Estimate	High Estimate
Pool of Households Facing Eviction	156,941	156,941
Share Making up to 125% of the Federal Poverty Level	55.0%	55.0%
Number of Participants	86,318	86,318
Cost of Legal Services per Case	\$2,000	\$3,200
Cost of Coordinator	\$125,000	\$125,000
Current Anti-Eviction Legal Services Contracts	\$20 million	\$20 million
Estimated Cost Net Current Spending	\$153 million	\$256 million

SOURCES: Civil Court of the City of New York, 2013 Landlord & Tenant Clerk's Office Case Filings; "Housing Court, Evictions and Homelessness: The Cost and Benefits of Establishing a Right to Counsel" Community Training Resource Study and City-Wide Task Force on Housing Court June 1993; and IBO analysis of city budget data.

Cost Estimate Limitations. In addition to providing anti-eviction legal services for low income tenants, Intro 214 also specifies that households facing foreclosure proceedings, as well as ejectments in New York Civil or Supreme Court would also be eligible for representation. Due to data limitations, IBO was unable to estimate the costs of providing these additional services. In terms of foreclosures, in 2013 there were approximately 8,700 new *lis pendens* filed for one- to four-unit buildings and condominiums, according to the Furman Center for Real Estate and Urban Policy. This is the first step in a foreclosure proceeding. However, because data on the incomes of households facing foreclosure is unavailable, IBO was unable to estimate the cost of providing low-income households with legal representation. Census data show that just 9 percent of New York City homeowners have income at or below 125 percent of the federal poverty level (90,825 households, with about half having a mortgage) and of those, 45 percent are headed by a senior citizen and would be eligible for free foreclosure prevention legal services under existing city programs.

As for ejectments, generally an owner brings an ejectment action if they are unable to commence a holdover proceeding in housing court. However, data on both the number of ejectment cases filed in court and the income of tenants in those cases are not available. Relatively few ejectments take place annually (in 2013 there were 20 citywide). Therefore, it is unlikely that providing services for ejectments would significantly increase program costs. However, because ejectment and foreclosure cases are not included in the analysis, IBO's estimated costs may somewhat understate the total cost of implementing Intro 214.

POTENTIAL HOMELESS SHELTER SAVINGS

Eviction is a significant reason why households enter homeless shelters, particularly in the case of families. Providing legal representation to households facing eviction is expected to reduce the number of evictions and thereby reduce the number of homeless shelter entries, saving the city on shelter costs.

Shelter Entry Due to Eviction. In order to gain access to emergency shelter in New York City, families must apply for shelter and prove that they have no other housing resources available. As part of this eligibility screening process, the Department of Homeless Services (DHS) collects information on why families are in need of emergency shelter. According to DHS data on families' reasons for shelter eligibility, about 36 percent of the entries into shelter in fiscal year 2012 were because of an eviction – a share that has been rising over recent years.⁷ Another 11 percent of entries into family shelter were

from overcrowded or doubled-up living situations. It is likely that some families move in temporarily with family or friends after an eviction but before shelter entry. IBO assumed that 10 percent of doubled-up families had been evicted prior to entering their overcrowded living situation, increasing the share of families entering shelter due to eviction to 37 percent. Thus, IBO estimates that 3,885 of the 10,500 families entering shelter in fiscal year 2013 were due to eviction.⁸

Eviction also plays a part in the single adult shelter system. Single adults do not take part in the same eligibility screening process as families and so there is no city-specific data on the reason for shelter entrance by single adults. However, each year local shelter systems across the country report data on characteristics of homeless clients to the federal Department of Housing and Urban Development (HUD), including their living situation the night prior to entering shelter programs. This data is aggregated and published in the “Annual Homeless Assessment Report Volume 2: Estimates of Homelessness” (AHAR).

According to the 2012 AHAR, the most recent available, 10 percent of single adults nationwide who were not already in homeless shelters at the start of the reporting period rented their own homes prior to entering shelter.⁹ Another 35 percent lived with friends or family prior to shelter entry. Given the lack of eviction-specific data, IBO assumes that half of homeless individuals who rented their own homes prior to becoming homeless lost their housing due to eviction. In line with the assumption we made for overcrowded families, IBO also assumes that 10 percent of individuals who lived with family or friends prior to entering shelter had previously experienced an eviction. Taken together, IBO estimates that 9 percent of the 16,448 entries into single adult shelter in fiscal year 2013 (or 1,480 entries) were due to eviction.¹⁰

Impact of Counsel on Housing Court Outcomes. Research shows that tenants who have legal representation in housing court are more likely to have favorable results than those who are not represented by a lawyer. In order to estimate how many families and individuals would not enter shelter as a result of receiving legal representation in housing court, IBO used the results of a randomized experiment designed to evaluate the Pro Bono Project Against Homelessness, a program operated by Legal Aid Society and the Association of the Bar of the City of New York that provided counsel to tenants in New York City housing court.¹¹

As part of the study, low-income tenants responding to non-payment of rent petitions in Manhattan housing court were randomly assigned to either a treatment group of tenants who received lawyers or a control group of tenants who did not receive legal representation and the results of the cases were tracked.¹² According to the study’s findings, housing court judges issued warrants of eviction in 10 percent of cases where tenants received legal counsel. When the tenant did not receive legal representation, judges ordered a warrant of eviction in 44 percent of cases. This means there was a 77 percent decrease in the number of cases that resulted in a warrant of eviction when tenants had an attorney compared with cases without an attorney, independent of the merits of the case.

In order to estimate the impact of the proposed legislation on homeless shelter entries, IBO assumed the number of entries into both single adult and family shelter due to eviction would fall by 77 percent. This estimate assumes that none of the entrants to shelter were represented by a lawyer in housing court and that all would qualify for legal services under the proposed legislation. Given that homeless households are generally very low-income and that a small share of tenants retain legal representation, this assumption is not unreasonable. Therefore, if legal services had been available to tenants in housing court in fiscal year 2013, IBO estimates the number of entrants to shelter would have been reduced by 4,131 (2,991 families and 1,140 single adults).

Shelter Savings. Homeless shelter costs are shared by the city, state, and federal governments, depending mainly on shelter clients' eligibility for public assistance. Family shelter, which includes shelter for families with and without minor children, is funded predominately by federal welfare funds through the Temporary Assistance to Needy Families (TANF) block grant (60 percent) and—to a lesser extent—by the city (30 percent) and the state (10 percent). If provision of legal representation prevented 2,991 families from entering shelter each year, the family shelter savings would be approximately \$118 million. Of this total, approximately \$35 million would be city funds, \$12 million state funds, and \$71 million federal funds.

Funding for single adult shelter comes mainly from the city (73 percent) with the state and federal governments paying smaller shares, 23 percent and 4 percent, respectively. If 1,140 individuals were prevented from entering shelter each year due to the proposed program, the savings on adult shelters would be roughly \$25 million. Of this total, approximately \$18 million would be city funds, \$6 million state funds, and about \$1 million federal funds.

Thus, IBO estimates that annual homeless shelter savings due to the proposed policy change would total \$143 million, of which about \$53 million would be city funds, \$18 million state funds, and \$72 million federal funds.

Annual City Savings on Homeless Shelters Would Total \$53 million

	Family Shelter	Adult Shelter	Total Homeless Shelter
City Share	\$35 million	\$18 million	\$53 million
State Share	\$12 million	\$6 million	\$18 million
Federal Share	\$71 million	\$1 million	\$72 million
Total Shelter Savings	\$118 million	\$25 million	\$143 million

SOURCE: Independent Budget Office

Program Cost Net Savings. With an annual price tag between \$173 million to \$276 million, the cost of the proposed program is greater than the \$143 million of potential homeless shelter savings. With \$53 million of the total shelter savings accruing to the city, IBO estimates the net cost of the program to the city to be from \$100 million to \$203 million a year (assuming the city's current spending of \$20 million on similar services is allocated to the new program), depending on the average cost per case.

OTHER POSSIBLE FUNDING SOURCES

Federal funds, through the TANF block grant, pay for some of the city's current anti-eviction legal services contracts and could be used to help defray future city costs. As previously mentioned, in fiscal year 2015, the city has budgeted close to \$20 million on anti-eviction legal services. Of that spending \$9.3 million is funded through the TANF Emergency Assistance to Families (EAF) program.

EAF provides funding to low-income families to address one-time, emergency situations, such as an eviction. In order to be eligible for EAF, households must have minor children and meet certain federal residency and immigration requirements. Based on an average of the findings from two housing court surveys, IBO projects that around 49 percent of households facing eviction include minor children.¹³ While this could mean a significant share of households would be eligible for EAF funds, it is uncertain whether sufficient funds would be available to reimburse the costs.

EAF funds are allocated to the city by New York State, which administers the TANF block grant. In state fiscal year 2014, the state allotted \$182 million of its total TANF grant to EAF statewide, with most of these funds flowing to New York City. EAF is used to pay for several city programs, including one-time rental assistance known as “one-shot deals” to help low-income tenants pay back rent, costs related to foster care prevention, as well as some family homeless shelter costs. Since EAF is funded through TANF and the funding level has been frozen since 1996, any increase in the welfare caseload would reduce the funds available for the EAF program. Despite these uncertainties and contingent on state approval, it may be possible to increase the amount of EAF spent on anti-eviction legal services, especially given that the provision of legal services could reduce federal shelter costs. Similarly, the state could potentially reinvest state shelter savings to offset some of the cost of providing legal services.

OTHER CONSIDERATIONS

In addition to homeless shelter savings, preventing evictions through legal representation could reduce city spending in other areas. This could include reducing welfare costs incurred if an evicted tenant loses their job due to relocation or avoiding education spending that can result from the disruption of moving children to new schools. Reductions in evictions could have other impacts beyond fiscal savings for the city. For example, preventing eviction and increasing housing security for low-income families could have positive impacts on child development. Additionally, if preventing evictions causes rent-regulated apartments to turn over less frequently, rents for those units will rise more slowly. Conversely, the program could put upward pressure on housing costs by making it more costly for building owners to remove tenants who owe rent or more costly to litigate evictions. While these are important factors to consider, quantifying them is outside the scope of our analysis.

¹ The city’s current anti-eviction legal services programs target a variety of groups, including families with children, at risk of homelessness, low-and moderate-income tenants of single room occupancy buildings, and senior citizens. Eligibility requirements vary for each program may include some households with incomes higher than those targeted by the legislation.

² For this survey, 12 interviewers contacted 2,422 individuals. Interviews took place in four of the city’s borough housing courts. Surveys were not administered in Staten Island, which has the smallest share of eviction-related court filings. Of those contacted, 2,083 responded. However, 92 surveys were eliminated due to incomplete responses and 31 because the respondent was a building owner or commercial tenant. This resulted in 1,960 surveys being used for analysis, a response rate of 81 percent. Tenant income is only available in \$5,000 ranges due to the survey design. Study results were published in 1993.

³ In 2005 and 2006, the Brennan Center for Justice at NYU Law School funded a survey of tenants appearing in the city’s housing courts using survey instruments that were informed by the Community Training and Resource Center and Citywide Task Force on Housing Court study. Results were published in the report [“Results from Three Surveys in New York City Housing Court”](#) in February 2007. While results from this survey are more recent than the study used by IBO in this analysis, the Brennan Center study focused on tenants aged 62 and older. Additionally, data in the Brennan Center study were reported by income level only, without information on household size, which is needed to determine poverty level.

⁴ IBO includes HVS data on renters’ incomes in 1991 and 2011 to provide context and as a check to determine if 1990 survey data is still relevant more than a decade later. However, direct comparisons should not be made between the two figures. This is due to the nature of the data. The HVS is a sample survey and the sample for the 1991 HVS was drawn from the 1990 census, while the 2011 samples were based on the 2010 census. For the 1991 HVS, poverty rate could not be determined for approximately 25 percent of households where income data were not reported.

⁵ According to the Community Training Resource Center and City-Wide Task Force on Housing Court survey, 9.4 percent of tenants in housing court had a lawyer. According to the 2005-2006 Brennan Center survey, 22 percent of tenants had their own lawyer; 72 percent of these lawyers were employed by legal aid/legal services and so would qualify for the program.

⁶ The Department of Homeless Services, which also funds anti-eviction legal services contracts, reimburses up to \$1,000 per case. However, legal service providers report this is insufficient to cover the full cost of providing services.

⁷ The shelter eligibility data provided by the Department of Homeless Services is for families with children. IBO assumes a similar share for families without children, which make up a small share of the family shelter population.

⁸ According to family shelter entry data from the 2013 Mayor's Management Report, in fiscal year 2013 12,306 families with children and 1,156 families without children (for a total of 13,462 families) entered the city's homeless shelter system. However, this number contains duplicate entries for families who left and re-entered the shelter system. Based on historical data, IBO reduced family shelter entries by 22 percent to eliminate duplicate entries for families who repeatedly exited and re-entered the system.

⁹ Data were collected from a nationally representative sample of communities and cover a one-year reporting period, October 1, 2011 to September 30, 2012. The data contain information on homeless people who used emergency shelters or transitional housing at any point during this period and formerly homeless people who used permanent supportive housing programs.

¹⁰ 2013 Mayor's Management Report. Total includes single adults entering the DHS shelter services system for the first time or returning after a period of at least one year, excluding clients in Safe Havens and veterans short-term housing.

¹¹ Serron, Carroll, et al. "The Impact of Legal Counsel on Outcomes for Poor Tenants in New York City's Housing Court: Results of a Randomized Experiment." *Law and Society Review*. Vol. 35, No. 2 (2001) pp 419-434.

¹² Due to inconsistent delivery of services, only 56 percent of households in the treatment group received legal representation. Additionally 4 percent of the control group secured legal representation on their own. In order to adjust for this, researchers used instrumental variables analysis to estimate the impact of legal representation.

¹³ According to the Community Training Resource Center and City-Wide Task Force on Housing Court study, children were present in 37.8 percent of households in housing court. According to the Brennan Study, 60.8 percent of tenants reported they lived with children under 18. IBO uses the average of the two rates for our estimate.