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## Maximizing Housing Stability and Minimizing Evictions: Evidence-Based Models That Keep Tenants in Their Homes and Out of the Courts

Neil Steinkamp

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# MAXIMIZING HOUSING STABILITY AND MINIMIZING EVICTIONS: EVIDENCE-BASED MODELS THAT KEEP TENANTS IN THEIR HOMES AND OUT OF THE COURTS

*Neil Steinkamp\**

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## INTRODUCTION

Both landlords and tenant advocates across the country agree, the summary proceeding system for landlord-tenant disputes is not working. Many of the landlords we interviewed said they would prefer not to use the summary proceeding process, but it becomes a necessary last resort in certain circumstances when other efforts to resolve tenant disputes have failed

because there is no other system for them to use.<sup>1</sup> They noted that it is costly, time-consuming, and does not typically result in a preferable outcome for them or the tenant.<sup>2</sup> The landlords we interviewed primarily indicated that they would prefer to keep tenants stably-housed rather than incur the time and expense of removal or relocation.<sup>3</sup> While there may be landlords who use the legal system and summary proceedings to exercise undue power and extract economic gain, most landlords would prefer to seek an early and effective resolution without having to file an eviction notice and use the legal system.<sup>4</sup>

Tenant advocates argue that summary proceedings are a structurally and procedurally flawed method of resolving landlord-tenant disputes.<sup>5</sup> Over time, local laws and procedures have become complex and difficult to understand and comply with for both tenants and certain landlords.<sup>6</sup> In many communities, access to free-or-low cost legal services is extremely limited.<sup>7</sup> Resources to assist with financial literacy, rental assistance and relocation

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1. From 2018 through 2024 Stout (including the author) has conducted regular interviews and focus groups with landlords that provide housing to households with low incomes (both private and subsidized housing), and their legal counsel, to evaluate the implementation of eviction right to counsel programs and to assess the costs and potential fiscal impacts of eviction right to counsel policies that may be contemplated in certain jurisdictions. These interviews have been conducted in numerous jurisdictions, including, but not limited to Cleveland, Milwaukee, Philadelphia, Connecticut, Maryland, Nashville, Chicago, Columbus, and Chattanooga. These interviews were conducted as one part of a much broader scope of work for these projects. The interviews and focus groups sought to gather feedback and information about how the landlord operates its business, risks it faces, how it responds to circumstances involving the non-payment of rent by tenants, its experience when tenants do and do not have access to legal counsel to assist them in navigating the eviction process, opportunities for early (including pre-filing) resolution, the role of rental assistance in resolving non-payment evictions, the impact of delays associated with terminations of tenancy and/or eviction, and other topics. Funding for these projects has typically been provided by philanthropic sources (in one instance funding was provided directly by a government source). In addition, Stout (including the author) has had numerous informal discussions with landlords and their legal counsel in jurisdictions across the country. In aggregate, Stout has spoken with over 100 landlords and their legal counsel in at least a dozen jurisdictions across the U.S. Certain observations in this paper draw on the synthesis of consistent themes and observations from these discussions. *See* Interviews by Stout with landlords in many U.S. jurisdictions (2018–2024) [hereinafter Stout Landlord Interviews] (on file with Stout).

2. *See id.*

3. *See id.*

4. *See id.*

5. *See id.*

6. *See* Vamsi A. Damerla, Note, *The Right to Counsel in Eviction Proceedings: A Fundamental Rights Approach*, 6 COLUM. HUM. RTS. L. REV. 355, 367 (2022).

7. *See* Leonard Wills, *Access to Justice: Mitigating the Justice Gap*, AM. BAR ASS'N (Dec. 3, 2017), <https://www.americanbar.org/groups/litigation/resources/newsletters/minority-trial/access-justice-mitigating-justice-gap/> [https://perma.cc/UUG5-LGCQ].

assistance are sparse.<sup>8</sup> Safe and affordable housing is increasingly difficult to locate, particularly for those with low incomes and those who may have faced eviction in the past.<sup>9</sup> In addition, the speed at which the process happens presents significant complications for families who may struggle to understand the process, identify other housing, and face disruption to employment, childcare, and other necessities by attempting to participate in the legal process, particularly when unrepresented.<sup>10</sup> Further, a significant volume of research has demonstrated that summary eviction proceedings disproportionately affect women, persons of color, and households of persons with disabilities.<sup>11</sup>

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8. Based on data and information from interviews conducted by Stout and on file with Stout. *See* Stout Landlord Interviews, *supra* note 1.

9. *See* Stout Landlord Interviews, *supra* note 1.

10. The pace of activities throughout the eviction process can vary based on local law and procedure, as well as the facts and circumstances of each case. However, it is not unusual for the notice period (the time between notice of upcoming eviction filing and the actual eviction filings) to be 3 to 7 days (for non-payment of rent case), the time between the notice and the initial eviction hearing to be 7 to 14 days.

11. *See generally* Andrew Scherer, *The Case Against Summary Eviction Proceedings: Process as Racism and Oppression*, 53 SETON HALL L. REV. 1, 31 (2022); ROBERT GOODSPEED ET AL., MICHIGAN EVICTIONS: TRENDS, DATA SOURCES, AND NEIGHBORHOOD DETERMINANTS 4 (2020); Terrance McCoy, *Eviction Isn't Just about Poverty. It's Also about Race — And Virginia Proves It*, WASH. POST (Nov. 10, 2018), [https://www.washingtonpost.com/local/social-issues/eviction-isnt-just-about-poverty-its-also-about-race—and-virginia-proves-it/2018/11/10/475be8ae-d7bd-11e8-aeb7-ddcad4a0a54e\\_story.html](https://www.washingtonpost.com/local/social-issues/eviction-isnt-just-about-poverty-its-also-about-race—and-virginia-proves-it/2018/11/10/475be8ae-d7bd-11e8-aeb7-ddcad4a0a54e_story.html) [<https://perma.cc/QP9C-SAYA>]; Brief for Matthew Desmond et al. as Amici Curiae Regarding the Disproportionate Adverse Effect of Eviction on Black Families at 1, *Matorin v. Commonwealth*, No. 2084CV01334 (Mass. Supp. Aug. 26, 2020); PAUL M. ONG, SYSTEMIC RACIAL INEQUALITY AND THE COVID-19 RENTER CRISIS (2020); Tim Thomas et al., *Baltimore Eviction Map*, EVICTION RSCH. NETWORK (May 8, 2020), <https://evictionresearch.net/maryland/report/baltimore.html> [<https://perma.cc/XAJ6-GPSD>]; JANE PLACE NEIGHBORHOOD SUSTAINABILITY INITIATIVE, UNEQUAL BURDEN, UNEQUAL RISK: HOUSEHOLDS HEADED BY BLACK WOMEN EXPERIENCE HIGHEST RATES OF EVICTION (2019); Jaboa Lake et al., *Recognizing and Addressing Housing Insecurity for Disabled Renters*, CTR. FOR AM. PROGRESS (May 27, 2021), <https://www.americanprogress.org/article/recognizing-addressing-housing-insecurity-disabled-renters/> [<https://perma.cc/B4SA-BFAF>]; PETER HEPBURN ET AL., RACIAL AND GENDER DISPARITIES AMONG EVICTED AMERICANS 7 SOCIO. SCI. 649 (2020). Select metrics from these reports include: “Black people, other people of color, and women suffer in vastly disproportionate numbers from eviction and its devastating effects.” Scherer, *supra* note 11, at 31 (footnote omitted). “Unquestionably, the fundamental unfairness of summary eviction proceedings and the overt, implicit, and structural biases built into the eviction process fall disproportionately on other people of color in addition to Black people, including women, immigrants, members of the LGBTQ+ community, and disabled people.” Scherer, *supra* note 11, at 31 n.118. “Black women are at a particularly high risk, facing eviction 2.5 times as often as white women despite their much smaller population numbers.” Brief of Amici Curiae Matthew Desmond et al. at 1, *Matorin v. Commonwealth*, No. 2084-cv-01344, 2020 WL 12847146 (Super. Ct. Mass., Suffolk Cnty. Aug. 26, 2020), <https://www.harvardlegalaid.org/wp-content/uploads/2020/08/Matorin-PI-Amicus-Brief.pdf> [<https://perma.cc/73UA-GQTH>]. In California, “Black and Latinx households are more likely to be unable to pay rent compared to non-Hispanic Whites and Asian Americans . . .” ONG,

Summary proceedings for evictions in the United States were developed based on English laws for the property repossession through forcible entry. Detainer laws were enacted in the United States as early as 1671, and related summary proceedings in 1820.<sup>12</sup> If the summary proceeding system ever worked for landlord-tenant disputes, “[t]he demographic and legal context for tenancies has evolved enormously with industrialization and urbanization over the two centuries since the adoption of summary eviction proceedings.”<sup>13</sup> Nearly all elements of daily life in America have dramatically changed in the last two hundred years. This is particularly so in population-dense urban areas where court systems, government administration, housing systems, education systems, healthcare systems, transportation systems, and other social and cultural ecosystems have become increasingly intertwined and complex. How we work, how we move, how we interact, our daily expenses, our social systems, the role of government, where we live, how we use technology, where we seek reliable information or assistance has changed significantly just in the last two decades. Examples of this can be seen in the expansive role of the Internet, the development of prolific social media and other social content platforms, the prevalence of mobile devices as an essential requirement of life for many (including households with low incomes), increasing political polarization, widening wealth gap, and significant shift in labor market dynamics,

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*supra* note 11, at 1. “While 59% of [ ] Orleans Parish is Black, 82.2% of eviction proceedings observed by court monitors when a tenant was present involved Black tenants, with 56.8% of eviction proceedings being against Black women.” JANE PLACE, NEIGHBORHOOD SUSTAINABILITY INITIATIVE, UNEQUAL BURDEN, UNEQUAL RISK: HOUSEHOLDS HEADED BY BLACK WOMEN EXPERIENCE HIGHEST RATES OF EVICTION 6 (2020), <https://storage.googleapis.com/wzukusers/user-33549461/documents/d3f1a9fc6cde4778b8b4d6eb1f2e8f36/Unequal%20Burden%2C%20Unequal%20Risk%20Eviction%20Report%20JPNSI%20Final.pdf> [https://perma.cc/EY8P-DVA6]. “Currently, 7 million renters with disabilities across the country are cost burdened. Of these, 4 million are severely cost burdened, meaning they spend over half of their income on rent.” COLO. COAL. FOR THE HOMELESS, DISABILITY AND HOMELESSNESS ISSUE BRIEF 2022, at 2 (2022), [https://www.coloradocoalition.org/sites/default/files/2023-03/Disability\\_Issue\\_Brief\\_Digital\\_FINAL\\_03022023.pdf](https://www.coloradocoalition.org/sites/default/files/2023-03/Disability_Issue_Brief_Digital_FINAL_03022023.pdf) [https://perma.cc/N3K3-TCY6]. “Systematic review of names listed in eviction court records from Milwaukee County suggested that female renters — particularly in predominantly [B]lack and Latinx neighborhoods — were disproportionately evicted.” HEPBURN ET AL., *supra* note 11, at 649. Additionally, in Stout’s eviction right to counsel evaluations, data collected by attorneys representing tenants indicates that 45% to 55% of eviction right to counsel clients have a disability or someone in their household has a disability. *See Stout Landlord Interviews, supra* note 1.

12. *See* Kathryn Ramsey Mason, *Housing Injustice and the Summary Eviction Process: Beyond Lindsey v. Normet*, 74 OKLA. L. REV. 391, 398 (2022).

13. *See* Scherer, *supra* note 11, at 5.

particularly post-COVID.<sup>14</sup> And yet, the primary system landlords and tenants use to resolve disputes was created in a very different time.

Both tenants and landlords seek to maximize stability and minimize the risk of loss: for landlords it is the loss of capital or profits; for tenants it is the loss of their home and essential stability in their lives. Achieving these objectives does not require reliance on the court system — a significant proportion of filed evictions involve circumstances that can be resolved without having to file an eviction. While there will always be complex, substantive disputes between tenants and landlords that require the use of the court system,<sup>15</sup> those should be the exception, not the rule. Rather than high volume eviction courts with over-crowded hallways and 40–60% default rates, as are now common across the United States, with effective pre-filing resolution mechanisms, eviction courts can be low-volume, specialty, problem-solving institutions.<sup>16</sup>

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14. See JULIANA MENASCE HOROWITZ ET AL., *Trends in Income and Wealth Inequality*, PEW RSCH. CTR. (Jan. 9, 2020), <https://www.pewresearch.org/social-trends/2020/01/09/trends-in-income-and-wealth-inequality/> [<https://perma.cc/GC5T-ET5Q>].

15. In these exceptional cases, there is a clear need for assistance for those who are required to use the court system to resolve disputes, particularly for those who are unable to afford legal assistance. This includes the right to counsel for evictions, which provides legal counsel at no cost to people who are facing eviction but financially unable to pay for a lawyer. Currently, 17 cities, 5 states, and 2 counties have an eviction right to counsel, as listed below. Cities with an eviction right to counsel: New York City, San Francisco, Newark, Cleveland, Philadelphia, Boulder, Baltimore, Seattle, Louisville, Denver, Toledo, Minneapolis, Kansas City, New Orleans, Detroit, Jersey City, and St. Louis. States with an eviction right to counsel: Washington, Maryland, Connecticut, Minnesota. Counties with an eviction right to counsel: Westchester County (New York). NAT'L COAL. FOR A CIV. RT. TO COUNS., CURRENT TALLY OF TENANT RIGHT TO COUNSEL JURISDICTIONS (2024), [http://civilrighttocounsel.org/highlighted\\_work/organizing\\_around\\_right\\_to\\_counsel](http://civilrighttocounsel.org/highlighted_work/organizing_around_right_to_counsel) [<https://perma.cc/4QN7-BNQR>].

16. From 2018 through 2024 Stout (including the author) has conducted regular interviews and focus groups with tenant advocates, representatives of the courts and landlords providing housing to households with low incomes (both private and subsidized housing), and their legal counsel, for purposes of evaluating eviction right to counsel programs as they are being implemented and to assess the costs and potential fiscal impacts of eviction right to counsel policies that may be contemplated in certain jurisdictions. These interviews have been conducted in numerous jurisdictions, including, but not limited to: Cleveland, Milwaukee, Philadelphia, Connecticut, Maryland, Nashville, Chicago, Columbus, and Chattanooga. These interviews were conducted as one part of a much broader scope of work for these projects. These interviews and focus groups sought to gather feedback and information about the current volume of eviction filings, the frequency of tenant appearances, the need for various community supports to prevent eviction filings, local process and procedure, the challenges of high-volume housing courts, and other topics. Funding for these projects has typically been provided by philanthropic sources (in one instance funding was provided directly by a government source). See Evaluations by Stout of eviction right to counsel and related programs in many U.S. jurisdictions (2018–2024) [hereinafter Stout Eviction Right to Counsel Evaluations] (on file with Stout).



This Article explores this possibility by deconstructing common parables associated with eviction to demonstrate the range of circumstances the parties may be facing, allowing us to consider solutions designed for and adaptable to specific circumstances that may arise. Further, it will explore programs, pilots, and initiatives from across the United States that have sought to reduce the need for eviction filings and provide the constellation of ideas, elements, and resources that, if brought together, could form the foundation for scalable and sustainable solutions to prevent eviction filings. This Article concludes with a description of the various themes and elements that could be brought together to form new pathways, adaptable to local stakeholders and rental housing ecosystems, to dramatically reduce the number of eviction filings.

### I. PRIMER ON THE LANDLORD BUSINESS MODEL

To develop effective strategies for preventing eviction filings within the current legal and economic ecosystem we must consider the complex nature of the rental housing business and the economic considerations landlords must navigate. Renting properties is fundamentally a business venture and understanding how landlords manage their operations is essential to grasping their willingness to engage in effective conflict resolution methods. In a capitalist economy, private landlords must operate their businesses effectively, while complying with local laws, to ensure their viability. Generally, this involves several key factors, discussed below.<sup>17</sup>

**Revenue.** Private landlords enter into agreements with tenants that dictate the amount of money the tenant will pay the landlord in exchange for residency in the home the landlord owns. The terms and conditions of this relationship, including what constitutes delinquency, are based on the rental agreement or lease, and local laws. In a capitalist, market-based economy, the amount of rent charged by private landlords is based on costs to operate and the market rate for rents in the local area. It is important to note that the amount of revenue is generally the amount actually collected by the landlord — amounts earned or owed, but not collected, either reduce revenue or are an expense.

**Expenses.** The expenses landlords must incur to maintain their rental housing and operate their business can include: maintenance costs, payroll, including salaries, wages and benefits for any staff, property and income taxes, insurance, depreciation, mortgage interest, collection costs, legal filings, professional services, turnover costs (costs incurred when a renter leaves) and more.

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17. See Stout Landlord Interviews, *supra* note 1.

**Profit.** Generally, profit earned is revenue collected less expenses incurred. In capitalist, private rental housing markets, revenue collected must be more than expenses incurred to turn a profit, which can serve several purposes; primarily, enabling landlords to accumulate the funds necessary for certain forms of maintenance and investment in their property. Profits can ensure there are market participants willing to provide rental housing, so that market participants do not seek to deploy capital toward other investments and rental housing supply does not decrease.

**Capital Investments.** As previously mentioned, real estate and property require periodic investments that property owners are responsible for because property materials degrade over time and inevitably require repair or replacement. These can include roof replacement, drainage, sewage repair, window replacement, basement repair, sidewalk replacement, and more. Accumulated profit is often used to pay for such investments or repairs.

**Debt.** Many property purchases are financed through debt financing, which obligates property owners to make payments to lenders. Rent collected by landlords must be sufficient to pay the debt after paying property expenses.

**Property Value Changes.** The value of the underlying properties is subject to change. If the property value increases, the landlord could sell the property for a gain or use the equity (market value in excess of any debt owed) to borrow from a lender.

**Risk.** Risk is the uncertainty in potential future outcomes, present in each of the items above — revenue collection, increases in operating expenses, vacancy, capital requirements, access to capital, etc. Risk reflects the possibility that future outcomes could be better or worse than expected. Landlords may be particularly concerned about downside risk and may seek to mitigate it through various mechanisms such as security deposits, terms or conditions of the rental agreements, and increased rents.

Many factors contribute to landlords' willingness to increase or decrease rents, including market entrants and market rents. All else held equal, if expenses or risks increase, landlords require increases in revenue, but many factors can contribute to assessments of risk and expense structure. The number of rental units a landlord owns and the landlord's sophistication or experience may impact how they perceive and adapt to risk, respond to delinquency, structure expenses, and plan for capital improvements. A landlord with a single property is more significantly exposed to risk because they lack diversification across a portfolio of rental units, and vacancy and delinquency can pose a more significant threat because of an inability to offset any losses with revenue earned from other units. Larger landlords may develop rent setting strategies, lease agreements, and financial plans in a

manner that allows them to mitigate risk through diversification across a larger portfolio. Risk mitigation strategies for larger landlords may include setting rents with an expectation that a certain number of units may experience a certain amount of delinquency each year, which serves to limit the landlord's financial impact, but also reflects an increase in rents, all else held equal, as a response to the risk of delinquency and nonpayment of rent. Poor management and wrongful practices may cause properties to not be maintained, which also impacts the landlord-tenant relationship. In addition, local laws often require that rental housing properties be safe and habitable consistent with local property codes, regardless of the profitability of the business or individual that owns the property. Ultimately, rental housing markets are extremely complex ecosystems constantly responding to a wide variety of microeconomic and macroeconomic forces impacting both landlords and tenants.

## II. RANGE OF CIRCUMSTANCES

As an initial step, it is important to acknowledge that “eviction” does not represent a single circumstance, but rather describes potentially thousands of variations of underlying issues, facts, perceptions, challenges, disagreements, and obstacles. We must appreciate the range of circumstances that tenants and landlords face in the events preceding an eviction filing in order to develop scalable, sustainable, and adaptable processes for preventing such destabilizing events. Common circumstances for tenants facing eviction are discussed below:

**Job Loss or Reduction in Hours.** Job loss or disruption can be short-, medium-, or long-term. The duration of the expected job or income loss will inform the approach to preventing eviction filings, and approaches will differ for people who are expected to have short-term job loss as opposed to people who are expected to have long-term job loss. For long-term job loss, enrollment in federal public benefits (such as SSI/ SSD, TANF) and relocation assistance can be critical as well. For example, in Connecticut, we found that approximately 50% of clients of Legal Aid Organizations (LAOs) who were facing evictions and seeking legal assistance indicated the reason for non-payment was job loss or reduced hours — which also indicates that job loss or reduced hours was *NOT* the reason for non-payment of rent for the other 50%.<sup>18</sup>

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18. See STOUT, CONNECTICUT EVICTION RIGHT TO COUNSEL ANNUAL INDEPENDENT EVALUATION: JANUARY 31 TO NOVEMBER 20, 2022 (2022), [https://www.stout.com/-/media/pdf/evictions/stout-2022-independent-evaluation-ct-rtc\\_final\\_2022-12-30.pdf](https://www.stout.com/-/media/pdf/evictions/stout-2022-independent-evaluation-ct-rtc_final_2022-12-30.pdf) [https://perma.cc/6L27-FEVZ]. It is important to emphasize that this metric (50%) represents the proportion of people facing eviction that sought legal assistance and were able to connect

**Illnesses or Medical Bills.** Similar to job loss, the expected duration of illness or the magnitude of medical expenses will be important factors in considering reasonable re-payment plans and/or eviction filing prevention strategies. In one jurisdiction, we found that approximately 5% of clients of LAOs who were facing evictions and seeking legal assistance indicated that medical expenses were the reason they were not able to pay their rent.

**Changes in Household Composition.** When a household loses a member who was contributing to rent, their ability to afford rent going forward is likely to be impacted. There should be an assessment of what the expected rent shortfall is and whether and to what extent the remaining household member(s) can continue to afford rent or whether the household needs to find alternative housing.

**Public Benefits for Persons with Disabilities.** When tenants with intellectual or developmental disabilities receive public benefits, the timing of the receipt of those benefits compared to when rent is due should be considered. Proactive communication to Rental Property Owners (RPOs) about this timing, where possible, could be helpful in avoiding eviction filings.

**Changes to Public Benefits.** Denial of public benefits or changes to the amount of benefits received can significantly impact tenants' ability to pay rent and require significant time to resolve any disagreements or concerns. In several jurisdictions we have analyzed, approximately 1–5% of clients of LAOs who were facing evictions and seeking legal assistance indicated that denial or changes to public benefits was the reason they were delinquent with their rent.

**Other Increases to Living Expenses.** Changes to living expenses such as utilities, food, transportation, childcare, etc., can impact tenants' ability to pay their monthly rent in full and on time. In several jurisdictions we have analyzed, approximately 3–10% of clients of legal aid organizations who were facing evictions and seeking legal assistance indicated that competing expenses were the reason for their rent delinquency.

**Unexpected Expenses.** For tenants with low incomes and no significant savings, wealth, or access to capital, a wide variety of unexpected expenses can have a significant impact on their ability to pay expenses, including rent. Such expenses could include vehicle repairs, fines or fees, funeral expenses, medical expenses, childcare expenses, technology costs, such as replacing a phone, and more. The impact of short-term, infrequent, financial crises on tenants' ability to pay rent going forward could be minimal if their RPO is willing to create a repayment plan and the tenant has a realistic strategy for

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to legal assistance. The proportion of people facing eviction who experienced job loss or reduction in hours, and did not connect with legal assistance may be more or less than this.

catching up on the rent. In several jurisdictions we have analyzed, approximately 8% of clients of LAOs who were facing evictions and seeking legal assistance indicated that the reason for their non-payment were unexpected expenses.<sup>19</sup>

**Inability to Secure a Living Wage and/or Significant Housing Burdens.** A 2024 study by Harvard's Joint Center for Housing Studies indicates that housing affordability in the United States is worse than ever, with 22.4 million households (50% of all U.S. households) spending more than 30% of their income on rent.<sup>20</sup> Systemic, macro-economic issues such as the lack of a living wage can reinforce the need for long-term housing subsidies or alternative affordable housing strategies.<sup>21</sup> In several jurisdictions we have analyzed, approximately 1–4% of clients of LAOs who were facing evictions and seeking legal assistance indicated that a recent rent increase was the reason they were delinquent with their rent.<sup>22</sup>

The circumstances that may unfold between landlords and tenants during instances of delinquency are similarly highly diverse. The root causes of eviction filings may include non-payment with housing conditions dispute, non-payment with multiple complex issues such as ledger, conditions, harassment, property damage, noise, nuisance, property access, etc., or an affirmative case brought by tenant before nonpayment.<sup>23</sup> These root causes of eviction filings manifest themselves into forms of delinquency with varying degrees of complexities including: housing instability and/or relocation prior to an eviction filing, non-payment cases with 1–2 months of delinquency<sup>24</sup> and no meritorious legal defenses, non-payment cases three months or more of delinquency and no meritorious legal defenses, and non-payment cases of any amount for which the tenant and landlord disagree

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19. *See id.*

20. *See* Whitney Airgood-Obrycki & Sophia Wedeen, *Six Takeaways from America's Rental Housing 2024*, JOINT CTR. FOR HOUS. STUDS., HARV. UNIV. (Jan. 25, 2024), <https://www.jchs.harvard.edu/blog/six-takeaways-americas-rental-housing-2024> [<https://perma.cc/ZJ8J-38HU>].

21. *See id.*

22. *See* Stout Landlord Interviews, *supra* note 1.

23. *See* Stout Landlord Interviews, *supra* note 1.

24. For many landlords, one or two months of delinquency is a period during which they are working to resolve the issue with the tenant and develop repayment plans, if possible. At this juncture, the amount of non-payment is often less than the amount that will be incurred in legal fees and other costs by initiating the eviction process. In addition, at 12 months of delinquency the tenant is more likely to have the financial means necessary to reach a resolution and develop a payment plan, when possible. At 3 months or more of delinquency, the pathway to resolution often becomes more difficult due to the increased amount of back-rent owed, creating difficulties for both the landlord and tenant. *See* Stout Landlord Interviews, *supra* note 1.

about the amount of rent owed (*i.e.*, a ledger dispute).<sup>25</sup> When evaluating landlord-tenant disputes in a specific community, assessments of the distribution of circumstances quantitatively, with respect to both frequency and severity, can help create frameworks and strategies intended to address the needs of that community.

### A. The Costs of Eviction

The eviction process can entail substantial costs to tenants, property owners, and local governments. A robust understanding of each parties' vested interests can be helpful in developing practical models for preventing eviction filings while minimizing unexpected or unintended secondary effects.

#### 1. Costs of Eviction for RPOs

RPOs incur numerous costs in filing and resolving an eviction. They must pay costs related to the eviction filing, including filing fees, service fees, notice costs, and more, and may incur costs for legal representation, costs related to vacancy and re-renting the unit, and losses from the amounts owed by the prior tenant. The total estimated cost of the eviction process for a RPO can vary based on the circumstances.

WinnCompanies estimates the cost of eviction to the landlord to be \$2,500–\$8,000 per evicted household, consisting of lost rent, vacancy, and legal fees, as well as repairs, turnover, leasing costs, and more.<sup>26</sup> TransUnion estimates that eviction expenses for RPOs average around \$3,500, including legal fees, court costs, financial damages, property damages, and lost rent.<sup>27</sup> Additionally, RentRedi estimates that an eviction costs RPOs around \$1,500–\$5,000 due to missed rent, legal fees, cleaning/repairing damaged property, and vacancy periods.<sup>28</sup> Another estimate places the cost of eviction

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25. See Stout Landlord Interviews, *supra* note 1; Interviews by Stout with rental assistance administrators, local government, and local community stakeholders (2023–2024) [hereinafter Stout Stakeholder Interviews] (on file with Stout).

26. See *WinnCompanies Launches National Housing Stability Program*, AFFORDABLE HOUS. FIN. (Jan. 29, 2021), [https://www.housingfinance.com/management-operations/winncompanies-launches-national-housing-stability-program\\_o](https://www.housingfinance.com/management-operations/winncompanies-launches-national-housing-stability-program_o) [https://perma.cc/9RW4-7L7B].

27. See *The True Cost of an Eviction*, TRANSUNION SMARTMOVE, <https://www.mysmartmove.com/blog/true-cost-eviction#the-process-of-evicting-a-tenant> [https://perma.cc/E4B6-B3Q5] (last updated Sept. 14, 2022).

28. See *The Cost of an Eviction*, RENTREDI, <https://rentredi.com/blog/cost-of-an-eviction/#1> [https://perma.cc/DE93-H4R7] (last visited Aug. 4, 2024).

around \$4,000–\$7,000,<sup>29</sup> including legal fees, court costs, sheriff fees, lost rent, repair bills, locksmith services, traveling expenses, and vacant unit advertising.<sup>30</sup>

## 2. *Costs of Evictions for Tenants*

For tenants, the costs of the eviction process can be immediate and direct or have a long-term impact. Among the most significant costs are complications in previously evicted tenants' ability to secure future housing. As with RPOs, the costs and impacts of the eviction process for tenants can vary based on the circumstances. Examples of such costs are discussed below.

**Housing Instability.** Tenants may have difficulty finding and securing safe and stable housing after an eviction filing. Eviction cases often remain on tenants' records even if a formal eviction does not occur or if there are disputes of fact associated with the RPOs' claims.<sup>31</sup> RPOs often rely on tenant screening companies that include eviction filing experience in the information provided to rental property owners, exacerbating the difficulty of finding new residence following an eviction filing.<sup>32</sup>

**Employment.** Unemployment and eviction are connected, and securing housing following an eviction may supersede searching for employment. Even if evicted tenants are employed, evictions can impact employee performance and absenteeism.<sup>33</sup> According to a Harvard University study, the likelihood of a layoff is 11 to 22 percentage points higher for employees who have experienced an eviction or involuntary move compared to those that did not.<sup>34</sup>

**Education.** The instability that accompanies evictions can negatively impact students' education and behavior. Researchers have found that children with unstable housing were approximately twice as likely to have thought-related behavioral issues and approximately one-and-a-half times

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29. See Remen Okoruwa, *The Cost of Eviction: This Is How Much You'll Pay to Evict a Tenant*, BIGGERPOCKETS (Sept. 24, 2020), <https://www.biggerpockets.com/blog/how-much-will-it-cost-to-evict-tenants> [<https://perma.cc/7S3B-U5UN>].

30. The estimates of the costs of eviction to RPOs in this paragraph are understood to be national averages in the U.S. As noted above, the magnitude of these costs could vary in local jurisdictions, for certain RPOs and for individual circumstances.

31. See MATTHEW DESMOND, UNIV. OF WIS. MADISON: INST. FOR RSCH. ON POVERTY, UNAFFORDABLE AMERICA: POVERTY, HOUSING, AND EVICTION 4 (2015).

32. See STOUT, COST-BENEFIT ANALYSIS OF PROVIDING A RIGHT TO COUNSEL TO TENANTS IN EVICTION PROCEEDINGS 36 (2019).

33. See Matthew Desmond & Rachel Tolbert Kimbro, *Eviction's Fallout: Housing, Hardship, and Health*, 94 (1) SOC. FORCES 299 (2015).

34. See Matthew Desmond et al., *Housing and Employment Insecurity Among the Working Poor*, 63 SOC. PROBLEMS 14 (2016).

more likely to have attention-related behavioral health issues than children with stable housing.<sup>35</sup>

**Health.** Evicted families often relocate to communities with higher levels of poverty and violent crime and are more likely to land in substandard housing that presents risks such as mold and lead poisoning.<sup>36</sup> Additional impacts include negative effects on mental health,<sup>37</sup> including an increased risk of suicide<sup>38</sup> and excess mortality.<sup>39</sup>

The Administration for Children and Families, a division of the U.S. Department of Health and Human Services, issued an Information Memorandum (IM) highlighting the importance of civil legal services in advancing child and family well-being, addressing social determinants of health, and enhancing community resiliency.<sup>40</sup> The IM cites access to adequate housing, habitability, and eviction as civil legal issues that, if left unresolved, can become a major impediment to keeping families together.<sup>41</sup> The IM includes insight into the relationship between housing and health, noting that of the approximately 250,000 children who entered child welfare system care in fiscal year 2019, 64% entered in part due to neglect — including mental health harms stemming from an environment of domestic violence, poverty-related issues such as inadequate housing, and a lack of adequate nutrition — and educational neglect.<sup>42</sup>

**Foster Care.** Homelessness, which is linked to eviction, increases the risk that a child will be placed in foster care and is a barrier to family reunification. The U.S. Department of Health and Human Services found that 10% of children were removed from their homes primarily due to

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35. See *Housing Instability Is Linked to Adverse Childhood Behavior*, URB. INST. INITIATIVE (May 8, 2019), <https://housingmatters.urban.org/research-summary/housing-instability-linked-adverse-childhood-behavior> [<https://perma.cc/X99S-LMNW>]. According to the report, attention-related problems include difficulty with concentration, sitting still, school performance, and more. Thought-related problems could include abnormal ideas/behaviors as well as hallucinating sights and sounds. See *id.*

36. See JOSHUA SHARFSTEIN & MEGAN SANDEL, BOSTON CHILD'S HOSP. MED. CTR., NOT SAFE AT HOME: HOW AMERICA'S HOUSING CRISIS THREATENS THE HEALTH OF ITS CHILDREN 9, 11–12 (1998).

37. See TARA COOKSON ET AL., LOSING HOME: THE HUMAN COST OF EVICTION IN SEATTLE 59 (2018).

38. See Katherine A. Fowler et al., *Increase in Suicides Associated with Home Eviction and Foreclosure During the US Housing Crisis: Findings from 16 National Violent Death Reporting System States, 2005–2010*, 105 AM. J. PUB. HEALTH 311, 313–14 (2015).

39. *Homelessness & Health: What's the Connection*, NAT'L HEALTH CARE FOR THE HOMELESS COUNCIL 1 (Feb. 2019), <https://nhchc.org/wp-content/uploads/2019/08/homelessness-and-health.pdf> [<https://perma.cc/8LX6-Q84V>].

40. U.S. DEP'T OF HEALTH AND HUM. SERV., ADMIN. FOR CHILD. AND FAM., INFORMATION MEMORANDUM 1 (Jan. 12, 2021).

41. See *id.* at 4.

42. See *id.* at 5.



housing issues.<sup>43</sup> Researchers at Case Western Reserve University examined the effects of entry into foster care on children's well-being and future opportunity and found that more than 57% of students in foster care systems were chronically absent at school (i.e., had missed more than 10% of the days enrolled),<sup>44</sup> and 9% of students who had been in foster care had used homelessness services.<sup>45</sup> A first-of-its-kind study in Sweden examined the separation of children from evicted households from their families and their foster care placements, finding that approximately 4% of evicted children were removed from their families, compared to 0.3% of non-evicted children.<sup>46</sup> An American study using a nationally representative longitudinal data set explored the prevalence of inadequate housing among families under investigation by child welfare services agencies.<sup>47</sup> Findings indicated that inadequate housing contributed to 16% of child removals among families under investigation by Child Protective Services.<sup>48</sup>

### 3. *Cost of Evictions to the Courts*

Courts incur costs associated with processing eviction filings and operating mediation or other resolution programs.<sup>49</sup> A high volume of evictions can overwhelm courts and consume resources that could be used elsewhere, particularly with respect to unrepresented tenants.<sup>50</sup> Unrepresented tenants increase court administrative burdens because they are likely to be less informed about relevant laws and procedures and, as a result, may harm their own cases through incorrect court filings.<sup>51</sup> Further, RPOs — expecting unrepresented tenants — may file unmeritorious cases.<sup>52</sup> Preliminary data indicates that increasing legal representation for tenants in

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43. U.S. DEPT OF HEALTH AND HUM. SERVS., THE AFCARS REPORT NO. 25, at 2 (2017).

44. CLAUDIA COULTON ET AL., EFFECTS OF FOSTER CARE AND JUVENILE JUSTICE INVOLVEMENT ON EARLY ADULT OUTCOMES: A STUDY OF CLEVELAND'S YOUTH 10 (2015).

45. *Id.* at 12.

46. LISA BERG & LARS BRÄNNSTRÖM, EVICTED CHILDREN AND SUBSEQUENT PLACEMENT IN -OUT OF-HOME CARE: A COHORT STUDY 6 (2018).

47. See Patrick J. Fowler et al., *Inadequate Housing Among Families Under Investigation for Child Abuse and Neglect: Prevalence from a National Probability Sample*, AM. J. CMTY. PSYCH. 106 (2013).

48. *Id.*

49. See Paula Hannaford-Agor & Nicole Mott, *Research on Self-Represented Litigation: Preliminary Results and Methodological Considerations*, 24 JUST. SYS. J. 163, 165 (2003).

50. See *id.* at 164–65.

51. See *id.* at 164.

52. See TEIYA BATIEN ET AL., LEVELING THE PLAYING FIELD: LEGAL, ECONOMIC AND POLICY CONSIDERATIONS IN ESTABLISHING AN ACCESS TO COUNSEL PROGRAM FOR TULSA'S EVICTION DOCKET 67 (2021).

eviction proceedings can reduce the time it takes to resolve a case.<sup>53</sup> Reducing the number of eviction filings could further decrease burdens on courts.<sup>54</sup>

#### 4. *Costs of Evictions to Municipalities*

Likewise, evictions financially burden municipalities in the form of costs related to homelessness response, emergency and chronic healthcare needs

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53. See JOHN & TERRY LEVIN CTR. FOR PUB. SERV. & PUB. INT., SAN FRANCISCO RIGHT TO CIVIL COUNSEL PILOT PROGRAM DOCUMENTATION REPORT 20 (2014). Eviction right to counsel programs and legislation can increase the efficiency with which courts operate, depending on how the program or legislation is implemented. The courts also play an important role in how eviction right to counsel is implemented and can effectuate efficiency gains through its practices and procedures surrounding eviction right to counsel. Results from the San Francisco Right to Civil Counsel Pilot Program indicated that when tenants are represented, cases move through the legal processes more efficiently than when tenants are unrepresented. The average number of days from filing the complaint to a judgment entered by the clerk decreased from 37 to 31. The average number of days from filing the complaint to a negotiated settlement decreased from 72 to 62. The average number of days from the filing of the complaint to the entry of a court judgment decreased from 128 to 105, and the average number of days from filing the complaint to dismissal of the action decreased from 90 to 58. Cases closing times are independent of the time a tenant has to move. See Transcript of The Chief Judge's 2018 Hearing on Civil Legal Services in New York State at 10–14, 35 (Sept. 24, 2018). Indicators from New York City's implementation of eviction Right to Counsel suggest that when eviction proceedings are filed and both sides are represented, resource intensive motion practice related to non-dispositive issues is reduced. Additionally, fewer orders to show cause to stay evictions and for post-eviction relief are being filed, indicating that better outcomes are being achieved under eviction Right to Counsel. Judge Jean Schneider, citywide supervising judge of the New York City Housing Court, testified in 2018 at a hearing on New York State civil legal services that as a result of Right to Counsel implementation "our court is improving by leaps and bounds . . ." *Id.* at 35. At the same hearing, Judge Anthony Cannataro, then administrative judge of the civil courts in New York City, explained that judges have spent less time explaining housing rights and court processes to represented tenants who, without Right to Counsel, will likely have previously been unrepresented. Lastly, as to efficiency, there is an increased likelihood that cases can be resolved out of court and before the first hearing when counsel is involved. While there were initial concerns that increased representation would slow court procedures, early observations from the implementation and expansion of Right to Counsel in New York City have indicated that significant benefits are being observed by the judiciary through improved motion practice, judicial experience, pre-trial resolution, and rulings providing increased clarity for rental property owner and tenant advocates. After right to counsel projects in select Massachusetts courts, a judge expressed that the project changed the culture of the court. The judge specifically mentioned that the right to counsel project "raised the bar" as to what the parties should expect and "[kept] everyone honest," in the sense that it was clear that sound legal work would be required. BOS. BAR ASS'N TASK FORCE ON THE CIV. RT. TO COUNS., THE IMPORTANCE OF REPRESENTATION IN EVICTION CASES AND HOMELESSNESS PREVENTION: A REPORT ON THE BBA CIVIL RIGHT TO COUNSEL HOUSING PILOTS 18 (2012). When asked whether the project should be replicated elsewhere, the judge responded that there was no question that he would recommend the project to other courts.

54. However, this would also reduce revenue to the court in the form of eviction filing fees.

for persons experiencing homelessness, supporting children experiencing homelessness, administering foster care systems due to housing instability, policing and enforcement responses, and the lost economic contributions of both RPOs and tenants. In New York, the annual expense to provide emergency shelter for an individual experiencing homelessness is around \$47,000, and for a family, around \$81,700.<sup>55</sup> Stout's independent research has identified the following ranges of costs for certain social safety net responses and interventions across various U.S. jurisdictions:<sup>56</sup>

Emergency Shelter and Social Safety Net Responses	\$3,390 to \$32,400 per household
Healthcare for People Experiencing Homelessness	\$2,836 to \$18,500 per person
Out-of-Home Foster Care	\$6,935 to \$62,000 per child
Federal and State Funding for Public Schools	\$1,400 to \$13,700 per child

Deterioration of low-income rental housing stock can introduce other financial burdens, such as the loss of local RPOs, followed by increases in landlords from other jurisdictions, including large institution landlords with national portfolios, small landlords from other U.S. jurisdictions diversifying their portfolio of rental properties and investors from jurisdictions outside the U.S. purchasing rental housing for their investment or business interests, and costs related to rental registration, property code violations, and associated enforcement.<sup>57</sup> Neighborhood and community deterioration, while harder to quantify, can also occur.<sup>58</sup>

### **B. Rental Housing Instability — Data That Can Inform Collaboration and Design**

To develop a practical model for *preventing* eviction filings and fostering constructive dialogue in our communities, it can be helpful for community leaders and advocates to gain a comprehensive understanding of the diverse circumstances surrounding eviction cases at the local level. A variety of

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55. GISELLE ROUTHIER, STATE OF THE HOMELESS 2019, at 22 (2019), <https://www.coalitionforthehomeless.org/wp-content/uploads/2019/04/StateOfTheHomeless2019.pdf> [<https://perma.cc/DR7B-3L9H>].

56. Based on research on file at Stout. See Stout Landlord Interviews, *supra* note 1.

57. Based on data and information from interviews conducted by Stout and on file with Stout. See Stout Landlord Interviews, *supra* note 1.

58. See Stout Landlord Interviews, *supra* note 1.

local, regional, and national data sources can help further such dialogue. Examples are discussed below.

**Court Data.** Eviction filing data collected by courts can help discern the frequency of eviction filings, case dispositions, case activities, appearance rates, party representation, concentration of plaintiffs, and geographic concentration. In recent years, some courts have enhanced their data collection practices, particularly for court users who appear for their hearing or seek assistance from court personnel (e.g., help desks, navigators, court clerks, etc.).<sup>59</sup> This data can include litigant demographics, litigant circumstances, case characteristics, litigant goals, access to technology, court experience, and more.<sup>60</sup>

**Rental Assistance Data.** Data collected by rental assistance administrators can provide insights into circumstances experienced by people who are applying for rent assistance in jurisdictions across the country — including those who have not yet received an eviction notice or summons. This data can include household composition and demographics, amount of back rent owed, whether the applicant household received an eviction notice or complaint, and whether utilities were owed.

**LAOs' Program Data.** Data collected by LAOs can be helpful to further understand the circumstances of individuals facing eviction and seeking legal representation and to facilitate dialogue about the role of legal representation in such cases.<sup>61</sup> This data should also be considered with the understanding that there are many cases LAOs do not work on — significant resource constraints, as well as the manner in which tenants may navigate housing instability and the eviction process, prevent LAOs from serving all those facing eviction or even all those who seek assistance.<sup>62</sup> The cases serviced by LAOs are often very complex, often have meritorious defenses, and involve clients who are particularly vulnerable and are often facing severe consequences.<sup>63</sup> Examples of information and data that may be collected by certain legal services organizations, and the value of such data

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59. For example, many courts have done this through the National Center for State Courts' Eviction Diversion Initiative Grant Program. See *NCSC Eviction Diversion Initiative*, NAT'L CTR. FOR STATE CTS., <https://www.ncsc.org/consulting-and-research/areas-of-expertise/access-to-justice/eviction-diversion-diagnostic-tool/eviction-diversion-initiative-grant-program> [https://perma.cc/AC7J-NSJJ] (last visited Aug. 15, 2024).

60. *Id.*

61. Based on data from rental assistance administrators received in various jurisdictions from 2022–2024 including Cleveland, Maryland and Milwaukee as well as discussions with rental assistance administrators in various other jurisdictions.

62. *The Justice Gap: The Unmet Civil Legal Needs of Low-income Americans*, LEGAL SERVS. CORP. at 9, 15, 19, 70, 74–75 (Apr. 2022), <https://www.lsc.gov/initiatives/justice-gap-research> [https://perma.cc/E3SC-RHQJ].

63. This is a consistent finding in Stout's Eviction Right to Counsel Evaluation reports. See, e.g., STOUT, *supra* note 18 at 8, 14, 21, 31, 33, 48.

collection, include the following items (frequency of identified defenses, reasons for non-payment, etc.):

**Frequency of Identified Defenses.** The presence of legal defenses is often an indication of complex case circumstances and issues that attorneys with subject matter expertise may be uniquely qualified to identify.<sup>64</sup>

**Reasons for Non-Payment.** Such data can indicate whether the reason for non-payment is a voluntary withholding by the tenant because of a dispute with the landlord, a short-term disruption to income, such as an unexpected expense or short-term reduction in working hours, or a long-term change in income, such as a wage-earning member of the household leaving the home or the loss of a job. This data can inform clients' expectations about and their ability to pay rent going forward, pay toward the back rent owed, and whether the reason for non-payment is short- or long-term.

**Employment Status.** Employment status is relevant to tenants' ability to pay rent going forward and can be a reason for the non-payment of rent. When combined with other data elements, such as the presence of a disability or part-time employment, employment status data creates a deeper understanding of client circumstances.

**Housing Burden.** In certain situations, tenants simply cannot afford their rent. For these tenants and their RPOs, the most appropriate outcome may be for the tenant to identify and move to more affordable housing.

**Frequency of Disputes with RPO.** Tenants who have tenuous relationships or bad experiences with their RPO or property manager may seek assistance with moving, which could be accomplished without an eviction filing in a manner that is minimally disruptive to both the tenant and the RPO.

**Canvassing Data Illustrating Tenant Perceptions and Responses to Eviction Filings.** In some instances, particularly in population-dense urban areas, the staff of community-based organizations utilize eviction filing data from the courts to visit the homes of persons facing eviction.<sup>65</sup> These person-to-person interactions can be important to understand why tenants do not respond to pre-filing eviction notices or appear in court, as well as any perceptions they may have about the eviction process and available help. Tenants may communicate to canvassers that they know they owe back-rent

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64. Based on discussions with staff at legal services organizations from 2018 to 2024 in jurisdictions across the U.S. See Stout Landlord Interviews, *supra* note 1.

65. STOUT, EVICTION FREE MILWAUKEE: ANNUAL INDEPENDENT EVALUATION SEPTEMBER 1, 2021 TO DECEMBER 31, 2022, at 65 (2023), [https://county.milwaukee.gov/files/county/board-of-supervisors/District-4/District-4-Map/Stouts2022IndependentEvaluationofEFM\\_FINAL\\_2023.03.061.pdf](https://county.milwaukee.gov/files/county/board-of-supervisors/District-4/District-4-Map/Stouts2022IndependentEvaluationofEFM_FINAL_2023.03.061.pdf) [<https://perma.cc/TZ39-TY44>].

and plan to move before their hearing date.<sup>66</sup> Tenants may also not understand or appreciate the value of having an attorney.

**Household Pulse Survey (HPS) Data.** Third-party supplemental data sources inform broader, macro-level sentiments of renter populations and the circumstances they are experiencing. Renters responding to the HPS may not be facing eviction, but the data provides insights as to increases in rent,<sup>67</sup> whether the household is current on its rent payments, if behind on rent — how many months, whether the household has felt pressured to move and why, whether the household actually moved,<sup>68</sup> whether the household is likely to move within the next two months, among others.<sup>69</sup>

**Census Housing Burden Data.** Similar to HPS data, the U.S. Census also collects renter household data on tenants' housing burdens and other elements that can assist in developing an understanding of how much tenant households are paying toward rent relative to their monthly income.<sup>70</sup>

**Feedback from Tenant Advocates.** Feedback from tenant advocates provides important context and nuance for understanding quantitative data, making it actionable and ensuring that systems, processes, and strategies are developed mindful of the circumstances tenants often experience.<sup>71</sup>

**Feedback from RPOs and Their Counsel.** Feedback from RPOs and their counsel is similarly useful to feedback from tenant advocates. It is especially important to appreciate that RPOs and their counsel are critical stakeholders in developing any strategies within the eviction ecosystem.

**2-1-1 Data.** Local 2-1-1 administrators may collect information indicating the frequency of requests for various forms of assistance, including requests related to rental housing, and is not limited to those facing eviction.<sup>72</sup> By examining this local, regional, and national data, community

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66. *Id.*

67. Veronica Garrison & Aaron Shroyer, *Pressure to Move and Forced Moves Among U.S. Renter Households: Findings from New Questions in the Household Pulse Survey*, EDGE PD&R (Sept. 19, 2023), <https://www.huduser.gov/portal/pdredge/pdr-edge-trending-091923.html> [<https://perma.cc/ANP2-EJ6K>].

68. *Id.*

69. *Census Household Pulse Survey: Key Phase 3 Housing Payment Findings* PD&R EDGE (Sept. 1, 2021), <https://www.huduser.gov/portal/pdredge/pdr-edge-trending-042621.html> [<https://perma.cc/K7FF-KU56>].

70. Molly Cromwell, *Renters More Likely Than Homeowners to Spend More Than 30% of Income on Housing in Almost All Counties*, U.S. CENSUS BUREAU (Dec. 8, 2022), <https://www.census.gov/library/stories/2022/12/housing-costs-burden.html>, [<https://perma.cc/MFM8-UN8Y>].

71. Based on data and information from interviews conducted by Stout and on file with Stout). See Stout Eviction Right to Counsel Evaluations, *supra* note 16.

72. Based on data and information from interviews conducted by Stout and on file with Stout. See Stout Eviction Right to Counsel Evaluations, *supra* note 16.

leaders and advocates can achieve a comprehensive understanding of the circumstances faced by landlords and tenants with respect to eviction within their specific community. The insights gathered can inform the design and development of practical and sustainable models for preventing eviction filings tailored to the specific needs of local communities, with a focus on particular situations and circumstances.

### III. EXAMPLES OF PROGRAMS, PILOTS, AND RESEARCH REGARDING THE PREVENTION OF EVICTION FILINGS

A variety of programs, pilots, and research have been conducted and contain valuable insight about eviction filing prevention, housing stability, financial counseling, and other aspects of sustainable strategies for the prevention of eviction filings. Provided below are brief descriptions of various programs across the U.S. that have contributed to improving housing stability, reducing the likelihood of eviction, and preventing eviction filings. Taken collectively, the programs provide insights into the potential to develop comprehensive, integrated strategies for the prevention of eviction filings.

#### A. WinnCompanies' Housing Stability Program<sup>73</sup>

WinnCompanies, the largest provider of affordable housing in the United States, launched the Housing Stability Program, an innovative multi-faceted program intended to reduce eviction filings by 50% by 2025.<sup>74</sup> The program aims to: 1) improve tenant education/outreach regarding public and private resources available to tenants; 2) proactively coordinate intervention with households at risk of eviction; 3) attempt to reach sustainable payment agreements with relevant tenants and provide aid for emergency rental assistance access; and 4) offer incentives and accountability to property management staff and counsel to identify and pursue housing stabilization objectives.<sup>75</sup>

As a result of the program, by June 2021, over 45,000 tenants avoided financial hardship-related eviction during the pandemic.<sup>76</sup> The program was initially developed in November 2019 and refined during the pandemic in

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73. *More Than 15,000 Households Avoided Eviction Through National Housing Stability Program Implemented by WinnCompanies*, WINNCOMPANIES (June 22, 2021), <https://www.winncompanies.com/news/2547-more-than-15-000-households-avoided-eviction-through-national-housing-stability-program-implemented-by-winncompanies>, [https://perma.cc/4B36-CSLS] [hereinafter *WinnCompanies Stability Program*].

74. *Id.*

75. *Id.*

76. *Id.*

2020.<sup>77</sup> Over 1,700 employees were trained to implement the program, and the initiative covered 160,000 individuals living across 600 communities owned or managed by WinnResidential, WinnCompanies' property management arm.<sup>78</sup> Over 9,000 households were supported through mediation, payment agreements, and utility payment support, and the program helped over 6,000 households apply for the Emergency Rental Assistance Program (ERAP) for over \$16 million in rent assistance with more than \$9 million in tenant aid secured as ERAP programs process applications.

In 2021, only 27 households were evicted by Winn for non-payment of rent. As pandemic-related emergency rental assistance dissipated the number of evictions by Winn increased to 111 in 2022 and 315 in 2023, in a portfolio of more than 108,000 units, as unpaid rent increased from \$9 million just prior to the pandemic to nearly \$50 million at the end of 2023.<sup>79</sup> While Winn encountered administrative challenges and significant staff turnover as it learned to effectively implement this program, WinnResidential Vice President Trevor Samios also noted: “[It’s] not the number of people [who are late on rent] that’s growing. It’s that the balances for a finite group of people are compounding and compounding and compounding,” adding that severely delinquent tenants often do not engage with Winn representatives or respond to outreach.<sup>80</sup>

Samios also noted:

As owners and operators, we have a responsibility to the folks who call our communities home, especially when they fall on hard times. This partnership and the success of this program hinges on residents working proactively with us. We have zero evictions for non-payment of rent in the last 15 months among the 15,000-plus households who are participating. This flips the traditional approach on its head by intervening upstream to avoid eviction whenever possible. Helping people stay in their homes has myriad benefits; it’s good for our residents, for communities, our industry and the economy as we all look ahead.<sup>81</sup>

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77. *Id.*

78. *Id.*

79. LM Ortiz, *Cincinnati Eviction Prevention Program Shows Mixed Results*, PLANETIZEN (July 15, 2024, 5:00 AM), <https://www.planetizen.com/news/2024/07/130224-cincinnati-eviction-prevention-program-shows-mixed-results> [https://perma.cc/9C89-RDFE].

80. *See id.*

81. *WinnCompanies Stability Program*, *supra* note 73.



### B. Housing Navigators and Rental Assistance — Cleveland<sup>82</sup>

The Cleveland City Council approved \$5 million for Cleveland Housing Network (CHN) Housing Partners to assist residents.<sup>83</sup> The fund will be used to provide post-pandemic rental assistance by covering qualifying security deposit, forward rent, and direct administrative costs over the next few years.<sup>84</sup>

The funds will also be used for CHN's housing navigation services, which are designed to help renters who need to move, including those at risk of eviction and those unable to resolve disputes with their current landlord.<sup>85</sup> The program's "navigators" would assist people with finding suitable rental properties, by offering finance, budget counseling, and search advice to help renters avoid scam listings.<sup>86</sup> Access to rental funds is dependent on: residency in Cleveland or movement into a rental unit in Cleveland; a household income at or below 80% of the Area Median Income; and risk of housing instability and homelessness due to factors such as an increase in rent payments, an eviction, a lease termination, or relocation from unsafe/unsanitary housing.<sup>87</sup>

### C. Working in Neighborhoods — Cincinnati<sup>88</sup>

Working in Neighborhoods (WIN) provides financial empowerment and housing counselors to build communities and promote economic learning.<sup>89</sup> As a U.S. Department of Housing and Urban Development (HUD) certified counselor, the organization provides free counseling on mortgage delinquency and foreclosure avoidance, credit repair and debt management, rental, and more.<sup>90</sup> WIN also provides homebuyer training classes and counseling, financial literacy programs, a summary of Ohio Benefit Bank services, assistance to help families save homes from foreclosure, and

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82. *New Rental Assistance Program to Start*, CLEVELAND CITY COUNCIL (Apr. 20, 2023), <https://www.clevelandcitycouncil.org/new-rental-assistance-program-start> [https://perma.cc/3XPF-GFF3].

83. *Id.*

84. *Id.*

85. *Id.*

86. *Id.*

87. *Id.*

88. *Our Programs: Financial Literacy*, WORKING IN NEIGHBORHOODS, <https://wincincy.org/financial-literacy/> [https://perma.cc/2VUN-KCTM] (last visited Aug. 4, 2024).

89. *Id.*

90. *Id.*

partnerships with local lenders to provide financial opportunities to residents.<sup>91</sup>

#### **D. Housing Initiatives of Princeton<sup>92</sup>**

The non-profit Housing Initiatives of Princeton (HIP) operates eight Princeton-area rental housing units, with an expected expansion to 11 units.<sup>93</sup> In-need families and individuals working to escape homelessness and achieve sustainable financial independence pay below-market rent, allowing them to catch up on bills and savings and move toward permanent housing.<sup>94</sup>

Recognizing the variety of financial, emotional, and educational challenges that often accompany housing instability, HIP offers a suite of services, including: career development, financial literacy classes, childcare support, affordable housing strategy, and mental health counseling.<sup>95</sup> HIP also assists with eviction prevention by providing funds for back rent, security deposits, and first month's rent for in-need residents of Mercer County, New Jersey.<sup>96</sup> Case managers assist participants with utilizing those resources effectively.<sup>97</sup> As of December 2023, HIP could provide up to \$800 for unpaid rent and \$1,200 toward a security deposit for an apartment rental.<sup>98</sup> The eviction program specifically has helped around 500 families since 2015, and requests for assistance nearly doubled between 2022 and 2023.<sup>99</sup>

#### **E. Minneapolis Public Housing's Housing Stabilization Program<sup>100</sup>**

To assist an increasing number of residents in danger of eviction, the Minneapolis Public Housing Authority (MPHA) established a housing stabilization program early in the pandemic.<sup>101</sup> MPHA now offers public

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91. *Id.*

92. Rae Padulo, *Sometimes a Little Help Can Go a Long Way*, PRINCETON PERSPECTIVES (Jan. 16, 2024), <https://princetonperspectives.com/sometimes-a-little-help-can-go-a-long-way/> [https://perma.cc/M4ZG-3UZ2].

93. *Id.*

94. *Id.*

95. *Id.*

96. *Id.*

97. *Id.*

98. Lea Kahn, *These Are Our Neighbors*, CENTRALJERSEY.COM (Dec. 7, 2023), <https://centraljersey.com/2023/12/07/housing-initiatives-of-princeton-helps-to-stave-off-evictions/> [https://perma.cc/L3V9-92MB].

99. Padulo, *supra* note 92, at 3.

100. Abbie Wilson, *Housing Stabilization Work Helps Keep Residents Housed Amid Financial Challenges*, MINNEAPOLIS PUB. HOUS. AUTH. (Feb. 6, 2024), <https://mphaonline.org/news/housing-stabilization-work/> [https://perma.cc/58MQ-7BT2].

101. *Id.*

and affordable housing to almost 10,000 residents at 30% of those residents' adjusted income.<sup>102</sup> The organization created an internal team that connected residents who owed back rent to financial and service support.<sup>103</sup> Throughout the pandemic, MPHA helped nearly 750 families access over \$2.5 million in rent relief through RentHelpMN, a federally funded program for COVID-19 emergency response.<sup>104</sup> In 2023, MPHA helped almost 450 families access over \$80,000 from Hennepin County's emergency assistance program.<sup>105</sup>

To help tenants access stable housing, MPHA property management, rent collection, and social services team members connect with any resident that misses a rent payment.<sup>106</sup> The team provides access to social, medical, and wellness benefits and discusses possible emergency rent assistance applications.<sup>107</sup> If the resident does not address the owed rent, the team sends a notice warning of potential eviction, and if the resident does not act, MPHA files an eviction action as a last resort.<sup>108</sup> When the resident appears in court, MPHA offers an individualized, achievable payment plan so the resident can remain housed.<sup>109</sup>

#### **F. The Urban Institute Research Scan of 47 Eviction Diversion and Prevention Programs Across the United States<sup>110</sup>**

In 2021, Urban Institute examined 47 state and local diversion and prevention programs to provide insights to policymakers, administrators, and advocates for the design and support of similar programs.<sup>111</sup> The examination focused on programs that were created or modified because of COVID-19 hardships and designed to prevent eviction for at-risk renters.<sup>112</sup> The 47 programs identified consisted of 29 that were created due to the

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102. *Id.*

103. *Id.*

104. *Id.*; see also RENTHELPMN, <https://www.renthelpmn.org> [<https://perma.cc/DX2A-VMBB>] (last visited Aug. 18, 2024).

105. Wilson, *supra* note 100.

106. Wilson, *supra* note 100.

107. Wilson, *supra* note 100.

108. Wilson, *supra* note 100.

109. Wilson, *supra* note 100.

110. MARK TRESKON ET AL., URB. INST., EVICTION PREVENTION AND DIVERSION PROGRAMS: EARLY LESSONS FROM THE PANDEMIC (2021), [https://www.urban.org/sites/default/files/publication/104148/eviction-prevention-and-diversion-programs-early-lessons-from-the-pandemic\\_0\\_0.pdf](https://www.urban.org/sites/default/files/publication/104148/eviction-prevention-and-diversion-programs-early-lessons-from-the-pandemic_0_0.pdf) [<https://perma.cc/XQ66-XLQH>].

111. *Id.*

112. *Id.*

pandemic, 18 that were adapted because of pandemic-related needs, and 19 that were court based.<sup>113</sup>

Key themes drawn from the Urban Institute's research and interviews include the need to address renter needs holistically and the importance of rental and other forms of financial assistance.<sup>114</sup> The report also emphasized that program design and outreach should center equity, and be flexibly-designed, with the ability to continuously adapt to rapidly changing circumstances.<sup>115</sup>

#### **G. The Urban Institute's Research Scan of Housing Counseling Programs<sup>116</sup>**

The Urban Institute interviewed 18 representatives across eight organizations that directly provide rental counseling or that support counseling agencies.<sup>117</sup> The research identified challenges and opportunities for funding through the U.S. Department of Housing and Urban Development's (HUD) definition of rental counseling.<sup>118</sup> For example, the HUD counseling framework required counselors to take steps (such as creating a budget, a financial and housing affordability analysis, and action plan) that might not make sense for clients in financial crisis and enduring illness, eviction, and food insecurity because of the pandemic.<sup>119</sup> The research also highlighted the roles and services of housing counselors and financial empowerment coaches in eviction situations.<sup>120</sup>

Key takeaways from interviews with counseling providers noted that while virtual counseling services have benefits, they create equity concerns. For example, a lack of accessibility to technology, discomfort with virtual services, and limited language-accessible and culturally appropriate services may disproportionately affect certain groups.<sup>121</sup> Additionally, although counseling is reaching vulnerable renters and communities-of-color, more effort may be needed.<sup>122</sup>

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113. *Id.*

114. *Id.*

115. *Id.*

116. MARTHA M. GALVEZ ET AL., URB. INST, HOUSING COUNSELING TO SUPPORT RENTERS IN CRISIS (2021), [https://www.urban.org/sites/default/files/publication/103969/housing-counseling-to-support-renters-in-crisis\\_1.pdf](https://www.urban.org/sites/default/files/publication/103969/housing-counseling-to-support-renters-in-crisis_1.pdf) [<https://perma.cc/7SQB-G2VH>].

117. *Id.*

118. *Id.*

119. *Id.*

120. *Id.*

121. *Id.*

122. *Id.*

The interviews also highlighted that renters require rental assistance and financial support to meet basic needs, both renters and counselors require access to rental assistance and legal expertise, funding and capacity constraints challenge housing counseling providers, and though landlords are often absent from rental counseling services, they may also require assistance.<sup>123</sup>

#### **H. HUD Office of Housing Counseling, Housing Counseling Program<sup>124</sup>**

HUD's counseling program is dedicated to helping families obtain, sustain, and retain their homes.<sup>125</sup> To accomplish this, HUD works to create a network of counseling agencies and certified housing counselors to assist families.<sup>126</sup> HUD-participating agencies offer services such as counseling and workshops on financial management, mortgage delinquency and default resolution, rental issues such as eviction, landlord tenant disputes, Section 8 concerns, and disaster preparation and mitigation.<sup>127</sup>

HUD supports housing counselors by providing a variety of resources, including: guidance on client management systems and housing counseling systems; a handbook that details current legislative and programmatic requirements for implementing the Housing Counseling Program; and 9902 Data Displays, which consist of interactive dashboards that allow users to intuitively navigate information captured in the HUD-9902 Housing Counseling Activity Report.<sup>128</sup> The Data Displays are part of HUD's larger Housing Counseling 9902 online toolkit, intended to help counseling agencies comply with requirements for federal grants while increasing effectiveness and efficiency in completing reports by providing guidance for

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123. *Id.*

124. *Housing Counseling*, U.S. DEP'T OF HOUS. & URB. DEV., [https://www.hud.gov/program\\_offices/housing/sfh/hcc/housing\\_counseling](https://www.hud.gov/program_offices/housing/sfh/hcc/housing_counseling) [<https://perma.cc/54RM-UBFG>] (last visited Aug. 2, 2024).

125. *Id.*

126. *Id.* Some nationally approved agencies include the National Association of Real Estate Brokers Investment Division, Inc., the National Foundation on Credit Counseling, and Housing Options Provided for the Elderly (HOPE).

127. *Common Questions and Answers about Housing Counseling*, U.S. DEP'T OF HOUS. & URB. DEV., [https://www.hud.gov/program\\_offices/housing/sfh/hcc/what\\_kinds\\_housing\\_counseling\\_services\\_are\\_available](https://www.hud.gov/program_offices/housing/sfh/hcc/what_kinds_housing_counseling_services_are_available) [<https://perma.cc/KH78-Q9FW>] (last visited Aug. 4, 2024).

128. *9902 Program Impact Data Display Dashboards and FY 2020 Data*, HUD EXCHANGE, <https://www.hudexchange.info/programs/housing-counseling/the-bridge/2021-quarter-1/9902/> [<https://perma.cc/Z5ZV-CXNU>] (last visited Aug. 4, 2024).

agencies filling out the HUD-9902 report and about client management systems.<sup>129</sup>

### **I. Public Housing Authorities' Response to Non-Payment Eviction During the COVID-19 Pandemic**

In response to the COVID-19 pandemic, many public housing authorities across the U.S. developed policies and practices to ensure no resident was evicted for non-payment of rent.<sup>130</sup> In many jurisdictions, a “No Eviction for Non-Payment” approach was adopted.<sup>131</sup> Indeed, many were successful at not filing any evictions for non-payment of rent for over a year.<sup>132</sup>

For example, the Cuyahoga Metropolitan Housing Authority and Philadelphia Housing Authority were two public housing authorities who were successful at implementing such practices during the height of the COVID-19 pandemic in 2021 and have sought sustainable means of continuing that practice.<sup>133</sup> During the pandemic, these public housing authorities dramatically reduced the number of eviction filings brought for the non-payment of rent, and in some instances, reduced the number of eviction filings brought for non-payment to zero.<sup>134</sup> The ability to achieve this outcome was partially contingent on the unprecedented emergency rental assistance available during the pandemic and complemented by innovative case management approaches centered on communication and developing tailored plans to resolve circumstances for each tenant.<sup>135</sup>

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129. *Housing Counseling 9902 Online Toolkit*, HUD EXCH., <https://www.hudexchange.info/programs/housing-counseling/9902/> [https://perma.cc/E7H3-NHB7] (last visited Aug. 4, 2024).

130. Based on data and information from interviews conducted by Stout with public housing authorities from 2021 to 2023 in various locations including, but not limited to New York City, Connecticut, Maryland, South Carolina, and Cleveland. *See* Stout Landlord Interviews, *supra* note 1.

131. Based on data and information from interviews conducted by Stout with public housing authorities from 2021 to 2023 in various locations including, but not limited to New York City, Connecticut, Maryland, South Carolina, and Cleveland. Notes and information from these interviews are on file with Stout. *See* Interviews by Stout with public housing authorities in many U.S. jurisdictions (2021–2023) (on file with Stout).

132. *See id.*

133. *See id.*

134. *See id.*

135. *See id.*

**J. Local Initiatives Support Corporation (LISC) Financial Opportunities Centers (FOCs)<sup>136</sup>**

LISC has more than 120 FOCs around the U.S., which provide career/financial coaching and a financial stability program to help under-resourced individuals achieve their financial goals.<sup>137</sup> Through these centers, LISC connects clients to resources such as food stamps, utilities assistance, and affordable health insurance along with counseling designed to allow clients build credit, savings, and assets.<sup>138</sup> Through FOCs, LISC also hosts “Bridges” programs, designed to boost career readiness in communities by building curriculums to address local training and employment gaps.<sup>139</sup> Clients can improve literacy and math skills, receive technical training, and pursue industry certifications before being connected to local, relevant job opportunities.<sup>140</sup>

**K. Preservation of Affordable Housing’s (POAH) Family Self Sufficiency (FSS) Program<sup>141</sup>**

POAH’s five-year FFS Program allows residents in federally assisted housing to save rent increases attributable to earnings growth in an escrow account when their income increases.<sup>142</sup> POAH offers financial coaching to FSS participants by partnering with financial services organizations.<sup>143</sup> 97% of graduates exit the program with savings, and in less than five years, those graduates save over \$7,650 in escrow on average.<sup>144</sup> Additionally, unemployment among graduates decreased from 30% to 3%, and full-time employment grew by 40%.<sup>145</sup>

136. Loc. Initiatives Support Corp., *Pursuing Stronger Tenancy for Stronger Properties*, YOUTUBE (Dec. 5, 2019), <https://www.youtube.com/watch?v=pRpA7eucClk> [https://perma.cc/3DMA-6BAJ].

137. Local Initiatives Support Corporation, FIN. OPPORTUNITY CTR. RES., <https://www.foc-network.org/> [https://perma.cc/J74L-G4BG] (last visited Aug. 4, 2024).

138. See Loc. Initiatives Support Corp., *supra* note 136.

139. See *id.*

140. See *id.*

141. *The Family Self-Sufficiency Program*, PRES. OF AFFORDABLE HOUS., <https://www.poah.org/family-self-sufficiency-program> [https://perma.cc/GWA9-S3RG] (last visited Aug. 4, 2024).

142. *A Progress Report on the Family Self Sufficiency program at Hawthorne Place Apartments, Independence, MO*, PRES. OF AFFORDABLE HOUS., <https://view.publitas.com/preservation-of-affordable-housing/fss-at-hawthorne/page/1> [https://perma.cc/DQ2Y-54SZ] (last visited Aug. 4, 2024).

143. See *id.*

144. See *id.*

145. See *id.*

### L. POAH's Trauma-Informed Housing Toolkit<sup>146</sup>

POAH developed a trauma-informed housing toolkit for landlords providing affordable housing.<sup>147</sup> The toolkit examines the nature of trauma and its impact on housing and highlights four core principles for trauma-informed housing: (1) safety and trust; (2) choice and empowerment; (3) community and collaboration; and (4) beauty and joy.<sup>148</sup> In the affordable housing context, this includes assistance in designing trauma-informed buildings, which involves identifies practical design choices, such as spatial openness and design for acoustical privacy and property security.<sup>149</sup>

The resource also provides guidance in leading a trauma-informed organization, as well as tools such as resident and staff surveys.<sup>150</sup> POAH offers a seven-step process for building a trauma-informed organization: (1) form a collaborative team; (2) build community; (3) clarify your focus; (4) learn from your community; (5) brainstorm ideas; (6) test your ideas; and (7) pilot what you learn.<sup>151</sup> POAH also offers guidelines for shaping policies, programs, procedures, people and places while providing guidance on measuring impact.<sup>152</sup> POAH's case studies include a resident orientation that shares housing information in understandable and compassionate ways,<sup>153</sup> a resident council that could influence apartment community decisions and advocate to stakeholders,<sup>154</sup> and POAH's use of trauma-informed design at their Hawthorne Place Apartments.<sup>155</sup> POAH recommended that the Apartments' design include community-facing spaces, areas that welcome and protect children, building accessibility for individuals with mobility

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146. *Trauma-Informed Housing: A Toolkit for Advancing Equity and Economic Opportunity in Affordable Housing*, PRES. OF AFFORDABLE HOUS., <https://traumainformedhousing.poah.org/> [<https://perma.cc/5Z3G-Q98C>] (last visited Aug. 4, 2024).

147. *See id.*

148. *See Training Resources*, PRES. OF AFFORDABLE HOUS., <https://traumainformedhousing.poah.org/training-resources> [<https://perma.cc/F22L-3Z7L>] (last visited Aug. 26, 2024).

149. *See What Is Trauma Informed Design*, PRES. OF AFFORDABLE HOUS., <https://traumainformedhousing.poah.org/what-is-a-trauma-informed-organization> [<https://perma.cc/T3AF-WRKT>] (last visited Aug. 26, 2024).

150. *See Theory of Change*, PRES. OF AFFORDABLE HOUS., <https://traumainformedhousing.poah.org/measuring-impact> [<https://perma.cc/9DRP-SAFH>] (last visited Aug. 26, 2024).

151. *See Training Resources*, *supra* note 148.

152. *See Theory of Change*, *supra* note 150.

153. *See Theory of Change*, *supra* note 150.

154. *See generally Training Resources*, *supra* note 148.

155. *Training Resources*, *supra* note 148.



impairments, and dedicated meeting areas to improve relationships between staff and residents.<sup>156</sup>

### M. Cities for Financial Empowerment (CFE) Fund<sup>157</sup>

As part of the CFE Fund's Financial Empowerment Center (FEC) Public initiative, the City of Detroit's FEC began providing free financial counseling in early 2020, focusing on low-income homeowners at risk of property tax foreclosure.<sup>158</sup> As of September 2023, the FEC helped Detroit residents reduce more than \$3.4 million in debt,<sup>159</sup> including 485 homeowners who lowered their overall debt by more than \$3 million.<sup>160</sup> The FEC primarily interacted with three Detroit property tax relief programs: (1) the Home Owners Property Exemption (HOPE), which reduced or eliminated a current tax year's tax bill; (2) Pay as You Stay, which reduced debt and set a payment plan for previous years' overdue taxes; and (3) the Detroit Tax Relief Fund, which paid off debt for taxes overdue from prior years.<sup>161</sup>

The CFE Fund produced a report on home ownership outcomes of FEC financial counseling clients, in partnership with the City of Detroit and MEF Associates.<sup>162</sup> The study focused primarily on identifying the sustainable homeownership outcomes associated with participating in FEC counseling, the factors influencing the outcomes of FEC homeowners, the characteristics of FEC debt reduction and property tax clients, and how FEC's contribution to sustainable homeownership is perceived by the community.<sup>163</sup>

156. *Training Resources*, *supra* note 148.

157. *See generally Projects*, CITIES FOR FIN. EMPOWERMENT FUND, [https://cfefund.org/projects/?gad\\_source=1&gclid=Cj0KCQjwwae1BhC\\_ARIsAK4JfrwyZQHgbxu-LyWUVtQG6HohnhsNHovi\\_IDFbhcBploumy7l-MdfwHkaAth8EALw\\_wcB](https://cfefund.org/projects/?gad_source=1&gclid=Cj0KCQjwwae1BhC_ARIsAK4JfrwyZQHgbxu-LyWUVtQG6HohnhsNHovi_IDFbhcBploumy7l-MdfwHkaAth8EALw_wcB) [https://perma.cc/UY46-7F5K] (last visited July 22, 2024).

158. *Boosting Sustainable Homeownership in Detroit: Adding Financial Counseling to Property Tax Relief Programs to Help Stabilize Low-Income Homeowners*, CITIES FOR FIN. EMPOWERMENT FUND [hereinafter *Detroit Overview*], <https://cfefund.org/boosting-sustainable-homeownership-in-detroit-adding-financial-counseling-to-tax-relief-programs-to-help-address-the-challenge-of-tax-foreclosure/> [https://perma.cc/AU2E-FSCB] (last visited July 22, 2024).

159. CITIES FOR FIN. EMPOWERMENT FUND, *BOOSTING SUSTAINABLE HOMEOWNERSHIP IN DETROIT: ADDING FINANCIAL COUNSELING TO PROPERTY TAX RELIEF PROGRAMS TO HELP STABILIZE LOW-INCOME HOMEOWNERS* (2023) [hereinafter *BOOSTING SUSTAINABLE HOMEOWNERSHIP IN DETROIT*], <https://cfefund.org/wp-content/uploads/2023/09/Boosting-Sustainable-Homeownership-in-Detroit-Final-Sept-2023-report.pdf> [https://perma.cc/86C9-TRR2].

160. *See Detroit Overview*, *supra* note 158.

161. *See BOOSTING SUSTAINABLE HOMEOWNERSHIP IN DETROIT*, *supra* note 159, at 8.

162. *BOOSTING SUSTAINABLE HOMEOWNERSHIP IN DETROIT*, *supra* note 159, at 2.

163. *BOOSTING SUSTAINABLE HOMEOWNERSHIP IN DETROIT*, *supra* note 159, at 10.

The report identified a lack of employment income, minimal savings, high debt, and individuals being unbanked as primary challenges to FEC homeowners.<sup>164</sup> Property taxes, overdue utility bills, home repair needs, medical costs, and more all competed for payment among clients.<sup>165</sup> FEC counselors assisted them in applying for HOPE, budgeting, finding home repair, weatherization, and utility assistance resources, and seeking property tax relief.<sup>166</sup>

The report highlighted that the Detroit FEC primarily serves financially vulnerable homeowners and that homeowners prioritize immediate financial threats at the FEC.<sup>167</sup> Additionally, the report emphasized that effective crisis support builds client loyalty and capacity to address financial goals, and that FEC homeowners accessed multiple stabilization services under one roof.<sup>168</sup>

**N. Family Housing Fund and Ramsey County Housing Court Clinic  
— Ramsey County, Minnesota<sup>169</sup>**

The Family Housing Fund in Ramsey County, Minnesota, aims to address the foundational causes of eviction by increasing access to mediation services, legal assistance, and emergency financial assistance.<sup>170</sup> The Family Housing Fund and the McKnight Foundation worked with county stakeholders to identify ways to reduce evictions.<sup>171</sup>

Ramsey County piloted a court clinic that aimed to assist at-risk families before an eviction was filed by providing critical services in a single location, including legal counsel for tenants, mediation services, on-site screening for financial assistance, and social service providers that assist with bundling financial assistance with ongoing support.<sup>172</sup> The clinic pilot also included a variety of adjustments to the court process, including the addition of information about the legal process and tenant services in court summons and an amendment to the court settlement form that prompted parties to expunge the filing from the tenant's record as part of the settlement

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164. BOOSTING SUSTAINABLE HOMEOWNERSHIP IN DETROIT, *supra* note 159, at 11.

165. BOOSTING SUSTAINABLE HOMEOWNERSHIP IN DETROIT, *supra* note 159, 12.

166. BOOSTING SUSTAINABLE HOMEOWNERSHIP IN DETROIT, *supra* note 159, at 12–13.

167. BOOSTING SUSTAINABLE HOMEOWNERSHIP IN DETROIT, *supra* note 159, at 11–12.

168. BOOSTING SUSTAINABLE HOMEOWNERSHIP IN DETROIT, *supra* note 159, at 13.

169. See generally *Eviction Prevention*, FAM. HOUS. FUND, <https://www.fhfund.org/eviction-prevention/> [https://perma.cc/2WAZ-YHC8] (last visited July 22, 2024).

170. *Id.*

171. *Id.*

172. *Id.*

agreement.<sup>173</sup> The adjustment further allowed a tenant to file an affidavit of compliance, a benefit historically reserved for landlords.<sup>174</sup> In the first 18 months of the clinic, eviction judgments decreased by 18%, expungements per court calendar had doubled, and 30% fewer cases went to trial.<sup>175</sup>

### O. EMPATH Economic Mobility Pathways — Mobility Mentoring

EMPATH, a national non-profit, works to move people from poverty and assist institutions doing systematic work in this space.<sup>176</sup> The organization offers Mobility Mentoring to aid people emerging from poverty.<sup>177</sup> The Bridge to Self-Sufficiency, a resource that guides conversations, tracks progress, and includes assessments to identify strengths and obstacles in five categories — Family Stability, Well-Being, Financial Management, Education & Training, Employment & Career — is essential to providing these services.<sup>178</sup>

As stated in EMPATH’s 2022 Impact Report on Mobility Mentoring, “EMPATH participants in permanent housing programs (Housing Stabilization and Abbot MRVP) paid rent on time 94% of the time in FY22, compared to 77.1% of U.S. renters who paid rent on time in December 2021.”<sup>179</sup> In 2022, the group served over 1,300 individuals, half of whom were homeless at some part of the year.<sup>180</sup> Eighty percent of the adults with children were single parents and 87% of the adults served were women.<sup>181</sup> As measured by the Bridge to Self-Sufficiency, 72% of participants increased in their overall economic self-sufficiency.<sup>182</sup>

### P. Families Moving Forward — Cambridge, Massachusetts<sup>183</sup>

Based on the EMPATH model described above, “FMF provides participants with a mobility mentor to help them assess, establish, and achieve families’

173. *Id.*

174. *Id.*

175. *Id.*

176. EMPATH, MOBILITY MENTORING 2022 IMPACT REPORT (2022), [https://s3.amazonaws.com/empath-website/pdf/FY22\\_Impact\\_Report\\_FINAL.pdf](https://s3.amazonaws.com/empath-website/pdf/FY22_Impact_Report_FINAL.pdf) [<https://perma.cc/F9A4-VZNM>].

177. *Id.*

178. *Id.* at 4.

179. *Id.* at 7.

180. *Id.* at 3.

181. As noted above, eviction filings disproportionately impact women and persons of color. *Id.*

182. *Id.* at 4.

183. See generally JUST A START, FAMILIES MOVING FORWARD: A THREE-YEAR PILOT REPORT (2023), <https://justastart.org/wp-content/uploads/2024/04/Final-FMF-White-Paper.pdf> [<https://perma.cc/7HGB-CK75>].

goals in self-sufficiency, health, housing stability, and economic independence.”<sup>184</sup> FMF used a modified version of the EMPATH Bridge, called the Bridge to Stability and Resiliency, as a framework and assessment tool.<sup>185</sup> The service delivery methodology included coaching, monthly meetings between participants and coaches, and community meeting with presentations by partner organizations.<sup>186</sup>

Additionally, mentors refer participants to relevant services, and participants are financially incentivized to reach goals.<sup>187</sup> Data from the program was collected and shared (such as participant financial data, meeting attendance, and success referrals).<sup>188</sup>

The three-year program was completed in 2023, and key findings from the evaluation highlighted that the number of participants with at least one month of expenses saved increased from 20% to 70% while the participants facing eviction proceedings decreased by 66%.<sup>189</sup> A significant amount of this success was attributed to consistent, extended one-on-one coaching and the community/solidarity built among participants at cohort meetings.<sup>190</sup>

#### **Q. Catholic Charities Community Services Tenant Education and Budgeting<sup>191</sup>**

Catholic Charities Community Services in New York offers one-on-one and group discussions led by trained counselors to help people with limited incomes avoid financial crises by helping tenants understand the eviction process, while taking steps toward an independent financial future.<sup>192</sup> The organization refers tenants to legal assistance and helps families apply for the New York City Family Homelessness and Eviction Prevention Supplement and Emergency Assistance to Families and Children.<sup>193</sup>

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184. *Id.* at i.

185. *Id.* at ii.

186. *Id.* at i.

187. *Id.* at 3.

188. *Id.* at ii.

189. *Id.*

190. *Id.*

191. See generally *Tenant Education & Budgeting*, CATHOLIC CHARITIES CMTY. SERVS., <https://cccsny.org/services/tenant-education-budgeting> [https://perma.cc/8EAL-CWXS] (last visited July 22, 2024).

192. *Id.*

193. See *Assistance with Housing Subsidies*, CATHOLIC CHARITIES CMTY. SERVS., <https://cccsny.org/services/assistance-housing-subsidies> [https://perma.cc/W45Q-FXTN] (last visited Aug. 18, 2024).

### R. Back@Home North Carolina<sup>194</sup>

Back@Home North Carolina collaborates with state and local partners to implement a targeted rehousing program.<sup>195</sup> Since eligibility is based on experiencing an imminent risk of homelessness, this is a reactive trauma-informed, case management approach to housing crises, applicable in pre-crisis settings.<sup>196</sup>

From September 2018 to June 2022, in the aftermath of Hurricane Florence, Back@Home ran its inaugural program, targeting those at risk of homelessness with no obvious exit from disaster shelters.<sup>197</sup> When the disaster shelters closed, Back@Home continued supporting disaster survivors.<sup>198</sup> From August 2020 to September 2022, Back@Home operated in 83 counties through a second program responding to the COVID-19 pandemic and ensuing economic crises.<sup>199</sup> The organization offered housing-focused case management, housing navigation, rent and move-in help, and assistance housing stabilization.<sup>200</sup> The housing-focused case management includes social work and case management response, trauma-informed care, authentic engagement, home visits, and remote services.<sup>201</sup> In October 2023, Back@Home launched its third program in 79 counties for people experiencing homelessness with service needs, including the addition of permanent supportive funding to provide long-term assistance to people with disabilities.<sup>202</sup>

### S. New York City Homeless Prevention and Financial Counseling Assistance

New York City has a variety of services designed to prevent homelessness and offer financial counseling.

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194. *See generally* BACK@HOME NORTH CAROLINA, BALANCE OF STATE REQUEST FOR APPLICATIONS INFORMATION AND APPLICATION INSTRUCTIONS, <https://www.rebuild.nc.gov/backhome-north-carolina-bos-rfa-information-and-application-instructions/open> [<https://perma.cc/N35W-6D4A>] (last visited Aug. 4, 2024).

195. *Id.*

196. *See id.* at 9–13.

197. *See id.* at 2.

198. *See id.*

199. *See id.*

200. *See id.* at 5–7.

201. *See id.* at 5–13.

202. *See id.* at 3.

1. *Solutions to End Homelessness Program (STEHP) — New York*<sup>203</sup>

STEHP helps people with obtaining or remaining in permanent housing while offering support to those experiencing homelessness, eviction, and housing stabilization by hiring full-time case managers, teaching budgeting, promoting healthy lifestyles, providing housing assistance, and staying in contact with clients for six months.<sup>204</sup> The organization has identified finding safe and affordable housing, maintaining landlord-tenant relationships, and dealing with client behavior issues as pressing challenges to ending homelessness.<sup>205</sup>

2. *Homebase*<sup>206</sup>

Homebase provides homelessness prevention services to New Yorkers, including access to resources to prevent eviction, obtain public benefits, access emergency rental assistance, help with education, job placement, relocation, as well as financial counseling, money management, and short-term financial assistance.<sup>207</sup> A 2013 evaluation found that Homebase reduced the number of nights someone spent in a shelter and the frequency with which people had to seek emergency shelter at all.<sup>208</sup>

3. *Financial Empowerment Centers (FECs)*

NYC FECs provide free one-on-one professional financial counseling and coaching, helping clients create budgets, establish and improve their credit, set up spending plans, open safe and affordable bank accounts, contact lenders about their debt, including student loans, develop strategies to reduce debt or lower payments, access emergency government resources, and separate personal and business finances.<sup>209</sup>

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203. See generally NY-501 COORDINATED ENTRY POLICY AND PROCEDURE MANUAL (2019).

204. *Id.*

205. *Id.*

206. *Homebase*, DEP'T OF SOC. SERVS., <https://www.nyc.gov/site/hra/help/homebase.page> [<https://perma.cc/HUU3-PP5J>] (last visited July 22, 2024).

207. See *id.*

208. See generally Howard Rolston et al., *Evaluation of the Homebase Community Prevention Program*, INST. FOR PUB. POL'Y & SOC. RES. COLL. OF SOC. SCI. (June 2013), <https://ippsr.msu.edu/research/evaluation-homebase-community-prevention-program> [<https://perma.cc/YD3Q-HG8J>].

209. *Get Free Financial Counseling*, DEP'T OF CONSUMER & WORKER PROTECTION, <https://www.nyc.gov/site/dca/consumers/get-free-financial-counseling.page> [<https://perma.cc/J3XM-B77Z>] (last visited July 22, 2024).

#### 4. *Municipal Financial Empowerment*<sup>210</sup>

Municipal Financial Empowerment is a municipally funded financial counseling program that was originally piloted in NYC and subsequently expanded to other cities.<sup>211</sup> Ideal client outcomes included: measurable increases in financial stability, such as improved budgeting and money management; improved credit history and access; and established or increased savings, measured by percentage of income.<sup>212</sup>

An NYC Department of Consumer Affairs, Office of Financial Empowerment paper, “Municipal Financial Empowerment: A Supervitamin for Public Programs” provides an overview on the program’s design, customization, real-world examples, and best practices.<sup>213</sup> While the program is not specific to eviction, the report includes some examples related to eviction, and much of the report’s content would be relevant to a program centered on preventing eviction filings.<sup>214</sup> For example, for homelessness prevention clients, client needs are identified as including the opening of an affordable banking account and establishing a savings goal for a deposit, with ideal financial outcomes including safe banking, reduced debt, and improved money management.<sup>215</sup> One key takeaway identified by the program was the importance of integrating financial counseling into services for people at risk of eviction by working with clients applying for emergency rental assistance grants prior to an eviction.<sup>216</sup> At the moment of crisis, clients are likely to be preoccupied with their need for urgent housing and will not be receptive to financial counseling.<sup>217</sup>

#### 5. *Ready to Rent*<sup>218</sup>

Ready to Rent helps New Yorkers prepare to apply for affordable housing by providing free one-on-one financial counseling and assistance with affordable housing applications. Financial counselors assist New Yorkers

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210. N.Y.C. DEP’T OF CONSUMER AFFS., MUNICIPAL FINANCIAL EMPOWERMENT: A SUPERVITAMIN FOR PUBLIC PROGRAMS 6 (2013), <https://www.nyc.gov/assets/dca/downloads/pdf/partners/Research-SupervitaminReport5.pdf> [HTTPS://PERMA.CC/ZAZ6-L55D].

211. *See id.*

212. *See generally id.*

213. *See id.*

214. *See generally id.*

215. *See id.* at 7, 13.

216. *See id.* at 6.

217. *See id.* at 7.

218. *Ready to Rent*, N.Y.C. DEP’T OF HOUS. PRES. & DEV. OF SOC. SERVS., <https://www.nyc.gov/site/hpd/services-and-information/ready-to-rent.page> [https://perma.cc/6NKH-C78V] (last visited July 22, 2024).

with checking credit, calculating income for housing, saving for moving expenses, and applying for housing lotteries.<sup>219</sup>

#### 6. *The Bridge Fund*<sup>220</sup>

The Bridge Fund of New York works to reduce homelessness by preventing eviction. Social service agencies, religious organizations, legal service providers, community groups, and unions refer clients to The Bridge Fund through an application.<sup>221</sup> After this, an interview is scheduled to identify eligible clients, and then the Bridge Fund holds an initial client meeting to identify the client's specific housing and budgetary issues.<sup>222</sup> Caseworkers can then offer individual budget counseling, refer them to other agencies, and offer free money management workshops. The Bridge Fund provides interest-free loans of up to \$2,500, as well as modest grants in severe circumstances. To provide clients with credit, The Bridge Fund will send a check to relevant real estate management to help ensure a client's continued tenancy.<sup>223</sup>

Notably, ninety-percent of clients remain in their homes one year after initial intervention by The Bridge Fund.<sup>224</sup>

#### T. **Hawaii's Landlord-Tenant Mediation Program**<sup>225</sup>

In 2021, Hawaii passed Act 57, which established a landlord-tenant mediation program to assist thousands of Hawaiians unable to pay rent due to pandemic-related job loss.<sup>226</sup> Mediating disputes between tenants and landlords was found to be far more successful if it was done before an eviction filing, rather than after.<sup>227</sup> For example, 87% of pre-filing mediations were settled through Act 57, compared to 47% and 52% of post-filing mediations pre-COVID and during the COVID-19 pandemic, respectively.<sup>228</sup> Not only were more settlements reached pre-filing, but many more allowed tenants to stay in their homes than those reached post-

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219. *See id.*

220. The Bridge Fund of New York Inc., *How The Bridge Fund Works*, VIMEO (2016), <https://vimeo.com/174689966>.

221. *Id.*

222. *Id.*

223. *Id.*

224. *Id.*

225. *See generally* RAY KONG ET AL., HAW. APPLESEED CTR. FOR L. & ECON. JUST., EVICTION PREVENTION THROUGH HAWAII'S TENANT-LANDLORD MEDIATION PROGRAM 3 (2022).

226. *Id.* at 6.

227. *Id.* at 4.

228. *See id.*



filing.<sup>229</sup> 85% of pre-filing mediations through Act 57 allowed tenants to remain in their homes, compared to 11% and 20% of post-filing mediations pre-COVID and during the COVID-19 pandemic, respectively.<sup>230</sup> It was also impactful for mediators to be paid, trained professionals, rather than volunteers because paid professionals appear to have had much higher rates of success than volunteer mediators.<sup>231</sup> Mediators reported that it was very helpful for them to have direct, efficient access to rental assistance programs in order to more easily identify where a tenant was in the application process.<sup>232</sup> Notably, 85% of Act 57 cases reviewed resulted in the tenant remaining in their home, but only 11% of pre-COVID summary possession settlements and 20% resulted in the same during the COVID-19 pandemic.<sup>233</sup> A report on the program estimated that the cost of mediation under an Act 57-like program — \$250 to open a case, plus another \$250 for every mediation session — is likely comparable to or lower than the cases moving through the court system.<sup>234</sup>

Four key conclusions were reached in an Act 57 program study that examined case data as well as interviews with participants. First, conducting mediation pre-litigation is likely to have a significant impact on settlement and whether a tenant remains as an ongoing tenant.<sup>235</sup> Second, providing adequate time to mediate and contracting paid mediators, as opposed to relying on volunteer mediators, appears to have increased the likelihood of success.<sup>236</sup> Thirdly, the availability of rental relief was key to ensuring housing stability, but rental relief alone is insufficient, as combining the relief with pre-litigation mediation will improve outcomes even more.<sup>237</sup> Lastly, the use of video conferencing software in lieu of requiring a personal appearance in court provides tenants with more comfort and confidence by placing parties on a more even field, even if the landlord is represented by counsel.<sup>238</sup>

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229. *Id.*

230. *Id.*

231. *Id.* at 5.

232. *Id.* at 16.

233. *Id.* at 4.

234. *Id.* at 26.

235. *Id.*

236. *Id.* at 27.

237. *Id.*

238. *Id.*

**U. Philadelphia Pre-Filing Mediation Eviction Diversion Program<sup>239</sup>**

Philadelphia's pre-filing Eviction Diversion Program ("EDP") aims to prevent and reduce eviction filings by requiring landlords to attempt mediation before eviction if a tenant owes less than \$3,000 in back rent.<sup>240</sup> Landlords are able to use the court system if they are unable to come to an agreement or if tenants do not attend mediation.<sup>241</sup> Since late 2020, over 4,000 renters have negotiated settlements to remain in their homes because of the program.<sup>242</sup>

Phase 1, the first iteration of the program, ran from September 2020 to March 2021 and required EDP enrollment before an eviction filing.<sup>243</sup> A trained volunteer could assist in mediating between the landlord and tenant.<sup>244</sup> Phase 2 ran from April to December 2021.<sup>245</sup> It required landlords to complete applications for federal pandemic rental assistance and wait 45 days to file an eviction. Landlords were automatically enrolled in EDP after completing the application for rent assistance.<sup>246</sup> Phase 3 began in January 2022 and will run through June 30, 2024, if it is not extended.<sup>247</sup> During Phase 3, if rental assistance funds were available, landlords could not evict tenants for non-payment of rent unless they had participated in EDP for 45 days.<sup>248</sup> If the rental assistance is not available anymore, landlords must apply to the program and wait 30 days before filing any eviction.<sup>249</sup>

In Phase 2, 56.4% of mediated cases were able to reach an agreement, increasing to 69.4% in Phase 3.<sup>250</sup> Cases that were able to achieve an agreement through mediation had lower eviction filing rates.<sup>251</sup> Only 21.3% of tenants who participated in mediation in Phase 2 were served with an eviction filing within six months, and only 13.3% of cases with an

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239. EMILY DOWDALL & IRA GOLDSTEIN, REINVESTMENT FUND, EVICTION DIVERSION IN PHILADELPHIA: EVALUATION OF EFFORTS TO REDUCE EVICTION FILINGS IN TWO PROGRAM PHASES (2023).

240. See Aidan Gardiner, *How Philadelphia Kept Thousands of Tenants from Being Evicted*, N.Y. TIMES (July 13, 2023), <https://www.nytimes.com/2023/07/13/headway/philadelphia-tenants-eviction.html> [<https://perma.cc/3V5P-3CKX>].

241. See *id.*

242. See *id.*

243. See DOWDALL & GOLDSTEIN, *supra* note 239, at 4.

244. See DOWDALL & GOLDSTEIN, *supra* note 239, at 4.

245. See DOWDALL & GOLDSTEIN, *supra* note 239, at 4.

246. See DOWDALL & GOLDSTEIN, *supra* note 239, at 4.

247. See DOWDALL & GOLDSTEIN, *supra* note 239, at 4.

248. See DOWDALL & GOLDSTEIN, *supra* note 239, at 4.

249. See DOWDALL & GOLDSTEIN, *supra* note 239, at 4.

250. See DOWDALL & GOLDSTEIN, *supra* note 239, at 6.

251. See DOWDALL & GOLDSTEIN, *supra* note 239, at 6.

agreement, in contrast to the 38.7% eviction filing rate for cases that did participate in mediation in Phase 2.<sup>252</sup> Further, in Phase 2 the subsequent eviction filing rate was 7.4% for clients that received rental assistance and 42.2% for the client that were not able to access rental assistance.<sup>253</sup> In Phase 3, with significantly less rental assistance available, the subsequent eviction filing rate for all cases was 55.6%, but only 50.8% for cases that participated in mediation and 42.7% for those that were able to reach an agreement.<sup>254</sup>

**V. U.S. Department of Health and Human Services (HHS) —  
Administration for Community Living (ACL) — Housing and Services  
Resource Center<sup>255</sup>**

The ACL, a division of the U.S. Department of Health and Human Services, operates a Housing and Services Resource Center that aims to ease and grow access to affordable housing.<sup>256</sup> In November 2023, HHS and HUD began accepting applications for the Housing and Services Partnership Accelerator, which supports states in developing and expanding housing-related support for Medicaid-eligible people with disabilities or older adults at risk of homelessness.<sup>257</sup> On February 9, 2024, HHS and HUD announced that Arizona, California, Hawaii, Maryland, Massachusetts, Minnesota, North Carolina, Washington, and the District of Columbia were chosen to participate.<sup>258</sup> Notably, the program appears to allow Medicaid recipients to use Medicaid funding for resources like financial counseling, rental assistance, and other resources to help tenants avoid eviction filings.<sup>259</sup>

**IV. COMMON THEMES FROM EVICTION FILING PREVENTION  
INITIATIVES**

While each of the programs and initiatives described above incorporate unique elements based on their local jurisdictions and objectives, there are

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252. See DOWDALL & GOLDSTEIN, *supra* note 239, at 6.

253. See DOWDALL & GOLDSTEIN, *supra* note 239, at 6.

254. See DOWDALL & GOLDSTEIN, *supra* note 239, at 6.

255. See *Housing and Services Partnership Accelerator: Expanding Access to Housing-Related Services and Supports*, *Housing and Services Resource Center*, ADMIN. FOR CMTY. LIVING, <https://acl.gov/HousingAndServices/Accelerator> [https://perma.cc/2KMB-S852] (last visited Aug. 26, 2024).

256. See *id.*

257. See *id.*

258. See *id.*

259. See *Housing and Services Partnership Accelerator: Program Overview*, HOUS. & SERVS. RES. CTR., [https://acl.gov/sites/default/files/2023-10/HSPA%20Overview%2010.27.23\\_Final\\_Formatted\\_508.pdf](https://acl.gov/sites/default/files/2023-10/HSPA%20Overview%2010.27.23_Final_Formatted_508.pdf) [https://perma.cc/Z3N3-XHYH] (last visited Aug. 26, 2024).

common themes among them that are essential for comprehensive, sustainable strategies intended to prevent eviction filings, discussed below.

### **A. Stakeholder Engagement and Collaboration**

In the programs and initiatives examined, stakeholder collaboration was vital, including rental property owners, tenant advocates and organizers, the courts, rental assistance programs, property managers, government, etc. Additionally, the programs established connections between tenants-in-need and available and conveniently accessible resources, along with providing access to legal information and assistance to assist parties in negotiations, providing legal advice, making legal assessments, or pursuing legal action, when necessary.

### **B. Tenant Support Services**

These initiatives prioritize the development of trust between tenants and available resources. Moreover, they emphasize the importance of staff members possessing calm and credible demeanors, coupled with empathy toward tenant circumstances. Additionally, tenant support services often include practical assistance, such as household budgeting and financial counseling tailored specifically to low-income tenants. Community navigators play a crucial role in these initiatives, offering intimate familiarity with local assistance programs and resources. Programs often provide negotiation assistance to help parties understand each other's circumstances and identify pathways to resolution, as well as paid mediators skilled at resolving disputes when initial efforts prove unsuccessful. Lastly, these initiatives prioritize sustainability by offering ongoing assistance to tenants, particularly in navigating relocations, managing household budgets, and accessing social systems such as financial counseling.

### **C. Rent Relief and Financial Aid**

Organizations and programs focused on prompt action to limit the accumulation of past due rent, along with effective and prompt communication by both RPOs and tenants. Additionally, they often included the availability of emergency, low-barrier, and efficiently processed rental assistance.

RPOs interviewed across the country indicated support for such models and the common themes described above.<sup>260</sup> They have emphasized the importance of developing trust and effective communication with tenants,

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260. Based on data and information from interviews conducted by Stout and on file with Stout. See Stout Landlord Interviews, *supra* note 1.

the need for prompt communication and action, the avoidance of delay, and the importance of enforceable agreements to resolve non-payment circumstances.<sup>261</sup> When a tenant is not able to fully resolve the non-payment of rent or when there are other issues that need to be resolved in the relationship between the tenant and their RPO, it can be necessary to enter into an agreement to ensure repayment of back-rent owed. For RPOs, it is often essential that such agreements are enforceable if they are not going to use the court system to file for an eviction from the property because enforceability provides assurance that if the tenant continues not to pay rent or does not satisfy the terms of the agreement, the RPO can be made whole without significant delay.<sup>262</sup>

There have historically been significant challenges in the development and implementation of strategies designed to avoid eviction filings.<sup>263</sup> While the programs and initiatives above demonstrate potential, scale and sustainability have difficult to achieve for several reasons, discussed below.

### *1. Outside of the Court System*

By definition, the avoidance of eviction filings occurs outside the court system. Unless a court mandates that such efforts are undertaken before an eviction filing can be brought, participation in efforts to avoid eviction filings is entirely voluntary. The diversity of the RPO population, with hundreds of thousands of large and small RPOs, can present significant challenges for scaling such programs in ways that can be consistently applied and sustainable. However, initial steps can be taken with motivated RPOs, particularly those with significant holdings in local communities. Many RPOs already use informal efforts aligned with these objectives.<sup>264</sup> While such efforts are sometimes successful, there are many circumstances where they have not been, as demonstrated by the millions of eviction notices and filings each year.

### *2. Rental Assistance*

Rental assistance is essential for the scaled and sustainable success of such strategies. Until the COVID-19 pandemic, significant rental assistance had never been available in many jurisdictions.<sup>265</sup> Now, as such funding has largely dissipated, many communities have acknowledged the impact of such funding, but have not yet developed strategies to sustain it at required

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261. See Stout Landlord Interviews, *supra* note 1.

262. See Stout Landlord Interviews, *supra* note 1.

263. See Stout Landlord Interviews, *supra* note 1.

264. See Stout Landlord Interviews, *supra* note 1.

265. See Stout Landlord Interviews, *supra* note 1.

levels.<sup>266</sup> In many ways, strategies designed for prompt action at the time of delinquency can enable the development of sustained rental assistance, as the amount of funding necessary should be significantly reduced. For example, one study estimated that by avoiding social costs of homelessness and displacement, pandemic-era rental assistance had a positive return on investment of between 208%–466%.<sup>267</sup>

### 3. *Complementary Resources*

Other community resources, such as mediation, relocation assistance, household budgeting, and legal assistance are also necessary. Such services are often significantly resource-constrained and may not be able to effectively and efficiently respond to the need for assistance as more comprehensive approaches to avoiding eviction filings could.<sup>268</sup>

### 4. *Effective Implementation*

The effective implementation of such strategies may require individuals independent of RPOs. As described further below, this may be a unique role that has not previously been developed and utilized. While drawing on the above common themes, such a role would bring together the skills, experience, and expertise in several different roles that may currently exist in the community.

### 5. *Shared Commitment*

There has not historically been a shared commitment to the objective of avoiding eviction filings, though certain public and private RPOs have embraced such objectives.<sup>269</sup> The development of a shared commitment whereby stakeholders are aligned on the objective of significantly reducing the number of eviction filings in many communities, as well as goals and milestones related to such a reduction in the number of eviction filings, would mobilize appropriate resources and enable iterative development toward sustainable practices.

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266. See Stout Landlord Interviews, *supra* note 1.

267. See Sam Gilman, *The Return on Investment of Pandemic Rental Assistance: Modeling a Rare Win-Win-Win*, 18 IND. HEALTH L. REV. 293, 294 (2021).

268. Based on interviews conducted by Stout from 2018 to 2024 in jurisdictions across the U.S. with community-based organizations providing services for households with low-incomes facing housing instability and income insecurity. Notes and information from these interviews are on file at Stout. See Interviews by Stout with community-based organizations in many U.S. jurisdictions (2019–2024) (on file with Stout).

269. Based on data and information from interviews conducted by Stout and on file with Stout. See Stout Landlord Interviews, *supra* note 1.

Undoubtedly, the development of such strategies will require significant collaboration in the community. However, the programs and initiatives described above demonstrate the potential for such efforts, and the financial and human impact of the current system to resolving rental delinquency and landlord-tenant disputes provides significant incentive for the pursuit of a more humane, just, and financially feasible model.

#### **V. HOUSING STABILITY COUNSELORS — TRAINING, EXPERIENCE, AND RESOURCES CONSIDERATIONS**

An essential element of strategies intended to prevent eviction filings is prompt communication and action at the time of delinquency. In our interviews with RPOs across the country, we often heard that they make every effort to engage with tenants as early as possible in the event of delinquency, but the dialogue and communication are often unproductive.<sup>270</sup> Tenants may be fearful of communicating with RPOs about the circumstances they are facing or uncertain of what to do or how to resolve their issues, may not anticipate that they can be resolved quickly, or simply may not trust their RPO.<sup>271</sup> If effective resolution is to occur in the days immediately following delinquency, there must be a trusted, credible source for the tenant to communicate with. One way of achieving this may be the development of an independent Housing Stability Counselor.

Housing Stability Counselors would possess the necessary skillset and expertise to develop trust with residents and effectively communicate with them and RPOs. This role could be staffed outside of RPOs' organizations so that tenants can appreciate its independence and be employed by other community programs such as rental assistance administrators, community mediators, or legal services organizations. This integrated staffing may ensure easy access to supplemental resources that could be helpful for Housing Stability Counselors.

Essential skills and expertise for Housing Stability Counselors may include: finance, tax, and household budgeting experience and expertise; training to identify legal needs that require the assistance of a lawyer; excellent communication skills; and proficiency with technology. Vital counselor expertise could also include: skill at detailed and comprehensive data tracking; an awareness of local resources for assistance, an ability to develop relationships with landlords' points-of-contact, and an understanding of landlords' particular business processes; in addition to being detail-oriented individuals who excel at multi-tasking.

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270. See Stout Landlord Interviews, *supra* note 1.

271. See Stout Landlord Interviews, *supra* note 1.

### A. Rental Assistance

As indicated in many of the program descriptions above, rental assistance is essential, but not the only necessary resource. An effective program design for avoiding eviction filings could significantly reduce the need for emergency rental assistance by opening new pathways for sustainable post-pandemic rental assistance programs. While emergency rental assistance was essential during the pandemic, it has proven to be difficult to sustain at the levels observed during the pandemic.<sup>272</sup> By minimizing delinquency with prompt effective communication and maximizing opportunities for early resolution, the need for rental assistance will be minimized, and such programs can be more sustainable.

In addition to making rent assistance available as early as possible pre-filing to reduce the amount of rent assistance needed, research on pandemic-era rent assistance programs in the U.S. has indicated there are several factors that can influence the impact of rent assistance programs and the willingness for stakeholders to participate in them.<sup>273</sup> These factors include, but are not limited to, creating low-barrier and efficient application processes, enabling transparency during the application process, and distributing payments promptly and efficiently.<sup>274</sup>

### B. A Practical, Evidence-Based, Sustainable, and Cost-Effective Model for Preventing Eviction Filings

Provided below is a potential framework for a model intended to prevent eviction filings, created by drawing from the common themes above, our experience with tenant advocates and legal services programs, and interviews with RPOs from across the country. It is important to note that the elements below would each require further adaptation and may or may not be necessary in any community or for any particular RPO. The model does not take away from the need for other resources, responses, and intervention. For the foreseeable future, there will continue to be eviction filings and there will continue to be the need for resources to assist tenants facing urgent housing crises and complex legal disputes. Right-to-counsel in eviction cases will continue to be essential to ensure tenants in need of legal assistance post-filing are able to access it. However, the development

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272. Based on data and information from interviews conducted by Stout in 2023 and 2024 with rental assistance administrators, local government, and local community stakeholders. Note and information from these interviews in on file with Stout. *See* Stout Stakeholder Interviews, *supra* note 25.

273. *See* Sarah Gallagher et al., *Beyond Housing Stability: Understanding Tenant and Landlord Experiences and the Impact of Emergency Rental Assistance*, NAT'L LOW INCOME HOUS. COAL., THE HOUS. INITIATIVE AT PENN, AND REINVESTMENT FUND (2023).

274. *See id.*



of models using elements such as those below could potentially significantly reduce the number of eviction filings and the need for interventions designed to respond to the crises that develop post-filing as well.

The model presented below is intended to be a framework. The elements included in it are valuable to consider but are intentionally not prescriptive. The development and implementation of such elements should come from local stakeholder collaboration, based on the local resources, laws and practices.

*1. Improving Initial Dialogue — Rental Application and Pre-Lease Assessment and Dialogue*

The following elements emphasize the importance of effective communication between tenants and RPOs, through a trusted Housing Stability Counselor, to ensure a fluid and comprehensive understanding of the potential for delinquency and need for supportive resources, proactively and reactively.

*a. Independent Housing Stability Counselor*

Housing Stability Counselors would seek to improve initial dialogue and ensure processes, systems, forms, and tenancies are trauma-informed and centered on empathy, respect, transparency, and dignity. Housing Stability Counselors would also seek to ensure tenants are accessing appropriate public benefits, limiting credit and other forms of debt, managing household expenses, anticipating potential changes in weekly or monthly income, using savings accounts, and other financially responsible resources and practices.

This would be achieved through active dialogue with tenants and by diligent reviews of relevant information, based on each tenant's comfort with sharing such information and engaging in this dialogue. Housing Stability Counselors may help develop spreadsheets, budgets or other tools to assist with the ongoing assessment of household budgets and related risks.

*b. Tenant Financial Disclosures*

If the tenant has a household budget, this could be shared in a summary form or could be developed with the assistance of the Housing Stability Counselor. Additional information could be developed in coordination with a Household Stability Counselor to further assist in the assessment of income stability risks. It is important to note that sharing such information requires trust and agreement that the RPO will not use such information to harm or take advantage of the tenant.

*c. Clarity of Terms, Conditions, Process and Supports*

Transparency with respect to relevant information will give tenants a greater degree of knowledge about elements of financial risk and housing stability. Counselors should identify and communicate actionable items tenants may be able to focus on to improve financial stability over time and supply baseline assessments and information for continued discussions with tenants.

*2. Lease Provisions Designed for Housing Stability*

These elements are intended to integrate the intention of avoiding eviction filings while providing transparency for tenants and Housing Stability Counselors. Lease provisions that could be designed for housing stability are discussed below.

*a. Voluntary Relocation Fund / Security Deposit Policies*

Tenants could contribute to a Voluntary Relocation Fund in order to have funds available in the event of a necessary relocation. Security Deposit policies could even be designed to enable use of such funds for relocation, if necessary.

*b. Unit Inspections*

Periodic Third Party Unit Inspections could avoid disputes and rent withholding related to defective housing conditions.

*c. Access to Housing Stability Counselors and Mediation*

Housing Stability Counselors can assist with household budgeting, identifying risk factors, connection to other programs and social services, conveying risks and consequences, identifying housing options, and more. The lease could include access to mediation when early resolution efforts are unsuccessful.

*d. Enforceable Agreements*

The development of enforceable agreements could be included in lease provisions, similar to a Joint Stipulations or Deferred Prosecution Agreements, where the parties agree to conditions necessary to recover back-rent owed and other elements of resolution.

*e. Eviction Filing Details*

Parties could stipulate to sealing the case to avoid harm to the tenant's ability to seek other safe and stable housing. This information includes

conditions under which an eviction filing would be made and the actions required prior to such a filing, which may include a lease provision that indicates that if the case is dismissed, withdrawn, or otherwise mutually resolved by the parties.

*f. Additional Terms*

Additional terms could include requirements for communication from tenants about any potential delinquencies, annual assessments of housing stability and financial risks, and/or terms that specify what information would be shared with prospective RPOs performing reference checks if tenants seek other safe and stable housing.

*3. Responses to Actual or Anticipated Delinquency*

These elements relate to the initial steps that can be taken to seek resolution when the potential for delinquency arises or immediately following an occurrence of delinquency.

*a. Advance Notice*

Where possible, tenants would provide advance notice of potential delinquency, which Housing Stability Counselors can encourage through the development of effective dialogue and trusted relationships. In certain instances, fear, skepticism, shame and other concerns arising from prior experiences of the tenant may create challenging environments for the development of trust with any party, including Housing Stability Counselors.<sup>275</sup>

Developing and sustaining trust will likely require the persistent use of an empathetic and tenant-centered approach to engagement that involves listening and appreciating the challenges of tenants' circumstances, as well as a commitment to identifying helpful solutions aligned with their goals, while also assisting with education and information about the risks of achieving such goals. This may require regular interaction and a commitment to responsiveness and dialogue with the tenant.

Housing Stability Counselors could review plans and offer comments and recommendations before they are shared with RPOs. Then, the RPOs would review the plans, offering written comments or questions, and providing written approval. The approval of any plan may need to be in the form of a

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275. Based on data and information from interviews with community-based organizations serving households with low incomes and facing housing instability in jurisdictions across the United States from 2018 through 2024 conducted by Stout and on file with Stout. *See* Interviews by Stout with community-based organizations serving low-income households in many U.S. jurisdictions (2018–2024) (on file with Stout).

Joint Stipulation or Deferred Prosecution Agreement, which can memorialize the agreement and create an enforceable contract in the event the terms are not fulfilled by either party. If rental assistance is required as part of the payment plan, Housing Stability Counselors would assist tenants in applying for rental assistance and communicate with RPOs and tenants regarding rental assistance application status.

*b. Delinquency Without Notice*

If tenants do not provide RPOs with advance notice of potential delinquency, Housing Stability Counselors will have to proactively reach out to them, which would work best if the Counselor has been established as trusted, independent resource in advance. In such situations, the RPO would notify the tenant and the Housing Stability Counselor of the delinquency, and the Counselor immediately contacts the tenant and schedules a meeting to discuss the nature of the delinquency. Then the tenant and the Housing Stability Counselor would jointly develop a tenancy plan that includes a payment plan and an assessment of factors that can prevent delinquency without notice in the future. Working with the tenant, the Housing Stability Counselor would seek to understand the tenant's financial precarity by assessing the tenants' housing cost burden — the amount of their housing expenses relative to the total individual and household income of the tenant — as well as the factors that cause uncertainty regarding both household income and household expenses going forward. Together, this will enable Housing Stability Counselors to identify the potential and likelihood for delinquency to occur in the future and to work with the tenant to identify steps that could be taken to mitigate these risks. This plan will also identify any property concerns raised by the tenant and proposed resolution of those concerns. Housing Stability Counselors may need to reassess tenants' Income Stability Risk.

*4. Repeated Delinquency — With or Without Notice*

Additional concerns may arise if a tenant is repeatedly delinquent. In these circumstances, Housing Stability Counselors can be a particularly impactful resource to understand the causes of repeated delinquencies and the reasonable next steps that can be taken to help tenants achieve stability in their current home or seek an alternative safe and stable home. In the event of a repeated delinquency, with or without notice, the Housing Stability Counselor would immediately contact the tenant and schedule a meeting to discuss the nature of the repeated delinquency. The Housing Stability Counselor and the tenant will jointly develop a tenancy plan that will include a payment plan, an assessment of factors that can prevent delinquency in the future, identify any property concerns raised by the tenant

and any proposed resolutions of those concerns, and then be affirmed by the tenant and presented to the landlord. The tenants Income Stability Risk may need to be periodically re-assessed by the Housing Stability Counselor.

### 5. *Disputes*

When efforts to immediately resolve a delinquency fail to be productive, even with the help of a Housing Stability Counselor, it may be necessary to engage additional resources, such as a mediator, to identify pathways to resolution. If a dispute between the landlord and the tenant arises — regardless of whether it is related to delinquency, conditions, relocation, or other circumstances — the Housing Stability Counselor should be contacted immediately and a meeting should be convened between the Housing Stability Counselor and the tenant, informed by discussions with the landlord, to assess the severity of the situation and the circumstances. Then, the Housing Stability Counselor should develop a resolution plan that may include a formal mediation, an informal meeting to discuss resolution, and/or a relocation plan.

If the tenant does not engage with the Housing Stability Counselor after several attempts, the landlord and the Housing Stability Counselor could assess the potential for contact to be made by another trusted messenger, security deposit and relocation fund balances, and a history of the tenancy. The landlord may then propose a plan for either resolution or relocation to the tenant. If the tenant does not engage at this time, the landlord can provide a notice of eviction. The Housing Stability Coordinator could attempt to contact the tenant again and discuss tenancy options, relocation resources, and potential consequences of eviction. If all other reasonable attempts at resolution fail — including mediation, informal and formal offers of resolution, and tenancy plans, and a relocation plan cannot be developed — only then can the landlord file an eviction summons or complaint. The lease addendum could indicate that reasonable efforts be undertaken to ensure the tenant can have access to a lawyer if they choose to engage in the legal process. Coordination with local legal services organizations can ensure that adequate capacity and prompt access to a lawyer can be provided.

### 6. *Relocation*

In some instances, tenants may seek relocation to other safe and stable housing and should have clear processes designed to enable them to relocate, satisfy any current rental obligations, and avoid the harm and trauma of forced displacement. The paragraphs that follow offer an illustrative set of steps that could be developed in the event relocation is necessary.

If the RPO or the tenant determine that housing relocation is necessary, written notice will be provided. If a dispute regarding the need for relocation

arises, a mediation must be scheduled within seven days. The tenant will then be provided 60 days from the time of notice to relocate. Extensions can be granted based on the RPOs and tenant's mutual consent, though rent will continue to be owed during this 60-day period.

Within seven days of provision of the notice, the RPO will inspect the unit and assess the ability to return a portion of the Security Deposit to the tenant. The Housing Stability Counselor will be copied on all written notice and will be available to assist with relocation efforts. Upon request, the RPO will provide letters of reference, based on their relationship with the tenant. The tenant will provide their RPO with a housing search update after 30 days. The Housing Stability Counselor can also be contacted for updates on the tenant's search for housing and their relocation plan.

If the tenant is unable to demonstrate sufficient confidence in their ability to relocate, the RPO may choose to provide a notice of eviction, contingent on the balance in the Relocation Fund and Security Deposit. If sufficient funds are available and there are no other concerns that require relocation, the tenant may use these funds to extend their residency and housing search. The RPO will not file eviction complaint or summons at this time. If the tenant has not found alternative housing within 14 days of the expiration of the 60-day notice period, the tenant, the Housing Stability Counselor and the RPO will schedule a meeting where the consequences of eviction will be discussed. If an eviction filing is performed, the RPO will agree to support record sealing, where possible.

### CONCLUSION

It is clear from data, examples, and experience that it is possible to significantly reduce the number of eviction filings. Based on our analyses of eviction filing data, and interviews and discussions from around the country, it is possible that, in many communities, 50% or more of all eviction filings could be avoided by sustainably implementing the processes and techniques described herein.<sup>276</sup> Doing so could help millions of people avoid disruptive displacement and the possibility of homelessness each year, providing the essential stability often necessary to overcome the many challenges of poverty in America.<sup>277</sup> It would also provide a reduction to the risks of loss faced by the RPO community. Knowing that there is a robust process for pre-filing dispute resolution may enable RPOs to be more willing

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276. Based on data and information from interviews and analysis conducted by Stout and on file with Stout. See Stout Landlord Interviews, *supra* note 1; Stout Eviction Right to Counsel Evaluations, *supra* note 16.

277. See *Evictions: National Data Are Limited and Challenging to Collect*, U.S. GOV'T ACCOUNTABILITY OFF. (Feb. 28, 2024), <https://www.gao.gov/products/gao-24-106637> [<https://perma.cc/X5FD-N7MQ>].

to accept renters with lower incomes, thus providing greater access to affordable housing in our communities. This risk reduction and preservation of capital may also serve to stabilize or reduce rents, all else held equal, and preserve the financial models necessary for small, local RPOs to legally operate rental housing businesses. Other benefits of sustainably implementing such processes and techniques may include an improvement in housing conditions, less disruption to childhood education, reduced use of emergency social services for housing crises, and more effective use of court resources.

Of course, one must wonder, why isn't this being done already? Perhaps the greatest obstacle to achieving the potential of pre-filing eviction avoidance is the very adversarial civil justice system RPOs and tenants are required to use. When we perceive our community stakeholders as adversaries, it can be difficult to consider engaging in collaborative reform efforts.<sup>278</sup> Instead, in the instances we have observed where RPOs and tenants consider themselves "collaborative adversaries," new pathways to reform that both parties recognize as important and valuable have emerged.<sup>279</sup> If we can sit at the same tables outside the court, and identify shared objectives, we can begin to imagine how we can work together to create new realities.

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278. See Stout Landlord Interviews, *supra* note 1; Stout Eviction Right to Counsel Evaluations, *supra* note 16.

279. See Stout Landlord Interviews, *supra* note 1; Stout Eviction Right to Counsel Evaluations, *supra* note 16.