

Ordinance No. 1001-2019

Council Members Kelley and Brancatelli

AN EMERGENCY ORDINANCE

To supplement the Codified Ordinances of Cleveland, Ohio, 1976, by enacting new Section 375.12, Legal Representation in Housing Court, providing for access to free legal representation to low-income tenants with children facing eviction proceedings.

WHEREAS, this Council finds that lack of legal counsel for tenants during eviction cases is a violation of a basic human right; and

WHEREAS, in the City, there are numerous residents that are homeless, or are at risk of homelessness because of eviction; and

WHEREAS, there are numerous residents that reside in uninhabitable living conditions due to a shortage of affordable housing, aging housing stock and a lack of awareness of tenants' rights; and

WHEREAS, in Cleveland, the 2011-2015 American Community Survey estimated that 27 percent of people living below the poverty level had moved within the previous year, and that rate was as high as 42 percent in some neighborhoods; and

WHEREAS, households with low-income experience higher mobility and housing instability; and

WHEREAS, this housing emergency is exacerbated by the fact that each year, approximately 20,000 residential eviction actions are filed in Cuyahoga County, of which approximately 9,000 are in in the City; and

WHEREAS, of tenants evicted in Cleveland, 76 percent are women heads of households, and 77 percent of those women are African-American; and

WHEREAS, 60 percent of eviction cases filed in Cleveland include households with children; and

WHEREAS, housing instability leads to school instability for children and increased missed school days;

WHEREAS, this housing emergency destabilizes families and neighborhoods, especially the most vulnerable among us, resulting in homelessness, decreased property values, and harm to social tranquility and the general welfare of the City; and

WHEREAS, a lack of knowledge and awareness of a tenant's legal rights, the fear of being evicted and being forced to seek housing in a limited housing market, discourages many Cleveland tenants from fighting eviction actions as well as reporting substandard housing conditions; it is this fear that contributes to homelessness, and warrants legislative action; and

WHEREAS, providing Cleveland residents with access to free legal services in Housing Court, will mitigate the aforementioned emergency and reduce the serious threats to the public health, safety and general welfare of Cleveland citizens that said emergency has created; and

WHEREAS, due to a lack of resources and an inability to obtain legal representation, Cleveland's most vulnerable residents are frequently evicted by landlords represented by competent counsel; and

WHEREAS, this Council declares that these conditions pose a serious threat to the public health, safety and welfare of the residents of the City, as well as to the City's economic stability, viability and growth; and

Ordinance No. 1001-2019

WHEREAS, in order to protect the health, safety and welfare of the citizens of the City of Cleveland, it is necessary to provide access to legal services to low-income tenants with children who are subject to eviction proceedings; and

WHEREAS, this ordinance constitutes an emergency measure providing for the immediate preservation of the public peace, property, health or safety; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Codified Ordinances of Cleveland, Ohio 1976, are supplemented by enacting new Section 375.12 as follows:

Section 375.12 Legal Representation in Housing Court

(a) Definitions

(1) “Brief legal assistance” means individualized legal assistance provided in a single consultation by a designated organization to a covered individual in connection with a covered proceeding.

(2) “Covered individual” means any person who occupies a dwelling, with children, in the City under a claim of legal right other than the owner, whose annual gross income is not in excess of one-hundred percent (100%) of the federal poverty guidelines as established and updated periodically by the United States Department of Health and Human Services (42 U.S.C. 9902(2)).

(3) “Covered proceeding” means any proceeding in Cleveland Municipal Court, Housing Division (“Housing Court”) to evict, eject, or terminate the tenancy of a covered individual.

(4) “Lead partner organization” means an organization or entity that has the capacity to establish and implement a program to provide access to legal services for covered individuals in covered proceedings in Housing Court.

(5) “Designated organization” means a not-for-profit organization or an entity to be determined, that has the capacity to provide legal services per the standards set by the American Bar Association Standards for the Provision of Civil Legal Aid (ABA standards) to income-eligible individuals facing eviction, and is designated in partnership with the City.

(6) “Full legal representation” means ongoing legal representation provided by any designated organization to a covered individual who is income-eligible, and all legal advice, advocacy, and assistance associated with such representation. Such representation includes, but is not limited to, the filing of a notice of appearance on behalf of the covered individual in a covered proceeding.

(7) “Legal services” means any legal representation provided to a covered individual, including brief legal assistance and full legal representation.

(b) Legal Representation in Housing Court

(1) All covered individuals shall receive legal services from designated organizations in a covered proceeding, as soon as possible after the initiation of the proceeding, and no later than at the time of the individual’s first scheduled appearance in a covered proceeding. Designated organizations must seek to provide high quality, full legal representation in

Ordinance No. 1001-2019

accordance with ABA standards, unless the individual is ineligible, there is a conflict of interest, or other circumstances make full legal representation infeasible to render.

(2) Provision of legal services for covered individuals from designated organizations in a covered proceeding shall be administered by the lead partner organization. The lead partner organization shall identify and coordinate all designated organizations, manage quality assurance processes, administer contracts with the designated organizations to provide legal representation in Housing Court, oversee evaluation and measurement, and coordinate reports to Cleveland City Council.

(3) Designated organizations shall work with the lead partner organization and community partners to engage and educate tenants of their rights and available resources.

(4) Designated organizations shall be contractually obligated by the lead partner organization to meet and report on pre-determined performance metrics, report those metrics to the lead partner organization on a quarterly basis, and adhere to quality assurance standards set by the lead partner organization based upon ABA standards; all components must be satisfied in order to receive an on-going contract to provide legal representation in Housing Court under this section.

(5) Any legal services performed by a designated organization under this section shall not supplant, replace, or satisfy any obligations or responsibilities of that designated organization under any other program agreement or contract.

(6) On January 31 of each year, beginning in 2021, the lead partner organization shall submit a written report to the Council, detailing the number of covered individuals served, the extent of legal services performed, metrics evaluating outcomes, projected budgeting needs for full representation to all covered individuals, and a summary of the engagement and education of tenants.

(c) Nothing in this section, or the administration or application of this section, shall be construed to create a private right of action on the part of any person or entity against the City or any agency, official, or employee of the City.

Section 2. That the provisions of this ordinance shall take effect on June 30, 2020.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

jho 8-21-19

FOR: Council Members Kelley and Brancatelli

