

December 16, 2021

The Honorable Lawrence J. Hogan, Jr. Governor
State House
100 State Circle
Annapolis, Maryland 21401-1925

Dear Governor Hogan,

As FY 2023 budget decisions are made, we as elected officials, advocates for fair, affordable housing, and legal services providers request that you allocate funding as soon as possible to implement HB 18, Access to Counsel in eviction cases, which went into effect on October 1, 2021. HB 18 enacts a proven, cost-effective model for preventing the disruptive displacement of families in eviction cases by leveling the playing field between landlord and tenant and ensuring that income-qualified tenants can enforce existing legal protections.

Based on a [recent study of evictions in one Maryland jurisdiction](#), the four-year implementation period specified in HB 18, and operational considerations, we request that you allocate \$11.8 million in federal funds for FY 2023. Funding would be used to hire new and experienced attorneys, paralegals, and other support staff; provide for employee training; and deploy case management technology. This allocation would move Maryland toward full implementation of HB 18 without further burdening the private sector. This request mirrors the request of the Access to Counsel in Evictions Task Force that was sent to you on November 17, 2021.

With the housing economy still reeling from COVID-19 and [approximately 111,000 Maryland households behind on their rent and facing eviction](#), the urgency of implementing HB 18 has only increased. These households are overwhelmingly people of color (80%) and have suffered both job and income loss during the pandemic.

We appreciate the substantial progress made to get the more than \$800 million in rental assistance to Marylanders who need it. However, rental assistance alone will not prevent all evictions. An additional measure - providing access to counsel in eviction proceedings - is now law and needs to be funded to ensure that rental assistance is successful in meeting its primary objective of keeping families in safe and stable housing during this continuing global pandemic, while making landlords whole.

When talking about housing generally, it can be overlooked that eviction is a legal process that is made more efficient and fair when tenants have the same access to counsel that landlords have. According to the [study of evictions referenced above](#), 96% of landlords are represented by an attorney or eviction court agent, while only 1% of tenants are represented. When tenants go to court without legal representation, even if the law affords legal defenses, they are likely not to be successful. [In one Baltimore study, over 60% of tenant-respondents had a defense based on the condition of the unit, but only 8% of those tenants were successful in raising the defense without counsel.](#)

Failure to pay rent cases, which are the most voluminous, are not always straightforward and can at times be complex, implicating federal, state, and local contract laws and regulations. In these cases, legal counsel assist with solving disputes in relation to the amount of rent owed

and help ensure that the amount of rental assistance going to a landlord is correct. Further, if conditions in a property threaten life, health and safety, legal counsel help ensure that the property is made habitable. Or, if a property owner wrongfully attempts to evict a tenant despite obtaining rental assistance—in violation of a rental assistance contract —counsel will assist in enforcing any rights the tenant may have.

Legal counsel for tenants is not a panacea for all the ills and imbalances in the housing market. But, where a good faith dispute between the parties exists, the non-profit legal counsel required by HB 18 can negotiate the resolution of any dispute and/or enforce existing legal protections as needed to avoid a rapid descent into homelessness. This is borne out in the studies of those jurisdictions that have enacted right-to-counsel laws including [New York City in which 86% of represented tenants remained in their homes, and eviction filings decreased by 30%](#) and [Cleveland in which 93% of represented tenants avoided an eviction or involuntary move with counsel](#).

Maryland has an existing legal services infrastructure supported by the Maryland Legal Services Corporation (MLSC) that can quickly scale up to utilize additional federal funding. A stakeholder task force has already begun meeting and will guide MLSC in implementation of the Access to Counsel Program, with reporting requirements to provide transparency and accountability as the program moves toward full implementation in the coming years.

Thousands of households would benefit from access to counsel by avoiding the disruptive displacement facing too many Marylanders who are at risk of eviction. This displacement has a detrimental effect not only on the families involved, but on the economy at large. The ripple effects of eviction drive up our homelessness service budget, as well as the Medicaid, foster care, mental health, and education budgets. Full implementation of HB 18 is estimated to provide representation to 34,000 households and result in net savings to the State of \$62 million in reduced Medicaid and foster care costs by reducing the number of families that become homeless in eviction cases.

Recognizing the importance of legal representation in preventing evictions, the federal government has made clear that their funding sources can and should be used to provide legal representation for households facing eviction proceedings. Earlier this year, [Treasury Secretary Janet Yellen, U.S. Attorney General Merrick Garland, and Secretary of Housing and Urban Development Marcia Fudge echoed this point in a letter to state and local officials](#) across the country, explaining that “tenants are more likely to avoid eviction and remain stably housed when they have access to legal representation. Legal counsel can also aid in the successful completion of [rental assistance] applications.” [Numerous states and localities have responded and allocated millions toward counsel in eviction cases including in Tennessee, Wyoming, Virginia, Maine, and Michigan](#).

We respectfully request that you direct funds in this manner so that thousands of vulnerable Marylanders, the vast majority of whom are people of color, have counsel that will make rental assistance effective and will level the playing field in our landlord/tenant legal proceedings.

Sincerely,

Senator Jill P. Carter
Senator Guy Guzzone
Senator Shelly Hettleman
Senator Susan C. Lee
Senator William C. Smith, Jr.
Senator Charles E. Sydnor III
Senator Jeff Waldstreicher
Senator Ron Watson
Senator Chris West

Delegate Vanessa E. Atterbeary
Delegate Wanika Fisher
Delegate Maggie McIntosh
Delegate David Moon
Delegate Samuel I. Rosenberg
Delegate Dana Stein
Delegate Vaughn Stewart
Delegate Jheanelle Wilkins

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Bar Foundation of Montgomery County
Beyond the Boundaries
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CASH Campaign of Maryland
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Pro Bono Resource Center of Maryland
Public Justice Center
Right to Housing Alliance
Santoni, Vocci, & Ortega
Strong Future Maryland
United Workers
University of Maryland Carey School of Law
Clinical Law Program
Women's Law Center

CC: Secretary Kenneth C. Holt, Department of Housing and Community Development
Secretary David R. Brinkley, Department of Budget and Management
Keiffer Mitchell, Chief Legislative Officer