



# GNYHA Social Determinants of Health Learning Series: Eviction Prevention Training

September 17, 2020

**GREATER NEW YORK HOSPITAL ASSOCIATION**

*Over 100 years of helping hospitals deliver the finest patient care in the most cost-effective way.*

# About Greater New York Hospital Association (GNYHA)



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Membership organization comprising approximately 160 voluntary and public hospitals and health systems located in New York, New Jersey, Connecticut, and Rhode Island

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Engages in advocacy and media campaigns in Albany and DC, develops policy proposals, provides technical assistance to members, and sponsors multi-institutional collaboratives

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Resources dedicated to supporting member hospitals in many areas, including health finance, regulatory affairs, quality and patient safety, ambulatory care, and population health

# About Health Information Tool for Empowerment (HITE)

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Publicly available online resource directory listing more than 6,000 health care and social services in New York City, Long Island and Westchester

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Listed services are covered by Medicaid, free, or low-cost

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Information verified twice annually through direct contact with listed organizations

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Target users are social workers, care managers, discharge planners, health care providers, and other health care and social service professionals

# HITE Home Page (www.hitesite.org)



HITE

myHITE

Tools ▾

Suggest a Resource

About us

Contact

## ONLINE RESOURCE DIRECTORY

connecting New Yorkers with free and low-cost health and social services

 What service are you looking for?

SEARCH

## BROWSE BY CATEGORY



Education & Employment



Financial Assistance



Food Assistance



Health Care & Medicine



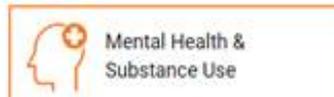
Hotlines



Housing & Homeless  
Services



Immigrant Support



Mental Health &  
Substance Use



Social Supports &  
Services



Youth & Family Services

# COVID-Related HITE Changes

In response to COVID, HITE implemented the following changes:

- Daily updates to resource listings
- COVID-19 notice to users
- COVID-19 status for all resources
- COVID-19 testing locator

# Eviction Prevention During COVID-19

September 17, 2020

# ABOUT LEGALHEALTH

LegalHealth, a division of NYLAG, provides free legal assistance and develops policy to help New Yorkers with serious and chronic health issues and who are experiencing financial hardship. We bring together legal and medical professionals in the healthcare setting complimenting health care with legal care.

# ABOUT NYLAG

The New York Legal Assistance Group (NYLAG) is a leading non-profit that provides free civil legal services, financial counseling, and engages in policy advocacy efforts to help people experiencing poverty.



## Goals of Training

Current State of Eviction Moratorium(s)

Overview of Eviction proceedings

Resources for patients to help prevent  
eviction



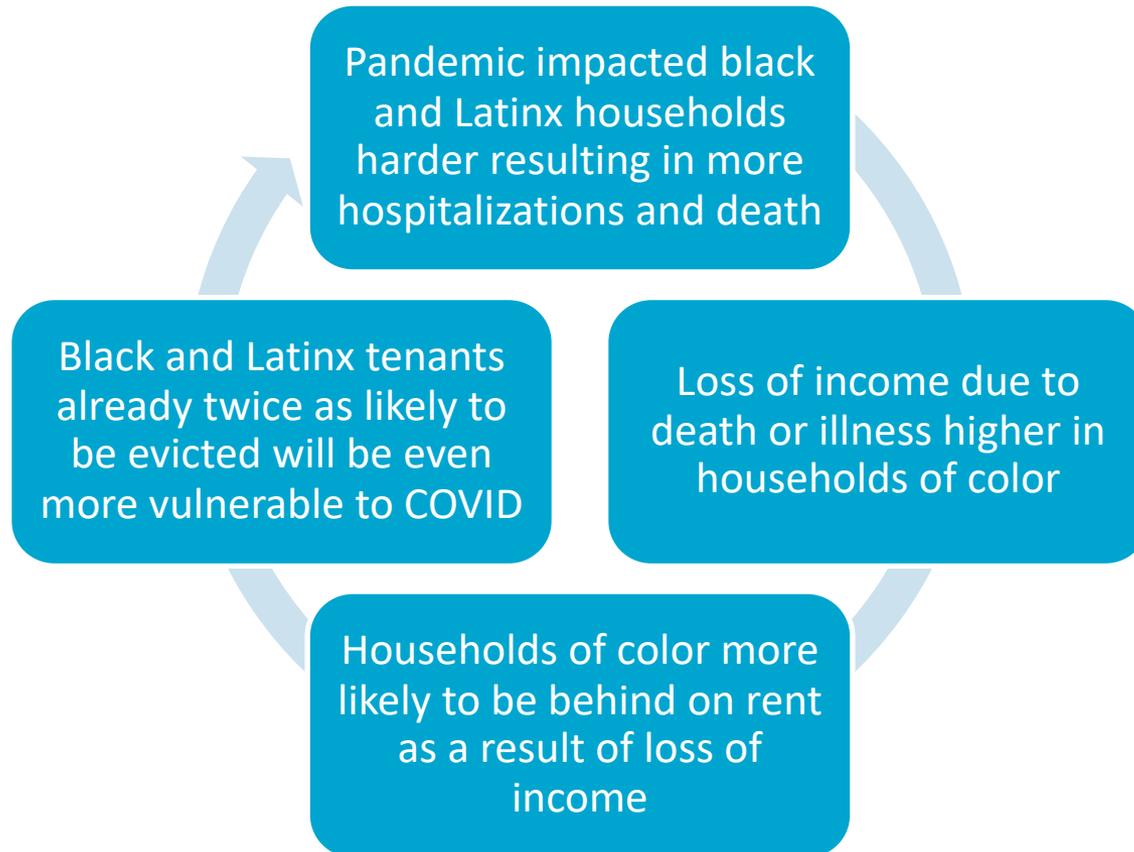
# Evictions as a Social Determinant of Health

Evictions are costly, life-changing events

- Eviction causes toxic stress, destabilizes entire families and forces them to move to more substandard housing
- Poor quality housing contributes to health problems such as infectious and chronic diseases, injuries and poor childhood development.
- People who have difficulty maintaining stable housing are less likely to have regular medical care and are more likely to postpone treatment and to use the emergency room for treatment.
- If a person becomes homeless, the health implications can be devastating .



# Housing and Healthcare Justice is Racial Justice



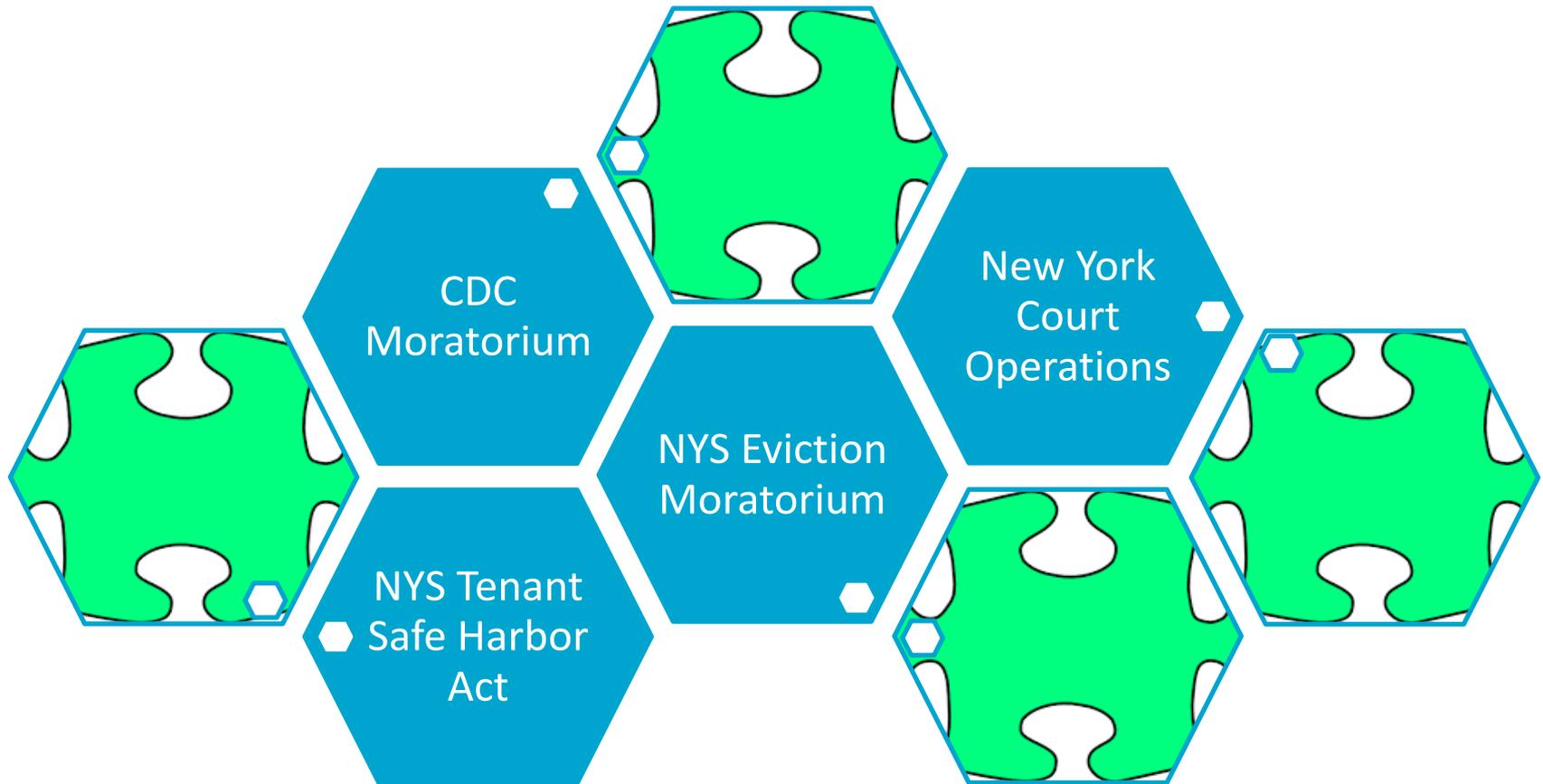
# NY State Long History of Strong Tenant Rights

## Guiding Principles:

- If tenant has lived in home for over 30 days or has a lease, the landlord cannot just throw the tenant out or change the locks no matter how behind in rent they are
- Landlord must take tenant to court and get a final judgment and order of eviction from the court
- Only a city marshal (Sheriff or Constable outside of NYC) can evict a tenant and they must give them notice as well
- Court is a lengthy process and even more so now.



# Eviction Protections during COVID... it's a puzzle



# Current Eviction Moratorium in NYS

- Since March 17<sup>th</sup> there have been several moratoriums on eviction issued by the Governor and NYS Court Administrators
- LATEST: In late August, Cuomo issued an executive order that extended the eviction moratorium through September 20<sup>th</sup>
- Chief Administrative Judge Lawrence Marks further extended eviction moratorium until ***October 1st***



# Tenant Safe Harbor Act – New York State

- Tenants who have experienced economic hardship due to COVID-19 cannot be evicted for the non-payment of rent
  - ***From March 7 until there are no longer COVID-19 public restrictions.***
- Landlords can receive a money judgment in court for unpaid rent from March 7, 2020 onward
- Tenants should speak with an attorney or financial counselor about the effect of money judgments



# CDC Federal Eviction Moratorium

- The Centers for Disease Control announced a federal moratorium through ***December 31, 2020***
  - Effective September 4<sup>th</sup> and emphasized the link between homelessness and the spread of COVID-19
- What does it mean?
  - Nationwide, landlords may not take any legal action to evict (remove tenant from their home) for non-payment of rent through the end of the year
  - Tenants still have the obligation to pay rent
  - **Does not protect tenants from being sued or evicted for reasons other than non-payment of rent**



# CDC Moratorium: Places *burden* on tenants to:

Send their landlords a declaration that:

- Tenant has attempted to receive government assistance
- Tenant meets income guidelines:
  - Expect to earn or received <\$99,000 (or \$198K if joint) in annual income in 2020;
  - Or tenant received an Economic Impact Payment (stimulus check) this year
- Tenant is unable to pay rent due to loss of household income
- Tenant makes timely partial payments
- If evicted they would be homeless (includes entry to a shelter or a family or friend's home)



## Declaration Under Penalty of Perjury for the Centers for Disease Control and Prevention's Temporary Halt in Evictions to Prevent Further Spread of COVID-19

I certify under penalty of perjury, pursuant to 28 U.S.C. 1746, that the foregoing are true and correct:

- Declaration: <https://www.cdc.gov/coronavirus/2019-ncov/downloads/declaration-form.pdf>
- Helpful links:
  - <https://www.covid19evictionforms.com/>
  - <https://www.covid-19evictionforms.com/>

Useful Q & A about the CDC Eviction Moratorium

- <https://www.nytimes.com/2020/09/02/your-money/eviction-moratorium-covid.html>



# New York Court Operations



# Court Operations in New York State When COVID Started

- Housing courts closed statewide on March 17<sup>th</sup> and there was a moratorium on filing cases until June 22<sup>nd</sup>
  - Only emergency actions could be filed such as illegal lockouts or where hazardous conditions were evident in an apartment
  - Tenants could not be sued on or after March 17<sup>th</sup>
  - All actions brought before March 17<sup>th</sup> cases were adjourned
  - Notices of eviction sent before March 17<sup>th</sup> were no longer valid
  - Some pre-March 17 cases had virtual hearings if both parties had attorneys



# Current Court Operations

- The original state moratorium on evictions ended June 22<sup>nd</sup> and courts allowed for landlords to begin suing tenants
  - But cases are by and large put on hold – good for tenants
- Pre-March 17<sup>th</sup> cases need to be brought back to conference in front of judge
  - All proceedings done remotely except in limited circumstances
  - Notices of eviction are now stale and need to be re-ordered by a judge
- March 17<sup>th</sup> and after cases
  - Landlords must file through the mail or electronically if they have counsel
  - Tenant then “answers” by phone and the case is essentially put on hold



# “I’m afraid of being evicted!”

## What stage in the court proceeding are they?



**Tenant who was brought to court prior to March 17**



**Tenant sued after housing courts reopened**



**Tenant hasn't been sued yet but is behind in rent and being harassed to leave**



## Case Study: John

John fell behind in rent in October 2019 when he was laid off from his job and, as rent arrears built up, was sued by his landlord in January. At his first court date in February, he agreed to pay all the rent that was due, as he was working again. He agreed to pay \$4,600 by March 30<sup>th</sup>.

When COVID hit, he lost his job again and was not able to make the full \$4,600 payment by March 30 and now he's behind in rent again! He is sure he will be evicted any day and does not know what is going to happen.

Can John just be evicted without further notice?



# What happens to John under current orders?

- **NYS Moratorium:** John is protected from being evicted before October 1<sup>st</sup>
- **Court operations:** John's case must be seen by a judge again before a notice of eviction can be ordered and he will have time to apply for rental assistance
- **CDC moratorium:** If he qualifies, he can send the CDC declaration to the landlord to stop the eviction through 12/31



# CDC Declaration to Temporarily Halt Eviction

- As mentioned above the declarations can be found online and given to landlord
- Tenants should keep a record of how they gave it to landlord
  - By mail: Certified mail return receipt requested
  - In Person: Have the management office sign a receipt
- Moratorium is **brand new** but if the tenant gives this to landlord properly it could be argued that an eviction for non-payment of rent must be stopped
- Speak with an attorney



# Overview of Eviction Proceedings



## Case: Abby

Abby is an undocumented mother of three who has lived in her apartment for 5 years. The rent is \$1,200. She lost her job in April when she contracted COVID. She has not been able to work since. She does not have a current lease and hasn't been able to pay since May. She's worried her landlord is going to kick her out.

Abby comes to you with something she received in the mail from the landlord and she is frantic! She thinks she needs to leave her apartment immediately and that she will end up in a shelter...

Abby's fears are real, but eviction may not be imminent...



# Types of Eviction Proceedings

- Non-Payment of Rent
  - Most common cases in housing court
  - Landlord alleges that rent was not paid
  - In a non-payment case, the tenant should receive a rent demand prior to receiving a petition for a court matter
  - A non-payment proceeding should end if a tenant pays all the rent before the court date.
  - No one should be physically going to court right now but it is important to find out ***how to reply*** to these papers



# Types of Eviction Proceedings

- Holdover
  - Dispute is usually over:
    - Violation of lease provision
    - Lease has expired and landlord does not want to renew
    - Nuisance (common claims are hoarding)
    - Succession (tenant lived with leaseholder but they died or left)
    - Chronic non-payment of rent



# Identify Stage of Eviction Patient Is In

Non-payment notice prior to start of court case

- A written 14-day rent demand

Holdover notice prior to start of court case

- Notice of intent not to renew lease, “to vacate”, “to cure” or “to quit”

Notice of Petition & Petition

- The first notice that a court case has been started

Upcoming court date

- Help determine if they really have court and if they can attend remotely

Notice of Eviction

- A 14-day notice to leave apartment



# Back to Abby...

Abby hands you a piece of paper that states that it is a “written demand” she has **14 days to pay or leave before the LL will bring a case to evict her**

- This is a demand, Abby should NOT leave
- Next step is receiving court paperwork, which could take some time
- Help prepare declaration for federal moratorium
- Advise them to speak with an attorney about the Tenant Safe Harbor Act
- Connect to resources to help pay for rent

WRITTEN DEMAND FOR PAYMENT OF PAST DUE RENT	
Re: Premises: (1) _____, 20____	
(2) _____ rooms _____ floor _____ side, Apt. No. _____	
(3) _____	
(4) used for <input type="radio"/> Business <input type="radio"/> Residence	
TO:	
Tenant(s), under-tenant(s) or assigns, and every person in possession of the premises.	
(5) _____	(6) _____
(7) _____	(8) _____
(9) Take notice that you owe rent for the following period(s):	
\$ _____ for month of _____ 20____	
\$ _____ for month of _____ 20____	
\$ _____ for month of _____ 20____	
\$ _____ for month of _____ 20____	
\$ _____ for month of _____ 20____	
Late Fee(s): \$ _____	
(10) The total now due is: \$ _____	
If you do not pay the total rent due on or before the expiration of <b>fourteen (14) days</b> from the date of the service of this notice, or surrender up the possession of said premises to the landlord, the landlord will commence summary proceedings to evict you.	
(11) Landlord: _____	_____
Signature	Print or Type Name
(12) Agent: _____	_____
Signature	Print or Type Name
(13) Landlord or Agent's Address: _____	
_____	

Modified and Made Fillable by eForms



# What if Abby has this paperwork: Notice of Petition and Petition

- First notice before a court date can be set
- Tenant has 14 days to “answer”
- Tenant answers by phone
- Refer patient to hospital’s MLP or 311 for legal assistance in NYC
- Outside NYC contact a civil legal services office:

<https://moderncourts.org/legal-service-providers-community/>

CIVIL COURT OF THE CITY OF NEW YORK (Cashier/Clerk will give you this No.)  
COUNTY OF (Insert one: Kings, Queens, Bronx or NY) HOUSING PART L&T Index No.

(Owner's Name) \_\_\_\_\_X  
Petitioner (Landlord) NOTICE OF PETITION  
-against- Non-Payment Dwelling

(Tenant's Name & Address) If Applicable, John/Jane Doe Owner's Business Address:  
\_\_\_\_\_  
Respondent (Undertenant)  
\_\_\_\_\_X

To the respondent(s) above named and described, in possession of the premises hereinafter described or claiming possession thereof.

PLEASE TAKE NOTICE that the annexed petition of (Owner's Name) verified the (date form will be notarized) day of 2004 prays for a final judgment of eviction awarding to the petitioner possession of premises described as follows: Apartment No. , consisting of (all) rooms, in premises known as and located at (Tenant's address), N.Y. (zip code), County of (Insert one: Kings, Queens, Bronx or NY), City of New York, as demanded in the petition.

TAKE NOTICE also that demand is made in the petition for judgment against you for the sum of \$ (Total amount owed) with interest from (Date Tenant began owing rent) 2004, to (Plus costs and disbursements and late less amount through the date of judgment).

TAKE NOTICE also that WITHIN FIVE DAYS after service of this Notice of Petition upon you, you must answer either orally before the Clerk of this Court at (insert address of Courthouse). This information will be on your T216 Postcard, City and State of New York, or in writing by serving a copy thereof upon the petitioner, and by filing the original of such answer with proof of service thereof in the Office of the Clerk. Your answer may set forth any defense or counterclaim you may have against the petitioner. On receipt of your answer, the Clerk will fix and give notice of the date for trial or hearing which will be held not less than 3 nor more than 8 days thereafter, at which you must appear. If after the trial or hearing, judgment is rendered against you, the issuance of a warrant dispossessing you may, in the discretion of the Court, be stayed for FIVE days from the date of such judgment.

TAKE NOTICE also that if you fail to interpose and establish any defense that you may have to the allegations of the petition, you may be precluded from asserting such defense or the claim on which it is based in any other proceeding or action.

(Attach copies). Notice regarding rent deposits is attached and made part of this Notice of Petition.

In the event you fail to answer and appear, final judgment by default will be entered against you but a warrant dispossessing you will not be issued until the tenth day following the date of the service of this Notice of Petition upon you.

Dated: (Date form will be notarized) \_\_\_\_\_ (Leave blank)  
\_\_\_\_\_  
(Owner's name) Clerk of the Civil Court of the City of New York

Pro Se Petitioner

Address and Telephone No.:  
(Owner's address & telephone number)  
\_\_\_\_\_  
\_\_\_\_\_

**IMPORTANT TO TENANT** – If you are dependent upon a person in the military service of the United State of New York, advise the Clerk immediately, in order to protect your rights.



# Right to Counsel or “Universal Access” in NYC

- Abby might also have a right to an attorney when she eventually must appear either remotely or in person when courts are fully open
- Started in 2017, low-income tenant could have a right to be represented in court depending on their zip code and with the pandemic will likely be expanded
- Unfortunately, NYC is the only region in NYS providing "universal access" representation
  - Outside NYC tenants should call the legal services provider in their area for possible representation. <https://moderncourts.org/legal-service-providers-community/>



# Resources for Tenant – Rent relief



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# Rental Assistance Resources NYC

- **One Shot Deals** – Can apply online now at <https://a069-access.nyc.gov/accesshra/>
- **FHEPS/City FHEPS vouchers** – should contact HRA and Home Base: <https://www1.nyc.gov/site/dhs/prevention/homebase/locations.page>
- **SCRIE and DRIE**  
<https://www1.nyc.gov/assets/finance/downloads/pdf/brochures/scriedriebrochure.pdf>
  - Some tenants can have their rent frozen if they are senior or disabled



# Rental Assistance Resources New York State

- Primary resource for obtaining rental arrears outside of NYC is **Emergency Assistance** through the Department of Social Services.
  - Whether tenant receives assistance will depend on if they are a current recipient of assistance.
- **If they don't receive public assistance now:**
  - Tenant must fill out an application at their county DSS.
  - See <https://otda.ny.gov/workingfamilies/dss.asp> for county DSS locator.
- **If you receive public assistance now:**
  - Contact your caseworker. You do not need to fill out an application.
  - If denied may request an Expedited Fair Hearing.
  - HOPWA funds may be available for people living with HIV/AIDS
- **SCRIE and DRIE outside NYC:** See [HCR Fact Sheets](#)
- **Private Charities:**
  - Catholic Charities, The Salvation Army, People to People, United Way



## Back to Abby, how can you help her?

Go through the paperwork with her and identified she was in the early stages of a non-payment case

Help her apply for rental assistance and prepare the declaration to halt the eviction under CDC moratorium

Refer her to legal services for future advice on case or representation



## Case: Eduardo

Eduardo has been living in a rent-stabilized apartment with his family for 12 years. He works as a construction worker but he has not been working since April and he has fallen behind in rent. His current lease is about to expire. The apartment has a lot of problems such as mold and cockroaches and after the landlord did nothing. In June, he called his local city officials to come inspect and help.

A few weeks later he received a packet from the landlord telling him his family has 30 days to get out!

Can Eduardo's landlord take him to court to evict him?

Can he take advantage of the various COVID protections?



# Identify Stage of Eviction Patient Is In

Non-payment notice prior to start of court case

- A written 14-day rent demand

Holdover notice prior to start of court case

- Notice of intent not to renew lease, “to vacate”, “to cure” or “to quit”

Notice of Petition & Petition

- The first notice that a court case has been started

Upcoming court date

- Help determine if they really have court and if they can attend remotely

Notice of Eviction

- A 14-day notice to leave apartment



# What is the notice he received?

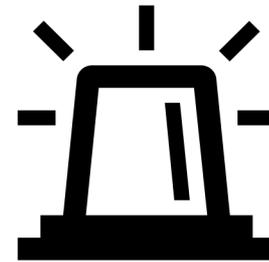
NOTICE OF LANDLORD'S INTENTION NOT TO RENEW  
RENT STABILIZED LEASE AND INTENTION TO COMMENCE  
SUMMARY PROCEEDINGS BASED UPON NON-PRIMARY RESIDENCE  
OF RENT STABILIZED APARTMENT AND COMBINED  
THIRTY (30) DAY NOTICE OF TERMINATION

- A Notice that landlord will not be renewing lease
  - Indicates landlord will sue in a “holdover” matter,
  - Why? Retaliation and attempt to get back rent Eduardo has defenses and time to assert them
    - Possible right to a renewal, Retaliation by landlord, improper amount of notice, possible harassment
- Unfortunately these cases are not covered by the CDC moratorium but Eduardo will not have a court date for quite some time



## Back to Eduardo!

- The landlord is now harassing Eduardo and telling him that he “knows he wasn’t born here” and continues to text him that he is going to give him “an eviction notice” and change the locks!



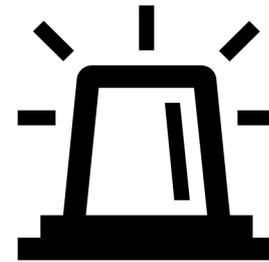
# How to Help Eduardo

- Advise him that he is being discriminated against and can report the landlord
- Statewide contact the Civil Rights Bureau of the New York State Attorney General's Office at 212-416-8250 or [civil.rights@ag.ny.gov](mailto:civil.rights@ag.ny.gov)
- In NYC Contact the Mayor's Office of Tenant Protection <https://www1.nyc.gov/content/tenantprotection/pages>
- He cannot just be evicted, he must go through a court proceeding and he is protected by law
  - No evictions through October 1
  - March 17<sup>th</sup> and after cases essentially suspended
  - He must speak with a lawyer



## Eduardo cont'd

- Eduardo came home from work and his key did not work in the lock. He calls his landlord who says he doesn't want to wait for courts to open and tells him to find a new place to live!



# Illegal Lockout

- Help Eduardo call the police to get back into his apartment
- If the police are unable to help, an attorney can help file an emergency action in housing court to get him back in right away
- If a city marshal was involved, report them to the Department of Investigations
  - <https://portal.311.nyc.gov/article/?kanumber=KA-01154>
- Outside the city report any complaints to the County Attorney's office.



# How Can You Advocate for a Patient with Facing Eviction?

- **Empower the patient** to inform them of their rights and of existing moratoriums and laws protecting them from eviction
- **Identify what stage of eviction** the patient is in and whether he has received court papers.
- **Assist in applying for rental assistance** that the tenant and their family are eligible for and can stabilize their housing
- **Refer the patient to an attorney**, such as LegalHealth



# Useful Court Links for Tenants in NYS

- Housing Court Answers <http://housingcourtanswers.org/>
- <https://www.nycourts.gov/CourtHelp/GoingToCourt/>
  - To find a lawyer
- <http://www.nycourts.gov/evictions/outside-nyc/>
- <http://www.nycourts.gov/courts/townandvillage/>
- <http://ww2.nycourts.gov/ip/nya2j/diyavailable.shtml>
  - DIY forms throughout NYS
- [https://www.nycourts.gov/courthelp/pdfs/TenantsGuide\\_nonpayment.pdf](https://www.nycourts.gov/courthelp/pdfs/TenantsGuide_nonpayment.pdf)
  - Tenant Questions and Answers in Nonpayment proceeding in NYS
- [https://www.nycourts.gov/courthelp/pdfs/TenantsGuide\\_holdover.pdf](https://www.nycourts.gov/courthelp/pdfs/TenantsGuide_holdover.pdf)
  - Tenant questions and answers in a holdover proceeding in NYS



# Questions?



# THANK YOU

More information at [legalhealth.org](https://legalhealth.org)



Search “NYLAG” or “New York Legal Assistance Group” on these social media platforms.

