

THE
Unheard Third 2023

Right to Counsel Works:
Why Won't the City and State
Use it to Stop More Evictions?

Brief

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Key Findings

- » After New York City enacted the Right to Counsel law, executed evictions and eviction filings declined by 18 and 22 percent, respectively. The law changed landlord behavior, discouraging frivolous filings.
- » In 2023, executed evictions were down by nearly 40 percent, while eviction filings were down 29 percent, compared to 2019. While the eviction rate will likely continue to increase in 2024, Right to Counsel and strengthened rent stabilization are helping more tenants stay in their homes.
- » According to our latest Unheard Third survey, one in five Black households and one in four Latino households reported owing back rent in 2023.
- » Fifteen percent of households with children were threatened with eviction in 2023.
- » More moderate-income households are facing eviction. Before the pandemic, 37 percent of respondents reporting an eviction attempt were moderate- or middle-income. Today, 53 percent of respondents are.



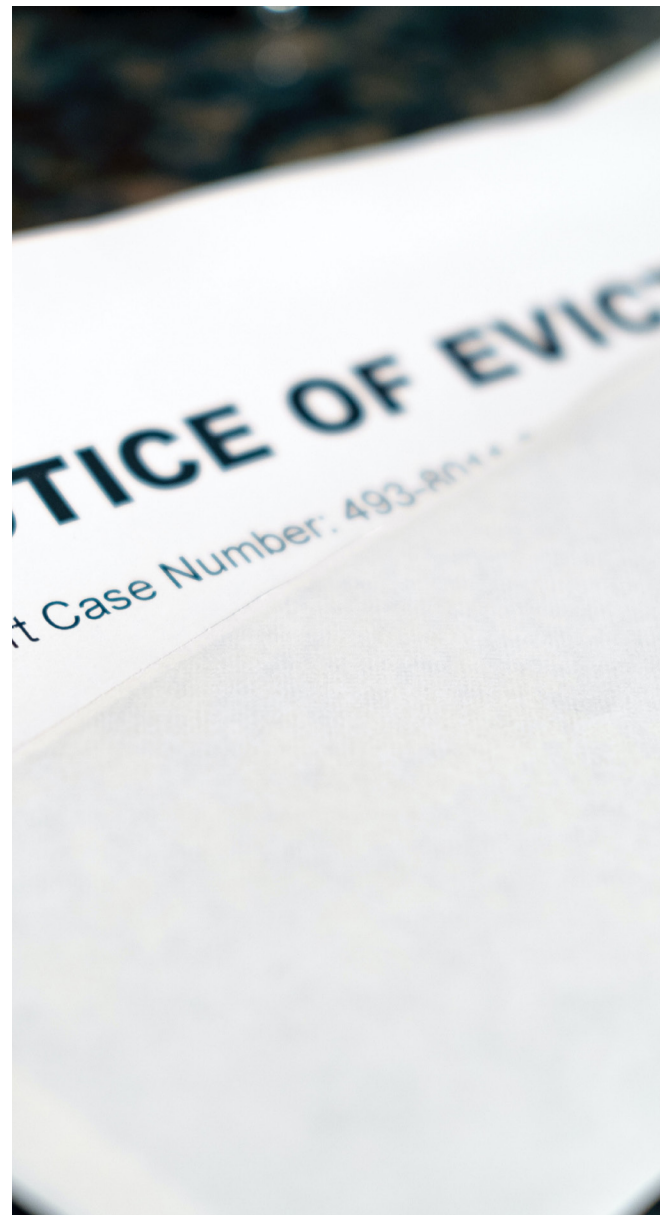
The Community Service Society of New York (CSS) has worked with and for New Yorkers since 1843 to promote economic opportunity and champion an equitable city and state. We power change through a strategic combination of research, services, and advocacy to make New York more livable for people facing economic insecurity. By expanding access to health care, affordable housing, employment, opportunities for individuals with conviction histories, debt assistance, and more, we make a tangible difference in the lives of millions. Join us at www.cssny.org.

Context

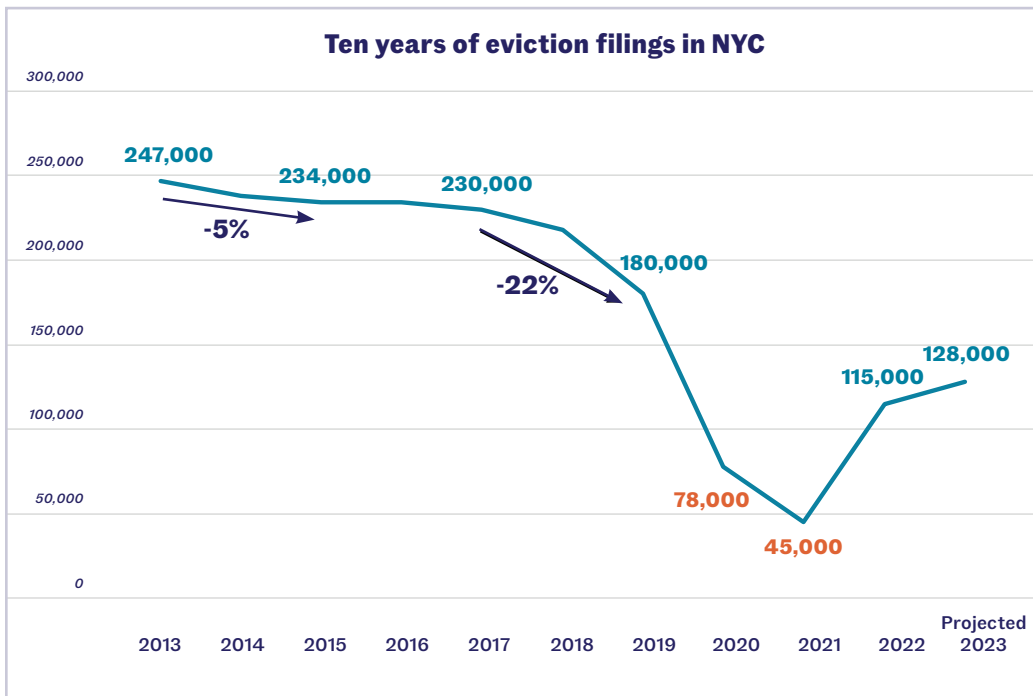
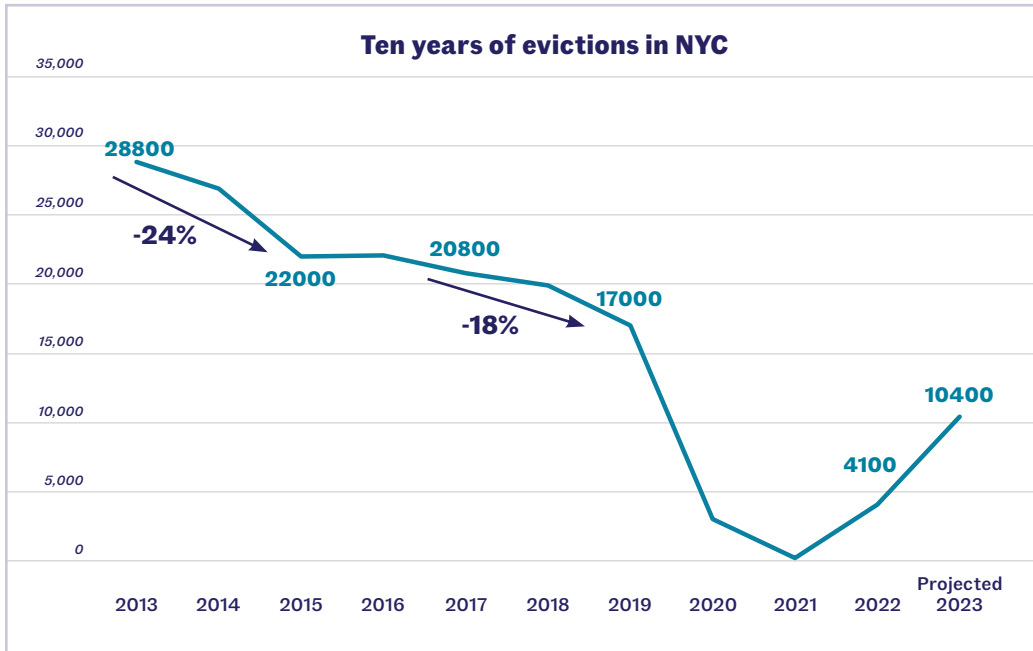
It has been more than six years since New York City passed the country's first Right to Counsel law and two years since New York lifted its eviction moratorium. Eviction filings and marshal-executed evictions have risen significantly since the end of the moratorium but have not yet reached pre-pandemic levels. While the city's housing court is still adapting to the pandemic-era context, these comparatively lower eviction filing rates may indicate a change in landlord behavior. The passage of the Housing Stability and Tenant Protection Act (HSTPA) in 2019 made evictions less profitable for landlords of rent stabilized properties and expanded eviction timelines, giving tenants more time to mount a defense or pay back rent arrears. Right to Counsel allows some qualifying tenants to claim these expanded rights in housing court.

Despite these gains, New York's eviction rate remains too high, destabilizing the lives of tens of thousands of the city's residents. Evictions increase the risk for homelessness and long-term housing insecurity, and have an adverse effect on health, increasing emergency room use and mental health hospitalizations. CSS's 2023 Unheard Third Survey – the latest in our long-running series polling low-income New Yorkers – allows us to learn more about who is threatened with evictions. Their demographics continue to reflect broader societal inequalities: Black households and households with children were most likely to experience eviction threats, while Latino households were most likely to owe rent arrears. There has been one major pandemic-era shift: more moderate-income households are threatened with evictions, compared both to prior years and to lower-income tenants.

This brief highlights the current state of eviction filings and executed evictions in New York City, provides demographic details of tenants facing evictions, and outlines policy fixes for the city's implementation of the Right to Counsel law.



Ten years of filings and evictions



Source: 2013-2016 OCJ reports; 2017-2023 from Open Data portal; 2023 in full projected out from October, assuming same rate

Before the pandemic, the eviction rate in New York City was declining, a result of tenant organizing pushing policy change. The campaign for Right to Counsel began in 2014, bringing evictions into the center of conversations about housing affordability and homelessness. At first, the city began spending more on existing legal assistance programs. The number of households receiving government-funded legal assistance in housing court [more than doubled](#) in 2014. This action had a profound impact on the number of executed evictions, which dropped by nearly a quarter between 2013 to 2015. With legal representation, a significant share of tenants was able to fight back against frivolous eviction filings or work out payment plans for rental arrears.

New York City tenants won their Right to Counsel campaign in late 2017. Households earning under 200 percent of the Federal Poverty Line (FPL) now had a legally-mandated right to representation in eviction cases. The impact of the law is visible in the data: evictions declined by 18 percent between 2017 and 2019, while filings declined even more, by 22 percent. Right to Counsel not only allowed thousands of people to keep their housing, but also began to change landlord behavior, discouraging frivolous and harassing filings.

In June 2019, the [Housing Stability and Tenant Protection Act \(HSTPA\)](#) strengthened rent regulation and increased eviction protections for all renters in the state. It closed loopholes in the state's rent laws that incentivized evictions of rent stabilized tenants, like the vacancy bonus and vacancy decontrol. HSTPA also expanded eviction protections for all tenants, providing them with more time to answer nonpayment petitions, address lease breaches, and come up with money to pay rent arrears.

The pandemic hit less than a year later. The eviction moratorium stopped nearly all legal evictions in 2020 and 2021 but did not prevent landlords from filing for 123,000 potential future evictions, which have wound their way through housing court since then. Since the moratorium was lifted in January 2022, neither evictions nor filings have come back up to pre-pandemic levels.

Compared to 2019, evictions were down by nearly 40 percent, while eviction filings were down 29 percent in 2023. This is partially the result of the continuing settling of both the housing market and the civil court system, both of which were upended by the pandemic. However, this is also the result of the HSTPA and Right to Counsel working in complement, as intended. By curbing rent increases at vacancy, HSTPA reforms reduced – but did not eliminate – the incentive for landlords to evict long term rent stabilized tenants. Further, HSTPA has stretched out the timeline of many eviction proceedings, giving tenants more time to collect evidence, develop a defense, and pay back rental arrears.

New York City's current level of eviction cases – while lower than 2018 or 2019 – is still putting immense pressure on the Right to Counsel programmatic framework. According to Emma Whitford's ongoing [reporting](#), the city has budgeted \$110M a year for civil eviction defense, projected to cover 35,000 eviction cases per year. Legal service providers, who are contracted to implement Right to Counsel on the ground, have argued that these funding levels are insufficient, resulting in [unmanageable](#) caseloads for tenant lawyers and qualifying tenants having to face evictions on their own. Legal service providers have budgeted the actual cost of representation to be \$235M. However, they also anticipate the number of



qualifying eviction filings to be closer to 71,000 next year, which would cost \$336M to cover.

Despite all these pressures, Right to Counsel continues to be extremely successful, with 78 percent of represented tenants remaining in their homes.

Eviction threats vs. eviction filings

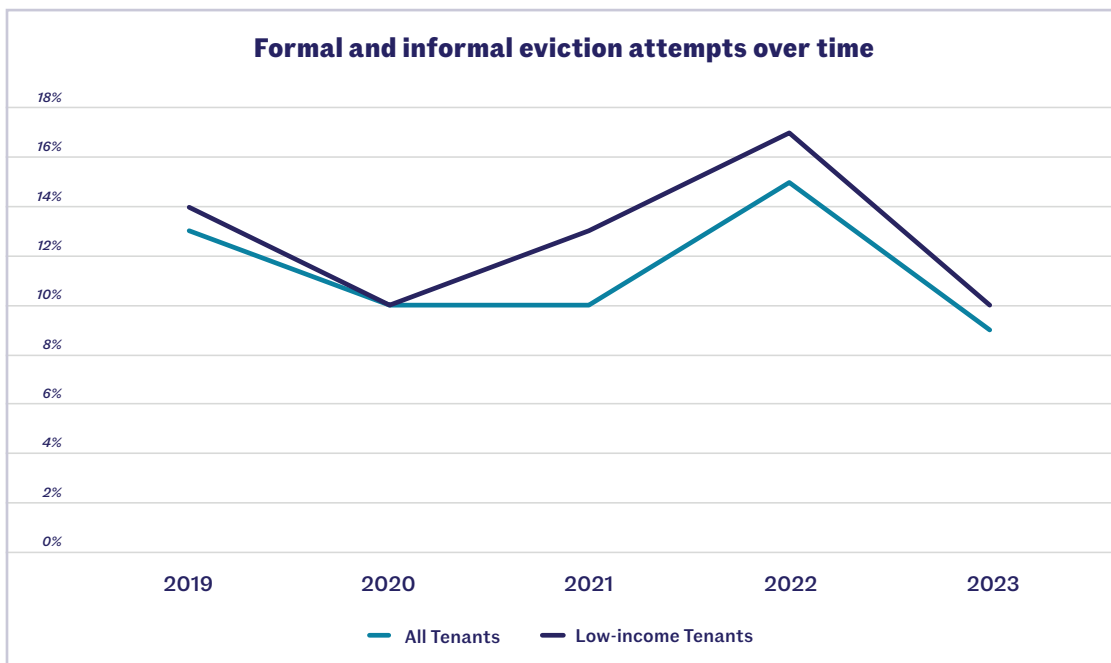
In our latest Unheard Third Survey, we ask our respondents:

To the best of your knowledge, did your landlord try to evict or force you out of your home over the past year?

This question captures a broader swath of landlord actions: not only official eviction filings in housing court, but also informal and illegal eviction attempts. Some may be resolved between the landlord and the tenant directly. For example, a tenant is late with the rent for a few months, the landlord tells them they will start eviction proceedings, the landlord and tenant agree to a payment plan on their own. Others may end in an illegal eviction, which includes any

expulsion executed by the landlord, the super, or anyone who is not a court-sanctioned marshal.

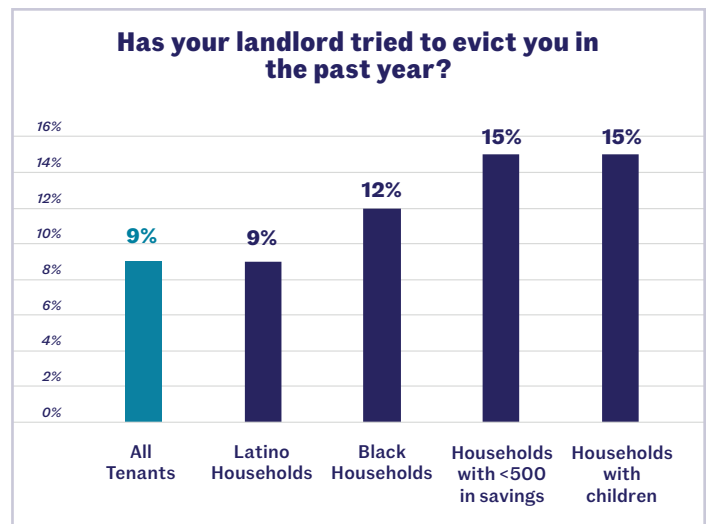
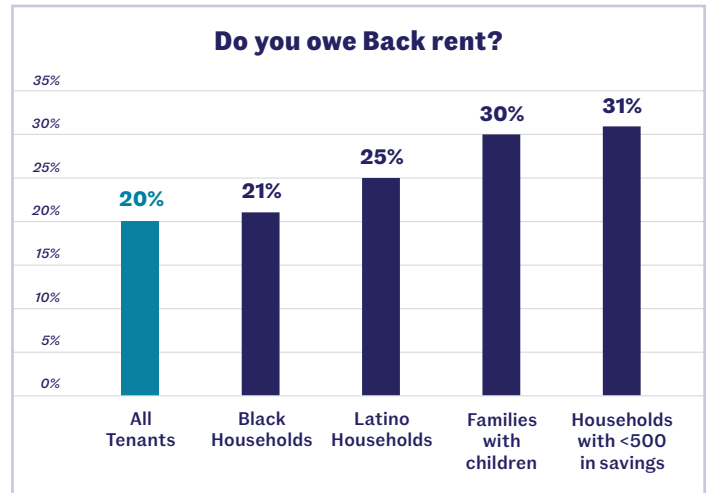
Over the past five years, eviction attempts reported by Unheard Third respondents fluctuated between 9–15 percent for all tenants and 10–17 percent for low-income tenants. Like eviction filings, respondent-perceived eviction attempts did not stop during the eviction moratorium in 2020 and 2021. Surprisingly, even though eviction filings and marshal-executed evictions rates were slow to return in 2022, the resident-perceived attempts shot up. This jump may be capturing illegal eviction attempts and a spike in lease non-renewals in unregulated, “covid-deal” apartments. The latter could have been prevented if the state had passed Good Cause eviction protections.



Racialized and family vulnerabilities persist

The role of evictions in long-term housing instability among Black tenants has been well-documented by [housing justice groups across the country](#) and scholarly-organizing efforts like the [Anti-Eviction Mapping Project](#). A scholarly [comprehensive](#) analysis of millions of eviction records in 2023 showed that Black renters were the only demographic group overrepresented in eviction data each year, with young Black children the most vulnerable to evictions.

In our 2023 Unheard Third data, Black households, households with children, and households with limited savings were all more likely to owe back rent and be threatened with eviction than tenants overall. Nearly one in three tenant households with children, across all income categories, faced an eviction threat. Latino households faced eviction threats at the same rate as tenants overall (9 percent) but were slightly more likely to owe back rent. One in four Latino households reported owing back rent in 2023.

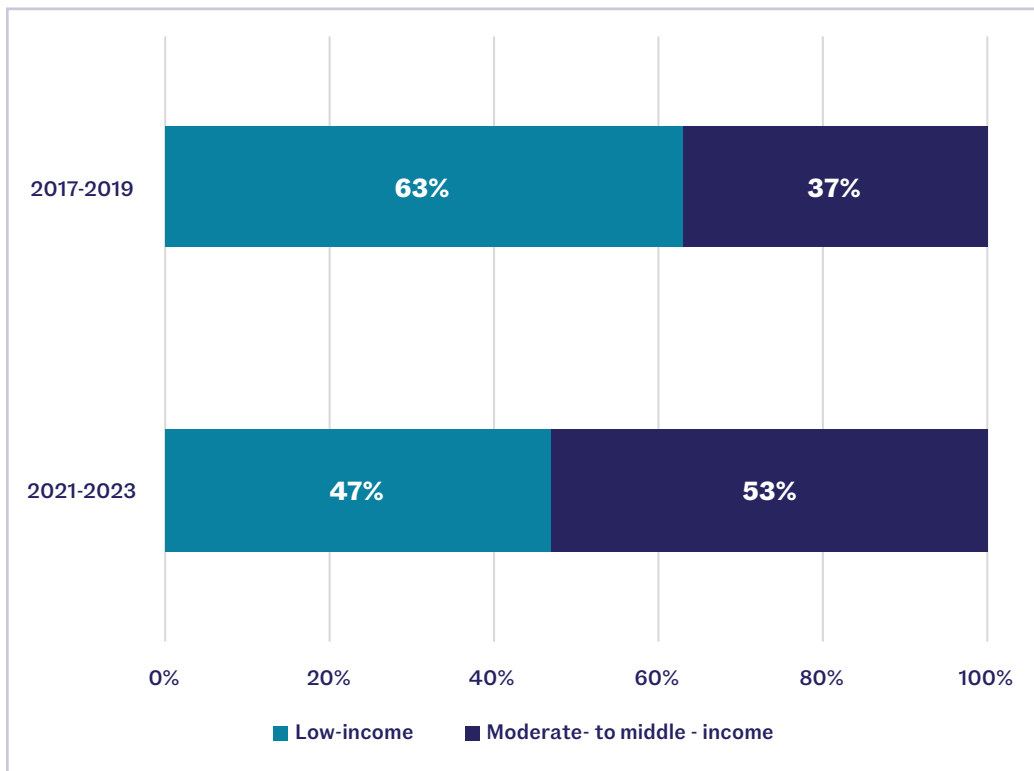


Moderate-income families face higher eviction risks

Our Unheard Third data in 2023 [continues to show](#) that moderate-income households earning above the 200 percent of FPL threshold (\$47,112 for a family of three) are increasingly more likely to be threatened with eviction. Before the pandemic, 37 percent of respondents reporting an eviction attempt were moderate- or middle-income. Today, 53 percent of respondents are.

This shift is likely a result of skyrocketing rent inflation and growing rent debt among moderate-income people. Many of these households are above the current threshold for Right to Counsel representation, but do not earn enough to hire a private attorney for a protracted eviction case in housing court. The city's eviction defense system is not ready to meet the needs of this growing population.

Income tiers among those threatened with evictions



Policy Recommendation

Right to Counsel works. Year after year, the city's own data has shown that tenants with legal representation are able to stay in their homes. With the extension of tenants' rights under the HSTPA, New York has a strong legal framework that tenant attorneys can use for tenant defense in housing court. If the state passes Good Cause, even more tenants will have legally defensible rights. However, the city's neglect and underfunding are putting this extremely effective eviction defense framework into danger. As homelessness expands and people are forced out of the city because of housing unaffordability, undermining an effective tool for keeping people in their homes is mindbogglingly short-sighted.

At the bare minimum, the city should fully cover eviction defense for all qualifying households under the existing Right to Counsel law, providing enough funding to meet current demand: \$336 Million for 71,000 anticipated eviction cases in the coming year.

At the same time, New York State should pass, and fund, a statewide Right to Counsel program. State intervention would provide assistance to more and more households above the 200 percent of FPL threshold who are facing eviction, as well as to tenants in need beyond the city limits.

About the Unheard Third Survey

The 2023 Unheard Third is a scientific telephone survey of 1,758 New York City adult residents reached by cell phones and landlines from July 6th through August 7th, 2023. It was designed by Community Service Society in collaboration with Lake Research Partners, who administered it using Random Digit Dialing and professional interviewers. The sample included 1,113 low-income residents (up to 200% of federal poverty standards, or FPL), and 645 moderate and higher-income residents (above 200% FPL). Interviews were conducted in English, Spanish, and Chinese. The margin of error for the entire survey is +/- 2.3 percent, for the low-income component is +/- 2.9 percent, and for the higher-income component is +/- 3.9 percent, all at the 95% confidence interval. For further information on the survey please reach out to Emerita Torres at etorres@cssny.org.

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