

VOLS Spring 2021 Housing Update

For Pro Bono Attorneys Working With VOLS' Children's Project

April 2021

AGENDA

1. About VOLCS' Children's Project
2. Legal/Agency Landscape
3. Eviction and Utility Shut-Off
Moratoria
4. Eviction Procedure
5. Right to Counsel
6. Rent Relief
7. Tenants Rights



Immigration
Project

Elderly
Project/Veterans
Initiative

Microenterprise
Project

Incarcerated
Mothers Law
Project

Children's
Project

Unemployed
Workers Project

Frontline
Workers Project

Jericho Project

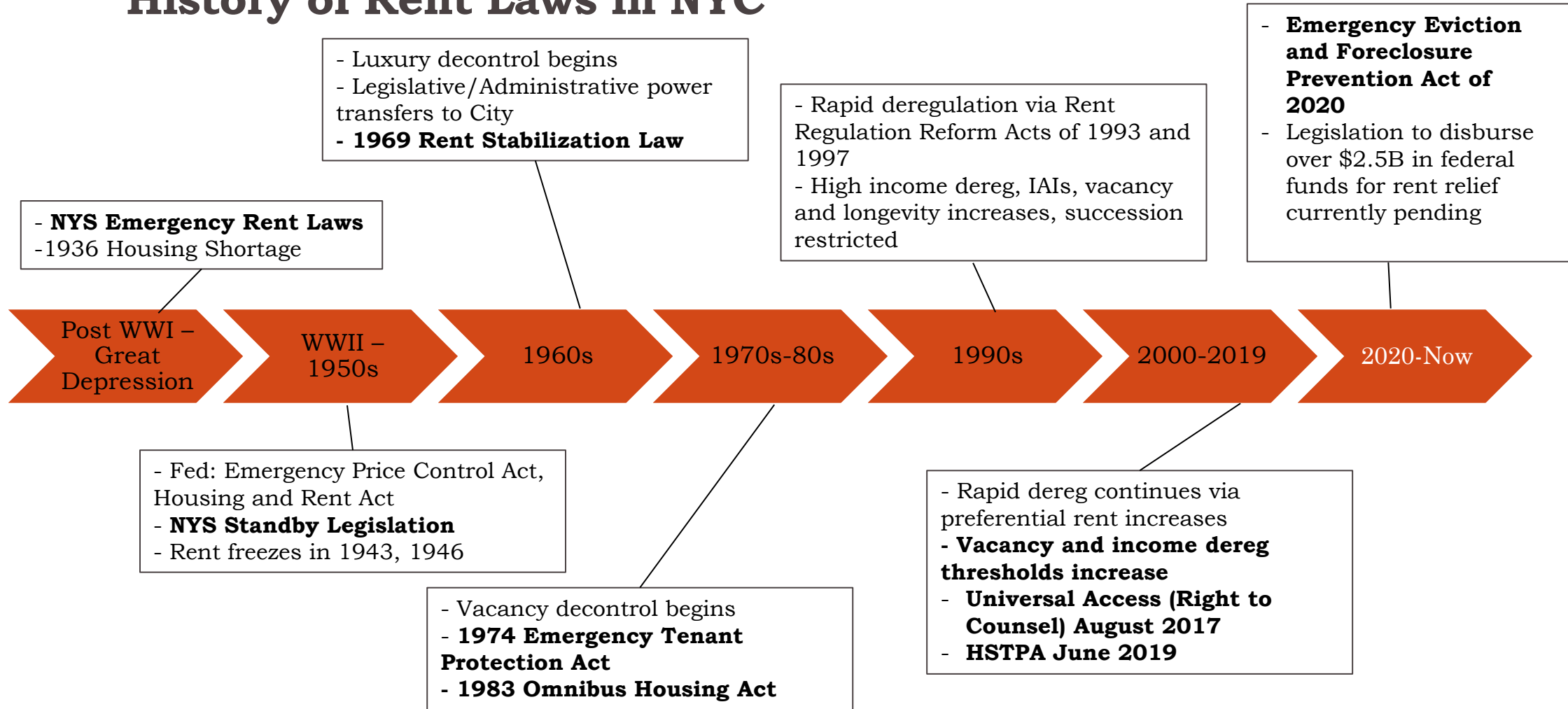
VOLS was founded 35 years ago to close the justice gap through partnerships with community organizations, law firms and corporations. We train and work with pro bono attorneys from law firms and corporations to provide free legal services to our clients.

Children's Project

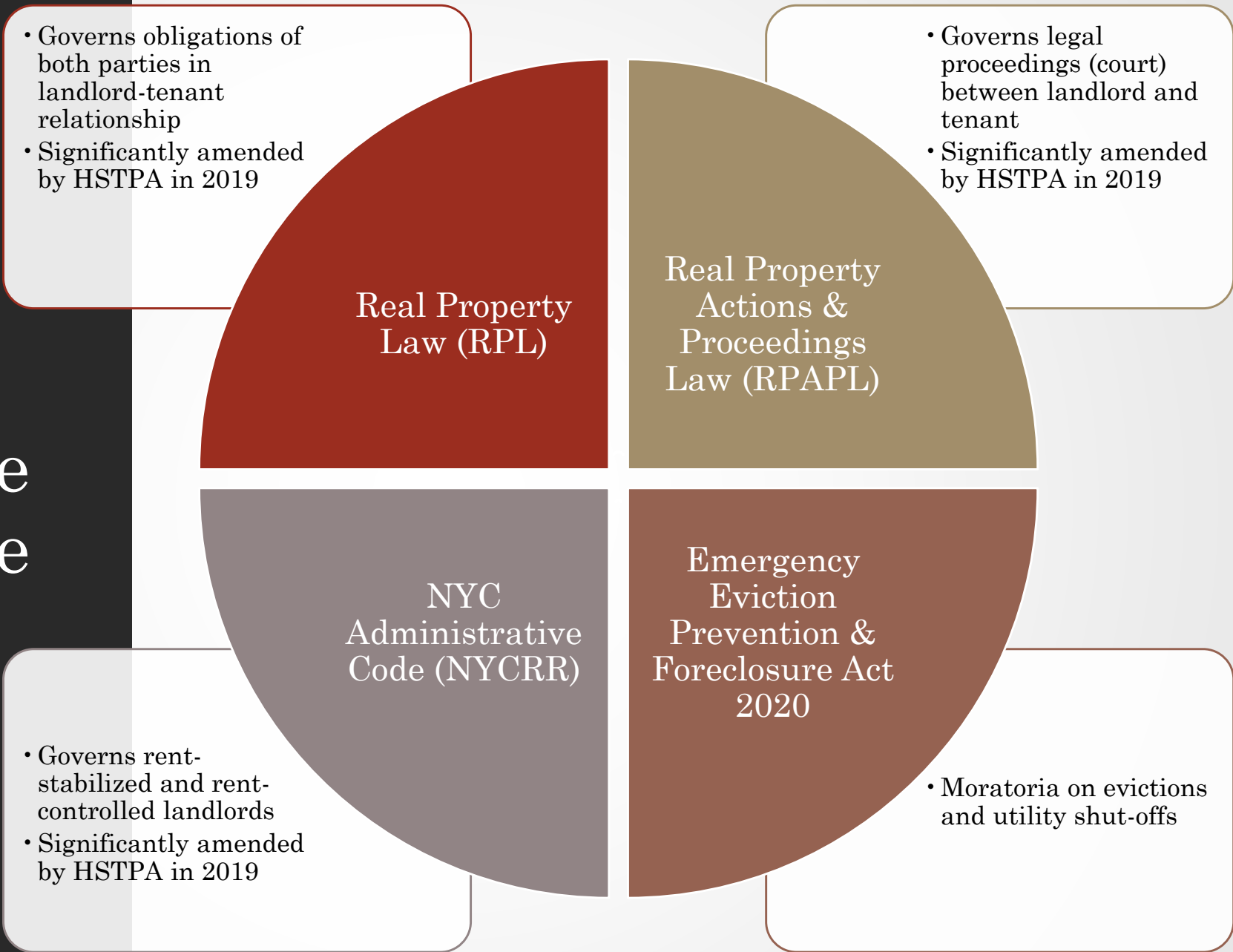
- One of VOLS' longest-standing projects – 3 decades!
- Helps under-resourced families resolve legal problems that may impact a child's health and ability to succeed in school
- Five active partnerships with firms-schools or firms-hospitals
- Immigration, Public Benefits, and Housing
- How can you help?



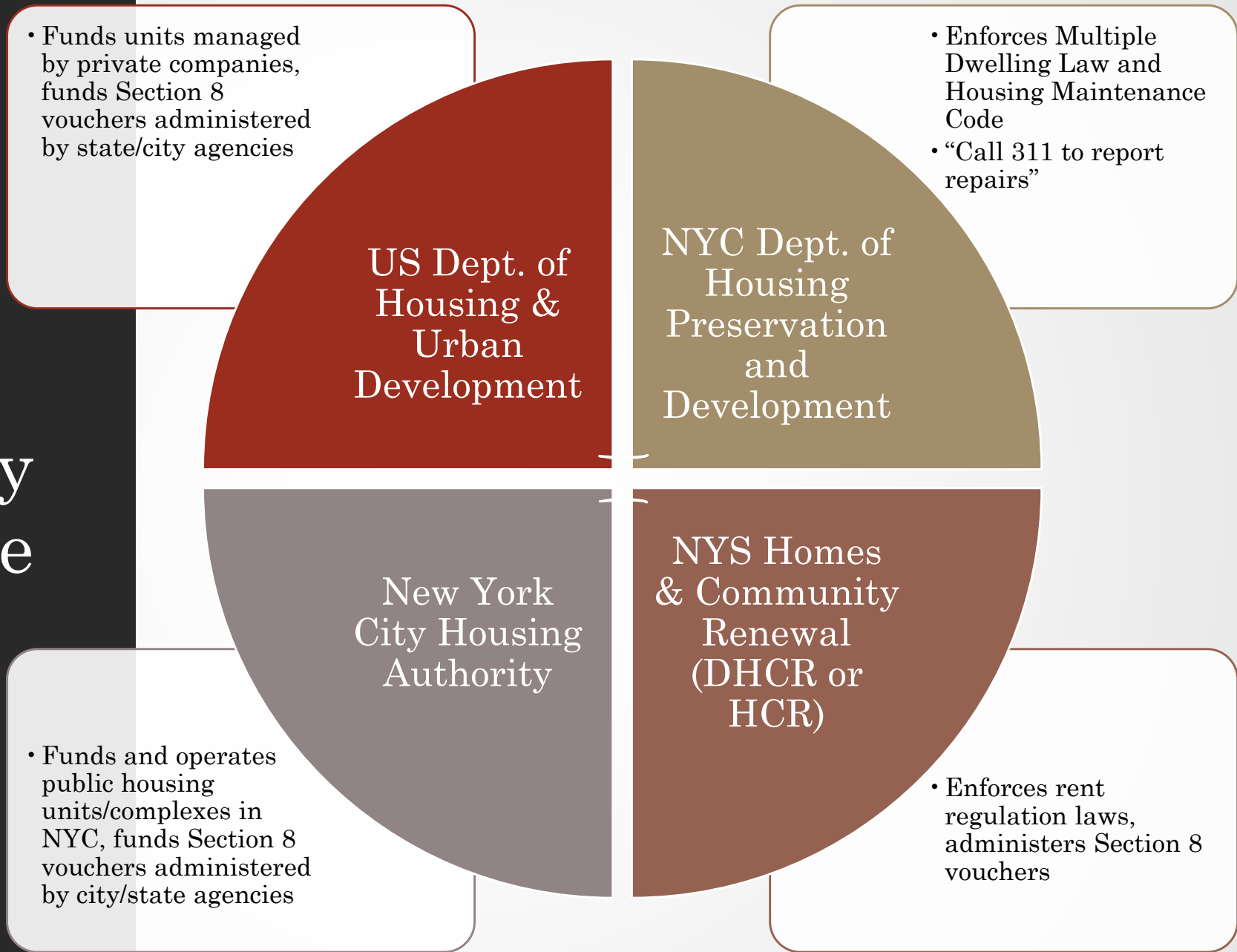
History of Rent Laws in NYC



Legislative Landscape

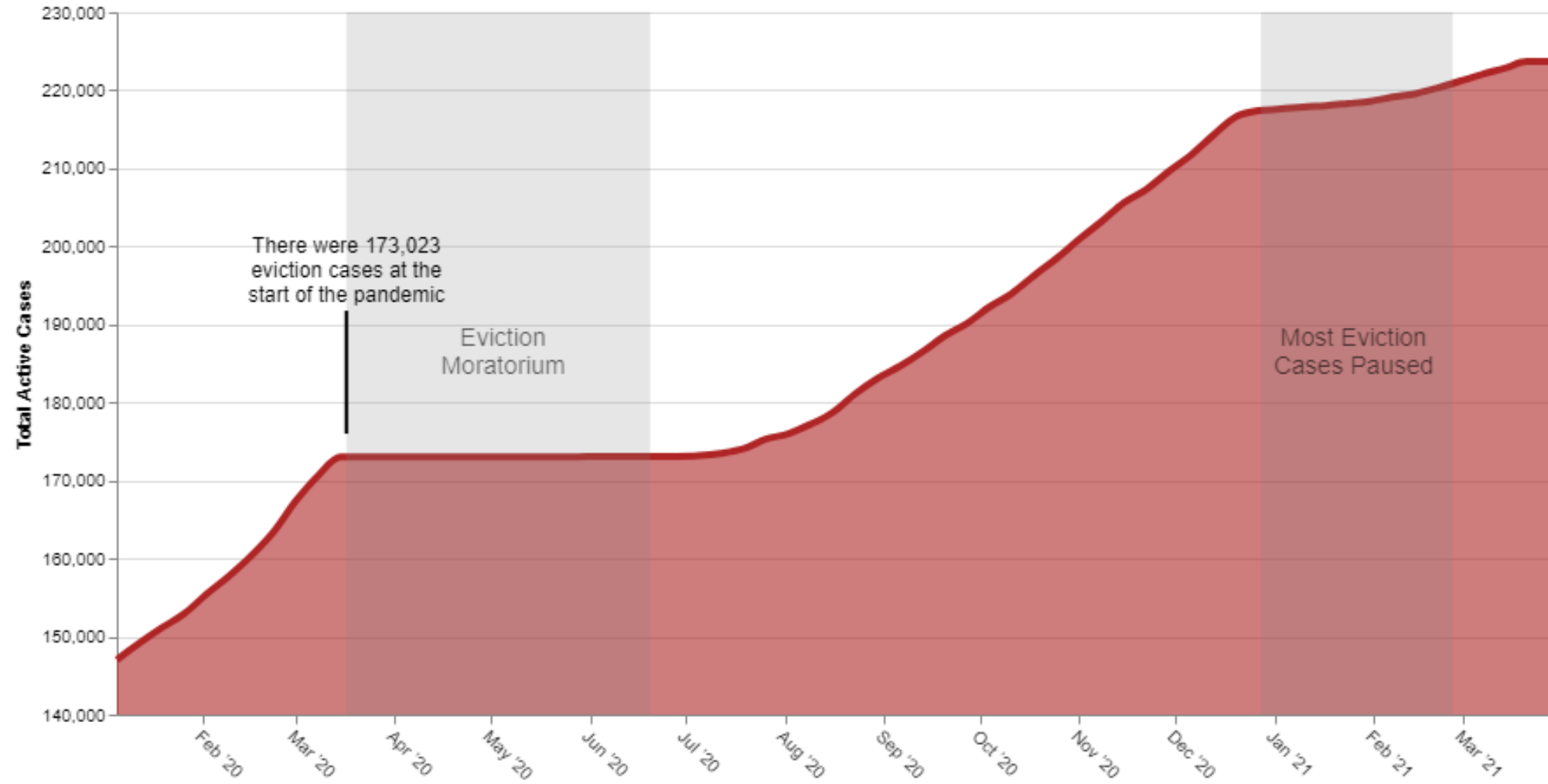


Agency Landscape

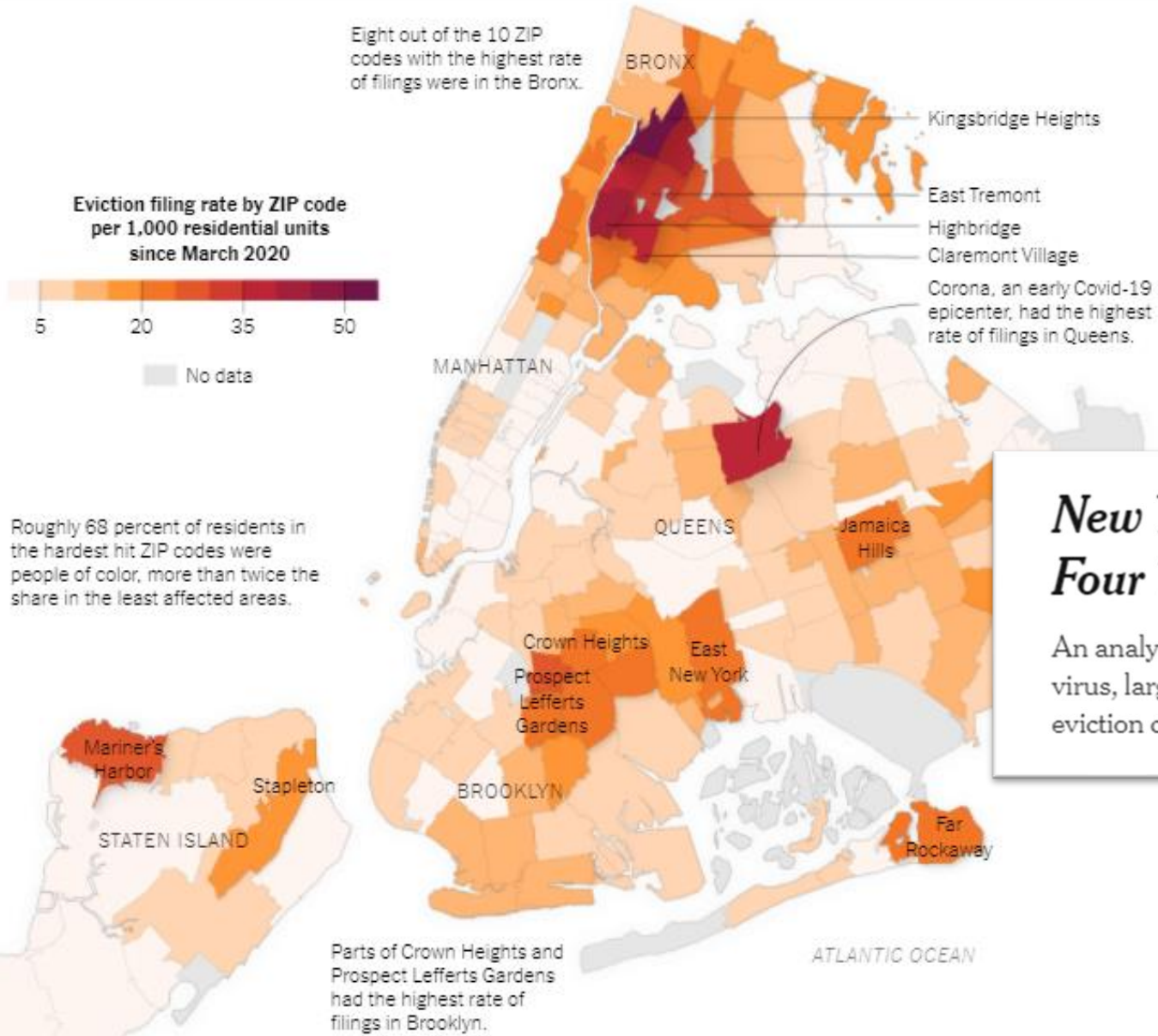


Active Eviction Cases in New York State

January 2020 - Present



Source: *Eviction Crisis Monitor*



New York Renters in Covid Hot Spots Are Four Times More Likely to Face Eviction

An analysis of court data shows that the areas hit hardest by the virus, largely Black and Latino neighborhoods, have the most eviction cases.

Source: New York Times

Eviction Moratorium

(Emergency Eviction &
Foreclosure Prevention
Act of 2020)

Passed 12/28/2020

Except where landlord is claiming nuisance, if Tenant submits Hardship Declaration...

Pending case frozen until 5/1 if submitted by 2/26.

New case can't be filed until 5/1.

No default judgments/warrant executions without a hearing.

Does not provide any rent relief.

Hardship Declaration

Experiencing financial hardship and unable to pay the rent or other financial obligations or obtain alternative suitable permanent housing because of one or more of the following

Significant loss of hh income **during** pandemic

Increase in necessary out of pocket expenses related to essential work or health impacts during pandemic

Responsible for childcare/caring for elderly/disabled/sick family member = someone in hh can't get meaningful employment or earn income, or doing so increased out of pocket expenses

Moving expenses and difficulty securing alternative housing

Other circumstances related to pandemic have negatively affected my ability to obtain meaningful employment or earn income or have significantly reduced my hh income or increased my expenses

...or, vacating the premises and moving would pose a significant health risk b/c I or a hh member have an increased risk for severe illness or death from COVID-19 due to being over age 65, or having a disability or an underlying medical condition.

Utility Shut-Off Moratorium

Through March 31st, 2021, residential customers who experience financial hardship due to pandemic cannot have their utilities shut-off due to nonpayment.

If cut-off, must be reconnected within 48 hours.

Request payment plan.

Emergency HEAP can subsidize heating costs (income and asset limits).

Bill to extend moratorium to 12/31/21 is on Cuomo's desk as of today! (4/1/21)



“What’s going to happen on May 1st?”

New Yorkers owe **\$2.2B in rent** and **\$1.8B in utility bills**.* NYS has yet to distribute almost \$2.5 Billion for rent relief and \$575 Million for foreclosure/utility shut-off relief from federal stimulus packages.*

- Funds can be used to pay up to 1 year of past-due rent and/or 3 months of future rent.
- Eligibility: financial hardship during pandemic, at risk of or experiencing homelessness or housing instability and, household income at or below 80% of AMI.

NYS legislation to disburse these funds currently pending....

**Source: (“Biden’s \$1.9T Stimulus Will Put Share of Billions into Millions of New Yorkers’ Pockets”, by Greg David, The City, March 8th, 2021).*



“What’s
going to
happen on
May 1st?”

OCA’s estimated backlog
of eviction cases: **250,000**

Eviction Procedure: Landlord Must Serve Notice First

Nonpayment Cases

14-Day written demand + 10 days to answer

- Up from 3 days/5 days
- Default judgments will decrease

No case if T pays before first appearance

- Court MUST dismiss

Unpaid rent only

- No unpaid “added”/ “additional” fees/rent allowed as part of case

Holdover Cases

10-17 day notice + more time to answer

- Used to be 5-12
- T had 3 days to answer if 8 or more days notice given. Now T can answer on or by first court date.

LL must serve you with a notice first

After date on notice passes, LL must serve you with Petition and Notice of Petition.

Tenant answers (before court if NP, in court if HO).

Parties appear in court.

Parties settle, or enter into motion practice, or go to trial. Case ends favorably to T, or...

Worst case scenario: T does not adhere to settlement or loses at trial.

Judgment + warrant + 2 week notice of eviction, then eviction if T does not vacate.

Life Cycle of a Housing Court Case

- Ideally, tenant enters into tenable agreement for payment of backrent by a certain date (NP), or for adhering to certain terms/conditions through a certain date (HO).
- If that agreement is broken, judge can issue judgment (if not one already) and warrant of eviction. **Only a judge can issue a judgment and warrant of eviction against a tenant. Only then can a tenant be evicted, only by law enforcement.** Court and judge have more discretion than ever before to stay execution (up to one year).
- This timeline contemplates any number of court appearances for various reasons and is severely protracted and impacted by moratoria, backlog, and capacity for right to counsel. Long story short, it will be several months at the very least before a judgment and warrant are issued against you, if any, and you will receive 2 weeks notice before eviction.
- “Am I going to get thrown out of my house?”

Right to Counsel

Until 2017, less than 10% of tenants were represented. Includes private and publicly funded attorneys.

Universal Access 2017: free attorneys for all low-income tenants facing eviction in NYC. Low-income = at/below 200% of FPL. 5 year roll-out plan for all NYC zip codes through 2022, gives providers time to train and staff up. But then COVID happened.

Now: Zip codes thrown out, [unofficially] everyone gets a lawyer! BUT WAIT...

...do we have enough lawyers for that?

Rent Relief

One Shot Deal: Arrears grant from HRA, case by case basis, may need to be repaid, not necessarily a “one shot deal”

FHEPS: State program for arrears grant and ongoing subsidy for families with children or survivors of DV. No lawsuit requirement as of March 2021. At/below 200%FPL + other criteria.

CityFHEPS: City program for arrears grant and ongoing subsidy for families and individuals. Includes programs formerly known as LINC and SEPS. At/below 200%FPL + other criteria.

HomeBase: Smaller grants to fund low arrears/partial arrears balance.

+++Forthcoming NYS Legislation to disburse federal rent relief funds.

Tenants Rights

There's more to being a tenant than paying your rent.

- Lease renewals/succession
- Rent-setting
- Repairs/Harassment
- Reasonable Accommodations

	Rent Stabilized	Rent controlled	NYCHA	Project-Based Section 8	Private Unregulated
Description	6+ units built pre-1974 (+ other ways)	3+ units built pre-1947 and continuously occupied since 7/1/71	Built, owned and operated by NYCHA. Low income only.	Managed by private companies in accordance with HUD rules. Low income only.	Everything else.
Right to Lease Renewals	Must renew every 1 to 2 years.	Perpetual statutory tenancy. No lease.	Must renew upon annual income recertification.	Must renew upon annual income recertification.	No right to renewal.
Succession	Family members who co-occupy apt. for 1-2 years before TOR dies/moves.	Family members who co-occupy apt. for 1-2 years before TOR dies/moves.	Family members with NYCHA's permission to co-occupy <i>and do</i> for a year before TOR dies/moves out.	Family members on prior income recertification.	No right to succession.
Rent-Setting	Rent Guidelines Board determines renewal increases annually.	Rent Guidelines Board determines renewal increases annually.	30% of income.	30% of income.	Unrestricted.

Filing back to back
or retaliatory cases

Failing to do
repairs

Verbal/physical
threats, abuse,
intimidation

Entering apt.
without your
permission

Stealing/damaging
personal property

Sexual harassment
(hitting on you,
etc.)

Addressing Harassment

- Contact police, district attorney, OAG
- Sue in HP Case
- If rent stabilized/controlled, file complaint with DHCR
- If protected class, file complaint with New York City Human Rights Commission

Getting Repairs

Tenants have the right to safe and habitable housing, regardless of their immigration status and regardless of who their landlord is. Retaliation for reporting conditions is illegal.

Inform LL of conditions in need of repair

In writing. (Ideally) LL will repair. If not...

Call 311 or NYCHA Customer Care Line

(Ideally) HPD will inspect and issue violations/fines re: Housing Maintenance Code. NYCHA will inspect in accord with their own standards and schedule repairs.

Sue LL in HP Case

Can be done online via justfix. Retaliation illegal and presumed w/in certain pd of time.

Reasonable Accommodations

- Discrimination prohibited: refusing to sell/rent to you, treating you differently, or refusing to make changes because of your disability.
- Housing providers are required by Federal, State, and City law to make reasonable changes to accommodate your disability (Fair Housing Act, NYSHRL, NYCHRL, Rehabilitation Act, ADA).
- Reasonability depends on cost, financial and physical feasibility, possible harm to others.
- LL can offer different, reasonable remedy, like relocation instead of structural change.
- Remedy for denial: administrative complaint (usually 1 year SOL) or lawsuit

Helpful Resources

- Jess Penkoff, Staff Attorney for Housing Rights & Special Populations – jpenkoff@volsprobono.org – 347-521-5725
- Housing Court Answers – information for tenants about housing court and housing case procedure, referrals where folks qualify for free attorney – 212-962-4795 – housingcourtanswers.org
- JustFIX.nyc – Online tools for tenants - Repairs letter, HP Case, Hardship Declaration, Rent History for RS/RC apartments
- Right To Counsel NYC Coalition – Updates re: expansion of legislation providing right to counsel in housing court – rtcny.org

Opportunities to Make a Difference

- Advocate!
 - For a reasonable accommodation
 - For repairs
 - For succession
- Represent!
 - HP Case – sue LL for harassment, repairs, both
 - Article 78 – appeal denial of NYCHA remaining family member status, etc.
 - Gaps in RTC + end of moratoria = possible opportunity to do eviction defense
- Organize!
 - Become part of tenant organizing/tenant lobbying groups like RTCNYC, Housing Justice 4 All

Thank you for the work that you do!

Questions?

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