



December 14, 2021

Contact:

Alejandra Lopez  
The Legal Aid Society  
917-294-9348  
[ailopez@legal-aid.org](mailto:ailopez@legal-aid.org)

**\*\*\*FOR IMMEDIATE RELEASE\*\*\***

***The Legal Aid Society Files Lawsuit to Reopen New York's  
Emergency Rental Assistance Program (ERAP) After  
Unlawful Closure of Portal***

*Hundreds of Thousands of Families Who Could be Eligible for  
Rent Relief Were Arbitrarily Cut Off from Applying*

(NEW YORK, NY) –The Legal Aid Society filed a class action [lawsuit](#) in New York State Supreme Court seeking a preliminary injunction to force the New York State Office of Temporary and Disability Assistance (OTDA) to reopen the Emergency Rental Assistance Program (ERAP) web portal to resume accepting applications, and contact potential applicants whose attempts to apply were rejected due to OTDA's unlawful policy.

The lawsuit was filed against OTDA on behalf of four individual plaintiffs, Housing Court Answers, Coalition for the Homeless, and all tenants in New York State who owe rent to their landlords, are eligible for ERAP, but who are now barred from applying for relief due to OTDA's premature closure of the program to new applicants. Under the state's ERAP statute, tenants who have submitted ERAP applications are protected against eviction proceedings pending a decision on their application. However, due to the closure of the ERAP portal, families who otherwise could have applied for ERAP will be vulnerable to eviction when the state's eviction moratorium expires on January 15, 2022, even though federal funds may not yet have been fully allocated, much less distributed.

“Our clients and all New Yorkers who are still struggling through the pandemic and behind on rent have the right to seek relief through the state’s rental assistance program, and OTDA’s closure of that platform is unlawful and in direct violation of the ERAP statute,” said **Ed Josephson, Supervising Attorney in the Civil Law Reform Unit at The Legal Aid Society**. “Denying New Yorkers the ability to apply for desperately needed rent relief during the ongoing pandemic is cruel and will only exacerbate the public health and economic crisis we are facing.”

The lawsuit argues that OTDA’s refusal as of November 15, 2021 to accept further ERAP applications despite a pending request to the federal government for additional funds, is arbitrary, capricious, beyond the scope of their authority under the ERAP statute. It was brought under Sections 503, 506(b) and 7804(b) of the New York Civil Practice Law and Rules.

### **BACKGROUND:**

The New York State Office of Temporary and Disability Assistance (OTDA) is responsible for the administration of funds under the Emergency Rental Assistance Program (ERAP) established in June 2021. Since its creation, ERAP has paid \$1.13 billion in rent arrears for 90,375 families and approved an additional \$924 million to pay the arrears of an additional 73,884 families whose landlords have not yet completed paperwork needed for release of the payments. However, 591,000 New York families remain in rent arrears and threatened with eviction when the State’s moratorium expires on January 15, 2022.

Although New York State is likely to receive an additional \$960 million from the federal government, and is eligible to request even more, OTDA prematurely and abruptly stopped accepting new ERAP applications on November 15, 2021. On December 13, 2021, The Legal Aid Society sued OTDA, arguing that closing ERAP to new applicants before all funds are exhausted violated OTDA’s duties under the ERAP statute and exceeded its lawful authority. Their actions, moreover, violated the Legislature’s clearly expressed intent of protecting eligible families from being evicted while they are waiting for federal funds to be fully distributed.

"Despite the myriad issues with its rollout, ERAP has proven a vital lifeline for tenants and landlords who have suffered financial hardship as a result of the COVID-19 crisis. In addition to covering rent and utility arrears, applicants to the program are granted broad protections against eviction at the moment they apply. The State's closure of the program, particularly in light of the fact that it has requested and is likely to receive billions in additional ERAP funds from the federal government, is baffling as it unfairly denies tenants this protection. I and many others urged the State not to close ERAP, and now demand that the State reopen the ERAP portal immediately. I am grateful to the Legal Aid Society for taking this bold and necessary step to compel the State to do the right thing," said **Assemblymember Linda B. Rosenthal (D/WF-Manhattan), Chair of the Committee on Social Services**.

“The State’s premature closure of the Emergency Rental Assistance Program (ERAP) portal and decision to stop accepting ERAP applications needlessly puts countless low-income New Yorkers at serious risk of homelessness upon the expiration of the statewide eviction moratorium. As a significant portion of ERAP funds remain undistributed and additional Federal funds are expected to be allocated to New York for distribution to additional eligible tenants, the State must begin accepting applications again by reopening the portal immediately. The State’s misguided decision to effectively end the ERAP program places further strain on mission-driven organizations like the Coalition for the Homeless that work every day to end homelessness through our eviction prevention efforts while also supporting individuals and families already experiencing homelessness to move into permanent, affordable housing,” said **Deborah Diamant, Director of Government Relations and Legal Affairs at Coalition for the Homeless.**

“With the moratorium set to expire next month, New York faces a flood of evictions. Tens of thousands of families will be protected from eviction, displacement and homelessness if the state re-opens the ERAP portal. Re-opening the portal will give tenants protections and will allow the state and the courts to measure the need for rent assistance. As a nonprofit in the eviction prevention network for NYC, Housing Court Answers sees the ERAP portal and its applications as a very needed sandbag to prevent the expected massive flood of eviction cases,” said **Jenny Laurie, Executive Director at Housing Court Answers.**

###

*The Legal Aid Society exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For 145 years, we have protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, The Legal Aid Society changes the lives of our clients and helps improve our communities. [www.legalaidnyc.org](http://www.legalaidnyc.org)*