



January 6, 2022

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Legal Aid Lauds Court Decision Ordering Hochul Administration to Reopen New York's Emergency Rent Relief Program After Unlawful Closure

Attys Urge New Yorkers to Immediately Apply Once Portal Reopens to Protect Against Eviction

(NEW YORK, NY) – The Legal Aid Society lauded a court [ruling](#) in [Hidalgo v. New York State Office of Temporary and Disability Assistance](#) (OTDA), a class action lawsuit Legal Aid brought last month to force OTDA to reopen the Emergency Rental Assistance Program (ERAP) web portal within three business days or by Tuesday, January 11, 2022 at the latest. The Supreme Court, New York County, ordered OTDA to resume accepting applications which will afford the new applicants a stay of any eviction proceedings against them.

“It is now abundantly clear that the Hochul Administration violated the law when it prematurely closed the ERAP portal, denying thousands of families access to funds and safe harbor from eviction,” said **Ed Josephson, Supervising Attorney in the Civil Law Reform Unit at The Legal Aid Society**. “We laud this decision, which acknowledges the Legislature's clearly expressed intent to protect families from being evicted while they are waiting for federal funds to be fully distributed. Legal Aid will closely monitor the situation over the coming days and we urge all New Yorkers to immediately apply to protect against eviction once the portal reopens.”

Background

OTDA is responsible for the administration of funds under ERAP, which was established via legislation in 2021. Since its creation, ERAP has paid \$1.25 billion in rent arrears for 100,000 families and approved an additional \$770 million to pay the arrears of an additional 62,000 families whose landlords have not yet completed paperwork needed for release of the payments. However, over 400,000 New York families remain behind on their rent, but did not apply for ERAP before the portal closed, and without today's ruling, those families would have been vulnerable to eviction when New York's statewide moratorium expires on January 15, 2022.

Although New York State has spent or committed all its current ERAP funds, it will be eligible to apply for additional funding this Spring from an \$18 billion national pool of unspent ERAP funds.

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.

This lawsuit was filed on behalf of four individual tenants, on behalf of all tenants who are eligible for ERAP but who were barred from applying for relief due to OTDA's premature closure of the program to new applicants. Housing Court Answers and Coalition for the Homeless were organizational plaintiffs.

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 would have been 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.

The lawsuit argued 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, was arbitrary, capricious, beyond the scope of their authority under the ERAP statute.

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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