

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS: **PART II**

IN THE MATTER OF THE APPLICATION OF  
ARGENTINE LEASING LIMITED PARTNERSHIP, et al.

Index No. 703941/2024

*Petitioners,*

FOR A JUDGMENT PURSUANT TO ARTICLE 78 OF THE  
CIVIL PRACTICE LAW AND RULES

-against-

OFFICE OF COURT ADMINISTRATION, et al.

*Respondents.*

**PROPOSED INTERVENOR-RESPONDENTS'**  
**MEMORANDUM OR LAW IN SUPPORT OF**  
**MOTION FOR LEAVE TO INTERVENE**

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## STATEMENT OF FACTS

Proposed Intervenor-Respondents Make the Road New York (“MRNY”), Housing Court Answers (“HCA”) and MinKwon Center for Community Action (“MinKwon”) are non-profit organizations composed of and/or providing services to low-income Housing Court litigants in Queens and throughout New York City. Those litigants come to Housing Court seeking a fair chance to be heard before a body that will fairly adjudicate whether their families will be able to remain in their homes. For many, these are ultimately questions of life and death.<sup>1</sup> The Petition in this case can be boiled down to a simple demand that these families be evicted *faster*, without regard to tenants’ ability to raise defenses against eviction or even to participate in court proceedings. Many of the low-income renters that are members of or served by proposed Intervenor-Respondents cannot adequately litigate their defenses in the three-to-eight day timeframe Petitioners demand. (NYSCEF Doc. 1, Pet., ¶ 64.) For example, they may require court interpretation services, the assistance of and/or evaluation for Adult Protective Services or a guardian *ad litem*, or discovery from third party government agencies to support certain statutory defenses.

As a result, Petitioners’ demands can only be adequately considered in light of the extreme harm and deprivation of rights that those demands would visit on those least able to bear the burdens: low-income renters threatened with eviction and homelessness. Intervenor-Respondents seek to represent precisely those interests before this Court and to provide a voice to the people Petitioners seek to more speedily evict from their homes.

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<sup>1</sup> <https://www.nyc.gov/assets/doh/downloads/pdf/epi/epi-homeless-200512.pdf> (NYC DHMHS report from 2005) (“The death rate among those who use the single adult shelter system was twice as high as that of the general NYC population” and for “adults who used the family shelter system was 1.5 times higher.”)

***Make The Road New York (“MTRNY”)***

MRNY is a membership organization whose mission is to empower Latino and working-class communities in New York City and Westchester through organizing, policy innovation, and survival services. MRNY has over 27,000 members, of whom a significant portion are low-income tenants living in Queens County. (Affidavit of Elizabeth Jordan, hereinafter “Jordan Aff.”) ¶¶ 2–4.) For this reason, MRNY has a member hub in Jackson Heights, Queens. (*Id.* ¶ 2.)

Because MRNY members are all working class or low-income, they frequently appear in Housing Court, whether because they are fighting landlord harassment, fighting for repairs to ensure their homes are habitable, or fighting evictions, including for alleged non-payment of rent. (*Id.* ¶ 4.) MRNY employs attorneys to provide representation and advocacy services for its members. MRNY attorneys represent MRNY members in over 400 housing court proceedings each year. (*Id.*)

MRNY members may need adjournments in Housing Court for valid reasons that implicate fundamental fairness. Many of MRNY’s members lack the English proficiency necessary to actively participate in court proceedings without a trained and qualified court interpreter. (*Id.* ¶¶ 3–5.) Some MRNY members require other services in order to actively participate in court proceedings, including referrals to and investigations by Adult Protective Service (“APS”), a Guardians Ad Litem (“GAL”) or other social work services. (*Id.* ¶ 8). Some MRNY members may need disability accommodations to appear in court and fully participate, e.g. court dates that correspond with the availability of family members or home health aides who can accompany the tenant to court. (*Id.* ¶ 9). None of MRNY’s members can afford private housing counsel and, as a result, many may be forced to attend their first Housing Court appearance or even to interpose an initial Answer, without the assistance of counsel. (*Id.* ¶ 10.)

While MRNY members will generally be represented for free by MRNY attorneys or other non-profit providers of eviction defense attorneys, typically there is insufficient time for an attorney to evaluate their case appropriately, within just ten days of receipt of a petition for non-payment. (*Id.*)

Further, many of MRNY's members reside in rent stabilized apartments. Many of their members have valid defenses to eviction proceedings for non-payment, including an "overcharge" defense that the rent being charged is higher than New York rent stabilization law allows. (*See Id.* ¶ 11.) These defenses require that the tenant's attorney engage in discovery, which may include requesting documents from the Division of Housing and Community Renewal (DHCR), which records rental rates for rent-stabilized buildings in New York State. (*Id.*) Petitioners' eight-day timeframe for nonpayment eviction proceedings would preclude this kind of discovery. Similarly, the New York legislature just passed the Good Cause Eviction Law, which will give many MRNY members new defenses to eviction, many of which also require adequate discovery to sustain. (*See Id.* ¶ 14.)

Were Petitioners' demands granted, many MRNY's members would be harmed in their ability to participate in and understand court proceedings, and to mount valid defenses to evictions, leaving them vulnerable to being unnecessarily and/or wrongfully evicted from their homes. (*See Id.* ¶¶ 15–16.) Moreover, MRNY would itself be harmed in its ability to fulfill its mission if Petitioners' demands were granted and MRNY attorneys prevented from being able to fairly and adequately represent their members and clients. (*See Id.* ¶ 16).

### ***Housing Court Answers ("HCA")***

HCA provides access to information for *pro se* litigants in Housing Court procedures and the basics of Housing Court litigation. (Affidavit of Jennifer Laurie, hereinafter "Laurie Aff." ¶¶

2–3.) HCA staff and provide this information to both tenants and landlords, so long as the individual is not represented by counsel. (*See Id.* ¶ 2.) Virtually every litigant that HCA provides information to is unable to afford an attorney. (*See Id.* ¶ 3.) HCA provides information to litigants via physical staff presence in all of New York City’s Housing Court, including in Queens, as well as via a telephone hotline. (*See Id.* ¶ 2.) In the experience of HCA staff, *pro se* litigants have extreme difficulty navigating the complexity and intricacies of New York City and State housing law and Housing Court procedures. (*See Id.* ¶¶ 3, 5.)

Many of the individuals HCA provides assistance to, like MTRNY’s members, have limited English proficiency and require interpretation and translation in order to participate in court proceedings. (*See Id.* ¶ 7.) Others require the assistance of GALs, APS, or other social work services. (*See Id.*) Because *pro se* litigants cannot send an attorney to court in their stead, many require adjournments. (*See Id.* ¶ 6.)

HCA is in a unique position to understand how *pro se* litigants are affected by existing Housing Court process and procedures. In fact, since the end of pandemic-related eviction moratoria, HCA has seen the number of *pro se* litigants in Housing Court skyrocket. (*See Id.* ¶ 4.) With this glut of unrepresented litigants, HCA staff witness first-hand every day the ways that *pro se* litigants are disadvantaged in Housing Court, often leading to Answers improvidently submitted and settlement stipulations improperly entered into, as well as families being evicted unnecessarily and in violation of law. (*See Id.* ¶ 6.)

HCA is thus in a unique position to advocate for *pro se* litigants who would be harmed by Petitioners’ demands. Moreover, HCA would itself be harmed in its mission is to provide information to *pro se* Housing Court litigants on both sides of the aisle to advocate for themselves and protect their rights and interests, which would be impossible were Petitioners’

demands met. (*See Id.* ¶ 10.)

***MinKwon Center for Community Action (“MinKwon”)***

MinKwon is a non-profit organization that works with Korean Americans and the wider Pacific Asian American and Asian immigrant communities to achieve social and economic justice. (Affidavit of Ashley Chang, hereinafter “Chang Aff.,” ¶ 2). Our organization primarily works in Flushing, Queens. MinKwon engages in community and tenant organizing, and offers civic engagement, youth empowerment, and social services. (*Id.*)

MinKwon provides a wide range of services, including public benefits assistance, housing assistance and representation in Housing Court, tenant and community organizing, immigration legal services, and voter education, registration, and mobilization. (*Id.* ¶ 3.)

MinKwon’s clientele is often low-income elderly Asian American immigrants, many of whom have limited English proficiency. (*Id.* ¶ 4.) Many MinKwon clients and community members face landlord harassment, evictions, and unsafe conditions in their apartments. (*Id.* ¶ 5.) They face barriers to asserting their rights due to their limited English proficiency and may fear landlord retaliation and further harassment. (*Id.*) In some cases, MinKwon clients do not have immigration status and therefore do not think they have any rights as tenants. (*Id.*)

When MinKwon clients and community members are in Housing Court, they often need and request adjournments so that they can obtain proper and timely translation services. (*Id.* ¶ 6.) In our information sessions, MinKwon often assists clients with issues arising from inability to understand court papers. (*Id.* ¶¶ 6–8.) MinKwon clients often complain about the inability to understand court documents without proper access to translation and interpretation services, which often requires additional time to respond to proceedings when filed. (*Id.* ¶ 8.) Tenants need time to obtain the language access necessary to reasonably understand and respond to the

filing, they also need to ensure that any court date they have is on a day when an interpreter who speaks their language is available. (*Id.*) A Korean language interpreter is only available one day of the week in Queens Housing Court. (*Id.*)

These language access concerns are heightened for elderly community members who cannot use the internet or a smart phone to translate court documents and notices and cannot use email. (*Id.* ¶ 6.) For many MinKwon clients, coming to an organization such as MinKwon for assistance with housing matters or translation services is their only option, as our elderly clients often do not have family or any other support system in the area. (*Id.*)

Elderly and isolated MinKwon clients may require additional adjournments in Housing Court because they will need a guardian *ad litem* appointed in order to protect their rights and meaningfully defend their case. (*Id.* ¶ 7.) Some clients facing evictions are unable to physically get to housing court due to their age or illness. (*Id.* ¶ 9.) These tenants will often require adjournments and additional time so that they can actually defend their cases. (*Id.* ¶¶ 7, 9.)

MinKwon also regularly works with tenants and groups of tenants who receive federal Section 8 housing subsidies. (*Id.* ¶ 10.) These tenants need to access their tenant files to determine whether the arrears being sought in a non-payment case brought against them are accurate. (*Id.*) They also need additional help obtaining language services to understand their tenant file. (*Id.*)

Additionally, many MinKwon community members and clients need to obtain access to records from HRA to determine whether the arrears alleged are accurate. (*Id.* ¶ 11.) They need adjournments to access these records and to investigate their accuracy. (*Id.*) Language access issues arise here too: MinKwon clients require assistance in even requesting records or otherwise communicating with HRA, causing additional delays. (*Id.*)

Recently, on April 20, 2024, the Good Cause Eviction law went into effect extending eviction protections to previously unregulated tenants. (*Id.* ¶ 12.) Before this law passed, MinKwon helped many members who were unregulated. (*Id.*) They had no defense to high rent increases and when their landlords decided not to renew their leases or rental agreements, they had limited substantive defenses to the eviction cases. (*Id.*) The new good cause eviction law will help many members. (*Id.*) However, who is covered by this law and who is left out is complicated. The small landlord exemption is based on portfolio size not building size. MinKwon represents many tenants in small buildings, some of whom will be covered and some of whom will not. (*Id.*) Tools to find out whether landlords own multiple buildings are in English and monolingual Korean language clients will need assistance. (*Id.*) Additionally, landlords may raise the rent above the reasonable standard for reasons listed in the law but it will ultimately be up to a judge to decide. Other causes of action require landlords to prove their cases by clear and convincing evidence and will likely require discovery. These are not cases which can be tried eight days after a tenant answers the petition. (*Id.*)

If the relief requested by Petitioners in this case is granted, MinKwon's members and clients will be harmed. (*Id.* ¶ 13.) Their ability to obtain required social services and accommodations, obtain proper language access to court proceedings, and to vigorously defend against their eviction will be prejudiced.

Further, if the relief requested by Petitioners is granted, MinKwon itself will be harmed. (*Id.* ¶ 14.) It will be unable to effectively engage in one of its core missions of vigorously defending its clients and community members in Housing Court, because we will not be able to secure them language services, will not be able to engage in appropriate and necessary discovery, and will not be able to provide them with the other social services and accommodations they may

require. (*Id.* ¶ 14.)

## ARGUMENT

### **I. Legal Standard**

CPLR 1012 permits “any person” upon timely motion to “intervene in any action” as of right where “the representation of the person’s interest by the parties is or may be inadequate and the person is or may be bound by the judgment.”

CPLR 7802(d) permits the court broad discretion to “allow other interested persons to intervene.” *See also* CPLR 1013. “This subdivision grants the court broader power to allow intervention in an article 78 proceeding than is provided pursuant to either CPLR 1012 or 1013 in an action.” *Elinor Holmes Co. v. St. Lawrence*, 113 A.D.2d 28 (2d Dep’t 1985) (holding that CPLR 7802 has no timeliness requirement, permitting intervention “at any time”). “As a general matter, ‘intervention should be permitted where the intervenor has a real and substantial interest in the outcome of the proceedings.’” *Bernstein v. Feiner*, 43 A.D.3d 1161, 1161 (2d Dept. 2007), quoting *County of Westchester v. Dep’t of Health of State of N.Y.*, 229 A.D.2d 460, 461 (2d Dep’t 1996).

### **II. Proposed Intervenor-Respondents Are Interested Parties**

Proposed Intervenor-Respondents are non-profit organizations that seek to protect low-income litigants in Housing Court, precisely those individuals most likely to be adversely affected by Petitioners’ demands. MRNY and MinKwon are membership organizations whose members would be directly affected were Housing Court judges to be unlawfully stripped of the autonomy to set their own calendars. HCA would be completely unable to fulfil its mission of helping *pro se* Housing Court litigants on both sides of the aisle to navigate Housing Court and advance their rights and interests in litigation.

All three of these organizations and the individuals they work with have a deep and urgent interests in ensuring that Housing Court judges are able to administer their calendars as needed to protect the rights of litigants and to further the interests of justice. For many of these organizations' clients and members, the stakes could not be higher as they and their families are facing eviction and homelessness. If these low-income New York City renters are not able to seek discovery, schedule appearances around work and childcare needs, obtain adjournments to obtain court-appointed guardians or other social work needs, or obtain court interpreters, many will find themselves and their families homeless simply because they were deprived of the ability to participate in the proceedings and mount and sustain valid defenses.

Intervenor-Respondents thus constitute interested parties within the meaning of CPLR 7802(d) as well as parties whose interests would be inadequately represented in this litigation without intervention, per CPLR 1012.

### **III. This Motion is Timely**

Though timeliness is not required by CPLR 7802(d), Proposed Intervenor-Respondents' motion is nevertheless timely filed. "In examining the timeliness of the motion, courts do not engage in mere mechanical measurements of time, but consider whether the delay in seeking intervention would cause a delay in resolution of the action or otherwise prejudice a party." *Yuppie Puppy Pet Products, Inc. v. St. Smart Realty, LLC*, 77 A.D.3d 197, 201 (1st Dep't 2010), citing *Teichman v. Community Hosp. of W. Suffolk*, 87 N.Y. 2d 514, 522 (1996); *Poblocki v. Todoro*, 55 A.D.3d 1346 (4th Dep't 2008). Petitioners initiated the instant litigation on February 21, 2024 and Proposed Intervenor-Respondents submit this motion on May 10, 2024, eleven days before Respondents' responsive pleadings are due and forty-nine (49) days before Petitioners' reply briefing is due. NYSCEF Doc. 28. Thus, the motion is timely and Petitioners

will not be prejudiced because intervention will not delay proceedings, nor does the timing of the intervention motion create any unfair advantage or disadvantage to any party.

**CONCLUSION**

For the reasons set forth above, Proposed Respondent-Intervenors respectfully request that they be permitted to intervene as Respondents in this action and that their Proposed Verified Answer submitted herewith be interposed *nunc pro tunc*.

Date: May 10, 2024

A handwritten signature in black ink, appearing to read "Melissa Banks", written over a horizontal line.

Melissa Banks, Esq.