

VLP 2020 Eviction Defense and Tenant Rights Update

September 29, 2020

VOLUNTEER
LAWYERS PROJECT
OF ONONDAGA COUNTY, INC.

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Syracuse, New York 13202
www.onvlp.org | 315-471-3409

What to Expect Today

- Brief Introduction
- How evictions happen--overview
- COVID-19 Responses
- Where things stand TODAY
- Q & A

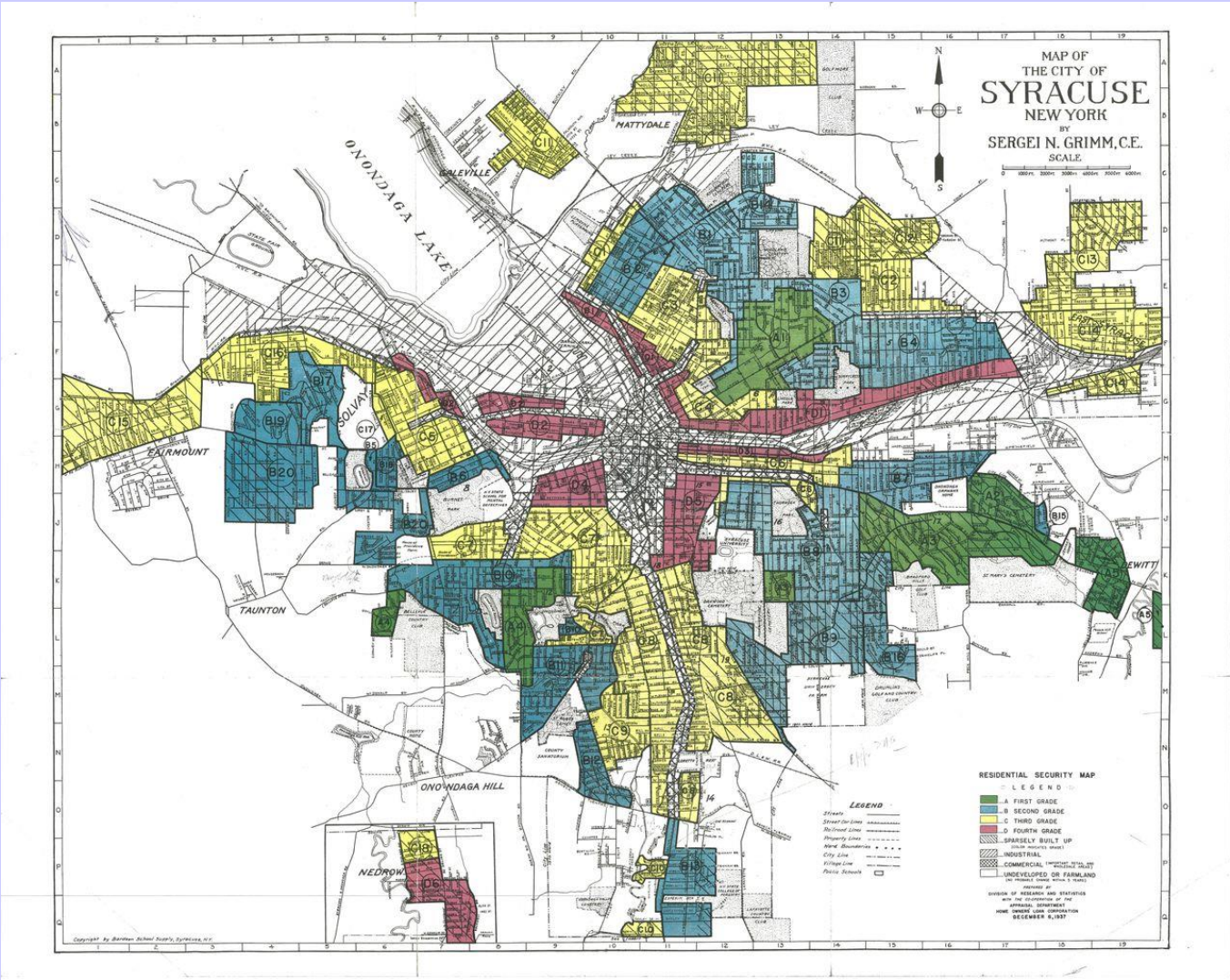
Program Goals— VLP Eviction Defense Program

- VLP's Mission: *Providing access to justice through engaging the legal community in volunteer service to those in need*
- Our program works by leveraging the power of volunteer attorneys to help as many tenants as possible:
 - Avoid or delay eviction
 - Reduce judgments
 - Better understand rights and responsibilities

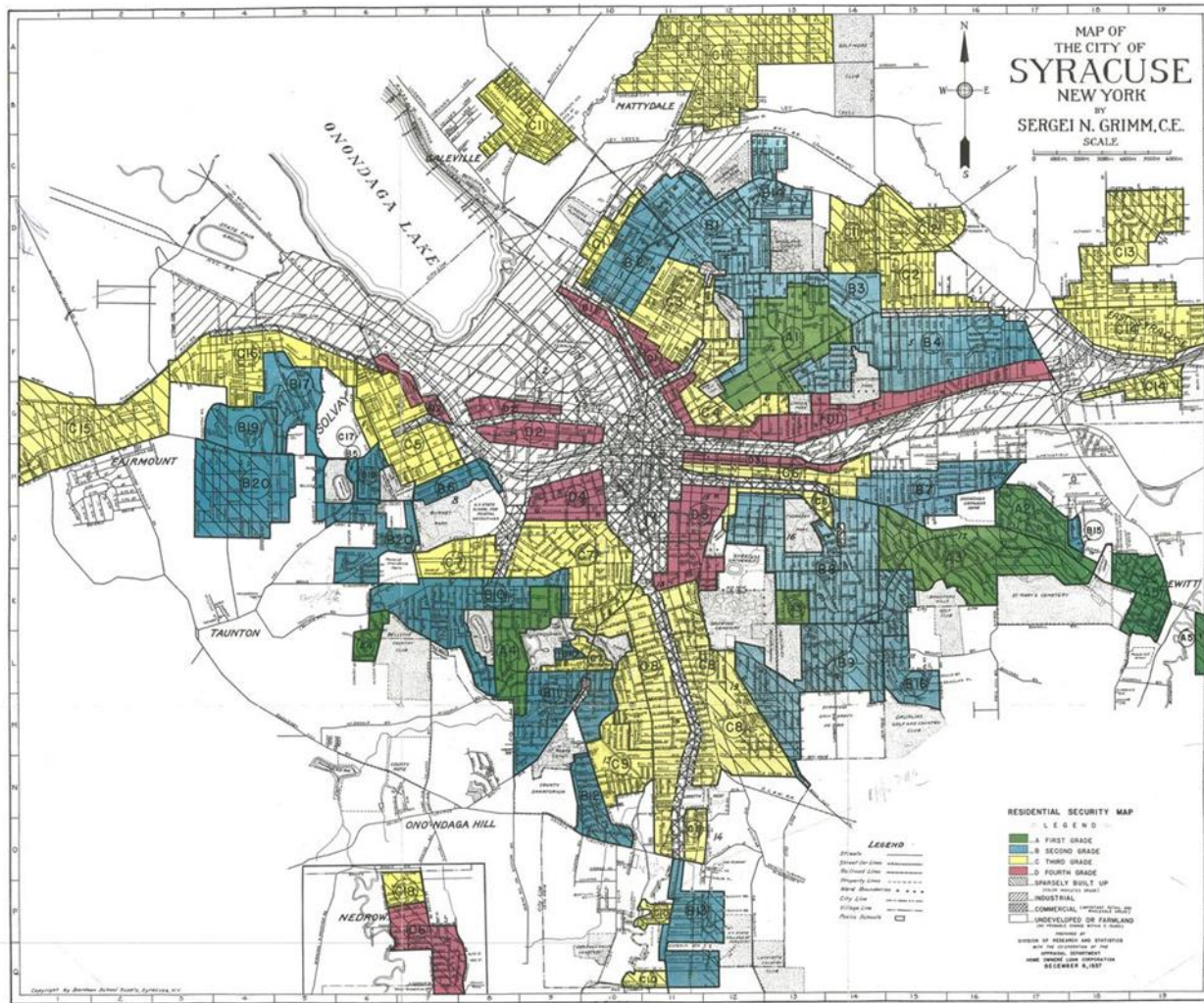
We also help improve the quality of housing and of landlord/tenant relationships in Syracuse

- **Annually VLP represents 800-1000+ tenants in court and provides assistance to hundreds more**

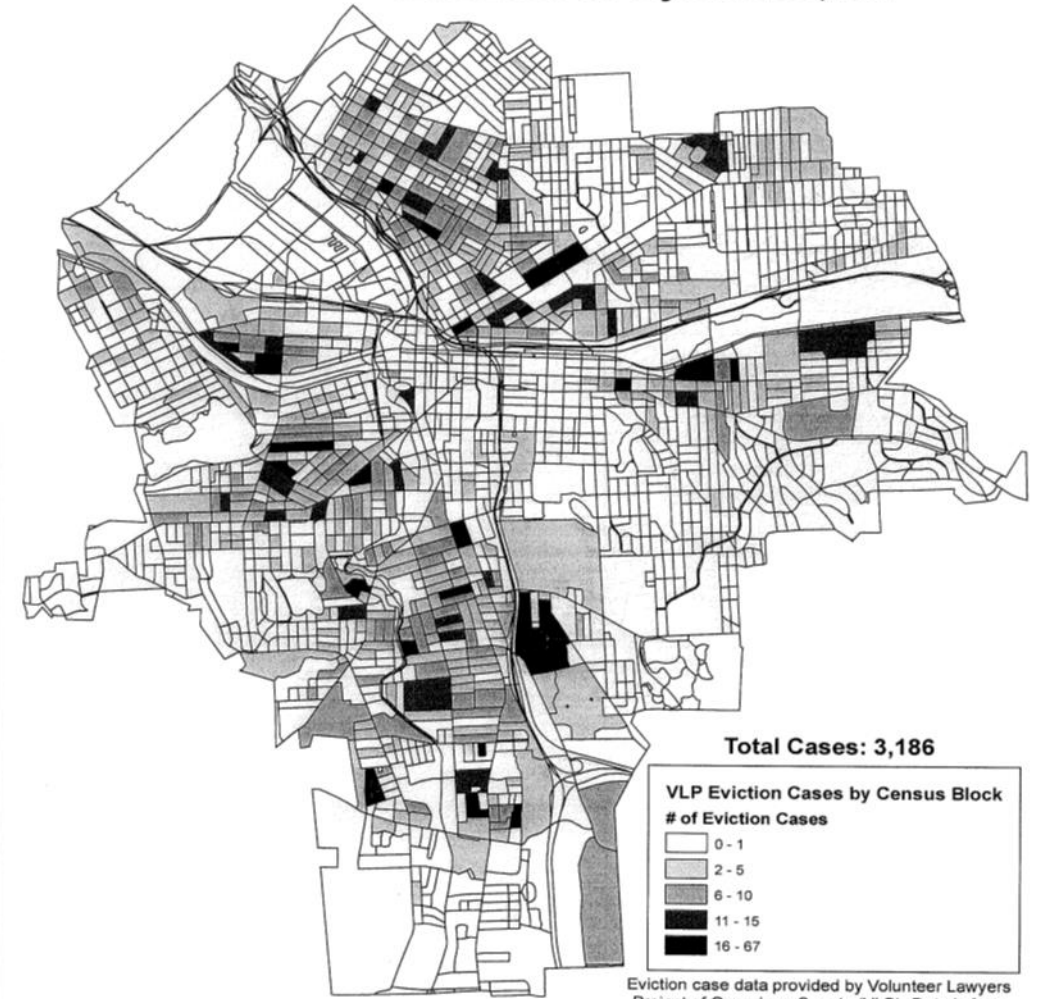
Redlining in Syracuse: racial and economic inequality



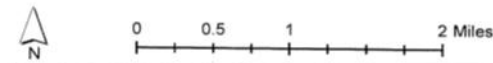
Redlining in Syracuse—effects seen decades later...





VLP Eviction Cases by Census Block 10/17/2012 - 12/1/2016 in Syracuse, NY



Eviction case data provided by Volunteer Lawyers Project of Onondaga County (VLP). Data is from October 17, 2012 - December 1, 2016 and only contains evictions that VLP received. The original dataset contained 3,445 cases. 259 cases were deleted because they either did not have a street address or were located outside of the City of Syracuse, resulting in a total of 3,186 cases mapped.





Eviction is a
MASSIVE societal
problem

Two Types of eviction cases

- **HOLDOVER**

- Gave Notice to end rental or
- Claimed lease violations

- **NONPAYMENT**

- Always cured by payment in full

BOTH REQUIRE DUE PROCESS



Housing Stability and Tenant Protection Act of 2019

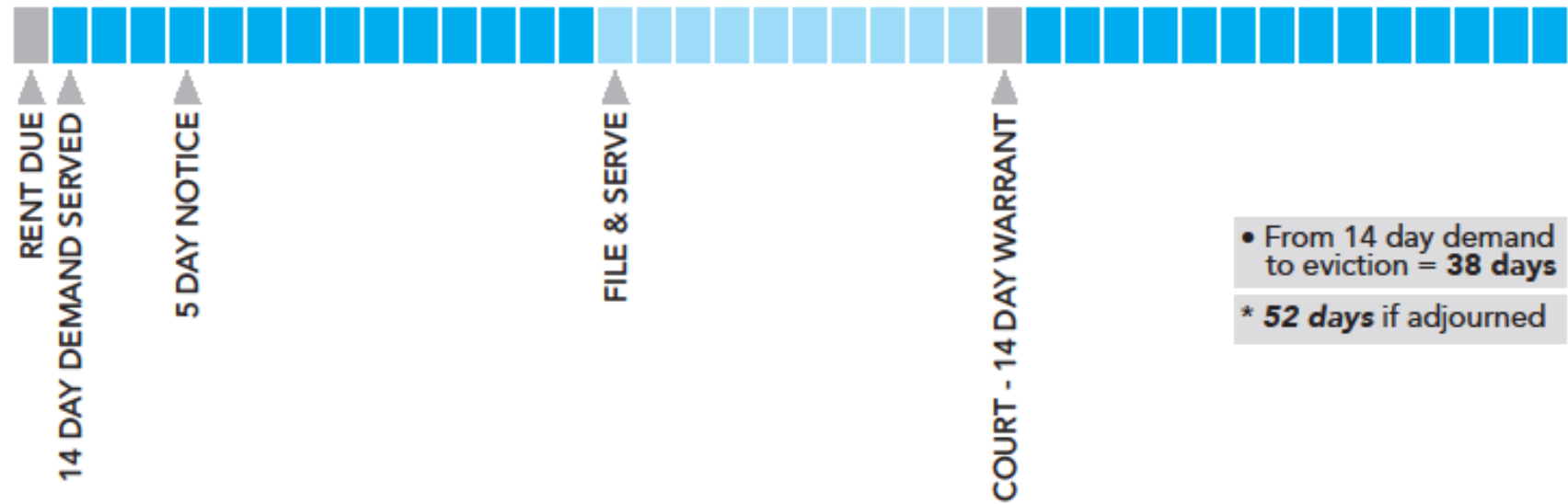
Eviction Timelines

Minimum # of Days
(from Demand, Non-Payment Cases)

Old Laws



New Laws





HOLDOVERS: Landlords May Not Increase Rent or Terminate A Lease Without Proper Notice

As of OCTOBER 12, 2019 :

RPL 226-c requires written notices
for any nonrenewal or rent
increase over 5%

*Proper Notice is required before can
bring Holdover eviction case*

Now Notice is based on length of occupancy:

- ❖ **30 days** if tenant there less than one year
- ❖ **60 days** if tenant there from 1-2 years
- ❖ **90 days** if tenant has there over 2 years

Basic Tenant Rights Haven't Changed:



Warranty of Habitability:
Tenants still have a right to safe and habitable housing even if unable to pay the rent— but if thinking of withholding PLEASE contact an attorney!



A tenant experiencing unsafe or uninhabitable housing conditions should contact the codes enforcement department in their area.

Syracuse:
315-448-8695



It is illegal to retaliate against someone for contacting codes or complaining about property conditions

RPL 223-b

COVID-19
Eviction
Moratoriums

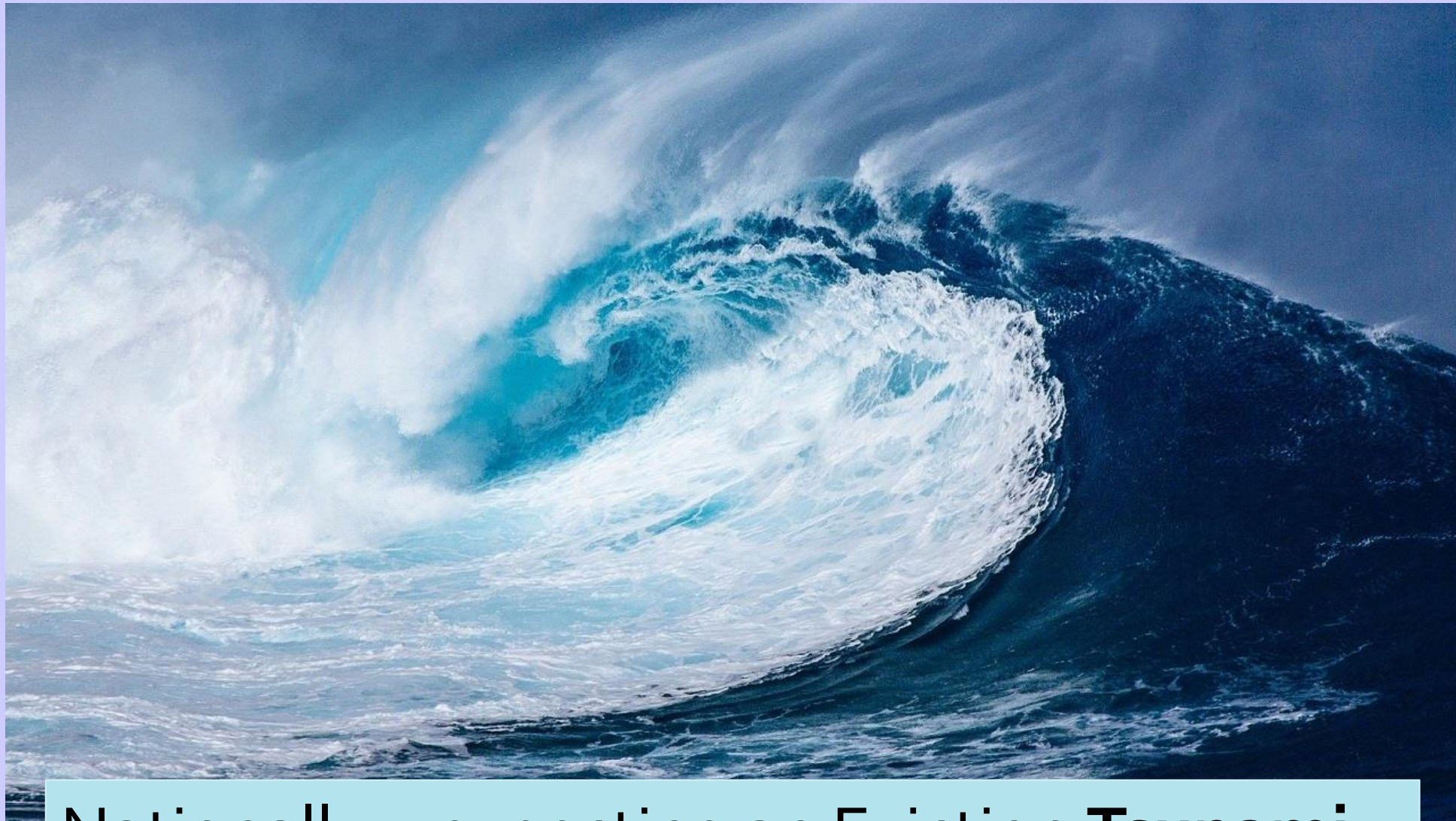


The main
problem with
moratoriums—

people
misunderstood
and thought
rent wasn't
due...



but rent has NOT been waived!



Nationally... expecting an Eviction **Tsunami**

September 4,
2020
CDC Order

- TEMPORARY HALT ON EVICTIONS
- If statement of financial hardship and best efforts to pay and seek assistance
- Through December 31, 2020
- **Tenants MUST present signed form to landlord under penalty of perjury**
- Rent is still due, no waiver!
- **SOME evictions still expressly allowed**
- <https://www.cdc.gov/coronavirus/2019-ncov/downloads/declaration-form.pdf>

The NY Tenant Safe Harbor Act



What does Tenant Safe Harbor Act Actually Provide?

- No warrants of eviction for nonpayment:
 - during the COVID-19 covered period
 - against a residential tenant or other lawful occupant
 - that has **suffered a financial hardship** during the COVID-19 covered period
- *Tenant must present this in court as defense*
- *Landlord MAY still get judgment for rent due*

Moratorium on Utility Terminations S-8113A

No utility, water works, telephone company or municipality may discontinue utility, water, or telephone service due to non-payment by any residential customer for the duration of the State of emergency

Moratorium includes an additional 180 days where the residential customer suffered a COVID related financial hardship

Mishmash of
Federal,
State, Local,
Court
Orders—

Where does
that leave us?



Current
Status
09/22/2020

- Matters filed before 3/17/20: courts must hold a status conference
- Any eviction matters filed on or after 3/17/20 suspended until at least October 4
- New Eviction matters may be filed, but not heard.
- **No residential evictions until at least OCTOBER 1**
- **No commercial evictions until at least October 20**
- New defenses based on financial hardship during the COVID-19 period:
 - — tenants must go to court to defend!
- **Tenants should give landlords CDC form if qualify!!**

RENT IS STILL OWED!!

Self Help Eviction Actions are now a crime RPAPL 768

- **Any person** can be found guilty, not just the landlord or owner
- Protections for anyone who lawfully lived there for over 30 days or has signed lease
- **Penalties:**
 - **up to a year in jail and**
 - **\$1,000 to \$10,000 in fines for every act,**
 - Additional daily fines for continued noncompliance
- **Attorney General Guidance for law enforcement agencies:**
https://ag.ny.gov/sites/default/files/guidance_to_law_enforcement_on_illegal_lockouts.pdf

QUESTIONS?

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