

Affordable Housing Deep-Dive  
City of Durham  
February 9, 2023

Legal Aid of North Carolina, Inc.  
Durham Eviction Diversion Program



**LEGAL AID**  
OF NORTH CAROLINA



# Overview

- History of the Durham Eviction Diversion Program
- **CURRENT STATUS**
  - Courthouse Clinic Expansion
  - Rental Assistance Programs
  - Partnerships with community organizations
  - Outcomes
- **FUTURE**
  - Trends in evictions
  - Durham Affordable Housing initiatives
  - Mediation program

# History

## Durham Eviction Diversion Program

- Partnership Between Duke Civil Justice Clinic and Legal Aid of North Carolina (LANC), in cooperation with the Durham County Department of Social Services (DSS)
- Primary Goal is to avoid eviction judgments and to decrease number of eviction filings
- Eviction Diversion Program launched in September 2017 with limited staff; more staff added with city funding beginning in January 2019.
- Modeled after Michigan programs
- “Diversion” difficult due to accelerated process. Most cases result in court appearances.

# Initial Funding (2018-2019)

- \$200,000 annual support from City of Durham
- Smaller grant from NC Bar Foundation
- Equivalent of 4 full time attorneys (3.5 LANC, 0.5 Duke), plus two non-attorney support positions
- Committed to LANC handling 420 cases per year.
- Opened more than 150 new files in 1st quarter 2019, or about 50% over capacity

# Current Status (2023)

- **CURRENT CITY OF DURHAM FUNDING**
  - ~\$500K for 3 years (2020-2023)
  - \$1M for 2 years (2022, 2023)
- **CURRENT STAFFING**
  - Program Director
  - Two Supervising Attorneys
  - 7 staff attorneys
    - Four attorneys started in Spring 2020
    - Four additional attorneys added Summer 2022
  - 5 Paralegals
  - Community Resource Coordinator





## Current Status (Courthouse)

### DAILY COURTHOUSE PRESENCE

- **REPRESENTATION IN SMALL CLAIMS AND DISTRICT COURT**
  - Average of ~150 cases per week on the small claims docket
  - LANC represents about ~25% of those tenants\*
  - Monthly representation in district court averages approximately >50% cases on appeal from small claims court (October 22-present averaging ~80 LANC cases per monthly district court session)
- **COURTHOUSE CLINIC**
  - Open M-F, 9 a.m.-2 p.m.
  - Staffed with paralegal and attorney
  - Intakes and same day representation happen approximately ~25% of the time
  - Approximately 75% of visitors have a pending court case

# NC's Summary Ejectment Process

“Trial” in Small Claims court rarely over 15 minutes.

Corporations not required to have counsel

Most are default judgments as tenants do not attend

“The rules of evidence applicable in the trial of civil actions generally are observed.” (NC Gen. Stat. §7A-222)

90-95% of tenants unrepresented

Judgment final after 10-day period to appeal

Appeal requires posting rent bond to stay in home during appeal

After no-appeal, or failure to post bond, Landlord can get a writ of possession

Sheriff must execute the writ within 5 days. Tenant usually only gets 2 days notice before padlocking. (N.C. Gen. Stat. 42-36.2)

*The whole process, from being late on rent to being padlocked, can happen within the same month.*

# Current Observations in Eviction Cases

## Non-payment of rent

- **Rental Assistance Available:** Some rental assistance programs require a court filing for expedited assistance. These cases are most likely to result in preserved tenancies.
- **Rental Assistance Not Available:** Either due to individual circumstances or lack of landlord cooperation. These often result in move-outs.

## Holdover

- **Owner selling house:** New owner takes property subject to existing leasehold, some choose not to continue as rental or want to renovate home before renting
- **Month-to-month:** usu. requires less than 30 days notice to terminate lease

## Breach of Lease (other than non-payment)

- **Subsidized Housing:** Non-compliance with reporting requirements, unauthorized occupants, etc.
- **Pro se landlords:** "need to make repairs" "didn't mow the grass" "want property back"





# Current Outcomes

- **PROGRAM GOALS**
  - Preserve Tenancy: At least 50%
  - Avoid Eviction Judgment: At least 70%
  - 840 cases opened
- **2022**
  - **December 2022**
    - 45 cases opened, 136 closed
    - Preserved Tenancy: 45%
    - Avoided Judgment: 56.6%
      - BUT: When adjusted to only include extended service/in-court representation:
        - 101 Extensive service/in-court representation cases
        - 60.4% preserved tenancies
        - 76.2% avoided judgments
  - **May 2022 (DRRP)**
    - 53 cases opened, 50 closed
    - Preserved Tenancy: 72%
    - Avoided Judgment: 74%
  - **2022 End of Year**
    - 899 cases opened, 788 closed (not adjusted for advice only cases)
    - Preserved tenancy: 391/788=49%
    - Avoided Judgment: 488/781=62%

# Barriers to Preserving Tenancies

- Lack of rental assistance for short-term income loss
- High demand for rental units=increasing rents
- Lack of landlords who accept Section 8 vouchers
- Long wait lists for subsidized housing (Project Based Section 8)
- High costs of finding housing (application fees, security deposits, etc.)
- Previous eviction filings
- Past due balances and rental arrears
- Unbearable habitability conditions

# Community Partnerships

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Department of Social Services

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The Durham Housing Authority

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Housing for New Hope

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Community Empowerment Fund

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Alliance

## Partnerships with Law Schools

### Duke

- Civil Justice Clinic
- Interns/Externs

### NCCU

- Civil Justice Clinic
- Same Day Court Representation





Future

Trends in evictions

Affordable Housing Initiatives

Mediation Programs



# Future: Mediation

- Collaboration with landlords, courthouse staff, and community organizations
- Not in conflict with current legislation regarding small claims cases
  - Calendaring: N.C. Gen. Stat. 7A-214 "The time for trial of a small claim action is set not later than 30 days after the action is commenced. Except in an action demanding summary ejectment, if the time set for trial is earlier than **five days** after service of the magistrate summons, the magistrate shall order a continuance. By consent of all parties the time for trial may be changed from the time set. For good cause shown, the magistrate to whom the action is assigned may grant continuances from time to time.
- VOLUNTARY
- Modeled after custody and superior court mediation
- Pro-bono mediators sources from private bar, law clinics
- LANC involvement is purely administrative (i.e. scheduling)

# Data

In 2018, Durham had approximately 9,900 filings for summary ejectment (eviction) and a population of 306K, resulting in a 15.7% eviction rate. This is about 8% higher than the national average. ([www.evictionlab.org](http://www.evictionlab.org))



From July 2021-June 30, 2022, there were 4713 filings for summary ejectment in Durham County. In 127 cases, the relief requested was denied (i.e. the tenant prevailed.) 1832 cases were dismissed prior to court. (nccourts.org)



From July 2020-June 30, 2021, there were 2558 filings for summary ejectment in Durham County. In 127 cases, the relief requested was denied (i.e. the tenant prevailed.) 1832 cases were dismissed prior to court. (nccourts.org)

# CONSEQUENCES OF EVICTION

- **Compounding Poverty**
  - Immediate risk of homelessness
  - Loss of personal property and pets
  - Job Issues -- “likelihood of being laid off is roughly 15% higher for workers who have experienced an eviction” (Desmond, Evicted)
  - Eviction Judgment (or even a filing) appearing on a credit report makes it much harder to rent another unit and may make families ineligible for affordable housing units; adverse effect on commercial credit
- Breaking up social support structures (schools, churches, nearby family members and neighbors)
- Housing instability associated with poor physical and mental health outcomes ([www.durhamdisrupted.com](http://www.durhamdisrupted.com) Jimenez Magdaleno, 2019)

# Eviction Diversion as an Affordable Housing Solution

Most low-wealth and low-income tenants rent on the private market (no subsidy)

In Durham, every time a rented house or apartment changes occupants, the landlord likely raises the rent. Stabilizing tenancies stabilizes housing costs.

Investment in one attorney position (approximately \$60K/year) provides representation for over 120 families and prevents 85 low-income families from being forced to leave their homes each year.

--->For comparison, one new unit of affordable housing, subsidized for 20-30 years, costs over \$75K

Questions?



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