



CONNECTICUT ADVISORY COUNCIL  
ON HOUSING MATTERS



Reply to: 16 Main St., 2<sup>nd</sup> floor  
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**NOTICE OF NEXT MEETING**

**2:00 p.m.**

**Wednesday, June 8, 2022**

This meeting will be held electronically by Zoom. Details as to how to access the meeting will be distributed before the meeting.

**Minutes of the Meeting of March 9, 2022**

Members present: Loo Dahlke, Richard DeParle, Kathy Flaherty, Houston Putnam Lowry, Carl Lupinacci, Stephanie Ma, Sam Neves, Raphael Podolsky, J.L. Pottenger, Jr., David Purvis, Margaret Suib, John Wirzbicki

Members absent: Michael Clinton, Venoal Fountain, Jane Kelleher

Public officials: Rebecca Schmitt (Judicial)

Members of the public: Murray Czaczkes, Jeff Mastrianni, V. Edward Quinto, Jenn Shukla, John Souza, Sally Zanger

The meeting was called to order at 2:05 pm on Zoom and began with introductions. Chairperson Raphael Podolsky presided.

1. Preliminary matters

- a. The Chairperson reviewed the Zoom rules for the meeting.
- b. The agenda was approved unanimously (motion by Houston Putnam Lowry, second by Richard DeParle).
- c. The minutes of the September 22, 2021, meeting, which had been tabled, were approved unanimously with an amendment submitted by V. Edward Quinto (motion by Kathy Flaherty, second by Houston Putnam Lowry). The amendment substituted the following for Section 2 of those minutes:

V. Edward Quinto reported on an eviction in Bridgeport in which the marshal refused to remove tenant possessions because of evidence of a rodent

infestation in the unit. The possessions were therefore left in the apartment instead of being taken to the city storage. The distinction in this case is that the marshal and the landlord did not give access to the premises prior to the deadline for moving out. The marshal and both landlords were finally available the day after the deadline, but that was too late because the deadline was the day before. The landlord refused to correct the situation. The police, the Mayor's Office, and the city storage department were called following the landlords' refusal. No progress was made by calling those agencies. When the tenants were not given access to remove the possessions within 15 days, the landlord discarded or kept the possessions. The statutes, however, presume that the possessions will be moved out of the unit. Discussion of the underlying policy issue was, by agreement, tabled until the December meeting.

- d. The minutes of the December 8, 2021, meeting were approved unanimously (motion by Houston Putnam Lowry, second by Richard DeParle).
- e. The Chairperson reviewed the rules for public comment. Public comments on a matter already on the agenda should be delayed until that agenda item is reached. Other comment is limited to five minutes per speaker.

2. Public comment – none

3. Updates

- a. Executive Order 12D (EO 12D) as amended and incorporated into Sp.A. 22-1: The order expired on February 15, 2022. The only part extended by the legislature was Section 4, which provides for a 30-day stay if the defendant in an eviction has applied for UniteCT, subject to further extension by the court. Since UniteCT is no longer taking applications, the extension applies only to UniteCT applications pending as of February 15. This extension goes only through April 15, 2022. UniteCT is not likely to have processed all pending applications by that date. It is not clear what will happen at that point. The text of this extension reads as follows:

Notwithstanding any deadlines or any time requirements for advancement of pleadings in Section 47a of the Connecticut General Statutes, if, during the course of any summary process proceeding, except a proceeding brought solely on the ground of serious nuisance, as defined in section 47a-15 or 21-80, an application is made by the landlord or the tenant to UniteCT on or before February 15, 2022, further proceedings shall be stayed for thirty days or until a decision is made upon the application, whichever is earlier unless further stayed by the court, and, if such application is approved, until such UniteCT payment is made and the summary process action is withdrawn or dismissed.

- b. UniteCT: Receipt of applications has been "paused" by the Department of Housing (not accepting new applications), but the Department may "unpause" receipt at some point in the future. Based on the number of pending applications, DOH

expects that pending applications will use up almost all the remaining money that is currently allocated and available for payments. There may be a small amount of money left over at the end. It is possible, but not at all certain, that the State will come up with funds to cover any shortfall. It may not be known until early summer if the program will reopen.

- c. Right to Counsel (RTC) program: The RTC program did not begin operation until January 31, 2022, on a phase-in basis. Based on a historic average of about 20,000 evictions per year, it was decided to limit the areas in which the program would begin, so that it would have enough attorneys to represent all eligible applicants in the areas covered. As a result, the program is initially covering eligible applicants (incomes up to 80% of area median income) (1) in all parts of the state if they are veterans and (2) in 14 specific zip codes for everyone else. The zip codes were chosen because they had high rates of eviction cases and could be handled by the number of lawyers initially available for the program. More zip codes will be added over time as more staff become available. The zip codes currently covered by RTC are: Hartford (several zip codes), New Haven (several), West Haven (1 zip code), Bridgeport (1 zip code), Waterbury (1 zip code) eastern CT (3 zip codes). The priority areas for expansion are Bridgeport, Waterbury, New London or Norwich, New Britain, and Stamford (not necessarily in that order). Four members of the Advisory Council are on the formal RTC Working Group that was created by P.A. 21-34, which under the statute is advisory to the program (David Purvis, Michael Clinton, Raphael Podolsky, Kathy Flaherty).

V. Edward Quinto reported on a case in which he said the judge refused a tenant's request for a stay to obtain counsel. Rebecca Schmitt, for the Judicial Branch, responded that the granting of stays is up to the discretion of the judge. However, the mediator would ordinarily explore whether the parties could agree on a stay for this purpose.

4. Forms committee report: Report from David Purvis and Raphael Podolsky
  - a. RTC notice: The statute requires that a notice of the Right to Council program be included both with the notice to quit and with the summons and complaint. A copy of the notice can be downloaded from the Judicial Branch website. The Council had previously recommended that, in addition to other locations on the website, the RTC notice either be made a part of the notice to quit form or posted as a separate document in the Forms section of the website. Judicial rejected that suggestion, but the notice can be searched for using the search engine on the website. It is not clear how easy it is to find using that method. The notice has been designed so that it won't have to be changed as more zip codes are added. It refers tenants to the website, where applications will be channeled through screening questions:
    - (1) Are you a veteran? Veterans will be referred to the Connecticut Veterans Legal Center for an attorney.

(2) What is your zip code? If in an eligible zip code, the applicant will be connected to the RTC program. If not, the applicant will be referred to the screening entity for legal aid applicants or to other resources.

It was asked what will happen if the RTC notice is not attached, even though its attachment is mandatory. Ms. Schmitt reported that clerks and mediators are aware of the requirement and will tell landlords of the need for the notice. She will inquire and report back as to what happens if a copy of the notice is not included when cases are e-filed or paperwork otherwise arrives without proof that the the RTC notice was served.

- b. Judicial response to previous recommendations
    - a. Revised answer form (JD-HM-5): Judicial accepted the recommended change.
    - b. Revised motion to open default judgment (JD-HM-42): Judicial accepted the recommended change.
  - c. Additional Forms Committee recommendations: Regarding the motion for use and occupancy, the Forms Committee decided not to recommend any changes to the form at this time. As to the motion for stay of execution, it will review the form at its next meeting. The Committee also noted that several Judicial publications (e.g., guides for landlords and tenants) still use old versions of the forms as examples. Ms. Schmitt indicated that Judicial will, in due course, review guides and similar publications and update them. The Chairperson suggested that the Forms Committee should review the CARES Act affidavit, use of which has become a permanent requirement.
5. Removal of tenant possessions by marshals – report of working group: The working group met with Lisa Stevenson from the State Marshals' Association. The group made no recommendations for Council action but felt that a lot was learned from the marshals' perspective. The general consensus was that most executions on eviction judgments are not controversial and are handled well but that there are some that result in serious problems. Among problems identified by the working group were:
- a. There is no real structure as to what is supposed to happen to tenant possessions if the municipality will not accept them. For example, municipalities will not accept mattresses because of the fear of bedbugs. It appears that the marshals treat such possessions as abandoned and they are left for the landlord to discard.
  - b. The tenant cannot remove possessions once the marshal takes possession of the premises. If the tenant is there, the marshal will walk the tenant off the property. At that point, it is a trespass for the tenant to attempt to return to remove possessions or to photograph the marshals from inside the premises as they pack up. A marshal can call the police if the tenant refuses to leave.
  - c. Marshals do not ordinarily carry out executions on weekends, but they will remove possessions on weekdays at hours when the courthouse is not open (e.g., at 7:30 am). It is not clear how a tenant can get an order to stop an eviction during non-court hours.

It was noted that this report is about residential evictions. Commercial evictions have different rules, because the business's property is left in place and treated as abandoned.

Jay Pottenger reported that the Yale Landlord-Tenant Clinic has filed complaints with the State Marshals Commission regarding some marshal practices.

6. Housing court system – returning to normal: A variety of issues were discussed. The Council has previously recommended that the goal should be return to in-person hearings, especially in cases involving self-represented parties. It was reported that others are saying that, in the Civil Division, short calendar will be permanently virtual, as will be small claims court. Judicial will be providing soundproofed privacy booths in the courthouse so that parties can participate remotely at the courthouse. Ms. Schmitt will obtain more information and notify the Council of Judicial's plans for the Housing Division. Bill Pitt has previously said that more complicated housing cases, especially ones requiring an interpreter, are now being scheduled for in-person. Criminal housing cases are also in-person at present. Other cases are held in-person only at the discretion of the judge. All housing sessions and all Judicial District courthouses have remote rooms. A litigant can file a caseflow request to ask for in-person hearing. [Post-meeting notice: The Advisory Council has been notified by Judicial that it expects to return to in-person hearings for housing cases in May, 2022.]
7. Pending legislation: It was reported that the 2022 legislature is considering a number of landlord-tenants bills. No discussion was requested.
8. Expiration of CACHM terms: Council members are appointed by the Governor for four-year terms. All current terms will end on June 30, 2022. The Chairperson will survey members to see if they want to be reappointed. All members continue to serve beyond the end of their terms until they are reappointed or replaced. The statute is complicated because a number of conditions must be met by both individual members and the Council as a whole:
  - a. There are to be five members who reside in each housing court district (Hartford/New Britain, New Haven/Waterbury, and Bridgeport/Stamford/Norwalk), plus three members who live elsewhere in the state (northwestern Connecticut and eastern Connecticut). Membership is based on where members reside, not where they work.
  - b. The Council as a whole must reflect an approximate balance between landlord and tenant interests.
  - c. The Council as a whole cannot have more than two-thirds of its members registered to vote with the same political party.
9. Advisory Council meetings: The Council decided to continue to meet virtually for the time being. The Chairperson was authorized to make the decision to switch to in-person, but it is assumed that the June meeting will be virtual.

10. Other business: Mr. Quinto cited another eviction case in which the marshal allowed the tenant to continue to remove his own possessions, even though the marshal had started the move-out. Others said it was common for marshals not to allow the tenant to be on the premises. Mr. Quinto also brought up his concern that guests should not be treated by the statutes in the same manner as transient occupants. The Chairperson reminded all that the Council had previously discussed this issue and decided not to pursue it.
11. Adjournment: A motion to adjourn was adopted unanimously (motion by Houston Putnam Lowry, second by J.L. Pottenger, Jr.). The meeting adjourned at 3:24 pm.

Next meeting: 2:00 pm on June 8, 2022, on Zoom.

Respectfully,  
Kathleen Flaherty  
Secretary