



CONNECTICUT ADVISORY COUNCIL
ON HOUSING MATTERS



Reply to: 16 Main St., 2nd floor
New Britain, CT. 06051
(860) 616-4472

NOTICE OF NEXT QUARTERLY MEETING

2:00 p.m.

Wednesday, December 14, 2022

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

Special notice

A special meeting of the Advisory Council on preliminary review of a draft of the biennial report will be scheduled for a date before the December quarterly meeting. No meeting date has yet been set. Notice will be circulated in advance of that meeting.

Minutes of the Meeting of September 14, 2022

Members present: Richard DeParle, Kathy Flaherty, Houston Putnam Lowry, Carl Lupinacci, Stephanie Ma, Sam Neves, Raphael Podolsky, Dave Purvis, Margaret Suib

Members absent: Michael Clinton, Loo Dahlke, Venoa Fountain, Jane Kelleher, J.L. Pottenger, Jr., John Wirzbicki

Public officials: John Kerwin (Chief housing prosecutor), William Pitt (Chief Clerk for Housing Matters)

Members of the public: Denise Chancey, Ashley Daley, Bob DeCosmo, Sam Eddinger, Vanessa Liles, Jeff Mastrianni, Tyler Nicholas, V. Edward Quinto, Dahlia Romanow, John Souza, David Viera

The meeting, on Zoom, was called to order by the Chairperson, Raphael Podolsky, at 2:04 pm. It began with introductions.

1. Preliminary matters

- a. Zoom rules: Chairperson Podolsky reviewed the zoom rules for the meeting.
- b. Approval of agenda: The agenda was approved unanimously (Motion by Houston Putnam Lowry, second by Dave Purvis).
- c. Approval of the minutes of the June 8, 2022 meeting: The minutes were approved unanimously (motion by Houston Putnam Lowry, second by Richard

DeParle). A proposed amendment to the minutes of the March 9 meeting by Mr. Edward Quinto was not submitted sufficiently before the meeting for review. It was tabled until the December meeting.

- d. Rules for public comment: The chair reviewed the rules for public comment.

2. Public comment

- a. Mr. Quinto described a post-foreclosure eviction by a bank in which it was alleged that the bank had entered the property before a summary process judgment was entered. The Chairperson suggested that he be contacted offline about this matter.
- b. Mr. DeCosmo reported landlord complaints about the courts not moving paperwork expeditiously. He expressed particular concern about delays in obtaining executions and default judgments in Waterbury.

3. Updates

- a. Judicial assignments for 2022/2023: Two of the sitting housing court judges are staying in housing courts but switching locations. In particular, Judge Cirello is moving to Bridgeport/Stamford, while Judge Spader is moving to New Haven/Waterbury. This will be Judge Spader's fifth year as a housing court judge. Judge Thamar Esperance-Smith has been assigned as the housing court judge for Hartford/New Britain. The assignments, which are for one year, took effect on September 6, 2022.
- b. UniteCT: The Department of Housing's UniteCT dashboard shows that about \$267 million in UniteCT rental assistance has been paid out to landlords and almost \$50 million in arrearage payments has been paid to utility companies. Almost \$95 million of the UniteCT budget allocation, however, has still not been paid out, although it has been allocated for payment to identified households. No new applications have been accepted since mid-February. The Council has previously expressed concern about the slowness with which payments are being made. At the current rate of about \$2.5 million per week, it would take about 38 additional weeks to complete payment. The UniteCT dashboard for September 12, 2022, is attached as Appendix A.
- c. Rent Bank: The revival of this Department of Housing program was funded with a \$1.5 million legislative appropriation. Assistance of up to \$3,500 for arrearages can be provided to help avoid eviction in nonpayment of rent cases. Details are being finalized, and the program is expected to start in October. Mr. De Cosmo commented that \$1.5 million is not sufficient to meet the need. He also urged that a system be in place to notify tenants of the existence of the program at the time of the service of the notice to quit, i.e., before the case even goes to court. Right now there is no system set up to notify people about this program. This could be an area for joint landlord-tenant advocacy in the next legislative session.
- d. Right to Counsel: The program is presently operating in only 13 zip codes. It does not have enough funding to cover the entire state, and, even within existing funds, it has been difficult to draw enough attorneys into the program. It was noted that, in particular, not enough zip codes are being covered in Waterbury,

Hartford, and Bridgeport. Mr. Souza predicted that one effect of more attorneys representing tenants will be that landlords will raise admission standards for renting to applicants.

e. Information from staff:

i. William Pitt (Chief Clerk for Housing Matters):

1. Clerks' offices: Judicial is in the process of hiring more clerks' office staff, including for housing sessions. There will be 20 new positions statewide for clerking staff in housing/foreclosure matters (funded through ARPA funds), which will ultimately bringing staffing levels above pre-pandemic levels. Judicial is facing a high degree of staff turnover -- many staff retired the end of the fiscal year this past June, which in turn opened new position opportunities for current employees elsewhere in Judicial or other state agencies.
2. Clerks' office issues: Mr. Pitt agreed that it should not take long to obtain an execution and promised to look into the Waterbury situation. If one clerk's office is understaffed, it is now possible to have executions issued by a staff person in a different clerk's office. Backlogs are always handled "first in, first out." Complaints should be addressed initially to the local court clerk, then to Mr. Pitt if necessary, preferably citing a case name and docket number.
3. Mediators: Most courts now have more mediators available than they did in the past. New Haven, for example, now has four mediators every court day. Mediation is primarily in person, but remote mediation can be requested. Remote mediations usually take place in the afternoon.
4. Remote hearings: In general, all cases are in-person unless remote is requested. About 90% to 95% of hearings are in-person. Caseflow requests can be made for a number of reasons, e.g., no transportation to court or a witness residing out-of-state. Reasonable accommodation can also be requested under the Americans with Disabilities Act (ADA) by submitting a form to the clerk's office. Clerks can handle some ADA requests, but requests for remote hearings have to be approved by the judge. The consent of both parties is not required for a remote hearing, but a caseflow request does require contacting the other side and disclosing whether or not the other side consents.

- ii. John Kerwin (Chief housing prosecutor): The Division of Criminal Justice has experienced a large number of retirements that have affected staffing in some jurisdictions. Two of the housing prosecutors have left. A new housing prosecutor has just been hired for Hartford, but the Bridgeport position is presently vacant. It is not clear if it will be filled with a new hire or if it will become a hybrid position that is only part-time on housing. The statutory requirement is three full-time housing

prosecutors. Mr. Kerwin expressed a preference for the assignment of experienced prosecutors to housing.

4. Follow-up to Advisory Council's June 8 recommendations:
 - a. Housing cases in J.D. Stamford-Norwalk will continue to be heard in Stamford. There is no plan for housing to go back to Norwalk. Norwalk will instead be used for G.A. cases from both Norwalk and Stamford.
 - b. There is also no plan to return Putnam housing cases to Danielson.
 - c. Judicial does not believe that there is a substantial problem of overcrowding in courthouses hearing summary process cases and does not see any need to open more courtrooms.
 - d. Judicial believes that the present system is adequate for addressing requests for reasonable accommodation based on disability.

5. Forms Committee (report by David Purvis): The Committee report is attached as Appendix B.
 - a. Stay of execution form (JD-HM-21): The Committee reviewed the stay of execution form but decided not to recommend any changes, since most applications are for the court to exercise its equitable powers.
 - b. CARES Act affidavit (JD-HM-41): The current form has become out-of-date, but part of it remains relevant and important. In particular, the 30-day notice requirement for evictions from housing that has any federal involvement remains in effect. The current form is largely misunderstood by both litigants and attorneys, who often routinely check boxes saying the form is inapplicable when in fact it applies. This is because the form fails to include adequate clear guidance as to when it is applicable (particularly its applicability to mortgages transferred in the secondary market) and how to determine applicability. The Committee proposes a check box type form in a simplified format, focused on obtaining the information needed for the plaintiff to know if the 30-day notice provision applies. The Committee believes that its proposal will make it easier for the plaintiff to go through a step-by-step process. There was some comment from persons present at the meeting that the federal rules are too complicated and impose too much burden on the landlord, but it was also noted that the failure to identify federally-backed housing correctly could lead to dismissal later in the case. Houston Putnam Lowry moved (seconded by Sam Neves) to endorse the Forms Committee's proposal and recommend that Judicial adopt it. The vote in favor was unanimous (*Richard DeParle not responding*).

6. Exclusion of witnesses from the courtroom: Tabled.

7. Biennial report review: The first draft of the 2023 biennial report was not circulated until September 13, leaving little time for Council members to absorb and critique it. As a result, the Chairperson was authorized to call a special meeting in October or November to review the draft. It is expected that, by that time, the Council will also have obtained Judicial Branch data that will allow the portion of the draft on case processing to be completed. Some subjects did, however, receive brief discussion:

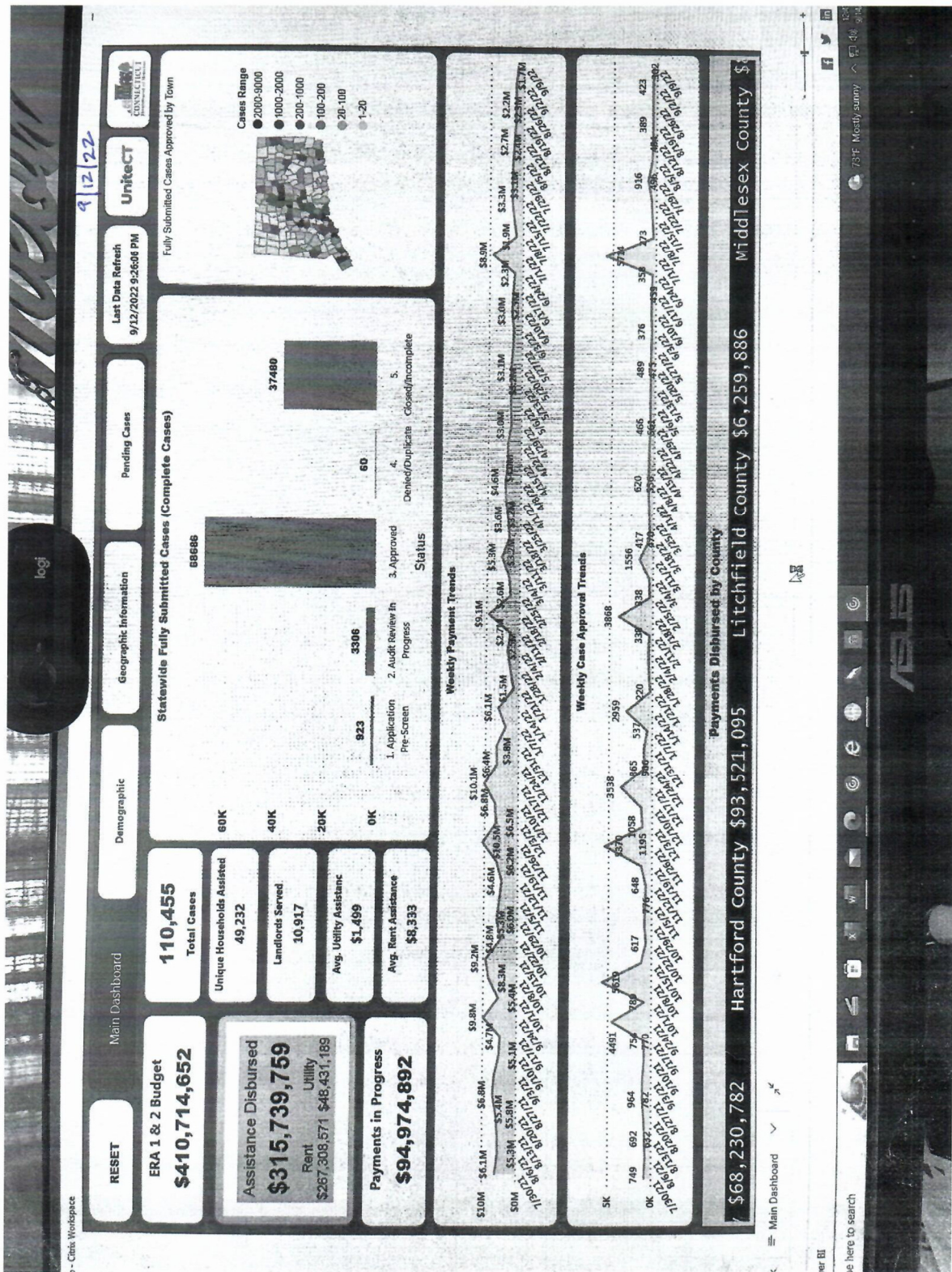
- a. Police training manual: The police training manual covers only landlord-tenant matters related to police work. Family matters related to domestic violence, such as restraining and protective orders, are addressed elsewhere. Training on issues of alleged racism in police practices should be addressed to the Police Officers Standard and Training Council (POSTC), not to the housing police training manual.
 - b. Attorney representation: The draft report identifies the disparity in attorney representation for landlords as compared with tenants. It was noted that some of this disparity is the result ownership of rental properties by LLCs. The owner of a single-member LLC cannot represent the LLC “pro se,” because that would violate the laws against practicing law without a license (unless the owner is a lawyer).
 - c. Case-processing data: More data will be obtained for the final report. The principal sources are likely to be the Judicial Branch and the Right to Counsel program, both of which collect extensive data. The data should help inform discussion of how the housing courts are actually working.
8. Courtroom observation: The Chairperson suggested the Council encourage its members to observe a housing court in person. Discussion was tabled to the next regular meeting.
 9. Expiration of terms: The Governor is expected to be making appointments relatively soon. The Governor requires applicants for appointment to fill out a standard personal questionnaire.
 10. Virtual Council meetings: The consensus was that meetings should continue to be virtual for the time being.
 11. Other business: Mr. Quinto raised issues about the parties extending by agreement. Discussion was deferred to another time.
 12. Adjournment: A motion to adjourn was adopted unanimously (motion by Kathy Flaherty , second by Dave Purvis). The meeting was adjourned at 4:08 pm.

Next meeting: The next regular meeting of the Council will be at 2:00 pm on Wednesday, December 14. Prior to that meeting, in October or November, there will be a Special Meeting to discuss the draft biennial report. Separate notice will be provided once the special meeting is scheduled. A new draft report will also be circulated before the December meeting.

Respectfully,
Kathleen Flaherty
Secretary

APPENDIX A

UniteCT DASHBOARD – Sept. 12, 2022



APPENDIX B

Report of the Forms Committee

September 12, 2022

The Forms Committee reviewed two forms, the Stay of Execution Application, JD-HM-21, and the CARES Act Affidavit of Compliance, JD-HM-41, during its meetings. As to the Stay of Execution Application form, the Committee's view was the existing form appropriately tracks the statutory language to obtain a statutory stay. Because most stay applications ask the court to exercise its equitable powers, the Committee decided to not suggest any changes to JD-HM-21.

The Committee also reviewed the CARES Act Affidavit of Compliance. While most of the CARES Act provisions have expired the provision applying to the evictions of tenants from housing with federally-assisted tenants or for which federal assistance, insurance, or mortgage-backing has been received did not sunset. They are considered to be "covered" dwellings and properties and still subject to the 30-day notice to quit requirement of the CARES Act.

The consensus of the Forms Committee is the existing form is both too confusing and not accurate. Concern was expressed that, due to the confusion, some parties have taken a "check the box" approach simply to obtain the judgment without understanding what they are swearing to.

The Committee's intent is to simplify the form to make it more accurate and understandable, using more plain language in both content and format. By simplifying the form, the goal is to obtain more accurate affidavits from the parties submitting the form.

The proposed revised form is attached for the Council's consideration.

CARES ACT AFFIDAVIT OF COMPLIANCE (15 USC §9058)

The following statements are true:

1. The defendant/tenant receives Section 8 or any other form of federal rental assistance.
 - Yes
 - No
2. The property is receiving or has received some form of federal financial assistance.
 - Yes
 - No
3. The property is under a regulatory agreement with, or is secured in whole or in part by a mortgage or other loan that is or was insured, guaranteed, or otherwise assisted by, any federal program or federal agency (such as the Low-Income Housing Tax Credit program, the HOME Funds program, HUD, the Federal Housing Administration, the Department of Veterans Affairs, or the Department of Agriculture).
 - Yes
 - No
4. Any mortgage on the property is issued or securitized by Fannie Mae (Federal National Mortgage Association) or Freddie Mac (Federal Home Loan Mortgage Corporation).
 - Yes
 - No
5. In order to determine whether the answer to Question #4 is “yes” or “no,” I have searched for the property on both of the following two websites:
 - Fannie Mae: <https://knowyouroptions.com/loanlook.up> Date: _____
 - Freddie Mac: <https://ww3.freddiemac.com/loanlookup/> Date: _____
 - Yes
 - No
6. I have also asked my servicer to determine and inform me whether any mortgage on the property is owned or securitized by Fannie Mae or Freddie Mac.
 - Yes
 - No
7. My servicer told me that a mortgage on the property:
 - Yes, a mortgage is owned or securitized by Fannie Mae or Freddie Mac.
 - No, there is no mortgage owned or securitized by Fannie Mae or Freddie Mac.
 - The servicer did not respond or did not know.
8.
 - If the answer to Question #1, #2, #3, or #4 is “YES”; **or**
 - If the answer to Question #5 or #6 is “NO”; **or**
 - If the answer to Question #7 is “YES” **or** “The servicer did not respond or did not know,”
 - **Then** please answer the following additional question:

Did the notice to quit in this action give each defendant at least 30 days to vacate?

- Yes
- No

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on (date) _____

Signed (Affiant) >	Print or type name of person signing	Date signed
Subscribed and Sworn to before me:	On Date	Signed (Assistant Clerk, Notary, Commissioner of the Superior Court)

