



Session 3 :
**MANAGING RENTAL
PROPERTY DURING
COVID-19**

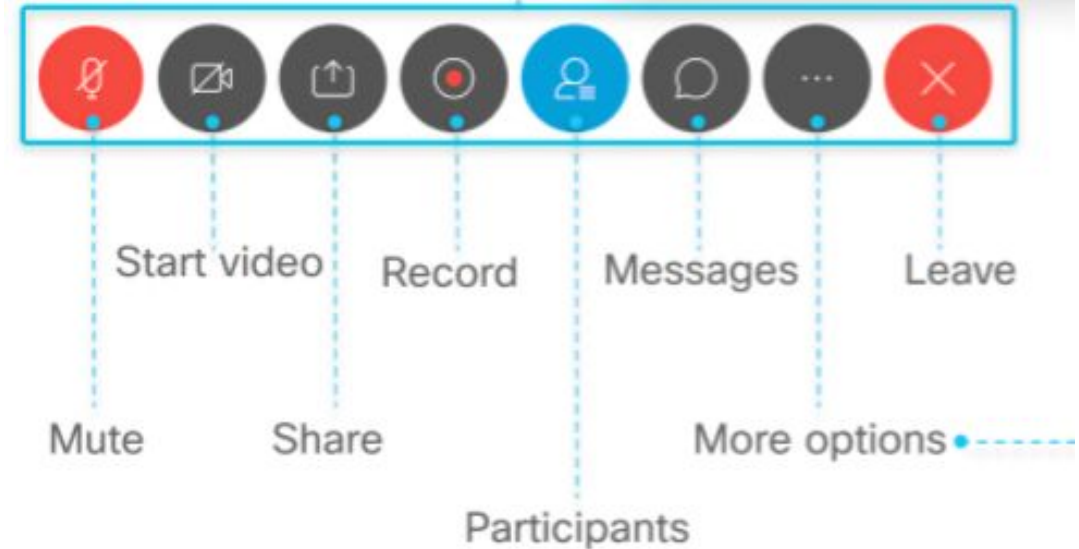
**Landlord Engagement Series
10/21/2020**



Using WebEx

We ask that all participants follow these guidelines :

- (1) Please mute yourself at all times.
- (2) Use the chat feature (messages in the image to the right) to submit your questions.
- (3) Time for Q&A allotted at end

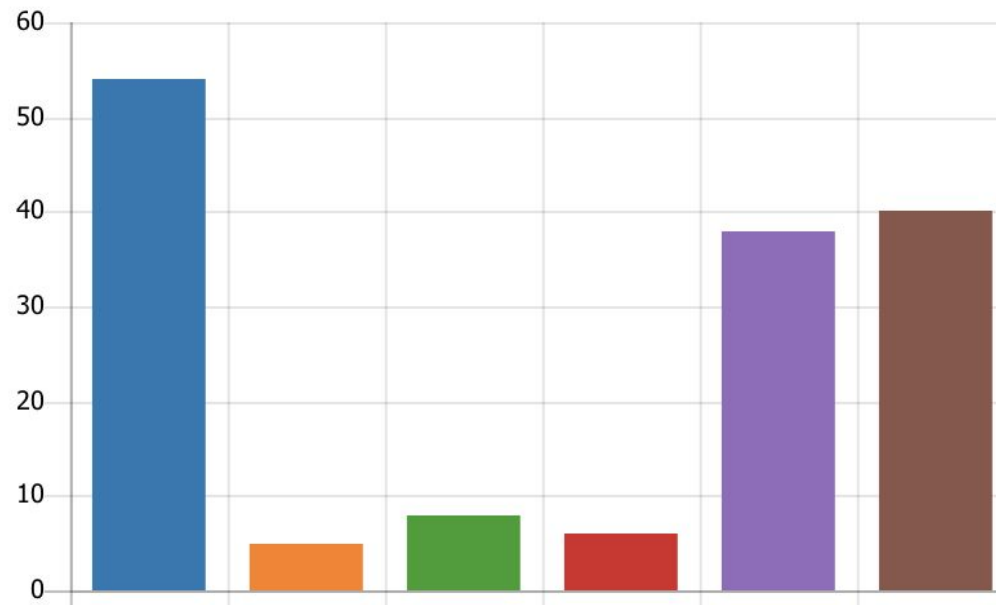




Feedback from registration survey

1. Attendant Makeup

 Rental Property owner	54
 Tenant	5
 Attorney representing tenants	8
 Attorney representing landlords	6
 Non-profit agency	38
 Other	40



Other written in suggestions:

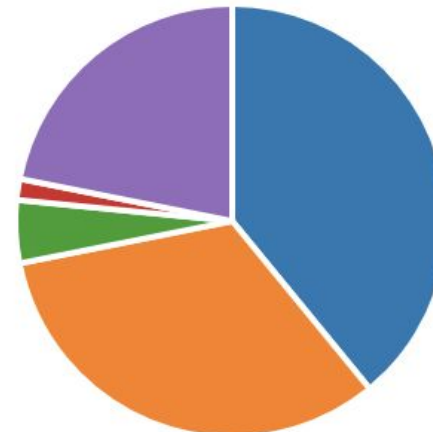
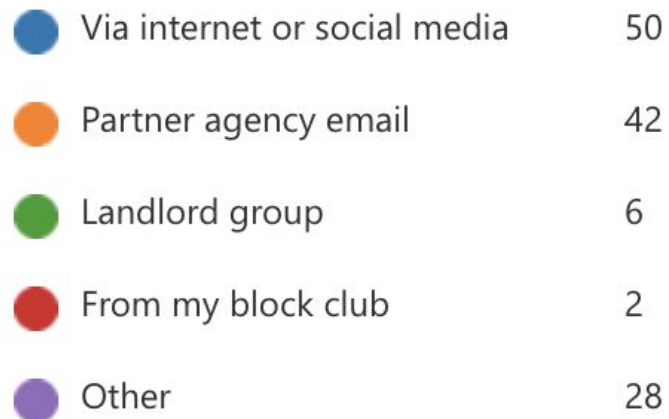
1. Management Agent
2. Property Manager
3. Contractor
4. Compliance Specialist



2. If you are a landlord, how many rental units do you operate?



3. How did you hear about today's webinar?



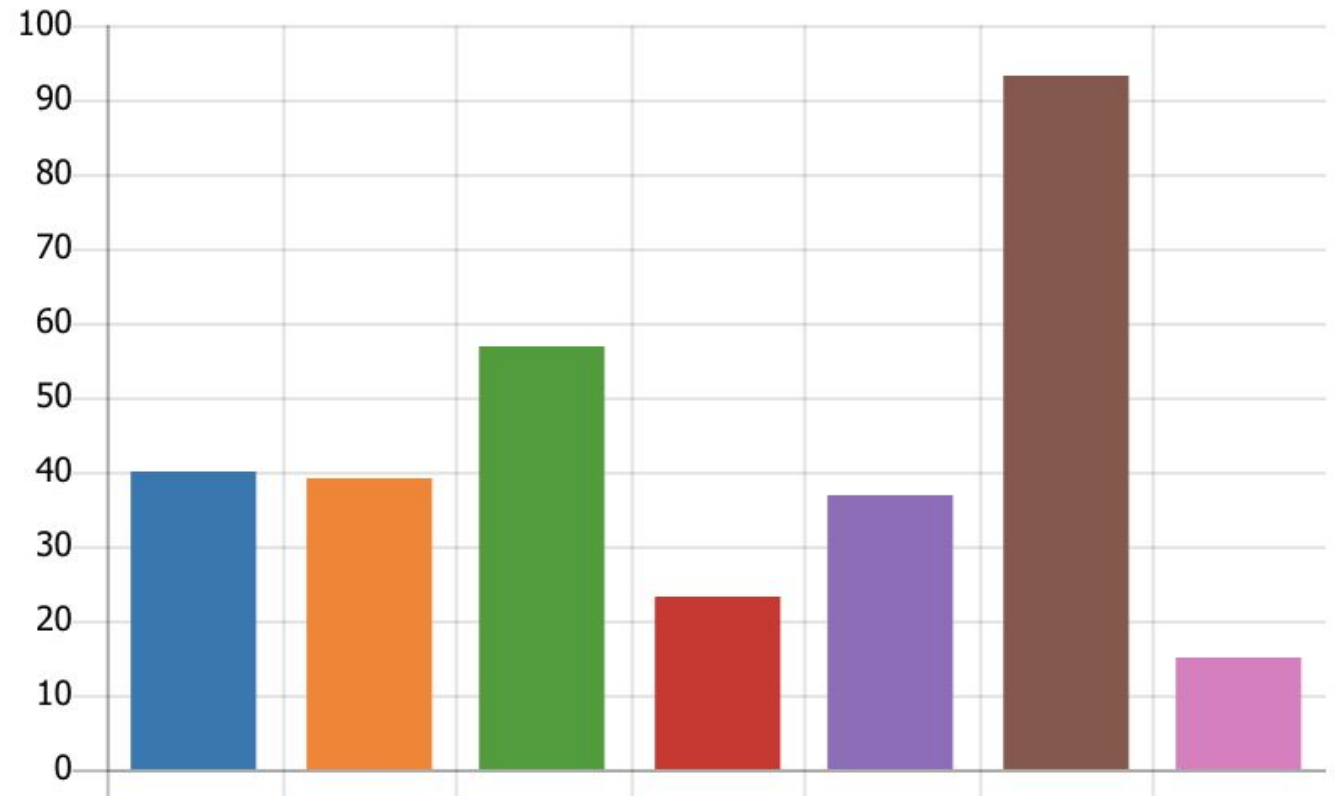
Other written in suggestions:

1. Co-worker
2. Previous attendant



4. Which of the following themes are of interest to you for future webinar topics?

Lead Paint and Healthy Homes	40
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Other	15





Today's Agenda

- Welcome and Introduction
- Registration survey results
- Current state of evictions
- CDC Eviction Moratorium
- New York State Tenant Safe Harbor Act (TSHA)
- FAQ



Guest Speakers

Susan Lamadue

Senior HR Planner

City of Buffalo Dept. of Community Service

Katelyn Niedermier

Attorney

Neighborhood Legal Services



COVID-19 and Evictions

Note: This COVID-19 update includes information available through **October 16, 2020**. The eviction landscape changes frequently. We advise you to check for new Federal legislation, as well as State Executive Orders and Administrative Orders, that may modify the following guidance.



Cases filed before March 17, 2020:

Any cases that were started before March 17th have to have a status conference. This includes cases where the landlord got a warrant of eviction, but the tenant was not put out.

At the conference, the court and parties will discuss COVID-19 concerns as well as whether the tenant is protected under the New York Tenant Safe Harbor Act or CDC moratorium.

If a tenant was served with a warrant of eviction before COVID, the parties will have another court date before the tenant can be put out.



Cases filed before March 17, 2020:

Until recently, eviction cases filed post-COVID were put on hold.

As of October 9, courts are allowed to schedule hearings for evictions filed after COVID.

For tenants:

If your landlord gave you a notice terminating your tenancy, and you did not move by the date on the notice, your landlord might file a holdover eviction proceeding against you.

If your landlord served you a notice for non-payment of rent, and you still owe rent arrears, your landlord might file a nonpayment eviction proceeding against you.



CDC Moratorium

The Centers for Disease Control and Prevention (CDC) issued a temporary, Federal moratorium on residential evictions through **December 31, 2020**.

The federal moratorium does NOT say that tenants do not have to pay rent. It also does not prevent landlords from charging late fees. If a tenant is causing a health or safety threat where they live, the ban does not protect the tenant.

Landlords are not allowed to evict any “covered person” where the federal ban applies.

“Covered person” includes any tenant, lessee, or resident who gives the required written statement (“declaration”) to their landlord or the person(s) with a legal right to bring an eviction.



CDC Moratorium

The declaration is a written statement that the tenant and all affected household members meet these 5 requirements:

1. The tenant has tried to get all available government assistance for rent;
2. The tenant meets the following income requirements:
 - The tenant doesn't expect to earn \$99,000.00 or more in 2020 (or \$198,000.00 if the tenant is filing their taxes jointly); or
 - The tenant and their family did not have to report any income to the IRS in 2019; or
 - The tenant received a stimulus check under the federal CARES Act.



CDC Moratorium

3. The tenant and their family can't pay the full rent because of:
 - A substantial loss in income because their hours at work were cut or because they lost their job;
OR
 - An extraordinary out-of-pocket medical expense.

4. The tenant has made best efforts to try to make some payment to the landlord. This is based on what the tenant can afford; and

5. If the tenant and their family are evicted, there would be a likelihood that they would have to live with family or friends, or be homeless.



Tenant Safe Harbor Act

The Tenant Safe Harbor Act (TSHA) provides that courts may not issue a warrant of eviction against a tenant, or a possession of judgment to a landlord, where a tenant or lawful occupant has suffered a COVID-19-related financial hardship and cannot pay the rent that accrues during the covered period.

- The covered period begins March 7th and runs through at least January 1, 2021.
- This defense will not prevent eviction for tenants who are considered a threat to other residents or the property where they reside.



Tenant Safe Harbor Act

Tenants may raise a financial hardship defense in eviction proceedings, and the court will examine several factors, such as:

- the tenant's income prior to the covered period;
- the tenant's current income;
- the tenant's liquid assets (cash); and
- the tenant's eligibility for and receipt of benefits like PA, TANF, SNAP, SSI, SSD, unemployment, and other Federal and state benefits.

On September 28, 2020 the Tenant Safe Harbor Act was expanded and now applies to tenants who were served with eviction warrants before the pandemic started.



Tenant Safe Harbor Act

If a tenant has a defense under the Tenant Safe Harbor Act, the landlord might get a money judgment against the tenant, but the tenant cannot be ordered to vacate the unit until the covered period ends (January 1, 2021 at earliest).

If a tenant has not suffered a financial hardship during the covered period, the TSHA likely does not apply, and a warrant of eviction could be served as soon as the day after the court date.



Frequently Asked Questions



What's the difference between a nonpayment eviction and a holdover eviction?

A non-payment proceeding involves rent that is owed.

A holdover proceeding involves a tenant staying past the date they are allowed to reside at the property.



What notice is required before court?

Landlord must serve 14-day written pay-or-quit notice before filing non-payment eviction proceeding (increase from 3-day written or verbal demand).

The eviction petition must be served at least 10 days and not more than 17 days before the hearing date.

Where there is an issue of fact to be tried, either party is entitled to a 14-day adjournment from the court date to prepare.



Can landlords evict for late fees?

Late fees cannot be part of an eviction petition for non-payment of rent. Non-payment eviction petitions may only include a demand for rent, not fees.

In New York State, the Tenant Safe Harbor Act prohibits landlords from charging late fees during the covered period.

Limitation on late fees: Late fees can only be charged if the rent is more than five days late. Late fees cannot exceed \$50 or 5% of the monthly rent, whichever is less.



How soon can tenants be put out after court?

A warrant will execute no sooner than 14 calendar days from the date it is served (up from 72 hours).

If a tenant can pay the rent that is owed at any time after court but before the warrant executes, the tenant can bring the money to court and the warrant should be vacated.

A tenant can request an extreme hardship stay after the issuance of a warrant. The tenant must deposit the amount of rent directed by the court in order to stay the warrant.



What about poor housing conditions and retaliation?

There is a rebuttable presumption of retaliatory eviction if an eviction case is filed within 1 year of a complaint regarding services/conditions to a landlord, his agent, or an agency.

Retaliation is not a complete defense in any eviction proceeding; it just shifts the burden to the landlord to give a valid, non-retaliatory reason for the eviction.

Retaliation will be an even weaker defense where the tenant owes rent. If the landlord has a non-discriminatory reason for the eviction, a retaliation defense will not provide useful for the client if he/she owes rent and has not saved the money.



& CITY OF BUFFALO CARES ACT RENTAL + MORTGAGE ASSISTANCE

FUNDING

Up to \$10 million in assistance available

Assistance is available for up to five months' worth of rental or mortgage arrears. The maximum benefit a household may receive is \$3500.



PROGRAM ELIGIBILITY

Applicants must meet the following criteria:

- (1) Household income under 85% of the New York State Median Income
- (2) Erie County Resident
- (3) Loss or reduction in household income due to the COVID-19 pandemic
- (4) Proof of rent or mortgage obligation



HOW TO APPLY

Application period will open October 1, 2020

Applications are available online at www.211wny.org or by calling 2-1-1.



REQUIRED DOCUMENTATION

Applicants must provide the following documentation:

- (1) Proof of Erie County Residency
- (2) Proof of Household Composition
- (3) Proof of Tenancy and monthly rent/mortgage amount
- (4) Proof of Income for all Household Members
- (5) Proof of Hardship due to COVID-19
- (6) Proof of Rent/Mortgage Arrears since March 2020



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Documentation Requirements

State Median Income Eligibility by Family Size

Family size	85% SMI NY (FFY 2020)
1	\$42,405
2	\$55,453
3	\$68,501
4	\$81,549
5	\$94,597
6	\$107,645
7	\$110,091
8	\$112,538

Live Well Erie County/City of Buffalo Prevention Documentation	Source
Proof of household and address	ID, household member ID, utility or other bill in tenant name/same address
Financial Hardship/Proof of Loss of Income due to COVID	3 rd party documentation (letter from employer, employer verification, layoff notice, paystubs pre and during COVID reflecting reduced hours, healthcare professional note tenant unable to work, bank statements reflecting reduced income or *self-certification form
Income Eligibility at 85% of State Median (do not county extra \$600 UI), Pre-COVID/Post-COVID	Tax forms, pay stubs, unemployment book, Medicaid, TANF, SNAP eligible, other proof of income, HUD Income eligibility calculator, Verification of Income form, *self-certification if reporting zero income
Proof of residence or tenancy	Current lease, original lease, notification of month to month agreement from landlord
Unpaid rent statement	From landlord
Lacks sufficient resources to pay back rents	Bank statements, *self-certification
Landlord statement of back rent on signed RAA	RAA Rental Assistance Agreement and W-9



Housing Surge Starts Nov. 1, 2020

- **Goal:** to quickly house homeless individuals , providing rental assistance, case management , and a landlord incentive bonus to 50 landlords with studio apartments, and one bedroom units, who will work with our Case Managers to house and keep clients housed

Landlords Needed:

- One year lease for studios and 1 unit bedrooms in the City of Buffalo
- To qualify units must pass HQS inspection.
- Eligible landlords who participate in the housing surge a \$1,200 bonus broken into two payments (\$600 at start of lease, \$600 at end of lease) security deposit, guaranteed rent, and case management.
- Begins November 1, 2020
 - if interested , please contact **Pemba Sherpa** (pcsherpa@buffalo.edu) to add your unit and name to our list. We will follow up with you.



Mayor Byron W. Brown and The Division of Citizen Services Present

MANAGING RENTAL PROPERTY DURING COVID-19 WEBINAR

WEDNESDAY, OCTOBER 21, 2020
10:30am - 11:30am

JOIN THE FREE WEBINAR FOR INFORMATION ABOUT:

The federal CDC eviction moratorium announced Sept. 2020

Resources available for tenants unable to pay rent

FEATURED SPEAKERS:

KATELYN NIEDERMIER – NEIGHBORHOOD LEGAL SERVICES

SUSAN LUMADUE – SENIOR HR PLANNER,
DEPARTMENT OF COMMUNITY SERVICES

The webinar will start promptly at 10:30 am

REGISTER AT:

<https://www.buffalony.gov/850/Landlord-Training>

For more information, contact the Division of Citizen Services at

citizenservices@ch.ci.buffalo.ny.us

Part of a new City of Buffalo Landlord and Tenant Engagement Series

On behalf of Mayor Byron W. Brown and the planning committee :

Oswaldo Mestre, Director of the Division of Citizen Services

Anna Falicov, City of Buffalo Legal Department

Lou Petrucci, Deputy Commissioner of Permits & Inspection

Juweria Dahir, Division of Citizen Services

John OBrien, City of Buffalo Legal Department

Christian Soto, Division of Citizen Services

Jeffrey Hooper, Permits & Inspection

Thank You!