

Episode 7  
Practicing on the Front Lines of Landlord-Tenant  
Regulations and Housing LawBy [Rachel Maimin](#) and Kim Skadan  
May 2022

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**Rachel Maimin:** Hello and welcome to "Regulatory Matters", a podcast devoted to covering the ever-changing regulatory landscape affecting business today. I'm today's host Rachel Maimin, here with my guest and friend, Kim Skadan, Civil Practice Supervising Attorney Trainer at The Legal Aid Society. Kim specializes in protecting the rights of tenants, and in housing law. Kim, can you tell us a little bit about what you do as a supervising attorney trainer in the area of housing law?

**Kim Skadan:** So about two years ago, I switched over from representing individual tenants in housing court in Brooklyn to training citywide. Training mostly our new staff, because of the recent right-to-counsel law enacted in 2017. We actually have a mandate to represent more individuals facing eviction, and therefore we are hiring more attorneys. So we've now had large classes of attorneys starting in sort of academic cycles, like you might have in mid law. And so my job primarily is to train them.

**Kim Skadan:** We do a very long, robust training program. Some might say it's too long. Where we sort of go through what it means to practice housing law, what the cases are like, what to expect, how to draft papers, how to interview clients, work with interpreters. It's a very robust program and I don't do all the trainings myself. We have a huge number of experts in our organization who partner with us to train. And so it's very exciting. It's very fun. It's very satisfying. It's nice to have sort of the perspective of seeing new attorneys coming out of law school and introducing them to this very sort of Byzantine, complicated, I think someone called it a thicket, of regulations and case law. And so we hopefully prepare them for when they have their own cases and are in court.

**Rachel Maimin:** Can you imagine a harder job than the one that you have?

**Kim Skadan:** Yes. Actually I think being on the front lines, as we call it, is very challenging. So I actually really love the shift that I made a couple years ago to training. Because I really see myself as a source of support for our staff attorneys, in particular, in the housing courts. So it's a much gentler side of the world of

tenants' rights advocacy, which is a very admittedly hard place to be practicing.

**Rachel Maimin:** But you were on the front lines for a while. So we'll want to talk about that.

**Kim Skadan:** Yes. I started out, actually, I had a fellowship in Massachusetts representing tenants facing eviction. And that actually coincided with the 2008...

**Rachel Maimin:** Financial crisis?

**Kim Skadan:** Financial crisis, and landlords increasingly losing their properties to foreclosure. And so we were sort of stepping into that gap and trying to help tenants whose landlords became Washington Mutual Bank, and all these other big banks. So it was a very interesting time to be practicing. And Massachusetts is a completely different landscape in terms of tenants' rights and recovery. So it was a great place to get started, but I had always wanted to be in New York City. So I applied to The Legal Aid Society and I was hired to represent seniors facing eviction in Brooklyn with The Legal Aid Society's Brooklyn Office for the Aging. And so I did that for many, many years. I think, 11 years. And it was very challenging and very rewarding and everything in between. Just learning and understanding how to be a lawyer in a pretty cutthroat, pretty heated environment, where we actually handle our cases on an individual basis.

**Kim Skadan:** So while I was very fortunate to have an amazing supervisor, I was on my own a lot of the time, needing to have a mastery of the facts of my case, and the application of the law, of course, and to be ready at an instant to fight in court in front of the judges or just in the hallways about my client's rights. It was very intense. And, like I said, very rewarding. I always said to my clients, sort of the gift that I can give you is that I can go to court for you and you don't have to go. Because where I practiced in Brooklyn, which is still the case, it's not actually a courthouse, it's an office building converted into a courthouse, which presents all kinds of problems. But it's a very loud and very intimidating place to be if your home is at risk. And if you don't need to be there and you can have a representative go in your stead, it is, for a lot of people, it's beneficial. Certainly it's always up to the client.

**Rachel Maimin:** I think there's sort of a prevailing view, among some people, that landlord tenant regulations are skewed against the tenant. And are, if not designed to, actually do make lives harder for the tenants. Is that true?

**Kim Skadan:** That's an interesting question because I thought you were going to say skewed against the landlord because that's what I often hear from the landlord.

**Rachel Maimin:** Okay. That's interesting. So tell me both.

**Kim Skadan:** I mean, I think what's really interesting about this question and what I've sort of learned over the years, having gone straight from undergrad to law school—so really not a lot of life experience prior—I sort of realized that the nature of housing, as I call it, housing law, you're really dealing with someone's home versus someone's business. And those are just such a

strong juxtaposition. And so obviously there are small landlords who maybe live in the building. And it's a two family. And that's a very different situation, of course, than we've seen now with large corporations acquiring properties and getting into the business of residential rental properties. And so it's really from wherever you're standing, you're going to see what's fair. And so I think a lot of tenants feel, in New York City, feel that there are a lot of inequities. And I think there are, I've seen it. Particularly in the realm of warranty of habitability. The standards are very low.

**Rachel Maimin:** Can you just explain what that is briefly.

**Kim Skadan:** Sure. So there's an implied covenant in any kind of residential landlord-tenant agreement that the landlord warrants habitability. So that the condition of an apartment is fit for human habitation. And that standard, in my opinion, is pretty low in New York. For lots of reasons. Enforcement is almost impossible. There's millions of apartments, 50 judges, probably less than that. And so, we have Department of Buildings, we have Department of Housing, Preservation, and Development, but to stay on top of that in a way that's effective is very difficult. So we see lots of very sad situations of tenants who are sort of stuck in apartments that really have a lot of serious problems.

**Rachel Maimin:** Do you think that there are regulatory changes that could be made to improve it? Or is this just a reality of life in a big city?

**Kim Skadan:** I think a little bit of both. I mean, there are regulatory, I mean, there's fines, landlords have gone to jail for being in contempt of court. There are definitely incentives to keep apartments habitable, but I think that the challenge is just the sheer volume.

**Rachel Maimin:** One thing that I learned about you, that I thought was very interesting, is that although you've devoted your career to protecting the rights of tenants, your dad is a landlord. So explain how that has affected your career choice, and how it has affected the way you look at your cases, if at all.

**Kim Skadan:** I think that's a great question. My dad actually became a landlord after I started practicing, and I went on record to discourage him from doing it. It is, I think, for an individual, he has a partner, but for individuals to get into this, it's a very personal, like I said before, it's a very personal type of business if you're looking at it from the landlord's perspective. You're dealing with individuals who are different from you in lots of different ways and you need to often get on the same page as them for whatever reason. And so if you look at it sort of like as a client relationship, it can be really challenging. Because in some ways they're your client and some ways they're not. So because you have an interest in them continuing to pay the rent and let you in if there's a water leak, things like that.

**Kim Skadan:** So it's a very challenging relationship and I was not in favor of it, not because I think it's a bad business necessarily, but I just thought that it would be a lot, but he loves it. It's a great retirement job for him. And he's sort of the resident super. It keeps him busy. And I joke that he's like too good of a landlord. He's in there steam cleaning the carpets by himself and volunteering to replace

tenant's appliances when he feels like maybe you need a new stove and things like that. So it's very sweet and it seems to be working out. He's been doing it for almost 10 years now.

**Kim Skadan:** In terms of the way it impacts my perspective, I definitely feel protective of him. And I want to make sure that he's able to do this without a lot of conflict. Because the conflict that I see is it's all consuming. Even as an advocate, sort of as a third party, it's very consuming to be witness to that and to try to resolve it. So I was concerned about that. And I do recognize, in my practice, that small landlords, like my dad would be considered a small landlord. His building is 10 units and it's his only building. It's a very different perspective. And it's a very different calculation. That being said, I also know what banks require in terms of mortgages and landlords' attorneys make certain claims about sort of what we call like praying poverty. I know a little bit more about what's behind that. And I know that that banks do require that landlords will anticipate snags. And so that they have reserves. So it's an interesting, I have a lot of compassion, of course. And I also have a little bit extra knowledge.

**Rachel Maimin:** Interesting. So this has given you, maybe a little bit more ammunition in your current job, seeing it from the other side. Because you maybe see some of the things that are being said by your opponents are not necessarily realistic, is that right?

**Kim Skadan:** I think so. I mean, especially to the extent that people are arguing that they can't do any repair work, because that's their legal obligation, and they need to be able to afford to do repairs that are mandated by law. And when they say they can't afford it, then maybe this is not the right business for you because it's not fair to the tenant. And knowing too, that that may not be the truth because I would be hard pressed to imagine that person was able to get a mortgage if they didn't have enough to finance repairs as necessary.

**Rachel Maimin:** Sounds like you have a much more balanced view than people who have devoted their entire life to one side of a regulatory issue. You've felt that way?

**Kim Skadan:** Well, I definitely feel very strongly in tenants' rights movement in that, because like what I said before, that this is inherently a very different and the priorities are so different that I don't know, balanced is a hard word for me. I'm not sure I would say balanced. But I think that I can understand what an individual landlord might be thinking, and sort of how they might be approaching a case than in terms of when it comes to like larger corporations owning lots and lots of buildings. And I don't think that the scales are equally weighted. So it's hard to say, like my dad's in a different city, so in a smaller city. So it's a very different, I certainly see the perspective of carefully watching what local politicians are saying in city council meetings.

**Kim Skadan:** I've had lots of conversations with my father about sort of the real estate lobby where he is, which is very interesting. I can understand the concerns. When they talk about, I'm putting air quotes here, rent control, because that's sort of a legal term of art that really doesn't mean anything until you see what's actually written down and proposed. But I can see from perspective of

a small landlord in a smaller city, the concerns. But it's, New York is just so unique. I'm sorry to go on and on, but balance-

**Rachel Maimin:** No, that is, we love to hear about it because I don't think a lot of people know about this area of the law. It's just totally separate from what most lawyers practice.

**Kim Skadan:** Yeah, it is. And I think it's probably more akin to family law or to something, it is a business. It is considered a business law kind of thing because it's the landlord's business, but it has this deeply personal side that I think is very unique and really challenging.

**Rachel Maimin:** So during the COVID pandemic, it seemed like the governor was using his regulatory powers to protect tenants from eviction. Do you think that was the right approach? Do you think it was an effective approach? And what is going to happen now?

**Kim Skadan:** Well, the upshot is that we got \$2.3 billion from the federal government to distribute to landlords, to make up a difference in rent that they might have lost during the pandemic. So those funds are now going out. That's called ERAP, emergency rent assistance program. So landlords are hopefully getting reimbursed for any rent that they have lost. The eviction moratorium was absolutely appropriate.

**Kim Skadan:** We had an amazing law professor come and present to us, Professor Emily Benford, and she's a health law professor. And she worked with a group of scholars to study the correlation between eviction and increased rates of death during the pandemic. And they calculated that about 10,000 people, she presented this to us in the fall of 2020, so at that time they calculated that 10,000 people who'd been evicted directly lost their lives because exposure to COVID-19. And so if you imagine the scale of potential evictions, in New York City alone, during the height of the pandemic, I mean, it would've affected all of us and would've increased the spread of COVID-19. So I feel very strongly that we saved lives in having that moratorium in place. Economically, I know that there's a lot of concern obviously about that. And we're hopeful that the ERAP program will address that. It's hard to say at this point. We're sort of watching it in real time.

**Rachel Maimin:** Can you tell us a little bit about the ERAP program?

**Kim Skadan:** I'll do my best. I was doing more with it earlier. So essentially the federal government's bill that distributed money to states for COVID recovery, part of those funds were allocated towards rent, to reimbursing landlords for any rent losses. So in a strange way, the way that went about was actually the tenants had to apply for the funds, and in so doing would get a stay in any court case that they had pending approval of the funds. So it was a way to slow down, and sort of slow down the eviction rate, and make sure that the courts weren't getting inundated, and also to transfer money to the landlords. I have my opinion on the efficacy of that plan, but the money is there and is being distributed. And I believe landlords are starting to get it now.

- Rachel Maimin:** Understanding that your opinions are yours alone and not those are the Legal Aid Society, what are your opinions?
- Kim Skadan:** About ERAP?
- Rachel Maimin:** The efficacy of it? Yeah.
- Kim Skadan:** Oh, right. Yeah. I mean, I think the fact that it had to go through tenants and who may not necessarily... It was all online. So the only way tenants could access the application was online. Which, as somebody who worked with elderly folks, many of whom didn't even have a cell phone, this was really problematic. And so we can see immediately some gaps in access. And the fact that these less sophisticated actors are sort of being the go between here to businesses is not, I don't think a very sensible plan. But I wasn't directly applying for ERAP funds on behalf of anyone. I don't have any active court cases. So I was just thinking about it from my perspective, as somebody who's represented... I don't like the word less sophisticated. That's sort of pejorative, but people who may not have as much technology literacy, as I think that Albany thought they might. So that's where we kind of, that's where I felt there was a big inequity.
- Rachel Maimin:** So speaking of inequity, I know that now your job is teaching those folks, like you said, on the front lines, trying to protect the rights of tenants. And you mentioned earlier that you think one of the greatest responsibilities of a lawyer is making sure that their client doesn't have to fend for themselves essentially. That the lawyer is there so the client doesn't have to be there. What other goals, and this doesn't have to be regulation related or even tenant related. What other major lawyer life skills do you tell the people that you train?
- Kim Skadan:** That's an interesting question. I mean, so much of individual litigation is having good client relation skills, which you don't necessarily learn in law school. And I don't think you're prepared for it. I mean, we talk a lot about how sort of its lawyer is social worker, which is a very challenging role to play. It, particular to our practice, we do spend a lot of time sort of counseling people about the choices that are available to them, and how we can guide them, and what our recommendations are, and how we can see people sort of in three dimensions. It's not just the words on a paper. It's not just sort of the facts of the case as they might look in a brief. And so to really understand and deeply internalize sort of what's going on in our client's lives, in order to best represent them and best guide them, is a skill that takes a long time to develop.
- Kim Skadan:** It's something that I feel is critical in a system that really does marginalize low income people, and low income people who are really often like voiceless. And so to be able to develop a relationship and to help someone feel heard, and someone feel that they were able to get through this process. We don't always win. We deal with a lot of cases where there's no merit regulation and so their options are very limited. But at least we have connected to them on a human level and helped walk through with them, the process, all the way to the end sometimes. Other times we have great results. So sometimes we're doing appeals. Sometimes we're appealing pretty high up. So there are so

some times where it's exciting and everybody sort of comes away feeling good, and there are other times where it's not. And learning how to navigate that, and not always have the expectation that it's going to be so formulaic, is a really hard thing to learn. And it's an important skill to develop, and it takes time.

**Rachel Maimin:** Thank you so much, Kim, for being here today and also for reminding us, as attorneys, no matter who we represent, but particularly where we represent marginalized or more vulnerable populations, that we act as their voice. And that might be our most important job. We wish you the best of luck in your career, as you continue to train young lawyers on the front lines to protect the rights of tenants.

**Kim Skadan:** Thanks, Rachel.

**Rachel Maimin:** So long, everyone.

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