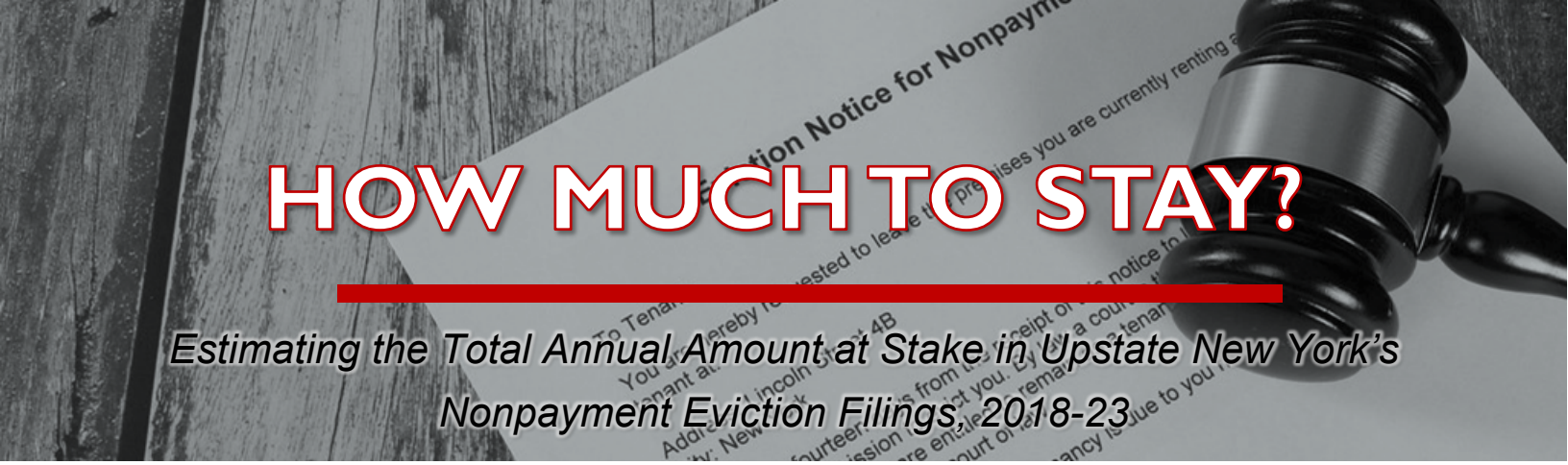


HOW MUCH TO STAY?

Estimating the Total Annual Amount at Stake in Upstate New York's Nonpayment Eviction Filings, 2018-23

Background

Almost immediately after New York State's (NYS's) COVID-19 moratorium on evictions expired in early 2022, the State saw "a resurgence of evictions being filed"[1] across the map. Soon thereafter, another critical pillar of NYS's tenant protection infrastructure, which was reinforced early in the pandemic to keep New Yorkers housed during economic crisis, came down. Namely, the NYS Emergency Rental Assistance Program (ERAP), which covered rental arrears for "low and moderate-income households at risk of experiencing homelessness or housing instability", ceased accepting new applications in early 2023.[2]

Whereas downstate tenant support programs that predated the coronavirus pandemic remain in place – such as the Family Eviction Prevention Supplement (FEPS), which, among other things, provides "a rent supplement [to] families with children who receive Cash Assistance and have been evicted or are facing eviction"[3] – the near-simultaneous death of ERAP and the moratorium left most upstate tenants with virtually no safety net to draw on in the event that they are confronted with a nonpayment eviction and cannot cover the amount(s) in question.

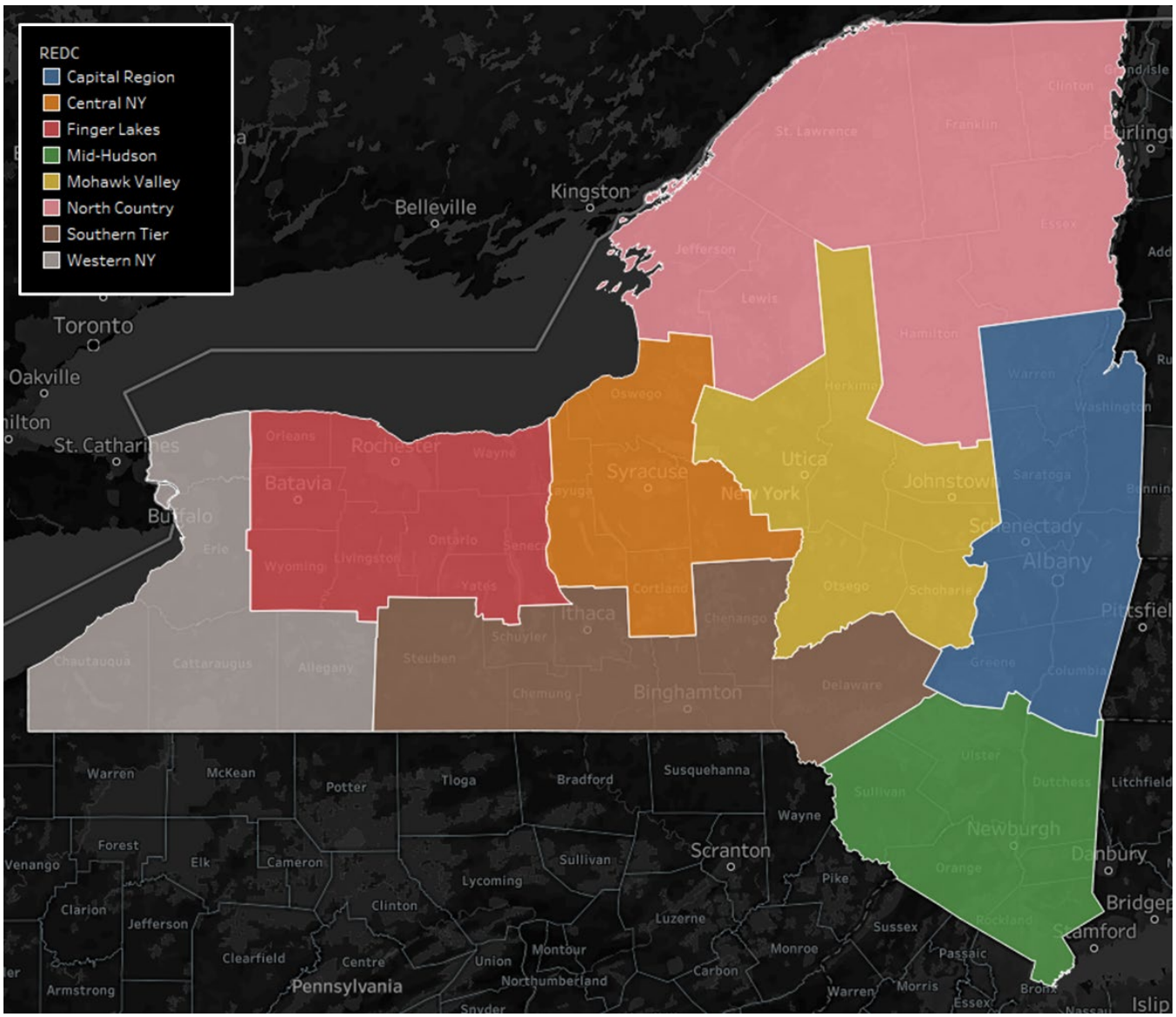
This memo summarizes data from annual city and district court eviction filings from 2018 through 2023 for upstate New York, to generate a rough estimate of the typical annual amount of rental arrears in question in nonpayment eviction cases outside of the downstate region.[4] In the two years prior to the COVID-19 pandemic (i.e., 2018 and 2019), claims made in such cases totaled approximately $90-$100 million per year. Since the pandemic began, however, even after assuming that some "catch up" was made necessary by the roughly two-year eviction moratorium, the average annual cost of upstate rental arrears has climbed to over $116 million. This observation is true despite the annual number of upstate eviction filings continuing to lag behind "pre-pandemic" levels in the aggregate.

While it is beyond the scope of this short memo to investigate why the cost of arrears has gone up as the number of eviction cases has fallen, there are at least two possibilities worth noting: (1) due to the moratorium successfully keeping tenants housed during the pandemic even when they were unable to make monthly rent, disproportionately many post-moratorium cases may involve multiple months of back rent compared to pre-pandemic norms; and (2) rents "went up nearly universally"[5] in New York, meaning that many newer cases are likely to involve

larger stakes (i.e., higher monthly rent prices) compared to pre-pandemic years. Although these possibilities are not evaluated in this memo, one should assume that both factors are involved, to varying degrees, in the patterns and trends summarized herein.

Defining Upstate New York

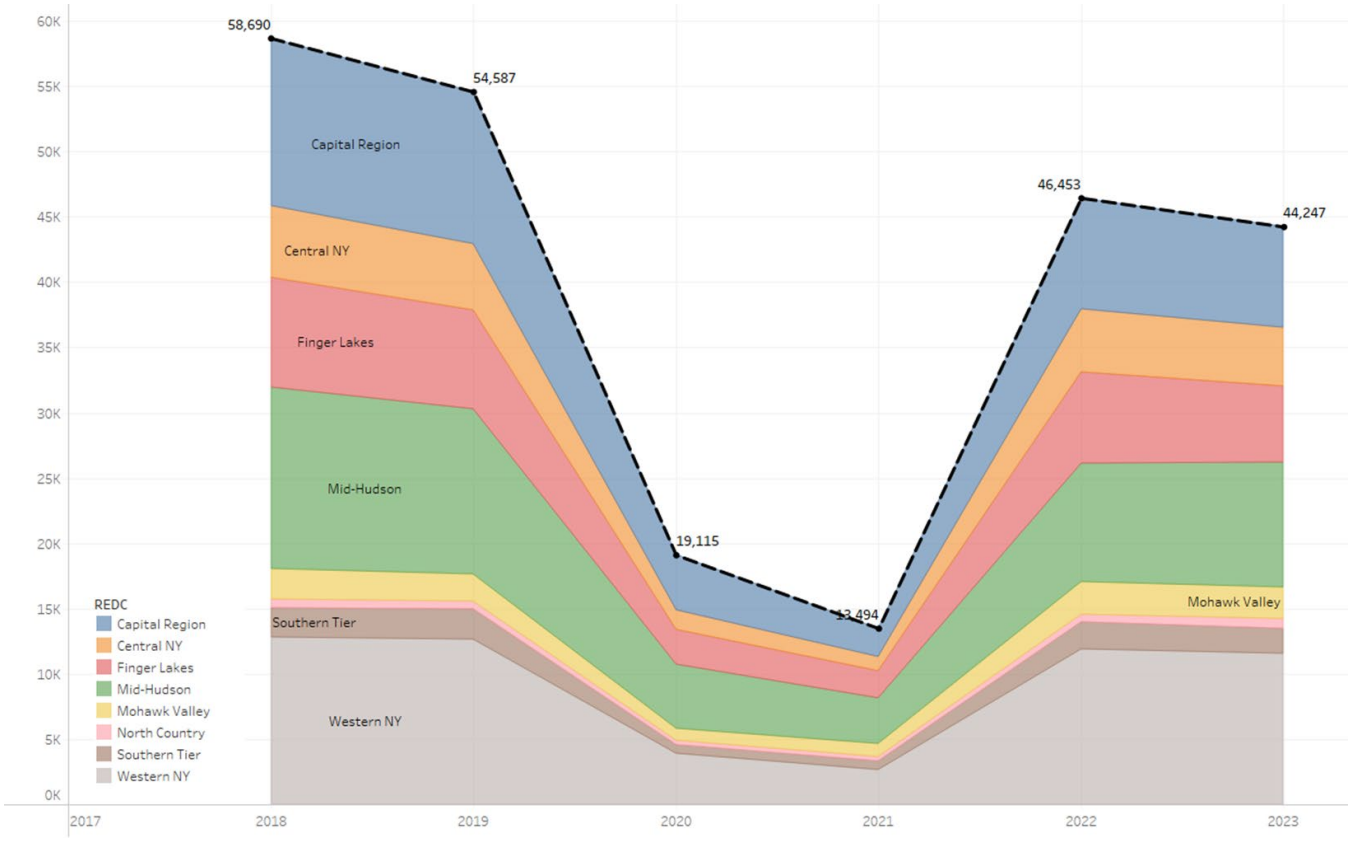
There is famously no shortage of debate on the exact meaning of "upstate New York";[6] however, for practical purposes, one can draw on NYS Regional Economic Development Council (REDC) boundaries. Specifically, the following map shows the eight "upstate" REDCs that lie wholly outside of the adjacent "New York City" and "Long Island" REDCs, the latter of which are collectively defined herein as "downstate".



How Many Evictions Cases Happen in Upstate NY?

Due to limitations with the NYS Unified Court System's (UCS's) public data on eviction filings, it is not possible to definitively answer the question of how many evictions cases happen upstate. The key limitation at issue is that the public data extracts contain "case-level de-identified landlord-tenant data…for all local civil courts, excluding Town & Village."[7] Consequently, the quantities reported in the remainder of this memo are necessarily *undercounts*, insofar as they omit the many Town and Village Courts that can be found upstate. Nevertheless, the figures act as a starting point for estimating approximately how large a fund would be needed to cover rental arrears for all tenants facing eviction in upstate NY. To begin that estimation process, the following figure graphs the annual number of "upstate" (i.e., NYS excluding the NYC and Long Island REDCs) eviction cases contained in the NYS UCS public data extracts.

Annual Number of Eviction Filings in Upstate NY, 2018-23, by REDC

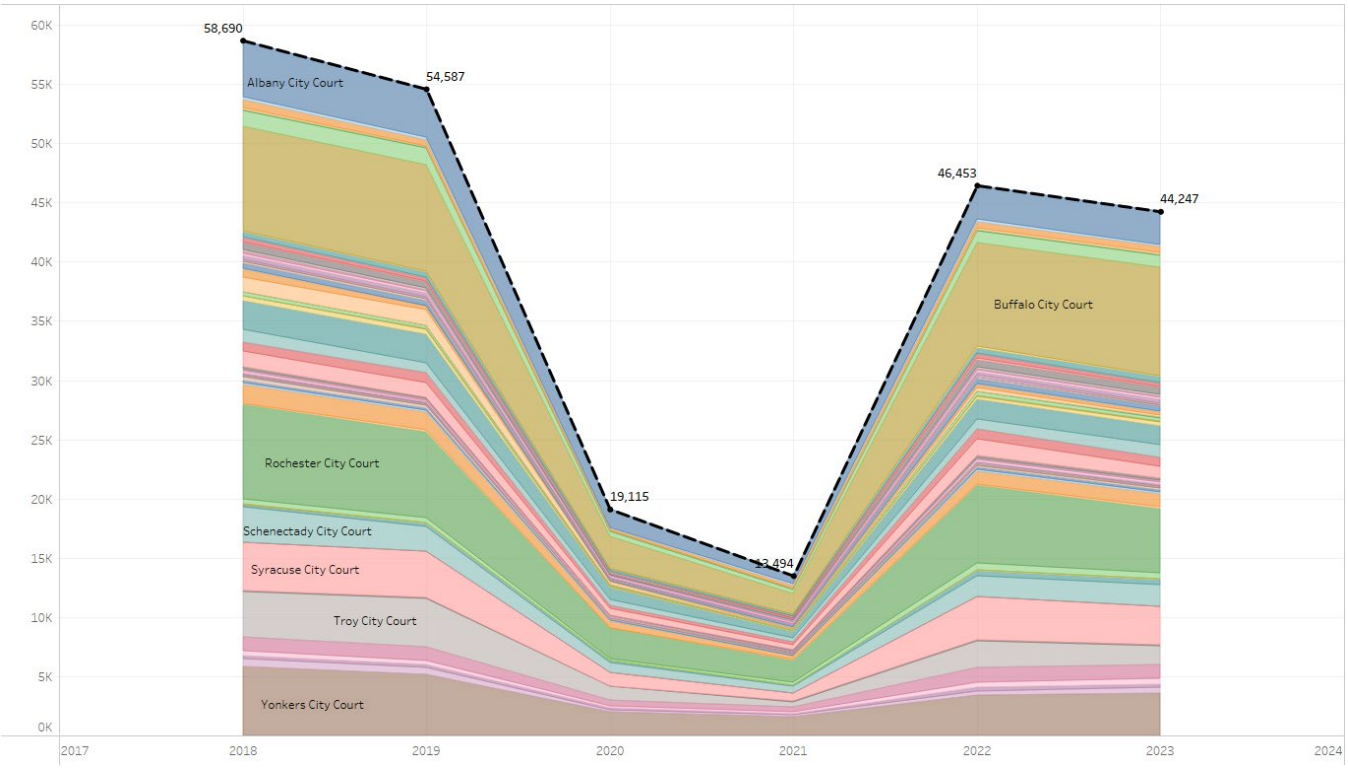


As shown in the preceding graph, prior to the pandemic (in 2018 and 2019), upstate City and District Courts processed between 50,000 and 60,000 eviction cases per year. These figures fell dramatically in 2020 and 2021 due to the active presence of the pandemic-related eviction moratorium. Following that moratorium, which expired in January 2022, upstate eviction cases

shot back up to between 40,000 and 50,000 per year – though filings are still trailing somewhat behind pre-pandemic levels. By volume, the Western NY REDC, which is home to the State's second-largest city in Buffalo, is expectedly linked to the most cases, with the Mid-Hudson and Capital REDCs rounding out the top three.

The next figure shows the same filing information broken out by City and District Court as opposed to REDC. Due to the large number of upstate courts represented in the graph, not all are labeled, and a legend is omitted. The key takeaway from the figure is that, among upstate court systems, Buffalo City Court and Rochester City Court tend to experience the largest volumes of annual eviction filings.

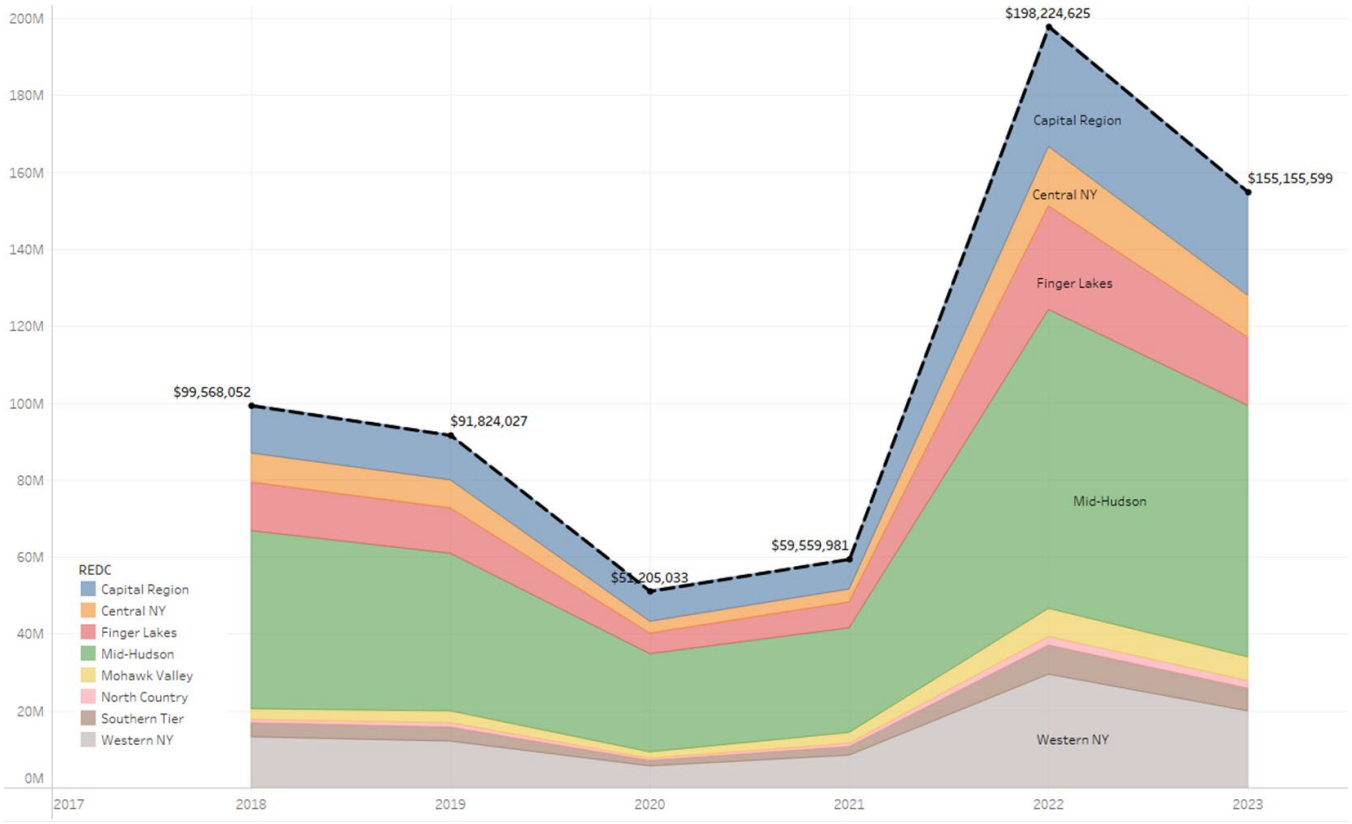
Annual Number of Eviction Filings in Upstate NY, 2018-23, by City & District Court



How Much Are the Total Rental Arrears at Stake?

With the exception of one upstate court system,[8] all courts represented in the NYS UCS public data extracts reported the total dollar value, summed over all causes of action, at stake in each nonpayment eviction filing. The figure at the top of the next page adopts the same visual conventions as the eviction filing graph from above to show the total annual amount in question in upstate NY's nonpayment eviction cases since 2018, both overall and by REDC.

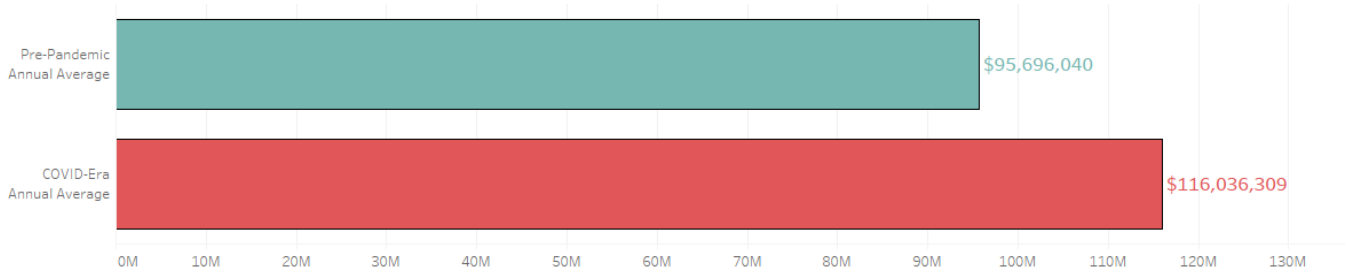
Total Annual Rental Arrears Contested in Upstate NY Eviction Filings, 2018-23, by REDC



Prior to the pandemic, the total amount at stake in upstate NY's nonpayment eviction cases was on the order of $90 million to $100 million per year. That figure dropped off dramatically in 2020 and 2021, while the NYS eviction moratorium was in place; however, the expiration of that moratorium saw contested rental arrears in upstate NY soar to between $150 million and $200 million per year.

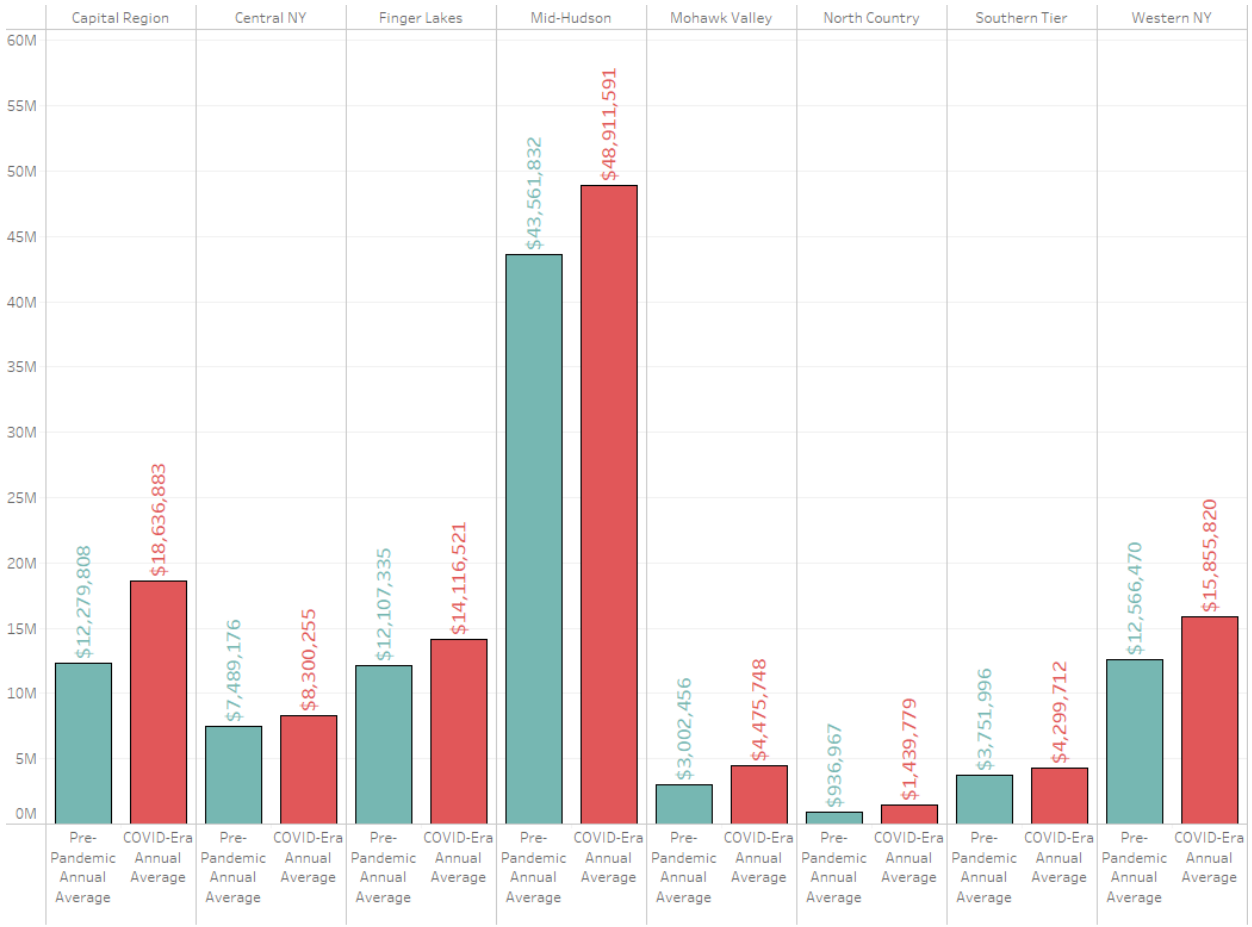
Although it is tempting to say that current annual arrears are one-and-a-half- to two-times as high as they were pre-pandemic, it is important to recognize that nonpayment cases – as well as the amount of arrears contested in those cases – built up during the almost two-year statewide eviction moratorium. Thus, it is useful to "smooth out" the valley and peaks of the past four years of data. Specifically, the figure on the top of the next page compares the two-year annual average of nonpayment claims for the pre-pandemic years of 2018 and 2019 to the four-year annual average of such claims from 2020 through 2023. The point of making this comparison is to assume that the spikes observed in 2022 and 2023 were at least partially due to "build up" that transpired during the two-year moratorium. Along those lines, by averaging those two years' worth of high outliers with the two years' worth of low outliers during the moratorium, one should be able to get a sense for how current annual average rental arrears compare to their pre-pandemic counterparts.

Average Annual Rental Arrears at Stake in Upstate NY Nonpayment Eviction Cases, Pre-Pandemic (2018-19) v. COVID-Era (2020-23)



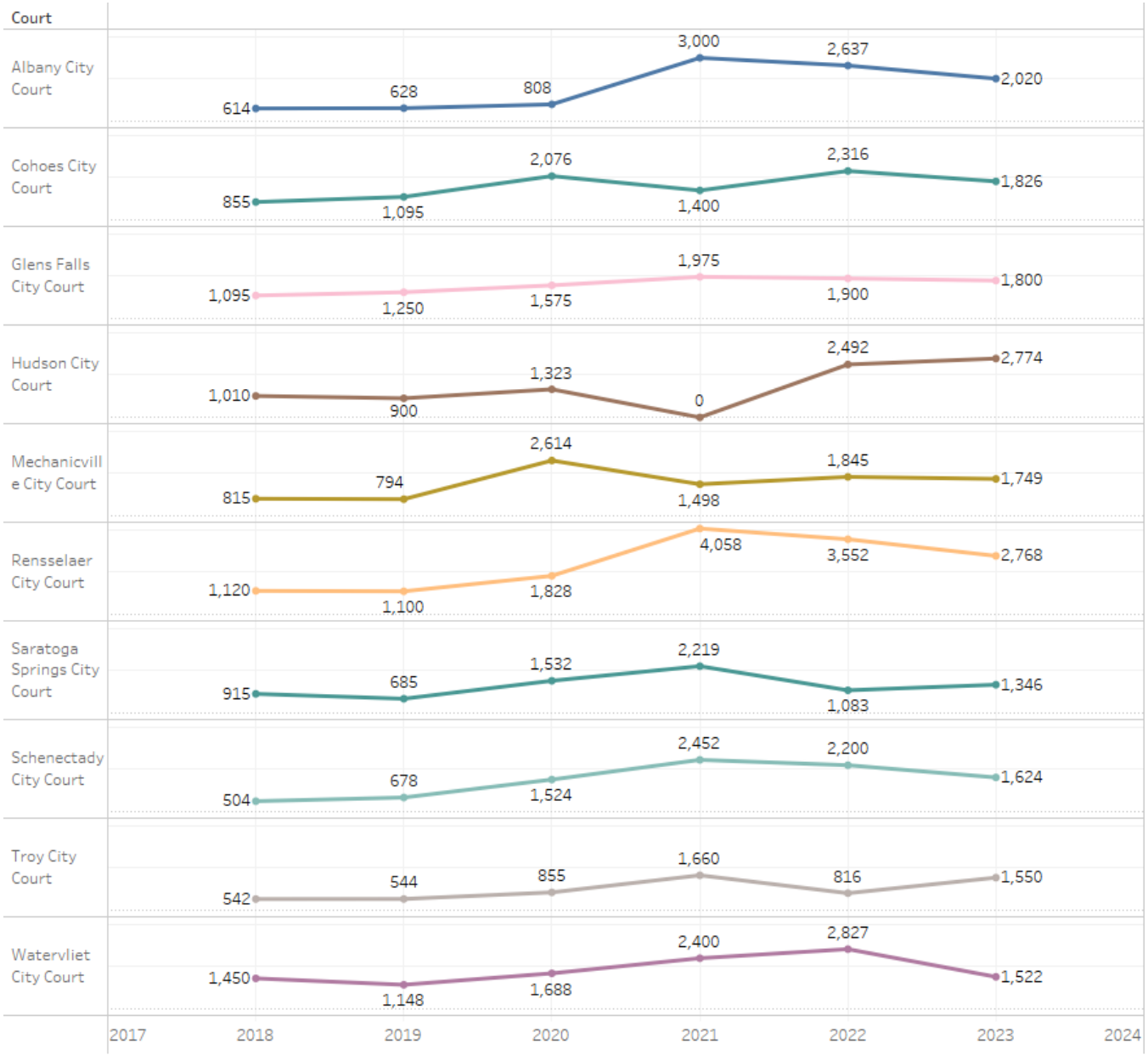
As shown above, the annual average amount in contest in upstate NY's City and District Court evictions cases jumped by more than $20 million during COVID, even after "smoothing out" the peaks and valleys associated with the two-year moratorium and subsequent two years of potential "build up". Whereas these increases occurred throughout upstate, as depicted below, the largest annual increase occurred in the Capital region (increase of more than $6 million per year), followed by the Mid-Hudson REDC (+$5.4 million) and Western NY (+$3.3 million).

Average Annual Rental Arrears at Stake in Upstate NY Nonpayment Eviction Cases, Pre-Pandemic (2018-19) v. COVID-Era (2020-23), by REDC

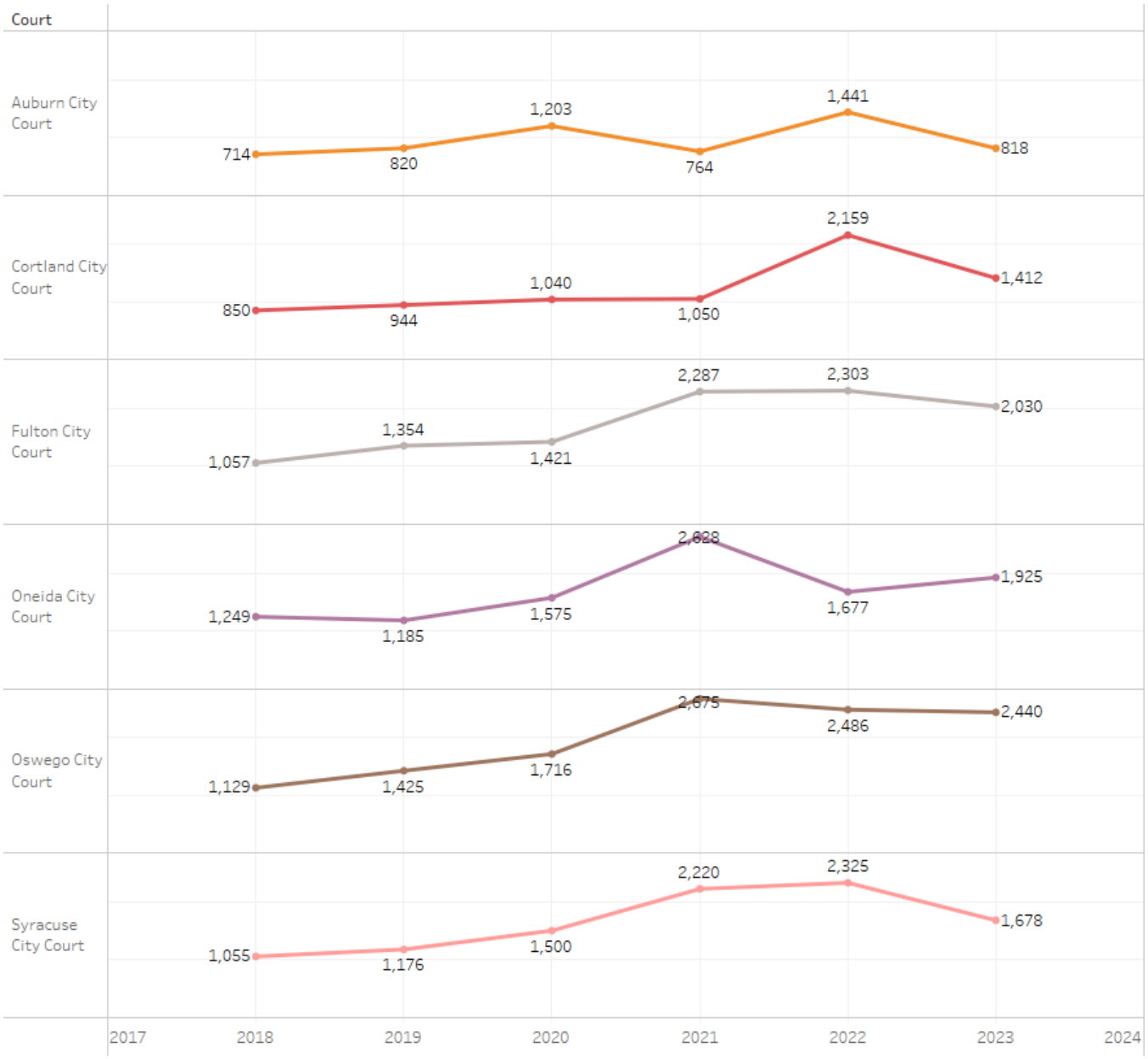


Finally, the following series of eight graphs shows, for each REDC (in alphabetical order), how the *median case-level nonpayment claim* changed between 2018 and 2023 in each City and District Court system. The overall tendency across court systems was for the median pre-pandemic (2018-19) nonpayment claim (i.e., the claim amount involved in a typical nonpayment case) to double during the pandemic (2020-23).

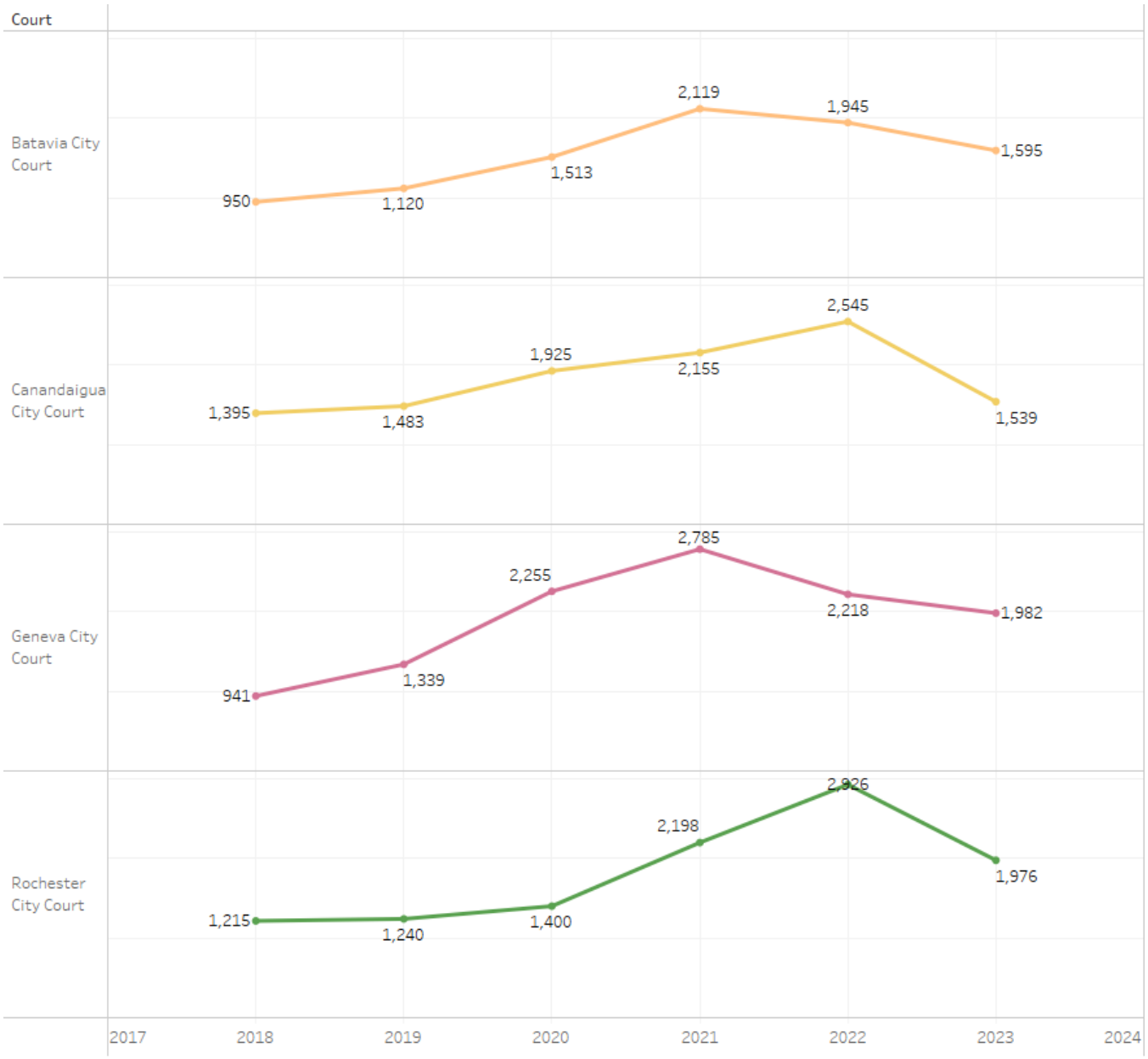
Median Nonpayment Claim, by Court, 2018-23, Capital Region REDC



Median Nonpayment Claim, by Court, 2018-23, Central NY REDC



Median Nonpayment Claim, by Court, 2018-23, Finger Lakes REDC



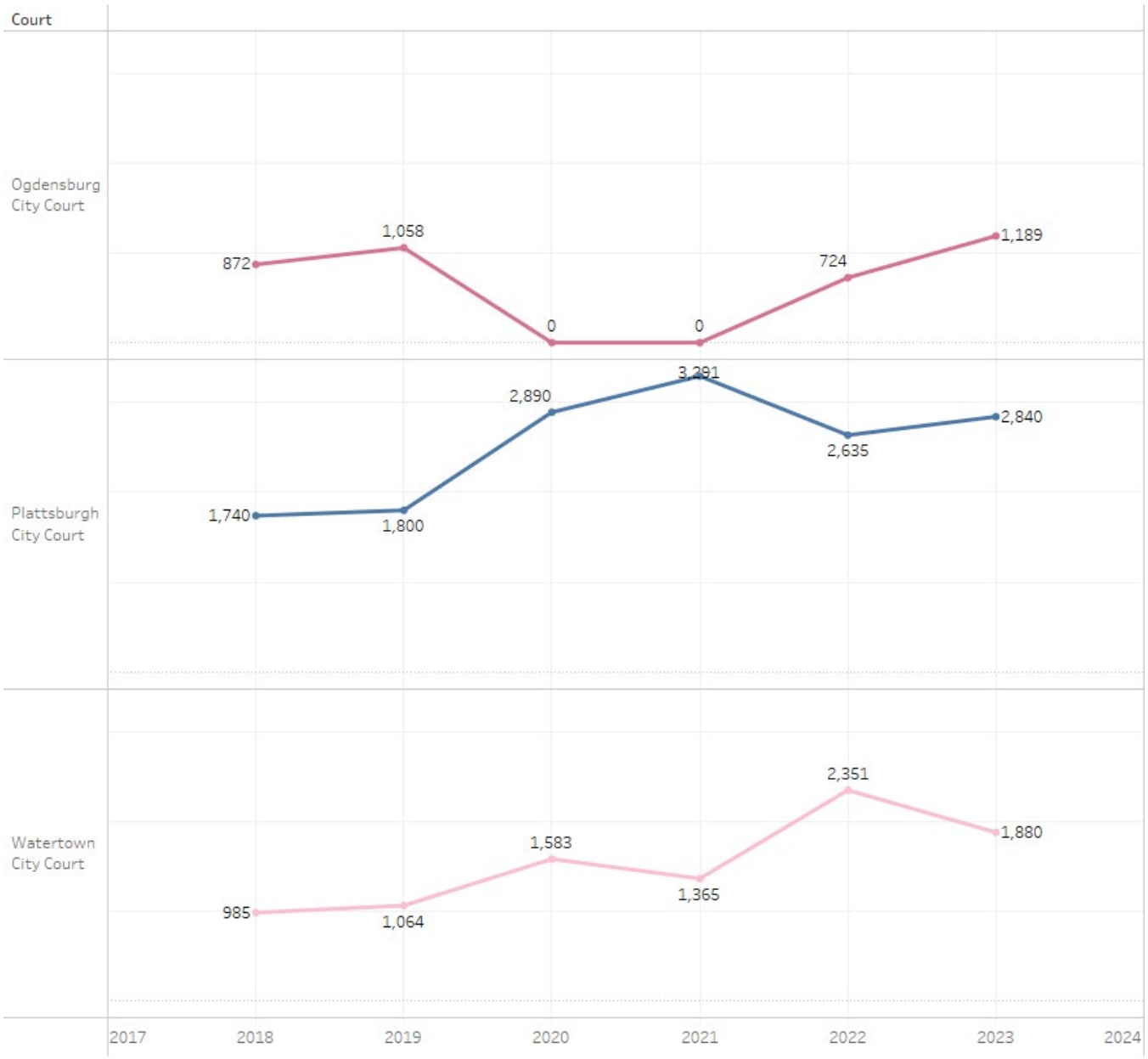
Median Nonpayment Claim, by Court, 2018-23, Mid-Hudson REDC



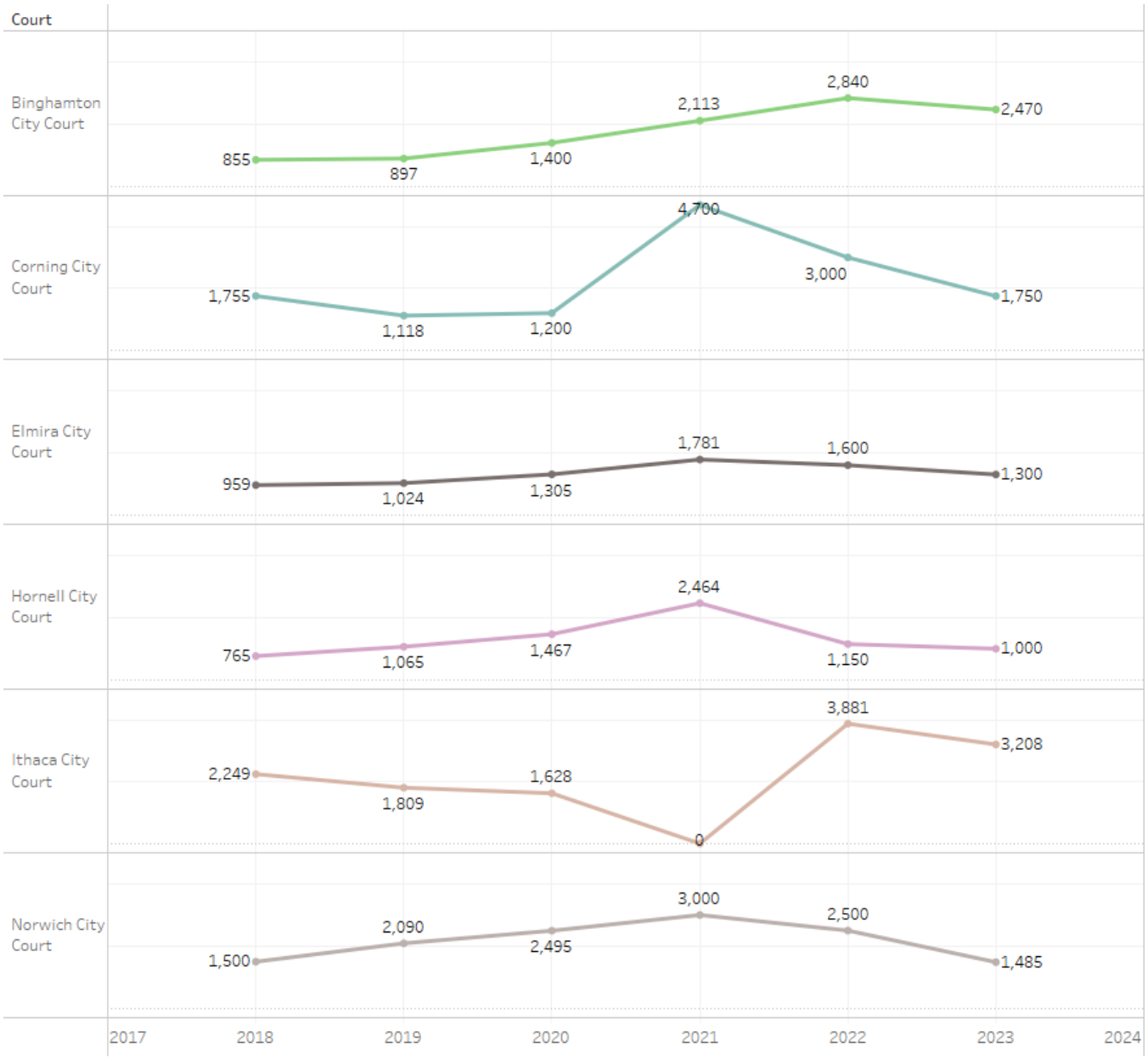
Median Nonpayment Claim, by Court, 2018-23, Mohawk Valley REDC



Median Nonpayment Claim, by Court, 2018-23, North Country REDC



Median Nonpayment Claim, by Court, 2018-23, Southern Tier REDC



Median Nonpayment Claim, by Court, 2018-23, Western NY REDC*



*Refer to endnote #7 regarding claims data from the Buffalo City Court system

Conclusion: How Much Might an Upstate NY Rental Arrears Program Cost?

Based on trends observed since the start of the COVID-19 pandemic, a conservative estimate for how large a fund is needed to cover all upstate rental arrears in a given year and keep tenants housed is on the order of $115 million per year (refer to the figure at the top of page 6). Whereas a fund of approximately $100 million per year might have been sufficient prior to the pandemic, it appears that some combination of (1) multiple months of back rent and (2) higher rents is putting strong upward pressure on rental arrears in upstate NY. Importantly, an estimate of $115 million per year does not include the costs of administering the fund and providing technical assistance to the local governments that would inevitably be charged with distributing funds in their jurisdictions. Such costs would demand a higher annual budget allocation for an upstate NY back rent program.

While it is beyond the scope of this memo to estimate the costs of administering an upstate NY rental arrears program, the New York City (NYC) Family Homelessness and Eviction Prevention Supplement (FHEPS) program offers some instructive information. According to the NYC-based Citizens Budget Commission (CBC), in fiscal year 2023, the City of New York allocated $410 million to FHEPS.[9] Per the current (2018-22) U.S. Census Bureau Five-Year American Community Survey (ACS), there are 5,814,576 people living in 2,377,346 renter-occupied housing units in the two "downstate" REDCs (NYC and Long Island). Across the remaining "upstate" REDCs that are mapped on page 2 of this document, the ACS reports there are 2,370,264 people living in 1,099,058 renter-occupied households. In other words, "downstate" REDCs contain roughly double the renter population, and double the number of rental units, as "upstate" REDCs. Notably, the $410 million FHEPS price tag only applies to the five boroughs of NYC, and not the adjacent Long Island REDC. Thus, the true "downstate" annual cost of a FHEPS program would lie somewhere north of $410 million. If, conservatively, the cost of including Long Island in FHEPS raised its annual budget allocation to $500 million, then an upstate rental arrears program might come in at around half that price tag, or roughly $250 million per year, based on the relative size of upstate's renter population.

Of course, it is unlikely that any upstate rental arrears program would cover 100% of the amounts contested in 100% of nonpayment cases, given the propensity for social programs in the U.S. and NYS to be subject to means testing. Consequently, the true cost of endowing and administering a rental arrears fund for eviction prevention might end up being less than the figures reported in this memo. Still, if the short-term goal is to keep all tenants facing eviction housed and out of eviction court, then **an annual price tag in the range of $115 million - $250 million seems reasonable**, based on case-level data from upstate's City and District Courts.

At bottom, a rental arrears program for upstate NY will offer a lifeline to tenants facing eviction due to nonpayment in an environment of increasingly escalating rents. However, such a program is and always will be a temporary, short-term, band-aid solution to a structural problem with much deeper roots.[10] Longer-term, transformative policy solutions[11] will continue to be necessary to advance housing security,[12] prevent unjustified evictions, and keep New Yorkers in their homes across the state. As structural changes begin to attack the forces that create conditions of poverty and housing insecurity, fewer evictions proceedings should be necessary, and the annual cost of a rental arrears program will go down. Until then, however, it is critical for the State to rapidly increase its investments into tenant protections and related temporary assistance programs.

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Notes

[1] Persaud, Eric. "The Visibility of Evictions (an Image of Health)." *American Journal of Public Health* 113.2 (2023): 160-161. (p. 160).
[2] https://otda.ny.gov/programs/emergency-rental-assistance/
[3] https://www.nyc.gov/site/hra/help/fheps.page
[4] City and District court filings are published by the NYS Unified Court System for a rolling five years. Data are updated monthly. The author of this memo downloaded complete year-end data files for 2018 through 2023. The latter dataset was downloaded on 5 January 2024 and contained records through December 2023. The data are available at: https://ww2.nycourts.gov/landlord-tenant-data-34621
[5] https://www.cssny.org/news/entry/good-cause-eviction-rents-rising-low-income-tenants-unregulated-housing-apartments
[6] https://www.timesunion.com/hudsonvalley/travel/article/where-does-upstate-new-york-begin-17459400.php
[7] https://ww2.nycourts.gov/landlord-tenant-data-34621
[8] The exception is the highest-volume court system: Buffalo City Court. Whereas the 2018 public data extract seemed to contain complete information on claim values, these data are largely or exclusively missing for half of 2019, all of 2020, all of 2021, all of 2022, and nearly all of 2023. Thus, to perform this exercise, it was necessary to impute missing data for Buffalo City Court. This imputation was done by applying year-over-year (YoY) changes observed in the remaining eight court systems in the Western NY REDC – Dunkirk City, Jamestown City, Lockport City, Niagara Falls City, North Tonawanda City, Olean City, Salamanca City, and Tonawanda City – to the complete (2018) beginning data observed in Buffalo. The following table illustrates this process:

Year	Total Value of Claims ($)	YoY % Change in Remainder of WNY REDC	Estimate for Buffalo	Average YoY % Change in Median Claim Value, Remainder of WNY REDC	Estimate for Buffalo
2018	$3,645,029	--	$8,749,320*	--	$675.00*
2019	$3,267,563	-10.4%	$7,843,271	0.1%	$675.65
2020	$1,586,078	-51.5%	$3,807,131	38.0%	$932.35
2021	$2,430,823	53.3%	$5,834,809	21.6%	$1,133.85
2022	$8,320,227	242.3%	$19,971,395	28.3%	$1,454.58
2023	$5,650,845	-32.1%	$13,563,964	-16.5%	$1,214.35

*Known value; remaining values in column are estimates.
[9] CBC. (8 May 2023). "4 Fast FHEPS Facts." https://cbcny.org/research/4-fast-fheps-facts
[10] Madden, D., & Marcuse, P. (2016). In defense of housing. *The politics of crisis*.
[11] Weaver, R. (2023). *No Shelter, No Safety: How Rising Evictions in New York Could Pose a Risk to Public Safety – And How Eviction Prevention is Violence Prevention*. Cornell ILR Buffalo Co-Lab. https://blogs.cornell.edu/nysevictions/no-shelter-no-safety/
[12] Weaver, R., & Knight, J. (2020). *Advancing housing security: An analysis of renting, rent burden, and tenant exploitation in Erie County, NY*. Available at SSRN: https://ssrn.com/abstract=3778025