



# AGENDA REPORT

**TO:** Steven Falk  
Interim City Administrator

**FROM:** Emily Weinstein  
Interim Director  
Housing and Community  
Development Department

**SUBJECT:** Contracts for Owner  
Representation at RAP  
Proceedings

**DATE:** April 21, 2023

May 31, 2023

City Administrator Approval

Date: May 31, 2023

## **RECOMMENDATION**

**Staff Recommends That The City Council Adopt A Resolution Authorizing A Contract With East Bay Rental Housing Association For Provision Of Representation Services To Small Property Owners at Rent Adjustment Program Petition Proceedings And Housing, Residential Rent and Relocation Board Appeal Proceedings In The Amount Of \$150,000 From July 1, 2023 Through August 31, 2024.**

## **EXECUTIVE SUMMARY**

In May of 2022, Rent Adjustment Program (RAP) staff assessed its legal service contracts and determined that the greatest need in supporting equitable implementation of the program was to focus its resources on legal representation services to low- and moderate-income (LMI) tenants and small property owners in petition proceedings and the Housing, Residential Rent and Relocation Board (HRRRB) appeal proceedings. Thus, with the goal of achieving a right to counsel model in RAP hearings proceedings and to implement a new Right to Representation at RAP Hearings Program, RAP staff initiated a Request for Proposal (RFP) process for legal representation services in May of 2022. Upon the Office of the City Attorney's review, the Department of Workplace and Employment Standards (DWES) published the RFPs in May of 2022. RAP staff received only one response each for tenant services and small property owner services, from Centro Legal de la Raza (CLR) and the East Bay Rental Housing Association (EBRHA) respectively.

On November 1, 2022, the City Council (Council) adopted the Resolution No. 89483<sup>1</sup> approving a contract with CLR for legal representation of low-income tenants in RAP proceedings. Regarding staff's recommended contract for legal representation services of small property

<sup>1</sup> <https://oakland.legistar.com/LegislationDetail.aspx?ID=5862352&GUID=17918DFF-F6A1-4D77-B347-ADA163C4FECD>

owners, the Community and Economic Development Committee (Committee) expressed concerns related to which property owners would benefit from this program and how the City of Oakland (City) would define small property ownership; they directed staff to bring a revised proposal for consideration. The Committee also inquired about the ability of non-attorneys to represent parties in RAP petition proceedings, and if it would open to liability. Since the original Request for Proposal had sought legal representation services, staff reissued the RFP so it would be clear that non-attorney organizations or individuals who had experience and expertise on rent control issues could submit a response to a newly revised RFP if interested.

In January of 2023, the City subsequently issued a newly revised RFP seeking small property owner representation services at RAP proceedings. For purposes of the RFP, small property owners were defined as those owners who own a total 8 or fewer residential rental dwellings units including those residential dwelling units owned in the City of Oakland and who have a total income no higher than the equivalent to 100% AMI for Alameda County. As shown in the Analysis section below, the combination of these two requirements to qualify for the proposed representation services guarantees that only small property owners who are charging monthly rents substantially below market rate will qualify for these services. RAP staff received only one RFP response from EBRHA. Staff reviewed the proposal for compliance with the RFP and found it to be fully and responsive to the services and work set forth in the request.

Thus, staff seeks authorization to contract with EBRHA for small property owner representation services at the Rent Adjustment Program (RAP) Petition Proceedings and at the Housing, Residential Rent and Relocation Board (HRRRB) Appeal proceedings.

### **BACKGROUND/LEGISLATIVE HISTORY.**

During the past 10 years, the City, per Council Resolution No. 84706<sup>2</sup> dated November 19, 2013 or under the City Administrator's procurement process authority, has occasionally contracted with different legal service providers to assist small residential property owners in the areas of outreach, public information, and legal services.

Resolution No. 84706 authorized the City Administrator to negotiate and contract with an agency to deliver representation services to landlords with residential property in the city with incomes of 100% of median income or less.

On January 31, 2019, through the City's Administrator's procurement process, the City last contracted for owner services with Housing and Economic Rights Advocates (HERA) for an amount not to exceed \$50,000 per year. That contract ended in January of 2022.

On May 13, 2022, RAP staff released an RFP seeking a twelve-month legal representation service contract for (defined as those owning 8 or fewer rental dwelling units in Oakland) in the amount of \$100,000. The RFP development process included outreach to identify and encourage all qualified entities to respond to the RFP. RAP received only one response for the small property owner representation RFP by the May 27, 2022 due date. Staff reviewed the

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<sup>2</sup> <https://oakland.legistar.com/LegislationDetail.aspx?ID=1501201&GUID=FFE65E73-8746-4497-9B47-D1DB9993C715>

proposal and found it not to be compliant and responsive to the requirements set forth in the RFP document.

On June 10, 2022, staff released an additional RFP for legal representation services for small property owners for a twelve-month contract in the amount of \$100,000. RAP staff held a virtual additional information session on June 24, 2022 to provide guidance to applicants. Staff received only one response by the June 27, 2022 submission deadline from EBRHA. Staff reviewed the proposal and found it to be compliant and responsive to the requirements set forth in the RFP.

On January 13, 2023, staff released a newly revised RFP for representation services for small property owners for a 14-month contract in the amount of \$150,000. For purposes of the RFP, small property owners are now defined as those who own a total eight or fewer residential rental dwellings units including those residential units owned in the City of Oakland **and** who have a total income no higher than the equivalent of 100% AMI for Alameda County. The new qualification requirements include all residential dwelling units in and outside the city and restrict income to a total income up to 100% AMI, not just rental income.

On January 20, 2023, RAP staff held a virtual information session to provide guidance to interested applicants.

On January 27, 2023 at RFP submission deadline, staff received only one response from EBRHA. Staff reviewed the proposal and found it to be compliant and responsive to the requirements set forth in the RFP.

## **ANALYSIS AND POLICY ALTERNATIVES**

RAP works to provide efficient, effective, and equal program services to tenants and property owners alike. RAP currently offers information and consultation services to both groups via telephone, email, virtual meetings and virtual workshops. During the last three years, RAP substantially increased internal efficiencies and targeted outreach strategies that applied an equity framework to increase its services provided to the community. Significant achievements include:

- 1) Robust community outreach and educational programming,
- 2) The creation and distribution of public-facing resources (information sheets, postcards, and guides) regarding the City's rent program and Oakland's rental housing laws,
- 3) Sustained availability of holistic housing counseling services, and
- 4) Partnership with the Neighborhood Law Corps to combat false owner move-in evictions and tenant harassment.

RAP also offers remote mediation to those tenants and property owners with pending petitions prior to every remote hearing if a settlement conference is possible. Additionally, RAP continues to provide a forum for tenants and property owners who are not yet in the petition process to seek RAP remote mediation services through a process called Community Mediations.

The recommended Council action will advance the City's housing, economic, and cultural security priorities by also providing more equitable access to small property owners. The services sought through this recommended contract with EBRHA are based on RAP staff's assessment of the needs, barriers, and challenges small property owners experience when participating in the Rent Adjustment Program adjudicative process. Some of the challenges include limited knowledge of the legal system, language and technological barriers, and limited financial resources. Many small property owners cannot afford or do not have access to legal representation and, a substantial number of them have no option but to pursue or respond to a RAP petition on their own even under challenging circumstances. The goals of the Right to Representation at RAP Hearings Program are:

- 1) To ensure that more LMI tenants and small property owners have representation at RAP hearings and HRRRB appeal proceedings;
- 2) To reduce the displacement of LMI families of color, and immigrants in Oakland;
- 3) To empower LMI tenants and small property owners to seek negotiated resolutions to their legal claims; and
- 4) To foster and maintain constructive relationships between property owners and tenants through access to representation services.

Thus, after assessing its legal counseling and other legal service contracts, as well as the direct services provided by RAP, staff determined that the greatest need in supporting the equitable implementation of the RAP program was to focus its resources on representation services for tenants and small property owners. Thus, the services sought through a contract with EBRHA aim to refocus the RAP Program's resources towards providing representation in RAP petition and HRRRB appeal proceedings.

### Small Property Ownership

For the purposes of this RFP, staff define small property owners as those who own a total of 8 or fewer residential rental dwellings units, including but not limited to those owned in the City of Oakland, **and** who have a total income no higher than the equivalent to 100% AMI for Alameda County at the time the small property owner seeks representation services.

The current citywide average monthly rent in Oakland is \$2,813. In some of the most affordable neighborhoods in the city (Fairfax, Fremont, and Fruitvale Station), the average rent is \$1,696 per month.<sup>3</sup> Since property owner income is an eligibility requirement, the following table illustrates the maximum monthly rent that property owners could be charging to qualify for representation services through the recommended contract. For example, an 8-unit building owner could not be charging more than average rent of \$1,725.52 per month / per unit. It is important to note that the proposed income restriction is the owner's total income.

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<sup>3</sup> <https://www.rentcafe.com/average-rent-market-trends/us/ca/oakland/> (accessed 04/17/2023)

<b>PROPOSED INCOME QUALIFICATION RESTRICTION FOR OWNER REPRESENTATION SERVICES</b>						
<b>Total Income Level</b>	<b>Household Size</b>					
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
<b>100% AMI (State HCD)<sup>4</sup></b>	\$99,950	\$114,250	\$128,500	\$142,800	\$154,200	\$165,650
<b>Maximum Rent/Per Month/Per Unit to Qualify for Representation Services</b>						
<b>Single Family Home / (Entire Property Rental Income)</b>	\$8,329.17	\$9,520.83	\$10,708.33	\$11,900.00	\$12,850.00	\$13,804.17
<b>2-Unit Rental Property</b>	\$4,164.58	\$4,760.42	\$5,354.17	\$5,950.00	\$6,425.00	\$6,902.08
<b>3-Unit Rental Property</b>	\$2,776.39	\$3,173.61	\$3,569.44	\$3,966.67	\$4,283.33	\$4,601.39
<b>4-Unit Rental Property</b>	\$2,082.29	\$2,380.21	\$2,677.08	\$2,975.00	\$3,212.50	\$3,451.04
<b>5-Unit Rental Property</b>	\$1,665.83	\$1,904.17	\$2,141.67	\$2,380.00	\$2,570.00	\$2,760.83
<b>6-Unit Rental Property</b>	\$1,388.19	\$1,586.81	\$1,784.72	\$1,983.33	\$2,141.67	\$2,300.69
<b>7-Unit Rental Property</b>	\$1,189.88	\$1,360.12	\$1,529.76	\$1,700.00	\$1,835.71	\$1,972.02
<b>8-Unit Rental Property</b>	\$1,041.15	\$1,190.10	\$1,338.54	\$1,487.50	\$1,606.25	\$1,725.52

Some small property owners who fall under these income restrictions cannot afford, or do not currently have access to representation. It is also important to note that to file or to respond to a petition, property owners need to be in compliance with the RAP Annual Fee and Business Tax requirements whether or not they reside in Oakland.

Staff also surveyed nine other jurisdictions with rent control including Alameda, Berkeley, Richmond, San Francisco, and San Jose. Out of the surveyed jurisdictions, Richmond is the only one that currently has a contract to serve property owners. Under their contract, very-low-income property owners who reside in Richmond can get access to legal representation services in rent adjustment proceedings.

### **Evaluation of Program Design and Budget**

Providing access to representation services to small property owners ensures that they can better understand their rights and responsibilities under the rent adjustment, just cause for eviction, and tenant protection ordinances, as well as other laws that regulate landlord/tenant relationships. In considering EBRHA's proposal, staff evaluated and considered their experience providing services to small property owners in Oakland.

When responding to the City's RFP, EBRHA highlighted its experience working with property owners, public sector staff, community groups, and other key stakeholders to implement and manage a representation program for small property owners in Oakland.

EBRHA has provided education and one-on-one support to over 300 property owners and renters in applying for Emergency Rental Assistance Program (ERAP) funds. EBRHA continues to be a strong intermediary resource to help escalate and resolve issues with ERAP applications across all the various programs and administrators. EBRHA also works with over 150 suppliers, services providers, vendors, developers, realtors, and tradespeople in the housing industry,

<sup>4</sup> <https://www.acgov.org/cda/hcd/documents/2022IncomeandRentLimits.pdf> (accessed 05/31/2023)

many of whom are EBRHA members, to produce over 70 educational events and presentations annually.

EBRHA will ensure that services will only be provided to small property owners with eight or fewer units under the jurisdiction of RAP Ordinances and Regulations. The activities to be covered by the RAP small property owner representation service will include but are not limited to: fully representing a client in negotiations, hearings, and mediations in RAP petition proceedings and Board appeal proceedings.

RAP may refer small property owners seeking representation to EBRHA, but RAP's referral is not required under this program. EBRHA's qualification process, which will be still determined in cooperation with RAP, will seek to select those small property owners most in need of this assistance.

EBRHA's proposal cost is based on a minimum of 32 hours per week and can scale up to 56 hours per week (average 44 hours) of staff time based on increased service support demand. At the same time, EBRHA acknowledges that demand for services exceeds capacity in the city and is committed to serve, at least, 200 small property owners in RAP petition proceedings and Rent Board appeal proceedings under the contract. EBRHA's representation model differs from a law firm-like model such as Centro Legal de la Raza's in their increased reliance on rent control-trained specialists with access to a legal counsel rather than an attorney-led process. EBRHA has also secured additional funding from other sources for outreach, screening, and initial consultation.

Beyond the baseline requirements as stated in the RFPs, RAP will work with EBRHA to develop client selection criteria to reach the goals of the program and target populations. The selection criteria will be included in the professional services agreements with EBRHA.

### Reporting Requirements

There is a high-level expectation for reporting not only on individuals served but also on measurable outcomes and success of the program.

EBRHA will be responsible for tracking the number of clients served in all aspects of this scope of services. They will maintain appropriate records to verify these numbers and types of contact, as well as clients' eligibility verification. EBRHA must also record and provide statistical information for each client and participant including, but not limited to: a client ID number, zip code, sex, race, and ethnicity data, as well as dates of intake and service. EBRHA will also report on outcome measurements to evaluate the success of the program in meeting its goals including but not limited to:

- 1) the prevention of unlawful rent increases,
- 2) reimbursement or credit of unlawfully collected rent due to habitability issues or illegal rent increases, and
- 3) proper rent adjustment when authorized by the Ordinance.

The data to be collected, and the outcomes to be measured, will be finalized and incorporated into the Professional Services Agreement.

These records will form a monthly monitoring report which will be provided as part of EBRHA's monthly billing of the RAP office, as agreed to in the Professional Services Agreement. RAP will provide Council with the information provided by EBRHA in its reports through RAP's annual report to Council during the Spring next year.

### **Alternatives**

An alternative to contracting with EBRHA is to reissue the RFPs in an attempt to attract additional respondents. This alternative would result in a longer lapse of time without critical representation services for small property owners, and with no guarantee that the RFP would generate qualified new proposals as described in the legislative history section above; staff have issued the RFP three times to-date.

### **FISCAL IMPACT**

The total \$150,000 funds for this contract are available in the Rent Adjustment Program (Fund 2413, Project 1001110, Org. 89969, Account No. 54911). These funds are restricted to be used by the Rent Adjustment Program through Ordinance No. 12517<sup>5</sup> C.M.S.

### **PUBLIC OUTREACH / INTEREST**

The RFP released on January 13, 2023 sought to find qualified respondents that could provide services to the satisfaction of the City's RAP staff. The RFP was advertised in three (3) local newspapers and distributed to legal aid suppliers registered with the City's iSupplier system. Also, six potential contractors were directly invited to submit a response to the RFP via iSupplier. Additionally, RAP staff hosted an information session for interested parties on January 20, 2023.

### **COORDINATION**

The Department of Workplace and Employment Standards reviewed, approved and published the Request for Proposal upon which the recommended contract with East Bay Rental Housing Association is based. Also, the City Attorney's Office and Budget Bureau reviewed this report.

### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** Execution of this contract will help with the implementation of the Rent Adjustment Ordinance and preserve the affordable housing inventory for families, seniors, and disabled residents in the City of Oakland. The contract will help protect tenants from displacement while encouraging property owners and tenants to foster and maintain constructive relationships through access to representation at RAP hearings and Rent Adjustment Board proceedings.

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[https://library.municode.com/ca/oakland/codes/code\\_of\\_ordinances?nodeId=TIT8HESA\\_CH8.22REREA\\_DEV\\_ARTIVREPRSEFE](https://library.municode.com/ca/oakland/codes/code_of_ordinances?nodeId=TIT8HESA_CH8.22REREA_DEV_ARTIVREPRSEFE)

**Environmental:** Execution of this contract will help mitigate adverse environmental impacts resulting from existing rental housing through the resolution of petitions involving code violations and lack of maintenance, uncovering health and safety hazards in the process of its execution, in turn encouraging cohesion and vested interest of owners and tenants in established neighborhoods.


**Social Equity:** Execution of this contract will help improve the landscape and climate of Oakland's neighborhoods by encouraging and protecting long-term tenancies in rental housing while also empowering small property owners and tenants to reach negotiated solutions to their disputes through representation. Access to expert advice through the recommended contract by small property owners can help to prevent and resolve disputes due to unwarranted rent increases and decreased housing services and to ensure low- and moderate-income tenants can access the decent, affordable, and healthy housing they pay for.

### **ACTION REQUESTED BY THE CITY COUNCIL**

Staff recommends that the City Council adopt a resolution authorizing a contract with East Bay Rental Housing Association for provision of representation services to small property owners at Rent Adjustment Program petition proceedings and Housing, Residential Rent and Relocation Board appeal proceedings in the amount of \$150,000 from July 1, 2023 through August 31, 2024.

For questions regarding this report, please contact the Rent Adjustment Program Manager, Victor Ramirez, at 510.238.3220.

Respectfully submitted,

  
[Emily Weinstein \(May 31, 2023 15:49 PDT\)](#)

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