

**CITY OF OAKLAND**  
**AGENDA REPORT**

OFFICE : CITY CLERK  
2006 JUN -1 PM 12:47

TO: Office of the City Administrator  
ATTN: Deborah Edgerly  
FROM: Community and Economic Development Agency  
DATE: May 30, 2006

**RE: A Report and Resolution Authorizing The City Administrator To Approve  
A Contract Between The City Of Oakland And The East Bay Community  
Law Center For One Year In The Amount Of \$75,000 For Legal Services To  
Low Income Rent Adjustment Clients**

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**SUMMARY**

City Council Resolution 76930 C.M.S., January 22, 2002, mandated the establishment of a one-year trial low income representation program for clients of the Rent Adjustment Program and require that the Agency report on the effectiveness of the Low Income Representation Project to the Community and Economic Development Committee of the City Council. This is the report mandated by the Resolution.

**FISCAL IMPACT**

Staff recommends that the low income representation program be funded at an annual level of \$75,000 for FY 2006-07. There are sufficient funds in the FY 2004-05 rent arbitration project General Purpose Fund (1010) in the Emergency Housing organization (88969), Rent Arbitration Project (P190010) to cover the proposed \$75,000 budget for FY2006-07.

**BACKGROUND**

Pursuant to City Council Resolution 76930 C.M.S., the City of Oakland Rent Adjustment Program entered into a contract with the East Bay Community Law Center (EBCLC) to operate a trial Low Income Clients Representation Project for one year. The purposes of the project were to assist low income clients of the Rent Adjustment Program present their cases before the Program and the Rent Board, help maintain the neutrality of the Rent Adjustment Program by separating client counseling functions from the adjudicative functions, provide advocacy services to help resolve disputes between low-income tenants and landlords and to secure their rights under Oakland's Ordinances that impact the landlord-tenant relationship. The term of the contract was from January 1, 2005 through December 31, 2005. Through a subcontract with Alameda County Bar Association/Volunteer Legal Services Corporation (ACBA/VLSC), EBCLC would also provide counseling and representation to low-income property owners.

## KEY ISSUES AND IMPACTS

### Contract Goals

The principal enforcement mechanism of the Rent Adjustment Program to secure landlord compliance is a Rent Adjustment Program decision adjudicating rent levels and ordering the payment of restitution for rent collected in excess of that permitted by the Rent Adjustment Ordinance, if appropriate. In order for the program to function properly, tenants with valid claims must file petitions and win their cases. At the same time, the Rent Adjustment Program must take a neutral position in disputes between the landlords and tenants that come before it, the Rent Adjustment Program being in a quasi-judicial role. For calendar year 2005, the City Council funded the Low Income Representation Program to enhance the ability of low income clients (who cannot afford to hire private representation) to successfully prosecute a Rent Board petition and allow the Rent Program to maintain a neutral position by having client advocacy performed by an outside agency.

Because the program was novel, the City Council mandated a one year trial period and a report on the program's performance in meeting the goals set by the resolution. The following report covers the trial period.

### Scope of Services

In the contract, the EBCLC proposed to provide the following services:

- Completion of Rent Adjustment petition forms
- Motions for continuances
- Organizing and submitting documentary evidence
- Representation of clients in Rent Adjustment hearing
- Drafting of appeals to the Rent Board
- Representation of clients in appeal hearings before the Rent Board
- Conducting intake workshops, as and if required, at sites selected by Contractor for the purpose of efficiently processing client referrals
- Verify client income eligibility.

The representation services would be provided by trained law students interns and a paralegal working under the supervision of staff attorneys in the Housing Unit.

### Project Goals

The specific service targets of the Low Income Representation Project ("Project") were to 1) advise up to 20 tenants with rent issues per month (240 per year); and 2) represent up to 120 persons per year, distributing cases as appropriate between EBCLC and ACBA/VLSC. These goals would be monitored by a monthly monitoring report. The Rent Adjustment Program would refer potential clients to either the ACBA or EBCLC, as appropriate.

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It became clear shortly after the Project began operation, that there were not enough tenant requests for Project services to fully utilize the available capacity. It also became apparent that most landlords would not accept a referral to the ACBA when the program was labeled “low income.”

### Project Results

#### I. Summary of Monthly Monitoring Reports

The term of the contract was January 1, 2005 through December 31, 2005. During this period, the EBCLC conducted 21 Rent Adjustment workshops. They provided advice and counsel to 205 clients, meeting 85 percent of the contract goal. They accepted 63 cases for representation, meeting 52.5 percent of the contract goal. Of the 63 cases accepted for representation, there were 40 appearances for hearings and/or an appeal hearing.

#### Ethnicity

The ethnic breakdown of tenants assisted during the contract period was as follows:

54	White
98	Black
16	Asian
1	Pacific Islander
4	American Indian or Alaskan Native
2	Black and White
18	Other
<u>12</u>	Hispanic
205	<b>Total</b>

The low number of Asian and Hispanic tenants assisted was discussed with the Deputy Director of the EBCLC and with the attorney assigned to Rent Adjustment cases. Although EBCLC has Spanish and Cantonese speakers on staff, residents of non-English speaking communities prefer to go to their local community group for assistance. EBCLC acted as a resource for other community groups, answering technical questions about Rent Adjustment. Also, EBCLC often referred Spanish speaking tenants to Centro Legal De La Raza.

#### Services to Low-Income Landlords

The Monthly Monitoring Report for January through June, 2005, indicated the receipt of one landlord referral. In an interview with Staff of ACBA/VLSC, it was confirmed that during the entire contract period, they received three potential landlord clients; however, two landlords did not meet the income qualifications. Eligibility criteria are based upon Housing and Urban Development (HUD) guidelines for low income, which is 80 percent of the area family median income. They provided advice to one landlord who was income eligible.

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## II. Audit

On November 7, 2005, a program audit was conducted at the EBCLC to ascertain how the project was being managed. Interviews were conducted with staff responsible for the project. Interviews were also conducted at the Rent Adjustment office with the Hearing Officers who heard the cases in which EBCLC represented tenants. ACBA/VLSC staff was also interviewed.

### Oversight of Administrative Functions

The EBCLC Deputy Director managed the oversight of administrative functions and reports related to personnel assigned to Rent Adjustment cases, the monthly monitoring reports, and requests for payment.

### Screening and Referral Process

Housing problems calls that come in to the EBCLC are screened by the receptionist or a paralegal. About half of the calls are rent adjustment issues and are referred to the staff attorney assigned to the low-income representation program. The staff attorney advises about half of the clients, i.e., discussing options such as Small Claims Court when people are seeking more than an adjustment in their rent. Some clients get assistance filling out their petition, but do not want help after the petition is filed. After complaints are reviewed, the staff attorney determines that some are without merit and are not prosecuted further. When a summary Administrative Decision is issued by Rent Program staff, because no material facts are in dispute, further representation becomes unnecessary.

### Preparation for a Hearing

When a case is set for hearing, the staff attorney makes an appointment with Rent Adjustment staff to review the file(s). If needed, she requests copies of any documents that are missing from her file, for example, with all cases she would need any documents attached to the Landlord Response. She keeps track of the evidence deadlines and advises tenant(s) to make a list of what further evidence is needed. For certain cases, she may research case law or consult with other housing attorneys at EBCLC. Finally, the staff attorney or a law student, under the attorney's supervision writes a brief, if necessary, for the hearing.

### Quality of Client Representation at Hearings

The Hearing Officers observed that EBCLC staff submitted detailed briefs and offered superior quality representation and general service to their clients. The Hearing Officer that heard most of the cases believed that early involvement by the staff attorney was essential because he listed all issues properly on the Petition. The Hearing Officer stated that his job was made easier when

a tenant is able to clearly define the issues in the Petition and all problems are included on the original petition.

The Hearing Officer's ultimate impression was that the EBCLC staff attorney and other representatives from EBCLC are the most competent and knowledgeable tenant advocates presently appearing before the Rent Program.

The Program Manager attends almost all Rent Board meetings. His opinion regarding EBCLC representation of tenants on appeal to the Rent Board is similar. Because EBCLC personnel spend a large amount of their time considering Rent Adjustment issues, EBCLC personnel learn many of the details of legal issues in Rent Adjustment that other representatives do not. EBCLC representation of tenants before the Rent Board is the most effective representation available.

### Outreach

In order to attract more clients, the EBCLC initiated its own outreach program. Flyers were created to leave at RRAP's reception area. In addition, EBCLC's Staff Attorney came to the Rent Adjustment office each Tuesday between 9 a.m. and 4 p.m. to meet with clients as they came into the office.

Although one EBCLC staff person interviewed believed that outreach was going well, other staff members thought that more time should be spent on-site in "target areas," such as community organizations that assist people with housing needs. EBCLC's outreach to tenants had limited success. An improved community outreach component of the Project is required.

### Review of Case Files

Files maintained at the EBCLC are confidential; however, the Staff Attorney was able to get releases from two clients.

The files presented were orderly and easy to follow. Both files contained a statement, signed by the client, advising them of what services EBCLC provided and that said services were provided at no cost to them. The files contained the Petition, Landlord Response, all attached documents, pre-hearing briefs, notes (written by the EBCLC Staff Attorney or law student), and case law research.

### Conclusion

EBCLC provided aggressive and effective representation to low income tenants. Overall management of referrals and quality of representation was excellent; however, the Low Income Representation Project met only 52.5 percent of the contract goal for representation. If half of the Project staff time and effort went to intake and advice, the total cost per represented tenant was about \$800 per tenant and more than \$1,000 per hearing attended. The representation was not cost effective.

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Staff concluded, based on its interviews with Project staff, that many tenants who contacted EBCLC did not need, or did not want, full representation, but only information, help in filling out the petition form or other limited scope services.

Staff's experience indicated that many landlords have technical questions regarding application of the Rent Adjustment Ordinance to their particular situation and need assistance. Pursuant to City Council mandate, the trial program targeted low income landlords as well as tenants. During the first few months of the program, staff had all landlords who sought help to contact ACBA if the landlord thought they might qualify as low income. That landlords did not seek assistance through the Project probably indicates that the majority of landlords in Oakland do not meet the present income requirements.

Based on the trial program, it is clear that client needs and the Rent Adjustment Program goals would be better served by a program where community outreach and limited scope services were emphasized by the contractor, rather than representation in every case. This would provide services to an increased number of clients at a lower per client cost. Therefore, staff recommends that the new contract focus on providing tenants with limited scope legal services with representation available only for those cases with complicated legal or factual issues where a tenant cannot effectively represent them self.

## **SUSTAINABLE OPPORTUNITIES**

Pursuant to City Council Resolution No. 74678 C.M.S. adopted on December 1, 1998 staff encourages property owners to cooperate in sustainable growth. Stabilizing Oakland's existing residential tenancies will stabilize existing neighborhoods and rental communities. The rental regulation programs address the "3 E's" of sustainability by:

### ***Economic:***

- Preserving the affordable housing inventory for families, seniors, and disabled people in Oakland.
- Mitigating the adverse economic pressure on surrounding neighborhoods caused by new housing development.

### ***Environmental:***

- Preventing social disruption of established neighborhoods with rental housing.
- Mitigating any adverse environmental impacts resulting from development of new and existing rental housing.

***Social Equity:***

- Improving the landscape and climate of Oakland's neighborhoods by encouraging longer-term tenancies in rental housing.
- Aiding low-income families to save money in order to become homeowners.

**DISABILITY AND SENIOR CITIZEN ACCESS**

The City's Rent Adjustment staff complies with legal requirements to provide access to all Rent Adjustment Program services for people with disabilities and to ensure that the units rented to people with disabilities comply with applicable codes. The Just Cause for Eviction Ordinance and the Ellis Act Ordinance provide special protections against evictions and relocation benefits for seniors and people with disabilities.

**RECOMMENDATION(S) AND RATIONALE**

It is recommended that the City Council approve the attached Resolution appropriating the amount of \$75,000 for a contract to provide legal services to Oakland landlords and tenants with incomes up to 80 % of median income with an emphasis on structuring the type of services to help the maximum number of low-income clients. The contract should be effective as soon as an agreement can be reached between the City and the proposed contractor.

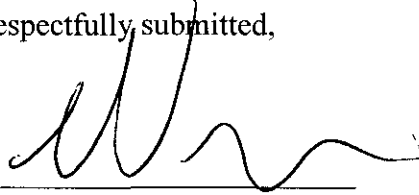
**ALTERNATIVE RECOMMENDATION(S)**

As an alternative, the City Council might consider funding the Low Income Representation Program appropriating \$75,000, but instead of a structured approach to maximize the number of clients, the Contractor would provide full representation to fewer clients, using the 80% of median income means test. The amount of the contract would be reduced based on the proportion of the services utilized during the last contract, plus an increment of \$12,500 for additional outreach.

**ACTION REQUESTED OF THE CITY COUNCIL**

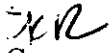
This report requests adoption of the attached Resolution.

Respectfully submitted,




DAN VANDERPRIEM  
Director of Redevelopment, Economic  
Development and Housing

Reviewed by:  
Sean Rogan  
Deputy Director  
Housing and Community Development

Prepared by:   
Rick Nemcik Cruz  
Manager  
Rent Adjustment Program

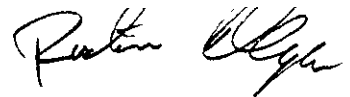
Connie Taylor  
Program Analyst II  
Rent Adjustment Program

APPROVED AND FORWARDED TO  
THE COMMUNITY AND ECONOMIC  
DEVELOPMENT COMMITTEE

  
OFFICE OF THE CITY ADMINISTRATOR

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OFFICE OF THE CITY CLERK  
CITY OF OAKLAND

# OAKLAND CITY COUNCIL

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RESOLUTION No. \_\_\_\_\_ C.M.S.

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

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## **A Resolution Authorizing The City Administrator To Approve A Contract Between The City Of Oakland And The East Bay Community Law Center For One Year In The Amount Of \$75,000 For Legal Services To Low Income Rent Adjustment Clients**

**WHEREAS**, On January 22, 2002 the City Council passed Resolution No. 76930 C.M.S. to provide low income renters and owners with representation before the Rent Adjustment Program ("RAP") and the Housing, Residential Rent and Relocation Board ("Rent Board"). The Resolution mandated "one hundred thousand dollars (\$100,000) of the funds budgeted for the Rent Adjustment Program ("RAP") . . . shall be allocated to provide the above-described services."; and

**WHEREAS**, funds in the amount of \$75,000.00 are budgeted from the Rent Adjustment Program funds: Fund 1010, Organization 88969, Acct 54900, Project P190010, fiscal year 2006-2007; and

**WHEREAS**, the proposal of the East Bay Law Center was selected after an open proposal process as the proposal best meeting the program requirements set forth in a Request for Proposals and the City entered into a contract with the East Bay Community Law Center to provide the representation services for calendar year 2005; and

**WHEREAS**, after a review of the program results, City Staff found the East Bay Community law Center performed the requested services excellently during calendar year 2005 and recommends the representation services be continued using the East Bay Community Law Center; and,

**WHEREAS**, City employees cannot represent tenants or owners before the RAP or Rent Board as to do so would create a conflict with the representation, thus the representation services must be performed by persons outside the City; and

**WHEREAS**, the City Council finds that the services provided pursuant to the agreement authorized hereunder are of a professional, scientific or technical nature and are temporary in nature; and

**WHEREAS**, the City Council finds that this contract shall not result in the loss of employment or salary by any person having permanent status in the competitive service; now therefore be it,

**RESOLVED:** That the City Council hereby appropriates \$75,000 from the Fund Balance in General Purpose Fund (1010) to the Emergency Housing organization (88969), Rent Arbitration Project (P190010); and be it

**FURTHER RESOLVED:** That the City Administrator or her designee is authorized to negotiate and enter into a one-year contract with the East Bay Law Center, Inc. in the amount of \$75,000 to provide legal services related to Rent Adjustment to Oakland residents and landlords with residential rental property in the City of Oakland with incomes of 80% of median income or less.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California