



# AGENDA REPORT

**TO:** Edward D. Reiskin  
City Administrator

**FROM:** Christina Mun  
Interim Director  
Housing and Community  
Development Department

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

**DATE:** October 10, 2022

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City Administrator Approval

Date: Oct 13, 2022

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## **RECOMMENDATION**

**Staff Recommends That The City Council Adopt A Resolution Authorizing: (1) A Contract With Centro Legal De La Raza For Provision Of Legal Representation Services To Low- and Moderate-Income Tenants at Rent Adjustment Program Petition Proceedings And Housing, Residential Rent and Relocation Board Appeal Proceedings In The Amount Of \$239,271 From November 1, 2022, Through June 30, 2023, And (2) A Contract With East Bay Rental Housing Association For Provision Of Legal 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 \$100,000 From November 1, 2022, Through June 30, 2023.**

## **EXECUTIVE SUMMARY**

On November 19, 2013, the Oakland City Council (Council) approved Resolution No. 84706, which authorized annual contracts with Centro Legal de la Raza (CLR) to provide services including counseling, legal services and outreach and education to low-income tenants. Less frequently, the City has also contracted with other organizations to assist small residential property owners in the areas of outreach, public information, and legal advice services.

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. In coordination with the City's Department of Workplace and Employment Standards, the RFP was published on the following newspapers: Oakland Tribune, The Oakland El Mundo, and The Oakland Post on May 13. In addition to advertising in

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various newspapers and through placement on the City's Contracts webpage, RAP staff targeted outreach to eleven (11) potential contractors for tenant and owner representation and hosted a Zoom Information Session on May 23, 2022.

RAP staff received only one response each for tenant services and small property owner services, from CLR and the East Bay Rental Housing Association (EBRHA) respectively that met the RFP's requirements. Staff reviewed both proposals for compliance with the RFP and found them to be fully and responsive to the services and work set forth in the request. Consequently, this Council report is seeking authorization to contract with CLR and EBRHA for tenant and small property owner legal 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**

The following table shows the legislative history related to the contracts for legal services to low-income residential tenants that Council has approved since 2013.

**Table 1 Shows Council's Actions Regarding the Contracts with CLR Since 2013**

<b>Date</b>	<b>Resolution Number</b>	<b>Council Action</b>
November 19, 2013	84706 C.M.S.	Pursuant to an RFP public process conducted in 2012, authorized a \$90,000 contract with CLR for two one-year terms (2013-14 and 2014-15), as well as three one-year renewals (2015-16, 2016-17, and 2017-18.)
October 20, 2015	85843 C.M.S.	Authorized an increase of the CLR contract from \$90,000 to the amount of \$165,000, and a First Amendment to the Contract was executed with an effective date of January 1, 2016.
June 26, 2018	87266 C.M.S.	Approved an extension for continued provision of services by CLR for six months from July 1, 2018 through December 31, 2018.
December 11, 2018	87466 C.M.S.	Authorized a First Amendment to CLR's Anti-Displacement Program contract (approved on July 24, 2018) to incorporate six months of additional legal services commencing January 1, 2019 and expiring June 30, 2019.
June 18, 2019	87748 C.M.S.	Pursuant to an RFP public process, authorized a new contract with CLR for the provision of legal services and improved outreach to low-income tenants for a period of twelve months and for a contract amount of \$250,000. The one-year contract was renewable for two additional one-year terms, with the initial term covering a period from July 1, 2019 through June 30, 2020. The two one-year renewals were exercised, and the final renewal terminated on June 30, 2022.

Also, during the past 15 years, the City, 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. In February of 2021, the City contracted with Housing and Economic Rights Advocates (HERA) for an amount not to exceed \$50,000. That contract ended in January of 2022.

On May 13, 2022, RAP staff released two RFPs: the first seeking a twelve-month legal representation service contract for LMI tenants in the amount of \$250,000, and the second seeking a twelve-month, \$100,000 legal representation service contract for small property owners (defined as those owning 8 or fewer rental dwelling units in Oakland). The RFP development process included outreach to identify and encourage all qualified entities to respond to the RFP. While some of the tenant advocate groups contacted by RAP indicated an interest, RAP staff ultimately received only one response for tenant services by the May 27, 2022 due date. Only CLR responded and submitted a proposal that met requirements for the tenant representation RFP. RAP received only one response for the small property owner representation RFP by the May 27, 2022 due date. Staff reviewed the 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 the East Bay Rental Housing Association (EBRHA). Staff reviewed the proposal and found it to be compliant and responsive to the requirements set forth in the RFP.

On July 5, 2022, while going through the RFP and contract negotiation process, the City, under the City Administrator's procurement process authority, entered a short-term contract with CLR for an amount not to exceed \$49,999 to cover the gap in services between July 1, 2022 and September 30, 2022 while staff seeks Council resolution approval of a contract for legal services with CLR through the end of the 2022-23 fiscal year. Since RAP did not have a contract with CLR for their legal services to tenants during the month October, CLR agreed to continue offering their services without interruption for the month of October free of charge.

### **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 Priority by providing more equitable access to LMI Oakland tenants and small-property owners. The services sought through these new contracts with CLR and EBRHA are based on RAP staff's assessment of the needs, barriers, and challenges LMI Oakland tenants and 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. Thus, many tenants can neither afford, nor have access to legal representation at RAP proceedings. This leads to a substantial number of tenants pursuing or responding to a RAP petition on their own, and other tenants excluding themselves from the petition process all together due to the complexity of the legal issues. In many examples, tenants do not have representation in petition cases where landlords seek to exempt their residential units from the protections granted by the Ordinance. The likely result of such petitions could result in the disproportionate displacement of low-income residents, Black, Indigenous, and Other People of Color (BIPOC) residents, and non-English speaking families from the Oakland community once protections are no longer in place. Similarly, 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 similar 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 legal representation at Rent Adjustment Program 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 legal representation.

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 legal representation services for tenants and small property owners. Thus, the services sought through a new contract with CLR and EBRHA aim to refocus the RAP Program's resources towards providing legal representation in RAP petition and HRRRB appeal proceedings.

### **Evaluation of Performance**

In considering CLR's proposal, staff evaluated past performance, as well as the responsiveness of their proposal in meeting the need for both legal representation services of LMI tenants in petition and appeal proceedings.

Table 1 depicts CLR’s performance in meeting contract goals.

**Table 1. CLR Performance in Meeting Contract Goals for Fiscal Year 2021 – 2022**

City of Oakland Rent Adjustment Program Data for 7/1/2021 - 6/30/2022																
	Annual Goals	Q1			Q2			Q3			Q4			Clients Served YTD	% of Goal	
		July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June			
<b>ASSESSMENT FOR RAP-RELATED LEGAL SERVICES</b>																
Tenants assessed for eligibility	646	45	64	59	70	75	65	67	78	74	70	81	88	836	129%	
<b>RAP-RELATED LEGAL SERVICES TO TENANTS</b>																
Tenants who received legal consultation	100	9	22	20	21	19	23	19	17	25	30	28	25	258	258%	
Tenants who received extended services	40	4	5	3	4	1	3	1	5	5	10	5	4	50	125%	
Tenants who received legal representation	70	1	1	3	0	1	0	7	3	2	1	4	6	29	41%	
Total tenants receiving RAP-related legal services	210	14	28	26	25	21	26	27	25	32	41	37	35	337	160%	
<b>OUTREACH AND EDUCATION FOR TENANTS</b>																
	Annual Goals	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	YTD	% of Goal	
KYR presentations/workshops	12	1	2	2	2	1	1	1	1	2	2	1	2	18	150%	
Clinics	12	1	9	9	8	9	7	8	8	10	8	9	8	94	783%	
Total clinics	24	2	11	11	10	10	8	9	9	12	10	10	10	112	467%	

This table depicts CLR’s performance executing the legal representation program during Fiscal Year (FY) 2022. CLR demonstrated a significant need to continue providing legal representation services during RAP petitions and appeals process even though current circumstances, under the eviction moratorium, caused a decrease of tenant petition filings. We expect, however, an increase in the number of petitions once the moratorium is lifted. According to CLR, some of the reasons for the decrease in tenant petition filings over the last fiscal year include:

Decrease in demand due to the eviction moratorium: The Oakland moratorium prohibits rent increases above Consumer Price Index. As a result, there have been fewer tenants seeking relief through RAP hearings against rent increases.

Illegal lockouts and fear of retaliation: CLR reports that many tenants fear landlord retaliation, and thus do not exercise their rights to pursue cases. CLR also reports an increase in illegal lockouts stemming from landlord harassment, as well as retaliation after tenants raise habitability issues.

Cases are taking longer than they used to and are more intensive: Some of CLR’s outstanding cases are extremely complex and have gone through multiple rounds of hearings. As an example, CLR reports that one of their recently closed cases took over 130 hours of attorney and paralegal time. CLR does not report these cases until they are closed, so the backlog of cases is potentially higher than currently captured.

Additionally, providing access to legal services to small property owners ensures that they can better understand their rights and responsibilities under the rent adjustment 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.

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

#### CLR Proposal:

Through the RFP, the City sought to secure representation in RAP petition proceedings of tenants with a family income of up to 100% of Area Median Income. While some of the tenant advocate groups contacted by RAP indicated an interest in responding to the RFP, RAP staff received only one response for tenant services, from CLR.

CLR designed a programmatic approach that centers racial equity based on years of experience serving low-income tenants in Oakland. Of the clients served from July 2021 to April 2022, 80% had incomes at 30% of AMI or below, while 17% had incomes between 30% and 50% of AMI. 51% of the clients they served were multiracial, and 62% were Latino/Hispanic. CLR's proposal is also based on years of experience working with thousands of tenants seeking assistance for rent adjustment issues. Support has included the mitigation of language or technological barriers, assisting tenants through the process of compiling evidence to prepare a RAP petition, and representing them through Board appeals.

CLR proposes a program that will redefine legal representation services as more expansive than just legal consultation. According to CLR's proposal, the expanded program will include representing tenants in negotiations, mediations, RAP hearings. Because providing effective representation at a RAP hearing requires counsel to have information about the property and the legal issues at play, CLR will help tenants prepare for their RAP hearings by filing the petition, preparing evidence, and negotiating with landlords. CLR's commitment requires a significant time investment, particularly during exemption cases, capital improvements cases, and appeals cases while leveraging CLR's extensive depth and breadth of RAP institutional knowledge, obtained through representing tenants in RAP cases for over 20 years.

Upon CLR's proposal submission, staff discussed with CLR the possibility of increasing funding to represent at least 200 tenants in RAP hearing proceedings per year which has been the average number of tenant petitions filed during the current eviction moratorium). In response, CLR communicated that the organization does not currently have the capacity to represent more than 100 tenants in RAP proceedings per year. To provide access to legal representation services to more tenants, staff is now considering issuing an informal Request For Proposals under the City Administrator's limited procurement authority.

CLR's current proposal is to provide Legal Representation Services to 67 tenants through June 30, 2023. CLR's proposed cost of \$239,271 is based on an estimate of 10 to 25 hours of attorney and paralegal time per case to provide effective tenant representation in RAP proceedings. This includes 1) providing LMI tenants with resources and support to negotiate resolutions to their legal claims, representing tenants during mediations, hearings, and appeals, and consulting with tenants on their rights under Oakland's residential rent adjustment and move out, relocation, and tenant protection ordinances; and 2) prioritizing certain tenants for representation through screening for language and technological barriers, among other factors.

RAP may refer tenants seeking legal representation to CLR, but RAP's referral is not required under this program. CLR will also verify income by asking clients to sign a statement confirming accurate and truthful reporting.

CLR uses a Salesforce database with extensive capabilities that allows reporting on all aspects of their services. CLR collects clients' addresses, zip codes, gender, race, ethnicity, age, disability status, type of issues, services provided, dates of intake and service, legal issue experiences, and outcomes. On a monthly basis, CLR will submit data reports that show progress on deliverables as well as demographics of clients served. CLR also has an ongoing effort to critically understand their impact and analyze their programs in terms of racial, class, disability, and gender equity.

#### EBRHA Proposal:

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 legal 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, 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 legal 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 legal representation to EBRHA, but RAP's referral is not required under this program. EBRHA's qualification process, which will be 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 its estimate of a minimum 76 hours per week of staff time. At the same time, EBRHA acknowledges that demand for services exceeds legal 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 CLR'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 CLR and EBRHA to develop a 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 CLR and 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.

CLR and 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. CLR and 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. CLR and 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 CLR and EBRHA's monthly billing of the RAP office, as agreed to in the Professional Services Agreement.

### **Alternatives**

An alternative to contracting with CLR and 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 legal services for LMI tenants and small property owners, and with no guarantee that the RFP would generate qualified new proposals.

### **FISCAL IMPACT**

The total \$339,271 funds for both contracts are available in the Rent Adjustment Program (Fund 2413, Project 1001110, Org. 89969, Account No. 54912). These funds are restricted to use by the Rent Adjustment Program by Ordinance No. 21517 C.M.S.

### **PUBLIC OUTREACH / INTEREST**

The RFP released on May 13, 2022, sought to determine if other qualified agencies could provide services comparable to CLR's and to the satisfaction of the City's RAP staff. The RFP was advertised in three (3) local newspapers and distributed by the iSupplier website to legal aid suppliers registered with the City. An additional 10 potential contractors were notified directly by RAP staff of the RFP via email to encourage targeted contractors to apply. RAP staff hosted two information sessions for interested parties on May 23 and June 24, 2022.

### **COORDINATION**

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 legal representation at RAP hearings and Rent Adjustment Board proceedings.

**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 property owners and tenants to reach negotiated solutions to their disputes through legal representation. Protecting tenants from unwarranted rent increases and adjusting rents for decreased services through the execution of this contract will ensure low- and medium-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: (1) A Contract With Centro Legal De La Raza For Provision Of Legal Representation Services To Low- and Moderate-Income Tenants at Rent Adjustment Program Petition Proceedings And Housing, Residential Rent and Relocation Board Appeal Proceedings In The Amount Of \$239,271 From November 1, 2022, Through June 30, 2023, And (2) A Contract With East Bay Rental Housing Association For Provision Of Legal 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 \$100,000 From November 1, 2022 Through June 30, 2023.

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

Respectfully submitted,

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