

19 MAR -7 PM 4: 00

CITY OF OAKLAND



ONE FRANK H. OGAWA PLAZA • 6TH FLOOR • OAKLAND, CALIFORNIA 94612

Office of the City Attorney
Barbara J. Parker
City Attorney

(510) 238-3601
FAX: (510) 238-6500
TTY/TDD: (510) 238-3254

March 12, 2019

HONORABLE CITY COUNCIL
Oakland, California

Re: Resolution Calling upon and Urging the Alameda County Superior Court to Rescind its Decision to Eliminate Settlement Conferences for Half of All Unlawful Detainer Actions

Dear Council President Kaplan and Members of the City Council:

I. INTRODUCTION

The Alameda County Superior Court recently announced that, beginning March 4, 2018, and continuing for four months thereafter, it is eliminating settlement conferences for half of the unlawful detainer (eviction) actions filed in Alameda County. The justification for this action is to participate in a study, in collaboration with Harvard University Law School, to evaluate the efficacy of the Court's mandatory settlement conferences. The Court made this decision without obtaining any community input and apparently without consideration of the impact on the 50% of unlawful detainer litigants who will be denied settlement conferences during this period. I ask the Council to issue a resolution urging the Court to rescind its decision and to engage in a dialogue with community stakeholders regarding how the Court can collect the data it seeks without denying settlement conferences to large numbers of litigants.

II. BACKGROUND

Currently, all unlawful detainer cases filed in Alameda County Superior Court have mandatory settlement conferences prior to trial. All settlement conferences occur on Wednesdays at the Hayward Hall of Justice. Every Wednesday, non-profit legal services providers, including those funded by the City of Oakland, appear at the courthouse to provide same-day free legal services to low-income tenants who do not have attorneys. For many low-income tenants facing eviction, the mandatory settlement conference is their only opportunity to consult with an attorney and resolve their case before trial. Hence, these settlement conferences and legal representation can make the difference between a resolution that allows the tenant to maintain housing and forcing the tenant out of Oakland or into homelessness.

In late February, the Court announced that, beginning March 4, 2019, it will randomly divide unlawful detainer cases into two groups, one group, i.e., 50% of the cases will receive settlement conferences and the other 50% will not. The purpose is to

Council President Kaplan and Members of the City Council

March 12, 2019

Re: Resolution Urging the Alameda County Superior Court to Rescind its Decision to Eliminate Settlement Conferences for Half of All Unlawful Detainer Actions

Page Two

engage in a four-month study, in collaboration with Harvard Law School, regarding the efficacy of settlement conferences.

The court took this action without seeking any input from community members or service providers. Oakland's legal service providers, including Bay Area Legal Aid, Centro Legal de La Raza, East Bay Community Law Center, Eviction Defense Center, and Legal Assistance for Seniors are universally opposed to this measure and have expressed their outrage to the Court that this decision was made without any community engagement.

In agreeing to participate in this study, the Court is making low-income Oakland tenants the unwitting subjects of an experiment; the Court is requiring half of the tenants facing eviction during this time period to proceed directly to trial, so that academics may observe and compare the outcomes of their cases to those of tenants who were given a settlement conference and an opportunity to consult with an attorney.

While the intention of the Court might be benign, the impact of the study on low-income tenants facing eviction is not. Considering the magnitude of the housing crisis and the astounding increase in homelessness in Alameda County, this is not the time, if there ever was an appropriate time, to engage in a study that involves denying low-income tenants the opportunity to consult with attorneys and resolve their cases prior to trial.

III. CONCLUSION

We ask the City Council to adopt the resolution urging the Court to rescind its decision to eliminate settlement conferences for half of all unlawful detainer cases and to further urge the court to engage in a dialogue with community stakeholders to consider other, ways of collecting the desired data. We also ask that the Council president send the resolution to the presiding judge of the Alameda County Superior Court.

Very truly yours,



BARBARA J. PARKER
City Attorney

Attachment: February 13, 2019, Letter from Alameda County Superior Court

cc: Mayor Libby Schaaf
Sabrina Landreth, City Administrator

19 MAR -7 PM 4: 09

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY CITY ATTORNEY BARBARA J. PARKER AND
COUNCIL PRESIDENT REBECCA KAPLAN

RESOLUTION URGING THE ALAMEDA COUNTY SUPERIOR COURT TO RESCIND ITS DECISION TO ELIMINATE SETTLEMENT CONFERENCES FOR HALF OF ALL UNLAWFUL DETAINER (EVICTION) CASES

WHEREAS, currently, unlawful detainer cases filed in Alameda County Superior Court are scheduled for mandatory settlement conferences prior to trial; and

WHEREAS, non-profit legal service providers, including providers funded by the City of Oakland, staff the mandatory settlement conferences, to provide free legal assistance to low income tenants facing evictions; and

WHEREAS, for many tenants facing eviction, the mandatory settlement conference is their only opportunity to speak with an attorney about their case; and

WHEREAS, settlement conferences allow landlords and tenants to reach amicable resolutions in eviction cases rather than incurring the expense and uncertainty of going to trial; and

WHEREAS, the Alameda County Superior Court has announced that beginning March 4, 2018, and continuing for four months thereafter, unlawful detainer cases will be randomly divided into two groups, one group, i.e., 50% of the unlawful detainer cases, will receive settlement conferences and the other 50% will not; and

WHEREAS, during this four-month period, half of tenants facing eviction in Alameda County will lose not only access to free legal services but also a venue to resolve their evictions without going to trial; and

WHEREAS, this action was taken in collaboration with Harvard Law School for the purpose of studying the efficacy of the Court's mandatory settlement conferences; and

WHEREAS, the Court took this action without seeking community input; and

WHEREAS, the data the Court seeks to collect could be obtained without denying the benefits of settlement conferences to low-income tenants; and

WHEREAS, even if the Court's action was well-intentioned, the Court should not make low-income tenants the unwitting subjects of an academic study when their homes are at stake; and

WHEREAS, in the midst of our dire and ongoing and escalating housing and homelessness crisis, it is crucial that we do all that we can to preserve housing for low-income and other tenants, rather than take actions that will cause tenants to lose their homes and be forced out of Oakland and perhaps relegated to homelessness; now, therefore, be it

RESOLVED: That the Oakland City Council calls upon and urges the Alameda County Superior Court to rescind its decision to eliminate settlement conferences for half of all unlawful detainer cases; and be it

FURTHER RESOLVED: That the City Council strongly urges and requests that the Court engage in a dialogue with community stakeholders to ensure that studying the efficacy of settlement conferences does not deny the benefits of settlement conferences to low-income tenants; and be it

FURTHER RESOLVED: That the City Council directs the Council President to send a copy of this resolution to the Presiding Judge of the Alameda County Superior Court.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of the Council of the
City of Oakland, California