



AGENDA REPORT

TO: Jestin D. Johnson
City Administrator

FROM: Emily Weinstein
Interim Director
Housing and Community
Development Department

SUBJECT: Contract for Tenant
Representation at RAP
Proceedings

DATE: August 18, 2023

City Administrator Approval

Date: Aug 31, 2023

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Authorizing A Contract With Centro Legal De La Raza For Provision Of Representation Services To Low- and Moderate-Income Tenants At Rent Adjustment Program Petition Proceedings And Housing, Residential Rent And Relocation Adjustment Board Appeal Proceedings In The Amount Of \$250,000 From October 1, 2023, Through September 30, 2024, Renewable At The City Administrator's Option For One Additional One-Year Term Not To Exceed \$250,000.

EXECUTIVE SUMMARY

The Rent Adjustment Program ("RAP") staff recommends that City Council ("Council") authorize RAP to enter into a contract with Centro Legal de la Raza ("CLR") for legal representation of low and moderate income ("LMI") tenants at rent adjustment program petition proceedings. This would serve as a continuation of the services RAP currently provides under the previous contract.

In May of 2022, RAP staff assessed its legal service contracts and determined that the greatest need in supporting equitable implementation of the program was for legal representation services for LMI tenants and small property owners in petition proceedings and Housing, Residential Rent and Relocation Board ("HRRRB") appeal proceedings (collectively "RAP Proceedings"). Thus, RAP staff initiated a Request for Proposal (RFP) process for legal representation services in May of 2022.

On November 1, 2022, the City Council (“Council”) adopted the Resolution No. 89483¹ approving a contract with Centro Legal de la Raza (“CLR”) for legal representation of low-income tenants in RAP proceedings from November 1, 2022 through June 30, 2023. Due to the City’s contract processing backlog caused by the cyberattack during the first quarter of this year, staff was unable to release a new RFP until June 9, 2023, with responses due on June 30. RAP received only two responses to the RFP, one from CLR and the other from Berrio Hayward Law, a local private law firm.

Staff reviewed both proposals for compliance with the RFP and found them to be fully responsive to the services and work set forth in the request. Upon evaluation of the proposals, staff selected CLR. Consequently, this Council report is seeking authorization to contract with CLR for tenant representation services at RAP Proceedings.

On June 20, 2023 Council also adopted Resolution No. 89790 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, 2024.²

BACKGROUND/LEGISLATIVE HISTORY.

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

Table 1. Council’s Actions Regarding Contracts For Tenant Representation Services Since 2013

Date	Resolution Number	Council Action
November 19, 2013	84706 C.M.S. ³	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.

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

² <https://oakland.legistar.com/LegislationDetail.aspx?ID=6185257&GUID=4391A8E7-E664-48BB-BB1B-A6A0377F8962>

³ [City of Oakland - File #: 13-0147 \(legistar.com\)](https://oakland.legistar.com/Files/13-0147)

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.
November 1, 2022	89483 C.M.S.	Pursuant to an RFP public process, authorized a new contract with CLR for provision of legal representation services to low- and moderate-income tenants at RAP petition proceedings and HRRRB appeal proceedings in the amount of \$239,271 from November 1, 2022, through June 30, 2023.

On June 9, 2023, staff released an RFP for representation services for LMI tenants for a twelve-month contract in the amount of \$250,000, renewable at the City's option for another year not to exceed \$250,000 per year. RAP staff held a virtual additional information session on June 23, 2023 to provide guidance to applicants. Staff received only two responses by the June 30, 2023 submission deadline, one from CLR and another from Berrio Hayward Law, a local private law firm. Staff reviewed both proposals and found them to be compliant and responsive to the requirements set forth in the RFP.

Upon review of the two submitted proposals, staff decided to move forward with a recommendation to Council to authorize a new contract with CLR. This decision was based on CLR's experience and capacity to represent LMI tenants in RAP Proceedings, CLR's existing tenant outreach and education campaigns, awareness in the tenant community about the services CLR offers, and representation costs.

On August 7, 2023, while going through the RFP and contract negotiation process, the City, under the City Administrator's procurement process authority, after an informal request for proposals, signed a short-term contract with CLR for an amount not to exceed \$49,999 to cover the gap in services between July 1, 2023 and September 30, 2023.

ANALYSIS AND POLICY ALTERNATIVES

The recommended Council action will advance the City's housing, economic, and cultural security priorities by continuing to provide more equitable access to LMI tenants in RAP Proceedings. The services sought through this recommended contract with CLR are based on RAP staff's assessment of the needs, barriers, and challenges LMI tenants continue to experience when participating in the RAP adjudicative process. Some of the challenges include limited knowledge of the legal system, language and technological barriers, and limited financial resources. The recommended action will support achievement of the following goals:

- 1) To ensure that more LMI tenants have representation at RAP Proceedings;
- 2) To reduce the displacement of LMI families of color, and immigrants in Oakland;
- 3) To empower LMI tenants 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.

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.

Tables 2 and 3 depict CLR's performance in meeting contract goals and achieved results.

Table 2. CLR Performance in Meeting Contract Goals for the November 2022 – June 2023 Contract

CLR Program Data for 11/1/2022 - 6/30/2023											
	Goal	Q2		Q3			Q4			Total YTD	% of Goal
		Nov	Dec	Jan	Feb	Mar	Apr	May	June		
ASSESSMENT FOR RAP-RELATED LEGAL SERVICES											
Total number of tenants assessed for eligibility for RAP- related legal services. Clients who are ineligible are referred to another organization or private attorneys. Clients often reach out with non-RAP related issues and therefore will be served through a different CLR project.	100	44	49	68	75	87	70	62	51	506	506%
RAP-RELATED LEGAL SERVICES TO TENANTS *CLOSED CASES											
Tenants who received representation services (reported when case is closed).	67	2	4	1	2	2	1	7	3	22	33%
REFERRALS RECEIVED FROM RAP STAFF											
Referrals received from RAP staff via email utilizing RAP/CLR referral form.	-	11		5	3	1	1	0	1	22	-
RAP-RELATED LEGAL SERVICES TO TENANTS *OPEN CASES											
Tenants who are receiving extended or representation services. Because cases often take a long time to close, we have added this open/pending row to show how many cases are in progress. We believe this gives a more complete image of the work being done on this project.	-	12		14			16			-	-

Table 3. CLR's Reported Outcomes for Cases Closed by June 30

Centro Legal City of Oakland Rent Adjustment Program Data Quarterly Summary of Services						
	Goal	Q2	Q3	Q4	Clients Served YTD	% in Meeting Goal
ASSESSMENT FOR RAP-RELATED LEGAL SERVICES						
Tenants assessed for eligibility to receive services	162	93	230	183	506	312%
RAP-RELATED LEGAL SERVICES TO TENANTS						
Tenants who received extended or representation services	67	6	5	11	22	33%
OUTCOMES OF LEGAL REPRESENTATION						
Prevented Loss Of Current Housing		1	2	8	11	
Negotiated Or Facilitated Move Out To Provide Soft Landing					0	
Obtained Or Preserved Access To Housing			3		3	
Prevented Or Ended Unfair Or Illegal Behavior Related To Housing		5		2	7	
Enforced Rights To Safe And Stable Housing					0	
Obtained Other Housing Benefit					0	

These tables depict CLR's performance executing the legal representation program between November 1, 2022 and June 30, 2023. Of note, CLR provided 21 tenants with legal representation instead of the 67-contract goal. RAP staff reviewed the difference between expected and actual outcomes and believes that CLR adequately completed its contracted services considering the factors below.

Impacts on Contract Performance

The 21 cases reported by CLR represent only closed cases. As of June 30th, CLR also had 16 open RAP petition representation cases ranging from illegal rent increases to capital improvements to decreased housing services, with many comprising rampant harassment by the housing provider as reported by CLR. As an example, CLR reported having resolved a case in which a tenant who was a monolingual Spanish-speaker paid \$9,500 in illegal rent increases because they feared their landlord would retaliate against them if they enforced their rights against illegal rent increases.

Further, many tenants that sought support from CLR were ineligible to file petitions because of the requirement that a tenant must be current on rent. Therefore, while CLR assessed 506 Oakland tenants for RAP-related issues during the term of the contract, many tenants they assessed were unable to benefit from the CLR services. Regarding this restriction, the Rent Board has adopted a resolution recommending that this tenant requirement be eliminated. Staff plans to bring this amendment and other recommendations the Board is considering to City Council in November of this year.

Additionally, Oakland's eviction moratorium (Resolution No. 13589⁴) prohibited rent increases above the Consumer Price Index (CPI) Adjustment. As a result, there have been fewer tenants seeking relief through RAP hearings against rent increases. We expect an increase in the number of petitions once the moratorium on rent increases is lifted on June 30, 2024.

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.

CLR designed a programmatic approach that centers racial equity based on years of experience serving low-income tenants in Oakland. The following table shows CLR's reported outcomes for the cases they were able to finish by June 30.

Table 4 below shows CLR's reported demographic and economics for cases CLR closed by June 30 under the prior contract.

⁴ <https://oakland.legistar.com/LegislationDetail.aspx?ID=4406542&GUID=EAF35294-F356-4895-A87A-0C1B9CE4D0C3&Options=ID|Text|&Search=13589>

Table 4. CLR’s Reported Demographic and Economics for Cases Closed by June 30

Centro Legal City of Oakland Rent Adjustment Program Data Demographic and Economic Data for Tenants Receiving RAP-Related Legal Services					
Gender	Q2	Q3	Q4	Clients Served YTD	% of Clients Served YTD
Female	3	3	8	14	67%
Male	3	2	2	7	33%
Transgender	0	0	0	0	0%
Unknown	0	0	0	0	0%
Total	6	5	10	21	100%
Household Income	Q2	Q3	Q4	Clients Served YTD	% of Clients Served YTD
Extremely Low Income (0-30% AMI)	5	4	10	19	90%
Very Low Income (31-50% AMI)	1	1	0	2	10%
Low Income (51-80% AMI)	0	0	0	0	0%
Non-Low/Moderate Income (>80% AMI)	0	0	0	0	0%
Total	6	5	10	21	100%

CLR's current proposal is 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 has refined their program model over time to adapt to the needs of clients and RAP to address language and technological barriers such as navigating quasi-remote court services due to the ongoing COVID-19 pandemic. CLR's proposed program builds on the expertise CLR has developed in providing legal services in RAP-related matters and expands their ability to reach the communities that need the services the most. CLR staff has subscriptions to legal research databases used to research and prepare briefs to submit prior to RAP appeals hearings and has ability to explain the information found through these databases while mitigating the problem of tenants not having access to the technology and research databases necessary to adequately prepare for a RAP hearing and appeals board hearing. CLR has language capacity to represent monolingual Spanish speakers and has extensive expertise representing tenants who primarily speak languages other than Spanish and English including Cantonese and Mandarin.

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, and 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.

CLR also proposes expanding the role of paralegals when providing legal services to tenants. CLR paralegals can research the property, including researching parcel maps, permits, notices of violation, and correspondence with Code Enforcement. They can use their expertise in identifying habitability violations to visit the unit and take pictures to attach to the evidence packet that accompanies the tenant petition. They can closely work with tenants to ensure that tenants acquire and timely produce the appropriate documents and evidence to support their case at their RAP hearing. They can share the evidence with attorneys who will review the evidence and spend additional time crafting a case strategy and work together to prepare the tenant for their hearing, appeal, or remand hearing. In total, CLR estimates that providing tenants with the effective representation that they deserve will require 10 to 27 hours of attorney and paralegal time. If the matter is appealed, CLR staff will spend additional time researching and preparing the tenant for the appeal.

CLR's current proposal is to provide Legal Representation Services to at least 55 tenants per year. CLR's proposed cost of \$250,000 is based on an estimate of 10 to 27 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 RAP petitions, 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.

Alternatives

An alternative to accepting CLR's is to reissue the RFP in an attempt to attract additional respondents. This alternative would result in a longer time without critical legal services for LMI tenants, and with no guarantee that the RFP would generate qualified new proposals.

FISCAL IMPACT

The total \$500,000 (including the \$250,000 for a second year if extended by the City) for this contract will be 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. 12517⁵ C.M.S.

PUBLIC OUTREACH / INTEREST

The RFP released on June 9, 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 local newspapers and distributed to legal aid suppliers registered with the City's iSupplier system. Also, eleven 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 June 23, 2023.

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https://library.municode.com/ca/oakland/codes/code_of_ordinances?nodeId=TIT8HESA_CH8.22REREA_DEV_ARTIVREPRSEFE

COORDINATION

The Department of Workplace and Employment Standards reviewed, approved and published the RFP upon which the recommended contract with CCLR is based. Also, the City Attorney's Office and Budget Bureau have 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.

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 low- and moderate-income tenants 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 Council adopt a resolution authorizing a contract with Centro Legal De La Raza for provision of representation services to low- and moderate-income tenants at Rent Adjustment Program petition proceedings and Housing, Residential Rent and Relocation Adjustment Board appeal proceedings in the amount of \$250,000 From October 1, 2023, through September 30, 2024, renewable at the City Administrator's option for one additional one-year term not to exceed \$250,000.

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

Respectfully submitted,

Emily Weinstein

Emily Weinstein
Interim Director, Housing & Community
Development

Reviewed by:
Chris Norman
Chief of Staff, Housing & Community
Development

Prepared by:
Victor Ramirez, Program Manager Rent
Adjustment Program
Housing & Community Development

Signature: *Emily Weinstein*
Emily Weinstein (Aug 29, 2023 22:57 PDT)
Email: EWeinstein@oaklandca.gov