

Mayor's Office of Housing and Community Development
City and County of San Francisco



Mark Farrell
Mayor

Kate Hartley
Director

To: Department of Elections
From: Kate Hartley *KH*
Director, Mayor's Office of Housing and Community Development
Date: March 16, 2018
Re: "City-Funded Legal Representation for All Residential Tenants in Eviction Lawsuits"

In a letter dated February 22, 2018, the Mayor's Office of Housing and Community Development (MOHCD) provided its analysis to the Ballot Simplification Committee on the effect of Proposition F – City-Funded Legal Representation for Residential Tenants in Eviction Lawsuits (the Measure) on current law and practices. MOHCD would like to update and/or clarify the following:

- FY17-18 funding amounts of MOHCD-funded tenant services;
- Its interpretation of the Measure's exception for tenants who reside in the same dwelling as their landlord or master tenant;
- Its cost estimate for implementation of the Measure; and
- Its determination that the Measure would require longer than twelve months to fully implement.

Currently, MOHCD provides some services available to all residential tenants through contracts with non-profit community-based organizations, including no-cost tenant counseling and tenant's rights education (approximately \$2 million annually), and no-cost and low-cost basic legal services (approximately \$2.4 million annually).

MOHCD's contracted non-profit agencies also provide no-cost full-scope legal representation to a limited number of eligible tenants under certain criteria including age, income, and health status (approximately \$2 million annually). This particular service type is most pertinent to the Measure, as the Measure would require that full-scope legal representation "be available to a tenant thirty days after a tenant is served with an eviction notice or upon service of an unlawful detainer complaint, whichever occurs first, and at least until such time that the eviction notice or unlawful detainer complaint is withdrawn, the case dismissed, or a judgment in the matter entered."

Regarding MOHCD's interpretation of Section 3(b) exception for landlord or master tenant who resides in same dwelling unit, the City Attorney's Office has clarified that while MOHCD would not be required to provide legal representation to these tenants, it also would not be prohibited from doing so and therefore MOHCD would have discretion in providing access to the program for these tenants.

MOHCD indicated in its February 22 letter that implementation would require the City to appropriate an additional \$9.3 million annually in the budget process to fully fund the program. This preliminary cost estimate was based on publicly available court data, analysis of existing

contracts, consultation with subject-matter experts, and on the assumption that all eligible tenants would access the program. MOHCD has since refined its cost estimate by requesting additional court data to inform both the anticipated number of cases, as well as to establish a proxy for the anticipated rate of tenants who would avail themselves of assistance available through the program in order to determine an anticipated utilization rate. This resulted in a revised cost estimate significantly lower than initially estimated. Depending on the number of cases and other factors, MOHCD now estimates that the program would cost an additional \$4.2 million to \$5.6 million annually based on a 68-88% utilization rate.

Regarding Section 3(c), the Measure would require MOHCD to implement its provisions no later than twelve months after its effective date. Appropriation of funding is dependent on decisions made by the Mayor and Board of Supervisors through the budget process, as an ordinance cannot bind futures Mayors and Boards of Supervisors to providing funding. MOHCD would make its best efforts to ensure that the program starts within that time frame; however, given the current legal market it may take longer than 12 months to hire all of the approximately 27-34 attorneys needed for the program.

MOHCD provided its revised cost analysis to the Office of the Controller for its cost analysis for the Department of Elections.

Cc: Jeff Buckley, Brian Cheu, Hugo Ramirez, Amy Chan, Dean Preston (Proponent)