



Office of the Mayor

CONSENT CALENDAR

April 2, 2019

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín, Councilmembers Ben Bartlett, Kate Harrison, and Rigel Robinson

Subject: Opposition to Eliminating Settlement Conferences for Unlawful Detainer Cases

RECOMMENDATION

Adopt a Resolution urging the Alameda County Superior Court to rescind its proposal to eliminate settlement conferences for half of all unlawful detainer cases. Send a copy of the Resolution to the Presiding Judge of the Alameda County Superior Court.

BACKGROUND

In late February, the Alameda County Superior Court announced that it will be eliminating settlement conferences for half of unlawful detainer cases for four months beginning on April 8 (the date was originally March 4 but has since been postponed). The purpose of this is for Harvard University Law School to conduct a study to evaluate the efficacy of the settlement conferences. This decision was made without consultation from the community or stakeholders.

Currently, all unlawful detainer cases brought forward at the Court require mandatory settlement conferences prior to the case going to trial. For many low-income tenants, this is their only opportunity to consult with an attorney and resolve their case before trial. This is because non-profit legal service providers use these conferences as an opportunity to work with tenants who would otherwise not have the ability to obtain legal representation. Access to this can make the difference between resolving the case and having a tenant remain in their home or being evicted and possibly ending up homeless.

Multiple 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, have unanimously come out in strong opposition to this proposal. A lack of community engagement and the risk this places on low-income tenants were cited as reasons for opposition.

While studying the effects of settlement conferences is a noble cause that could help improve the ability of tenants to keep their homes, doing so in a way that impacts low-income tenants in being able to get legal representation is not appropriate. Instead of using vulnerable residents as guinea pigs for this experiment, researchers and academics should instead find ways that do not impede upon a person's ability to

receive legal representation (i.e. do a comparative study of courts that mandate settlement conferences with those that do not).

The City of Oakland recently adopted a similar resolution urging the Court to reconsider its decision.

RATIONALE FOR RECOMMENDATION

Between 2014-2016, there was on average 5,467 unlawful detainer filings in Alameda County. If this four month study was to go ahead, that would mean over 900 unlawful detainer litigants, including many Berkeley residents, would be denied a settlement conference. In the current housing and homeless crisis, settlement conferences can be the only lifeline between remaining in one's home and ending up on the streets.

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

Not applicable.

CONTACT PERSON

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Attachments:

1: Resolution

RESOLUTION NO. ##,###-N.S.

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

WHEREAS, currently, settlement conferences are mandated by the Alameda County Superior Court (the Court) for all unlawful detainer cases; and

WHEREAS, between 2014-2016, Alameda County on average had 5,467 unlawful detainer filings; and

WHEREAS, the City of Berkeley provides funding to non-profit legal services to help provide legal representation to low-income residents who otherwise would not have the ability to receive representation; and

WHEREAS, settlement conferences are often the only place a low-income tenant has the ability to talk to an attorney about their case and potentially resolve it without going through the stresses of a trial; and

WHEREAS, the Court has recently announced it plans on conducting a study for the Harvard University School of Law by eliminating settlement conferences for half of unlawful detainer cases over a four month period, beginning on April 8, 2019; and

WHEREAS, the purpose of this would be to compare the outcomes of the 50% of litigants who receive settlement conferences compared to the other half that do not; and

WHEREAS, this experiment places a grave risk to those whose only means of legal representation is through settlement conferences, and would disproportionately impact low income residents; and

WHEREAS, this proposal was announced with no community input, to the dismay of non-profit service providers and other stakeholders; and

WHEREAS, while studying the effects of settlement conferences is a noble cause that could help improve the ability of tenants to keep their homes, doing so in a way that impacts low-income tenants in being able to get legal representation is not appropriate; and

WHEREAS, in the current housing and homeless crisis, priority must be placed in preserving housing for low-income tenants and protect tenants against actions that could place them at risk of homelessness.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby opposes the proposal to eliminate settlement conferences for half of unlawful detainer cases.

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.

BE IT FURTHER RESOLVED that a copy of this Resolution be sent to the Presiding Judge of the Alameda County Superior Court.