



Rent Stabilization Board

## ACTION CALENDAR

April 2, 2019

To: Honorable Mayor and Members of City Council

From: Jay Kelekian, Rent Board Executive Director

Subject: Implementation of Resolution 68,132 (Council Funding for Additional Services Amending Contracts with Eviction Defense Center (“EDC”) and East Bay Community Law Center (“EBCLC”) For The Period Ending June 30, 2018)

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### BACKGROUND

On July 25, 2017 Council passed Resolution 68,132 providing a transfer of \$300,000 per year to the Rent Board for fiscal years 2018 and 2019 to amend the Rent Board’s long-standing contracts with the Eviction Defense Center (“EDC”) and the East Bay Community Law Center (“EBCLC”). The additional funding was authorized for the purpose of assisting Berkeley tenants via advocacy and counseling so as to prevent displacement. The funding was earmarked for assistance to tenants categorized with extremely low, very low, low and moderate income.

Council also requested that the Rent Board administer the contract and provide updates on how the additional funding was being utilized and what additional services were being provided to Berkeley residents. This report quantitatively and qualitatively describes the changes in services provided during FY 2018.

### HISTORY

With the passage of the Costa-Hawkins Rental Housing Act in 1995, rents began to rise dramatically in Berkeley and neighboring communities as landlords were now given the right to set new tenancies at full market rate. Due to these substantial rent increases,

and the allure of market-rate rents, Council members received numerous reports from constituents that many rent-controlled tenants in Berkeley found themselves being coerced and harassed out of their long-term homes, often through technical and/or “pretextual” evictions.

Starting in 1996 with the East Bay Community Law Center and 2001 for the Eviction Defense Center, the Berkeley Rent Board has been contracting with these two non-profits for the dual purpose of preserving the integrity of the Rent Control Ordinance and preventing unlawful evictions of Berkeley’s most vulnerable low-income tenants. These tenants otherwise would generally not have access to legal services.

In FY 2018, the Rent Board awarded \$142,500 for the EBCLC and \$140,000 for the EDC. The scope of services for the providers as it relates to their contracts with the Rent Board is to provide assistance to low-income tenants in the following manner; eviction defense legal representation, representation at Rent Board proceedings, in-depth legal counseling on local law, and clinics informing tenants of their rights under the rent ordinance.

With the passage of Measure U1, City Council has been able to prioritize measures seeking to preserve affordable housing, prevent homelessness and tackle the displacement of long-term, low and moderate income tenants throughout the city. Resolution 68,132 was passed in furtherance of these goals.

### CHANGES IN SERVICES

Prior to the passage of the resolution, Rent Board and city staff met with the contract providers to identify issues and areas of concern that tenants were experiencing when in conflict with their landlords. It was determined that, under the contract with the Rent Board, while the EBCLC and EDC were providing core services in the way of counseling and legal assistance, there was a need for more in-depth, targeted assistance. Outreach to non-English speaking tenants was also identified as a need as was the expansion of the level of full-scale representation for tenants that were either subject to eviction or subject to harassment and/or coercion by their landlord. After extensive consultation with the providers it was determined that while there was benefit in increasing the number of residents served, there was also benefit in greatly expanding the scope and depth of the services provided. It is the offering of this greater depth of assistance that explains why the total of low and moderate income has increased but not doubled.

With the increase in funding, the EDC and EBCLC have now expanded both the breadth of services and the volume of assistance provided to Berkeley tenants. The added funding has also allowed the providers to serve the additional clientele of moderate income tenants and tenants who live in units that are partially exempt from

the Rent Ordinance (i.e. Section Eight, Shelter Plus). As shown below, each provider has not only increased the number of tenants served, but has substantially expanded the level of services provided.

Under the City-funded components of the contract, the EBCLC is now representing tenants in Berkeley Housing Authority and Shelter Plus administrative proceedings, providing assistance to and direct representation of tenants with issues pertaining to the buyout provisions of the Tenant Protection Ordinance (B.M.C. §13.79 et seq.) and assistance and representation for tenants impacted by the Short-term Rental Ordinance (B.M.C. §23C.22.050). As a result of the additional City funding, the EBCLC has increased its staffing for Berkeley tenants by adding one Full-Time Equivalent (1 FTE) staff attorney and roughly .25 FTE for additional administrative and clerical support.

The additional City funding has enabled the EDC to hire one new full-time attorney as well as establish a Berkeley satellite office that now provides instant mobile access and a Berkeley hotline phone number. They have also increased their already robust bi-lingual assistance. The two charts below reflect the services to be provided under the original contract (Rent Board funding) and the revised/expanded contract (City funding).

The numbers in the charts below reflect both the original and revised minimum deliverables for each agency. For ease of comparison, we have revised the categories of services so that the same terms are used when describing each agency's deliverables (actual contract language varies slightly). It should be noted that the charts on the following page have services listed by least labor (*pre-litigation services*) intensive to more/most labor intensive (*L'td scope assistance and full direct representation*). Service providers have reported that cases often flow from a less labor intensive category to a higher category as the case progresses. When this occurs, cases are not double counted and the service agency gets credit in only one reporting category (the most labor-intensive level). The two organizations collaborate very well together and sometimes refer clients to each other in an effort to serve as many meritorious clients as possible. During our monthly review and site visits, we look for overlap of service. If a client is reflected in the same level of service for both agency (generally for *pre-litigation services*), we only count that individual once. If however, a client is reflected in different level of service categories (*pre-litigation services* for Agency A and *L'td scope assistance* for Agency B), we will count it once for each agency because it generally reflects a referral or transfer between agencies.

	<b><u>Original Services With Rent Board Funding</u></b>	<b><u>Expanded Services With City Funding (supplemental services/added)</u></b>
<b><u>EBCLC</u></b>	limited to low-income tenants covered by Rent Control Ordinance	*expanded to include moderate-income tenants and covers Tenant Protection Ordinance/Tenant Buyout Ordinance/Short-Term Rental Ordinance/Hoarding Cases
Funding	\$142,500	\$292,500
Pre-litigation services	300 clients per year	320 clients per year
Lt'd Scope/Pro-per Assistance	36 cases	156 cases
Direct Representation	18 cases	58 cases

	<b><u>Original Services With Rent Board Funding</u></b>	<b><u>Expanded Services With City Funding (supplemental services/added)</u></b>
<b><u>EDC</u></b>	limited to low-income tenants covered by Rent Control Ordinance	*expanded to include moderate-income tenants and covers Tenant Protection Ordinance/Tenant Buyout Ordinance/Short-Term Rental Ordinance/Hoarding Cases
Funding	\$140,000	\$290,000
Pre-litigation services	50 clients per year	50 clients per year
Lt'd Scope/Pro-per Assistance	250 cases	430 cases
Direct Representation	60 cases	60 cases
In depth/Resource intensive/ Short of representation		15 (ongoing) cases In-depth services/resource intensive
		**Berkeley satellite office/ Hot-line/increased outreach to non- **English speaking community

TRACKING AND AUDITING OF PROVIDERS

Prior to the additional City funding provided to the EDC and EBCLC, the Rent Board had been monitoring these contracts since their inception. During the course of FY 2018, Rent Board staff monitored the contracts to ensure that the providers were meeting their newly targeted and contracted service levels. The EDC provides monthly reports and the EBCLC provides quarterly reports, both of which provide detailed activity of actual services provided. Prior to payment, the Rent Board reviews these reports for accuracy and to ensure that contract goals are being met. In addition, the Board reviews the invoices and detailed reports to ensure that there is no duplication of services between the providers. Rent Board staff conducts site visits to review case files to ensure contract compliance and validate the accuracy of the reported services. Both the EBCLC and the EDC met their service deliverable goals for FY 2018 and are continuing their reporting into FY 2019.

DEMOGRAPHICS FOR FY 2017/18

Below are demographics showing the diversity of the population that has been served under the contracts during FY 2017/18.

	<b>EDC</b>	<b>EBCLC</b>
African-American	42%	39%
Latino	16%	8%
Asian	9%	4%
Elderly	25%	29%
Disabled	38%	15%
Minor in Household	27%	not reported
Long-term Tenant	54%	not reported

Several councilmembers have asked for examples of the types of services provided under the contracts. The following is a small sample of some of the cases where the EDC and EBCLC reported having provided representation/assistance.

**EDC #1: Mr. B. (81) and Ms. W (75)**

In one case, the Eviction Defense Center [EDC] received an urgent phone call from a Berkeley public health care provider. The woman was alarmed after seeing a very disabled 75 year old woman with an 81 year old partner in her clinic. She believed that the very elderly and frail couple was being evicted from their home of 16 years for hoarding, and the Berkeley Fire Department was inspecting the premises in three days.

The EDC immediately dispatched an attorney and caseworker to meet with the clients. After gaining the trust of the clients they were able to see the apartment, which was in an extremely dangerous and unhealthy condition. All pathways, windows, doors, and heaters were blocked. Neighboring tenants expressed their concern about the extreme fire hazard and their sympathy for the elderly and disabled tenants. They also explained that the landlord had tried everything to get the premises under control, but was at his wits' end.

After intense counseling sessions, the EDC was able to get the clients' permission to do a full clean-up operation starting the next morning and within 48 hours, three dumpsters were filled and carted off the premises. The neighboring tenants and the landlord were extremely relieved when the premises passed the Fire Department Inspection the next day.

The EDC conducted regular home visits and mini-clean ups at the premises to ensure the health and safety of all tenants in the building. Most importantly, the efforts of the EDC have helped keep two very elderly and disabled long term tenants in their home.

#### EDC #2: **Ms. G.**

Ms. G came to the EDC with an eviction notice for nuisance. After over an hour meeting with an EDC attorney, it became apparent that she was suffering from PTSD. The attorney was able to gain her trust and confidence enough to discover that she was a rape and domestic violence survivor. The nuisance behavior appeared to be related to her PTSD symptoms.

The EDC immediately reached out to the attorney representing the landlord and made a written reasonable accommodation request. The landlord's attorney admitted that they did not want to evict Ms. G because they could tell she was suffering from mental illness, but her behavior was leaving them no choice.

Because of an excellent working relationship with this particular landlord and their attorney, the EDC was able to obtain additional time to resolve this case. During this time, the EDC was able to foster a strong client relationship, by having consultations with Ms. G a minimum of three times each week regarding legal issues pertaining to her housing.

Within a week, the attorney for the landlord reached out and said "I don't know what you are doing...but keep doing it! Since your agency got involved, she has not been bothering anyone! We are rescinding the eviction notice."

For the next several months, EDC staff worked with Ms. G with routine check-ins. As a result, her housing is no longer in jeopardy. The staffing needed to provide this type of

ongoing support to one of the most vulnerable members of the Berkeley community, is made possible by the City Council grant.

EDC #3: **Mr. R.**

Mr. R was a long-term tenant paying \$760.00 per month and who was being evicted for non-payment of rent. His management company was well known in Berkeley for engaging in predatory practices, especially directed towards vulnerable and long-term tenants.

Mr. R., who was in his late 70's, had just finished treatments for cancer and during this time, fell behind in rent. The treatments had left him weak and easily confused.

The EDC immediately reached out to EBCLC for a rent grant and reached out to the attorney for the other side and offered to pay all of the rent. The attorney for the landlord responded that the only settlement option would be if Mr. R vacated.

After extensive litigation which lasted several months, EBCLC had the rent grant approved, but the landlord refused to accept it and kept insisting that Mr. R leave his home. After the 3<sup>rd</sup> court appearance and on the eve of jury trial and after almost 100 attorney hours, the landlord finally agreed to let Mr. R. stay in his home. A stipulation was drafted, rent was paid, and the case was dismissed. The EDC still keeps in touch with Mr. R on a regular basis to make sure that he is doing well.

The following is a sample of some of the cases where the EBCLC has assisted and represented tenants:

EBCLC #1: **Ms. A.**

Ms. A is a 75-year-old disabled woman who has been living in her apartment for 18 years. Her only source of income is social security and she would be homeless if she lost her affordable housing. In September 2017 she was removed from the property by the police and involuntarily hospitalized due to erratic behavior that was disturbing the neighbors. While she was in the hospital, the landlord filed an eviction lawsuit against her and took a default judgment, obtaining a writ of eviction to be executed by the sheriff. After being notified of the case, EBCLC was able to locate Ms. A at a hospital in Hayward. EBCLC filed an application to stay (delay) the eviction to give them time to investigate. After considerable collaboration with the tenant's medical providers, EBCLC discovered that the tenant's disturbing conduct was related to a change in her medications. EBCLC successfully moved the court to set aside the default judgment and then negotiated a settlement allowing Ms. A to return to her home and continue her tenancy after she was stabilized and released from the hospital.

**EBCLC #2: Ms. D.**

Ms. D is an 81-year-old African American woman who has lived in her apartment for more than 30 years. Her landlord served her with a notice of lease violation and threatened her with eviction due to excessive clutter in her rental unit allegedly causing a fire hazard. EBCLC staff visited the property and found that the tenant's personal property, accumulated over the course of 30 years, had filled the small apartment nearly to the ceiling in every room. EBCLC attorneys negotiated with the landlord for an extension of time to remedy the situation and assigned a social worker to work with the tenant. The social worker and EBCLC staff have been helping Ms. D. over the course of several weeks to sort her possessions and bring the apartment into compliance with applicable codes. They are also working with her to secure continuing appropriate services to allow this senior to remain in her home and continue to live independently. The eviction lawsuit has been averted and the tenancy has been preserved.

**EBCLC #3: Mr. H.**

Mr. H is a 69 year old disabled veteran living in a single room occupancy hotel. His only source of income is veterans' benefits and he is at high risk of homelessness if he were evicted from his home. His landlord filed an eviction lawsuit against him claiming he was making too much noise but never served him with the summons and complaint. Because he was never served with the lawsuit, he did not legally respond and the landlord obtained a default judgment and writ of eviction.

The first notice that he received of the eviction was the notice posted on his door by the Alameda County Sheriff's office, stating that they would be removing him from the premises in eleven days. EBCLC helped him file a motion to delay the sheriff's lockout by 40 days. This allowed the EBCLC to file another motion to overturn the default judgment. After prevailing on that motion, EBCLC filed an answer on the tenant's behalf. Finally, EBCLC filed a motion which resulted in the landlord dismissing the case, thus preserving his tenancy.

**CONCLUSION**

With the passage of Resolution 68,132, the City has not only made necessary legal

services more available to tenants but has expanded the breadth and scope of those services so as to enable those who are most at risk of losing their relatively affordable housing maintain their homes.

The funding provided by the City covers fiscal years 2017/18 and 2018/19. While this report only covers the period through June 30, 2018, both agencies have met their targeted service goals for last fiscal year. The Rent Board's Eviction Committee met with the service providers last spring to discuss how the changes to the contract worked in FY 2018 and if any modifications were desired for the current fiscal year. The committee, staff and both of the service providers agreed to continue with no modifications in FY 2019. The Rent Board will continue to monitor the contract and services and provide additional updates as appropriate.

