Tenant Right to Counsel: Six-Month Implementation Update to Land Use Committee
Tenant Right to Counsel Update

- MOHCD’s Broader Eviction Prevention Strategy
- Tenant Right to Counsel Program
  - Program Structure
  - Successes & Challenges
  - Lessons Learned
San Francisco Tenants

• **65% (256,000 units)** of city’s housing is rental housing

• **1 out of 3** tenant households have severe housing problems

• **8.5% (33,000 units)** of city’s housing is subsidized to be permanently affordable

• **60%** of tenants live in rent controlled buildings

• **105,000** low-income & **34,000** moderate-income tenant households
San Francisco Eviction Data

• San Francisco Superior Court
  – 2,638 eviction lawsuit filings & 581 default judgments

• San Francisco Sheriff’s Department
  – 926 court orders to evict
Eviction Prevention & Housing Stabilization

- Tenant Right to Counsel (TRC)
- Tenant Counseling, Education & Outreach
- Alternative Dispute Resolution (ADR)
- Direct Financial Assistance
  - Emergency Rental Assistance
  - Ongoing Tenant-Based Rental Subsidies
Eviction Defense System Prior to Implementation of TRC Program

1. Full-scope representation (i.e., start to finish) – as available, with prioritization

2. Pro per (means “self representation”) assistance with Answer – available to all, no prioritization
3. Limited-scope representation at pretrial mandatory settlement conference – as available, no prioritization

4. *Pro per* assistance and/or limited-scope representation in other stages of the legal process (e.g., write motions, oppose motions, assist with discovery, stays, etc.) – as available, with prioritization
Eviction Defense System in the Tenant Right to Counsel Era

1. Full-scope representation – as available, no prioritization

2. *Pro per* assistance with Answer – available to all, no prioritization

3. Limited-scope representation at pretrial mandatory settlement conference – available to all, no prioritization
Pre-TRC Cases by Service Type (FY18)

- Full-Scope Representation: 40%
- Limited-Scope Representation - Mandatory Settlement Conference: 28%
- Pro Per - Answer: 18%
- Other pro per/limited-scope representation: 14%
TRC Cases by Service Type (6 months)

- 67% Full-Scope Representation
- 27% Limited-Scope Representation - Mandatory Settlement Conference
- 6% Prop Per - Answer
Full-Scope Representation Versus Less Than Full-Scope Representation

• Full-scope representation gets better results
  – Full-scope representation success rate: 67%
  – Pro per assistance & limited-scope representation success rate: 38%

• Full-scope representation cases
  – FY18-19 (12 months): 1,257
  – FY19-20 (6 months): 1,088
Tenant Right to Counsel Partnership

• Legal aid partners:
  – Eviction Defense Collaborative (Lead Partner)
  – Advancing Justice – Asian Law Caucus
  – AIDS Legal Referral Panel
  – Asian Pacific Islander Legal Outreach
  – Bay Area Legal Aid
  – Homeless Advocacy Project/Justice & Diversity Center
  – Legal Assistance to the Elderly
  – Open Door Legal
  – Tenderloin Housing Clinic
MOHCD Eviction Defense Funding

Fiscal Year Budget Allocation

- FY12-13: $0
- FY13-14: $1,000,000
- FY14-15: $2,000,000
- FY15-16: $3,000,000
- FY16-17: $4,000,000
- FY17-18: $5,000,000
- FY18-19: $6,000,000
- FY19-20: $7,000,000

MAYOR’S OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT
Unlawful Detainers in San Francisco

<table>
<thead>
<tr>
<th>Year</th>
<th>Number</th>
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<tbody>
<tr>
<td>CY11</td>
<td>4,192</td>
</tr>
<tr>
<td>CY12</td>
<td>3,695</td>
</tr>
<tr>
<td>CY13</td>
<td>3,423</td>
</tr>
<tr>
<td>CY14</td>
<td>3,355</td>
</tr>
<tr>
<td>CY15</td>
<td>3,053</td>
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<td>CY16</td>
<td>3,036</td>
</tr>
<tr>
<td>CY17</td>
<td>3,037</td>
</tr>
<tr>
<td>CY18</td>
<td>2,924</td>
</tr>
<tr>
<td>CY19</td>
<td>2,638</td>
</tr>
</tbody>
</table>
Tenant Right to Counsel Intake by Alleged Cause

- Non-payment of rent: 58%
- Nuisance: 19%
- No-fault (OMI, Ellis, etc.): 16%
- Breach of lease: 7%
TRC Implementation: First 6 Months

July 1, 2019 – December 31, 2019

# of Prop F-eligible households availing themselves of help: 1,634

• 1,088 or 67% received full-scope representation

• 546 or 33% received less than full-scope representation
Full-Scope Case Characteristics

• 56% “fault” and 44%* “no-fault”

• 94.3% or 1,033 of all cases involved low- and moderate-income (LMI) households
  – 98.9% fault cases involved LMI households
  – 88.5% no-fault cases involved LMI households
All Full-Scope Representation Cases by Income Level

- Extremely Low-Income: 68%
- Low-Income: 17%
- Moderate-Income: 9%
- Above Moderate-Income: 6%
All Cases in Eviction Defense System by Income Level

- Extremely Low-Income: 71%
- Low-Income: 16%
- Moderate-Income: 5%
- Above Moderate-Income: 8%
<table>
<thead>
<tr>
<th>Race/Ethnicity</th>
<th>&quot;Fault&quot; Cases</th>
<th>No-Fault Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black</td>
<td>30%</td>
<td>Latino (34%)</td>
</tr>
<tr>
<td>White</td>
<td>28%</td>
<td>API (29%)</td>
</tr>
<tr>
<td>API</td>
<td>15%</td>
<td>White (27%)</td>
</tr>
<tr>
<td>Latino</td>
<td>14%</td>
<td>Black (3%)</td>
</tr>
</tbody>
</table>
All Full-Scope Representation Cases by Race

- Black: 10%
- White: 28%
- Latino: 21%
- Asian & Pacific Islander: 23%
- Other Race/Ethnicity: 18%
All Cases in Eviction Defense System by Race

- Black: 12%
- White: 27%
- Latino: 22%
- Asian & Pacific Islander: 22%
- Other Race/Ethnicity: 17%

MAYOR’S OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT
## Highest Utilization by Neighborhood

<table>
<thead>
<tr>
<th>Fault Cases</th>
<th>No-Fault Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tenderloin (20.5%)</td>
<td>Mission (23.8%)</td>
</tr>
<tr>
<td>South of Market (12.3%)</td>
<td>Outer Richmond (8.2%)</td>
</tr>
<tr>
<td>Mission (11.5%)</td>
<td>Excelsior (7.8%)</td>
</tr>
<tr>
<td>Bayview (5.9%)</td>
<td>Russian Hill (6.4%)</td>
</tr>
<tr>
<td>Western Addition (4.9%)</td>
<td>Sunset/Parkside (6%)</td>
</tr>
</tbody>
</table>
67% of closed cases resulted in household *staying in their home*
- Highest success rate for Black households at 80%
- Lowest for API households at 56%

30.5% of closed cases resulted in household moving out
- Of these, 78% resulted in household moving out with more time and/or money than they likely would have received without representation
Lessons Learned

• Legal aid attorney recruitment & retention
  – Support staff (paralegals, social workers, etc.) are essential
  – Partner with law schools to support legal aid pipeline
  – Provide high-quality litigation training to new attorneys

• Program is still ramping up...
• 47 TRC attorneys with support staff
  – 42 positions filled
  – 5 positions unfilled

• Annual avg. caseload per TRC attorney: 50

• Clients receiving less than full-scope representation (annualized): 1,092 cases
FY20-21 Proposed Funding

• FY20-21 MOHCD TRC Funding: $9.8 million

• Cost per “fully loaded” TRC attorney: $220,000
  – 1 FTE attorney, .3 paralegal, .3 social worker, .2 supervising attorney, .15 intake staff; $300 litigation expenses per client; 15% overhead
## Costs of High-Quality Legal Representation

<table>
<thead>
<tr>
<th>POSITION</th>
<th>FTE</th>
<th>SALARY</th>
<th>SALARY + FRINGE</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attorney</td>
<td>1</td>
<td>$75,000</td>
<td>$97,500.00</td>
<td>$97,500.00</td>
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<tr>
<td>Paralegal</td>
<td>0.33</td>
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<td>$71,500.00</td>
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<tr>
<td>Social Worker</td>
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<td>$60,000</td>
<td>$78,000.00</td>
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<td>Supervising Attorney</td>
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<td>$110,500.00</td>
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<td>Intake Worker</td>
<td>0.15</td>
<td>$50,000</td>
<td>$65,000.00</td>
<td>$9,750.00</td>
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</tbody>
</table>

### PERSONNEL SUBTOTAL

$178,685.00

### Litigation Costs ($300/case for 50 cases)

$15,000.00

### PERSONNEL & LITIGATION SUBTOTAL

$193,685.00

### Indirect (15%)

$29,052.75

### TOTAL

$222,737.75