



**MEMORANDUM**

Rent Stabilization Program  
Community Development Department

**DATE:** April 19, 2021  
**TO:** Rental Housing Committee  
**FROM:** Anky van Deursen, Rent Stabilization Program Manager  
**SUBJECT:** Eviction Prevention and Defense Program

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**RECOMMENDATION**

To consider adding full-scope legal services for tenants facing eviction, with a maximum of \$45,000 for Fiscal Year 2021-22, to a formalized multi-pronged Eviction Prevention and Defense Program.

**INTRODUCTION AND BACKGROUND**

On March 4, 2020, California's Governor declared a State of Emergency to address the COVID-19 pandemic. On March 12, 2020, the City of Mountain View declared a local emergency to ensure the availability of mutual aid and an effective City response to the impacts of COVID-19. On March 26, 2020, the City passed an urgency ordinance, which instituted an eviction moratorium covering nonpayment of rent for COVID-19-related reasons. Tenants financially impacted by the COVID-19 crisis may defer paying rent consistent with State law. Tenants currently have through September 30, 2021 to pay back unpaid rent, and such rent, provided the tenant has otherwise complied with State law, is only collectable as consumer debt and cannot be relied upon as a basis for eviction.

It is estimated that in the Santa Clara County Unlawful Detainer (SCC UD) Court, 95% of tenants are unrepresented by legal counsel, while the majority of landlords do have legal representation. This causes a resource and power imbalance in unlawful detainer cases. Clerks (instead of judges) are entering many judgments at the SCC UD Court, which means that these are default judgments, whereby tenants did not file a formal answer to defend their case. Attachment 1 provides an overview of an Unlawful Detainer (UD) Court process. An incorrectly filled out/filed UD Summons will still receive a default judgment if a tenant does not file a timely formal UD Answer. Consequently, tenants are being displaced without a judicial check on correct or incorrect eviction proceedings.

Beginning July 1, 2021, after the expiration of the Eviction Moratorium, tenants may start to be evicted for failure to pay rent if they have COVID19 rental debt that became due

between September 1, 2020 and June 30, 2021 and have not paid 25% of the unpaid amount of COVID-19 rental debt. Once the moratorium ends, it is anticipated that challenges between landlords and tenants will increase as they grapple with the rules surrounding payment of deferred rent. This may result in tenants often waiving defenses or their rights and unnecessarily losing their housing. The number of anticipated tenants facing post-COVID-19 evictions will no doubt increase and requires an increase in resources available to tenants to defend against these evictions.

## **ANALYSIS**

### **State of Eviction Moratorium**

Currently, SB 91 prohibits evictions for nonpayment of rent before July 1, 2021 if tenants meet certain criteria. Among other things, the law changes the parameters under which tenants may defer their rental payments. Tenants who are unable to pay rent, due to COVID-19 impacts between September 1, 2020 and June 30, 2021, are required to pay at least 25% of their rent by June 30, 2021 to avoid eviction. In addition, what was normally a three-day notice period to respond to an initial eviction notice based on failure to pay rent has been expanded to 15 days while this State law is in effect.

Also, effective April 6, 2020, the Judicial Council of California adopted emergency rules amending the California Rules of Court to effectively suspend all UD's (evictions) and foreclosure actions, unless necessary to protect public health and safety, until 90 days after the State's declaration of emergency is lifted. The Judicial Council voted to amend this rule, known as Rule 1, so that it expired as of September 1, 2020. Since then, eviction cases have resumed in Santa Clara County.

### **Rental Assistance Programs**

Although the eviction moratorium keeps tenants in their homes, it does not free them from paying owed rent down the road. It is estimated that at least 15% of all tenants in California have accumulated rent debt due to COVID-19 impacts. The stimulus package helps tenants with COVID-19 hardships to pay off unpaid rent. This program requires landlords to agree to accept 80% of the rent amount owed and forgive the rest of unpaid rent. If landlords do not want to make use of this program, tenants can still apply for rental assistance covering 25% of their rent (for rent due between April 2020 and June 2021). This program is available for tenants earning less than 80% of the area's median income. The Rent Stabilization Program website contains links to the State's portal to request rental assistance. However, it is estimated that the need will be higher than the available assistance. Since the start of this Statewide rental assistance program on March 15, 2021, over 120,000 applications have been received (40% through landlords and

60% through tenants). If tenants are able to pay 25% of their due rent through the end of June 2021, they are supposed to be protected from eviction. But tenants still need to engage in the UD process if a landlord files for an eviction court case, although landlords are supposed to file a small claims court case for past due rent if tenants have paid at least 25% of their rent.

### **Current Services**

The Rent Stabilization Program already provides certain services regarding eviction protection. It has a robust outreach program to all segments of the community. It contracts with Project Sentinel to administer the Mountain View Rental Housing Helpline, providing tenants and landlords with counseling, education, and assistance with the petition process. The Program also has access to the Mountain View Mediation Program for dispute resolution services. These services include conducting a client intake to assess the tenant's rights and responsibilities; providing educational counsel; and contacting landlords to assess options to resolve tenancy issues. The goal of these front-line services is to resolve any tenancy-related issues before the matter escalates into the filing of a court case. By doing so, these services help tenants avoid eviction proceedings altogether and keep them housed. It is now recommended to bundle and streamline these services in a formal Eviction Prevention and Defense Program and adding an extra layer of full-scope legal services in case of eviction proceedings.

### **Anticipating an Increasing Demand for Eviction Services**

As noted, eviction cases have resumed in Santa Clara County. From March 19, 2020 until December 31, 2020, during COVID, 145 cases were reported in Santa Clara County. Public records regarding eviction rates for Mountain View are not available.

CSFRA Landlords in Mountain View are required to file copies of termination notices, UD filings, and judgments against a tenant with the City. In the first three-quarters of this fiscal year, staff received 343 notices to pay rent or quit. No UD notices or judgment notices have been received during the fiscal year to date. This may be due to the fact that required filing of these notices is relatively new. Targeted mailings were distributed to landlords, reminding them of these added filing requirements. Over time, this data will give the RHC better insight in how many actual UD cases are being filed in Mountain View.

## **Need for Eviction Prevention and Defense Program**

With the passage of AB 3088 and SB 91, tenants who cannot pay their rent due to financial impacts of COVID-19 are subject to the framework of State law. This framework can be very difficult and confusing to navigate and understand without legal assistance.

Initiating Eviction Prevention and Defense Services allows residents access to legal representation so that tenants can ascertain their rights and responsibilities to prevent unnecessary displacement. This is beneficial to both landlords and tenants so that all parties can communicate effectively about their respective rights and obligations. Most tenants do not know the appropriate defenses, do not understand the short formal response period, and the consequences of a default judgment in case the tenant does not file an answer.

Even though the Santa Clara County COVID-19 transmission rate is currently declining, the crisis is not over. Eviction Prevention and Defense Services efforts to prevent evictions will likely result in many direct and indirect benefits to the community, including: decreased use of shelters, increased housing stability, decreased impact on employment, decreased impact on law enforcement, and decreased impact on the health of displaced children.

## **Sustainability, Stability, and Health**

Promoting neighborhood and community stability, healthy housing, and affordability for renters by preventing displacement of residents is imperative to reduce the spread of COVID-19 and the main purpose of the CSFRA. Because of the affordable housing crisis, as well as the negative impact of an eviction judgment on a tenant's credit, displacement could result in homelessness, which also exacerbates the current impacts of the pandemic. Housing retention not only improves public health outcomes but also eliminates the environmental impacts of forcing residents to move far from work, friends, family, and other support networks to secure affordable housing. Maintaining the City's affordable housing stock and keeping our residents in their homes is a critical component to meeting sustainability, stability, and health outcomes. An Eviction Prevention and Defense Program would contribute to these strategic goals of the City and the CSFRA.

## **Other Rent-Stabilized Jurisdictions**

Other rent-stabilized jurisdictions anticipate increased challenges between landlords and tenants as they grapple with the rules surrounding payment of deferred rent and recognized the need for legal assistance in light of the upcoming end of the eviction moratorium and expected increase in eviction proceedings. As an example, the City of

San Jose established a consortium, including the majority of housing counseling providers in Santa Clara County. The City of Mountain View also has existing programs in place for housing counseling services, but not specifically for legal services. For an overview of programs in other jurisdictions and a comparison with Mountain View's services, see Attachment 2.

### **Recommended Eviction Prevention and Defense Program**

In order to prevent evictions and promote community stability, staff recommends the RHC adopt a multi-pronged eviction prevention and defense program that incorporates the following services:

- Multi-pronged outreach to tenants, landlords, and community organizations;
- Early intervention informational contact from the City to tenant and landlord after Termination Notice filed with the City;
- Case management services through Project Sentinel and other community-based organizations;
- Landlord and tenant counseling, education, and dispute resolution services; and
- Full-scope legal representation for tenants if needed.

Through early intervention, conflicts can be addressed sooner and ideally resolved without formal proceedings, thereby preventing possible displacement. These services continue to include the current landlord/tenant counseling, education, and dispute resolution services. Staff will coordinate services and case management with community-based organizations to guarantee wrap-around services for impacted tenants. Upon receipt of copy of eviction notices, staff will proactively send an informational flyer explaining rights and responsibilities, including available resources, to each tenant and landlord. Contact information for both Project Sentinel and Community Services Agency will be included.

If the issue cannot be resolved, however, the case will be referred to a legal services agency. When a tenant faces legal eviction proceedings, they will benefit from having access to full-scope legal representation services. The legal services agency would help tenants facing eviction by providing a range of services, including assistance with filing an answer to an unlawful detainer complaint to full-scope representation. Services would be provided at no cost to tenants in Mountain View. Furthermore, services would

be provided regardless of immigration status and be accessible to tenants with physical disabilities and tenants who speak languages other than English.

The selected provider(s) would be responsible for using specified criteria to identify eligible households in need of eviction legal services; including identifying potential defenses, negotiating on the tenant's behalf, and representing the tenants, if necessary, at trial. The selected provider(s) would ascertain on a case-by-case basis whether to retain a client for full-scope legal representation, depending on the merits of the case, the client's economic need, and available resources. Selection of legal provider(s) may take place through an RFP process. For an overview of organizations providing housing counseling services in Santa Clara County, see Attachment 3.

### **Program Administration**

The Eviction Prevention and Defense Program would be administered by Rent Stabilization Program staff in coordination with Project Sentinel, community-based organizations, and the chosen legal service agency(ies).

### **Program Evaluation Process**

Data collection is critical to evaluating the effectiveness of these legal services and identifying any needed improvements or continued need. Staff would monitor the number of residents being served and whether the demand for services was met. Staff would also evaluate the status of eviction actions in the courts and whether those actions are being processed.

### **FISCAL IMPACT**

Adding legal eviction services to a formalized Eviction Prevention and Defense Program, in the recommended amount for the initial contract, would increase the Fiscal Year 2021-22 budget with \$45,000.

### **PUBLIC NOTICING** – Agenda posting.

AvD/JS/1/CDD/RHC  
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- Attachments: 1. Mobile Home Rent Stabilization Ordinance  
2. Draft MHRSO Regulations – Chapter 8 and Chapter 9