

March 4, 2021

MEMORANDUM

To: Sustainability and Renters Rights Committee
From: Asha Venkataraman, Analyst
Subject: Council Bill 120007: Right to counsel for tenants facing eviction in Seattle

On March 4, 2021, the Sustainability and Renters Rights Committee (“Committee”) will discuss and possibly vote on Council Bill (CB) 120007 that would establish the right to counsel for tenants in Seattle facing eviction. This memorandum describes the bill and related fiscal considerations.

Council Bill 120007

This legislation would add a new section to the Housing Code (SMC 22.206.195) to establish that a tenant residing in Seattle and facing eviction in court (also known as an unlawful detainer suit) has a right to a lawyer. This would create that right free of charge, regardless of the person’s level of income. Legal counsel would be available upon the tenant’s request and as soon as practicable once the person receives a summons for the eviction proceeding. Representation would continue until the complaint is withdrawn, the court dismisses the case, or the court makes a ruling.

The bill would also authorize the Seattle Department of Construction and Inspections (SDCI) to contract with an organization of attorneys that:

- Has experience supporting renters advocating for their legal rights;
- Has at least one location near where eviction proceedings are occurring (currently in the King County Courthouse); and
- Can provide legal service in languages common to Seattle or has access to translation services.

SDCI would be required to educate tenants about their right to counsel in languages commonly spoken in Seattle. The bill would also require landlords to provide notice of this right to their tenants in any notice they are already required to provide in pursuing [just cause eviction](#). SDCI would adopt a Director’s rule to specify the language required to be include in the landlord’s notice. Failure to include notice language would be a defense to eviction.

CB 120007 does not require a tenant to accept counsel for eviction defense; it would only give tenants the option of such counsel. If a tenant does not accept the counsel offered, but hires a different attorney, the City is not obligated to cover such costs. Lastly, if representing a tenant would cause an attorney to violate the Washington State Court Rules of Professional Conduct, this bill would not such require representation.

The legislation also contains a non-codified section that directs the City to contract with attorneys for this purpose and allocate sufficient funding to cover representation for any eligible tenant.

Fiscal Considerations

SDCI currently contracts with a variety of organizations to provide tenant services, which include outreach as well as legal/eviction defense. Since 2019, SDCI has contracted with the Housing Justice Project (HJP) and the Tenant Law Center to provide legal/eviction defense services, among other tenant services. HJP is a law office of the King County Bar Association that provides free legal assistance to renters at risk of eviction. The Tenant Law Center similarly provides renters legal assistance in the case of eviction but is also funded to provide other services as well as staffing to support HJP.

Based on an average 1,200 eviction cases filed a year, HJP estimates that it would cost \$750,000 annually to provide legal counsel to any tenant facing eviction. For 2021, the City awarded \$218,000 to HJP and \$340,000 to the Tenant Law Center. Because both the Washington State and City of Seattle eviction moratoria are currently in place until March 31, 2021 and may be extended, this level of funding could be sufficient for 2021. However, given the unprecedented nature of the COVID-19 pandemic and the resulting uncertainty regarding when filing evictions will be permitted again, it is possible that additional funding will be necessary in 2021 if this bill is passed. An initial estimate from HJP suggests that this could require increasing their contract award by \$100,000 in 2021. The need for additional funding in 2021 will become clearer when decisions are made about extending these moratoria (as well as the federal eviction moratorium) beyond the end of March.

To make the right to counsel effective long-term, the City will need to identify an ongoing source of funds for eviction defense services. On average, SDCI receives about \$615,000 in ongoing funding for tenant outreach, education, and eviction defense services so this will require providing additional funding for eviction defense specifically to provide at least \$750,000 on an ongoing basis for that use.

Next Steps

If the Committee recommends the legislation be passed, Full Council will likely vote on CB 120007 on March 15, 2021.

cc: Dan Eder, Interim Director
Aly Pennucci, Policy and Budget Manager