



June 15, 2021

The Honorable Jesse Gabriel
California State Assembly
State Capitol, Room 4117
Sacramento, CA 95814

RE: AB 1487 (Gabriel) – Eviction Defense Funding – Oppose Unless Amended

Dear Assembly Member Gabriel:

On behalf of the California Apartment Association (CAA) and the California Association of REALTORS® (C.A.R.), we are writing to inform you that our organizations continue to have an oppose unless amended position on AB 1487, your bill that, among other things, will provide funding for legal services to prevent eviction or displacement of qualified tenants from rental housing. While we do not object to the provisions of AB 1487 that will provide funding for education about tenant rights, fair housing laws, and landlord obligations, we do oppose additional dollars for eviction defense programs that have been used by unethical legal organizations that routinely violate rule 3.2 of the State Bar's Rules of Professional Conduct which provides that, "In representing a client, a lawyer shall not use means that have no substantial purpose other than to delay or prolong the proceeding or to cause needless expense." These groups pursue unwarranted claims simply as a way to delay evictions for months and to extract favorable settlements for their clients.

Millions of Dollars Already Available for Tenants' Defense – Under the state's existing program known as the Sargent Shriver Civil Counsel Act (Shriver Act), money is already provided for the eviction defense of low-income tenants. Existing law also requires an attorney to maintain short-term deposits of client funds in an Interest on Lawyers' Trust Account (IOLTA) and requires the interest and dividends earned on the account to be paid to the State Bar for the funding of certain programs that provide civil legal services without charge to indigent persons. Since 2011, **\$9.5 million** has been available annually for the program in seven regions across the state, bumped up to **\$31 million** from the National Mortgage Settlement beginning in 2020. Additional dollars are provided at the local level as well. For example, Los Angeles has committed over **\$10 million** for eviction defense while San Francisco has committed **\$9.8 million** for eviction defense.

Unethical Eviction Delay Tactics Intended to Delay Evictions for Months – While the funding concept is laudable, it's rife with abuse when it comes to fighting evictions. With the existing funding, unethical tenant attorneys are funded to make false claims about property owners who are simply trying to regain possession of their properties from tenants who have failed to pay rent or who have created problems for other tenants at the property. These firms that receive funding automatically and consistently utilize the same discovery and jury demands. The firm of BASTA, Inc., in Los Angeles, brags about pioneering the strategy of bringing all eviction defense cases to jury trial to delay evictions. While CAA and C.A.R. understand that everyone has a right to a jury trial, these demands are a tactic used to delay evictions. As BASTA, Inc. correctly cites, "Today, every nonprofit organization in California that represents tenants in eviction defense cases requests a jury trial."

Eviction Delay Tactics Hurt Affordable Housing Owners the Most – These automatic jury and discovery demands intended to delay cases and drive up legal fees exponentially for landlords to force settlement (even in cases involving nuisance or illegal activity) have especially impacted affordable housing landlords throughout the State of California as it is their tenants who qualify for legal assistance under the Shriver Act.

Here are specific examples of tactics used to unethically delay evictions (we have intentionally omitted the names of tenants and landlords since these cases may not be fully litigated):

- Eviction of former owner after foreclosure – Legal Aid prepared the answer – Alleges habitability, discrimination, violation of Tenant Protection Act of 2019 & Tenant Relief Act of 2020 (which does not apply to non-tenant former owners). They also propounded discovery to add additional time to the process.
- Eviction of a former owner after foreclosure – Tenant attorney alleges habitability, incorrectly citing violation of City of San Diego just-cause ordinance, which does not apply here.
- Eviction of tenant in affordable housing. Tenant hasn't paid rent for 2 years. Defense incorrectly claims federal laws apply to this housing. The Plaintiff/Owner won in court; however, the defendant is appealing the case.
- Eviction of former employee occupant after the employee failed to vacate as agreed in the employee agreement; the employee was never a tenant. The Legal Aid answer alleges local rent control law applies; claims the employee is now a tenant and has a qualified disability; claims the owner failed to provide an opportunity to cure violations of terms and conditions of lease; alleges that the owner's demand was for possession based on non-payment of rent and did not comply with Tenant Relief Act of 2020; incorrectly indicates that the landlord was required to serve a 15-day notice.

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For the above listed reasons, CAA and C.A.R. must oppose AB 1487. We thank you for your consideration.

Sincerely,

CALIFORNIA APARTMENT ASSOCIATION



By

Debra Carlton, Executive Vice President
State Government Affairs & Compliance

cc: Senate Judiciary Committee

CALIFORNIA ASSOCIATION OF REALTORS®



By

Karim Drissi, Legislative Advocate