



California Apartment Association
4401 Atlantic Ave. Suite 200
Long Beach, CA 90807

April 11, 2025

Mayor O'Brien and City Council
Culver City
VIA Email

Re: (A-3) Right to Counsel Funding

Dear Mayor O'Brien and Councilmembers:

The California Apartment Association (CAA) represents local housing providers, operators and suppliers along with business owners and real estate industry experts who are involved with a range of rental properties from those that offer single-family residences to large apartment communities. Our members help provide obtainable housing throughout Los Angeles County.

As noted in our previous correspondence we urge the city to reject a "Right to Counsel Program" (RTC) as these types of programs are ineffective and counterproductive. Rather than allocating limited public funds toward private legal disputes, we recommend directing those dollars toward rental assistance programs that offer immediate and measurable support for at-risk tenants. **If the city is to proceed with this policy, it must legally review the funding structure of the program.**

Legal Concerns with Funding Mechanism

At the March 17, 2025 Council meeting, it was stated that the RTC program would be funded through administrative and rent registry fees. **This is illegal.** Under Propositions 218 and 26, funding private legal representation is an improper use of a regulatory fee. The **only** permissible way to fund private legal representation through such fees would be to adopt a special tax, which would require approval by two-thirds of voters.

The California Constitution (Article 13C, §2) prohibits local governments from imposing any special tax unless the tax is submitted to the electorate and approved by a two-thirds vote. A "tax" is broadly defined by Article 13C, § 1 as "any levy, charge, or exaction of any kind imposed by a local government," subject to certain narrow exceptions. The City appears to be misguidedly relying on one such exception, which allows for fees to cover "the reasonable regulatory costs" for specific government functions such as licensing, permitting, and code enforcement. These costs must relate directly to the administration of regulations and must be "no more than necessary" to cover the reasonable costs for that administration. Culver City's own Municipal Code (§ 15.09.230.D(1)) specifies that rent registry fees are to recover "reasonable costs associated with the administration and enforcement" of the rent control and tenant protection programs. Providing legal representation in private disputes falls far outside this scope.

A RTC program is unrelated to the Housing Provider's regulatory obligations. Case law makes clear that to qualify as a regulatory fee, charges must reflect a fair relationship between the payor's activity and the service received. No such relationship exists here. As such, diverting registry fee dollars to an RTC program violates the state constitution

and could expose the city to litigation and liability for refunds of improperly collected taxes.

Support Housing Providers

Housing providers have been struggling under government-imposed regulations. Some continue to face significant duress. The city should be doing everything it can to support rental operators and incentivize investment in this essential service. The present regulatory environment is making housing more expensive and harder to find in the region.

If there are alternative solutions that can achieve our shared goal of keeping people housed and produce better outcomes, it behooves the city to explore those options. If the city is going to move forward with a RTC program, the funding must be identified from an appropriate source.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Fred Sutton".

Fred Sutton
California Apartment Association