

ORDINANCE NO. _____

An ordinance adding Article 6 to Chapter XVI of the Los Angeles Municipal Code to establish a Right to Counsel Program.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Article 6 is added to Chapter XVI of the Los Angeles Municipal Code to read as follows:

ARTICLE 6

RIGHT TO COUNSEL PROGRAM ORDINANCE

SEC. 166.00. TITLE.

This article shall be known as the Right to Counsel Program Ordinance of the City of Los Angeles.

SEC. 166.01. DECLARATION OF PURPOSE.

The City of Los Angeles hereby declares that it intends to establish a Right to Counsel Program. Thousands of City residents each year face eviction proceedings without legal representation and are at serious risk of losing their housing and becoming homeless. The purpose of the Right to Counsel Program is to provide qualifying City residents with access to legal representation in eviction proceedings and in administrative proceedings that may result in the termination of a tenant's right to possession of a rental unit or a rental housing subsidy to the extent that annual budgets permit and funds are appropriated for the Right to Counsel Program.

SEC. 166.02. DEFINITIONS.

The following words and phrases, whenever used in this article, shall be construed as defined in this section:

Covered Geography. This term means those zip codes that the Department has approved and included in the Right to Counsel Program or the Eviction Defense Program. In the event of a dispute, the Department shall have the sole discretion to determine whether a zip code has been included in either the Right to Counsel Program or the Eviction Defense Program.

Covered Tenant. This term means any Tenant who satisfies all conditions of Subsection A. of Section 166.03.

Department. The Los Angeles Housing Department and any successor department.

Eviction Defense Program. The term refers to that program established by the Department for the purpose of providing legal support, education, and certain other services and assistance to Tenants facing eviction.

Eviction Notice. Any notice that commences the process of terminating a tenancy, however denominated. The term includes, but is not limited to, a notice described in California Code of Civil Procedure Section 1161(1)-(4) and California Civil Code Section 1946.

Landlord. An owner, lessor, or sublessor (including any person, firm, corporation, partnership, or other entity) who is entitled to offer a Rental Unit for rent, receive rent for the use or occupancy of a Rental Unit, or maintain an action for possession of a Rental Unit, or the agent, representative or successor of any of the foregoing.

Legal Proceeding. This term means either of the following: (1) an unlawful detainer proceeding or any other proceeding to terminate a Tenant's right to possession of a rental unit; or (2) an administrative proceeding concerning a Tenant's rental housing subsidy that may result in the termination of the subsidy. This term does not include an appellate proceeding or a proceeding for judicial review of an administrative agency's determination with respect to termination of a rental housing subsidy.

Legal Representation. This term means representing a Covered Tenant in a Legal Proceeding.

Rental Unit. This term refers to all dwelling units, efficiency dwelling units, guest rooms, and suites, as defined in Section 12.03 of this Code, all housing accommodations as defined in Government Code Section 12927, all duplexes, condominiums and single-family homes in the City of Los Angeles, rented or offered for rent for living, dwelling and/or human habitation purposes, the land and buildings appurtenant thereto, and all housing services, privileges, furnishings, and facilities supplied in connection with the use or occupancy thereof, including garage and parking facilities. This term includes all rental units owned, operated, or managed by the Housing Authority of the City of Los Angeles ("HACLA"). This term shall also include mobile homes, whether rent is paid for the mobile home and the land upon which the mobile home is located, or rent is paid for the land alone. Further, it shall include recreational vehicles, as defined in California Civil Code Section 799.29, if located in a mobile home park

or recreational vehicle park, whether rent is paid for the recreational vehicle and the land upon which it is located, or rent is paid for the land alone.

Tenant. A tenant, subtenant, lessee, sublessee or any other person entitled to use or occupancy of a Rental Unit.

SEC. 166.03. RIGHT TO COUNSEL PROGRAM.

A. Subject to the availability of unencumbered funds and subject to the annual appropriation of the necessary funds by the Mayor and City Council (which appropriation remains in the sole and absolute discretion of the Mayor and City Council), the Department shall establish and operate a Right to Counsel Program to provide Legal Representation to Covered Tenants as defined in this Section 166.03. The availability of Legal Representation for Covered Tenants is also subject to all the terms and conditions of the Right to Counsel Program established by the Department and to the availability of participating counsel.

Covered Tenants shall include any Tenant that meets all of the following conditions:

- (1) The Tenant resides in the City of Los Angeles within a Covered Geography;
- (2) The Tenant earns at or below 80 percent of area median income for the Los Angeles Metropolitan Area as determined by HUD's income limits for Los Angeles current at the time of the Tenant's request for counsel;
- (3) The Tenant does not reside in the same dwelling unit as their landlord; and
- (4) The Tenant applies on or before the 30th calendar day after service of a complaint initiating an unlawful detainer (or equivalent) proceeding and is not in default with respect to such proceeding, or the Tenant applies on or before the 30th calendar day after receiving a notice of termination concerning the Tenant's rental housing subsidy.

Legal Representation in an unlawful detainer matter shall last until at least such time as the Eviction Notice or unlawful detainer complaint is withdrawn, the case is dismissed, a judgment in the case is entered, or any post-judgment motion has been ruled upon by the trial court.

B. **Notice of Right to Counsel Program.** The Department shall prepare and publish an informational notice advising Tenants of the Right to Counsel Program (the "RTCP Notice") in English and at least all Tier 1 languages included in the City of Los Angeles Community Investment for Families Department's (CIFD) Language Access Plan (LAP). At the commencement of the tenancy, a landlord shall provide to

the Tenant a copy of the RTCP Notice in the Tenant's primary language if the Department has made available on its website a translation of the RTCP Notice in that language; if the Tenant's primary language is not known or a translation of the RTCP Notice in the Tenant's primary language is not available from the Department's website, the landlord shall provide the Tenant with a copy of the RTCP Notice in English plus a copy of each RTCP Notice that the Department has translated and made available on its website in the languages included in Tiers 1, 2, and 3 of the CIFD's LAP.

A landlord, housing authority, or responsible agency also shall serve a copy of the RTCP Notice on the Tenant in any of the following situations:

- (1) attached to a copy of any Eviction Notice served on the Tenant;
- (2) attached to any notice of termination of a rental housing subsidy if such notice is served by the landlord, housing authority, or responsible agency; or
- (3) attached to any correspondence served by the landlord, housing authority, or responsible agency on the Tenant concerning an administrative proceeding that may result in the termination of the Tenant's rental housing subsidy.

In each of the situations (1) through (3) described above, the landlord, housing authority, or responsible agency shall provide a copy of the RTCP Notice in the Tenant's primary language. If the Tenant's primary language is not known or a translation of the RTCP Notice into the Tenant's primary language is not available from the Department's website, the landlord, housing authority, or responsible agency shall provide a copy of the RTCP Notice in English plus a copy of each RTCP Notice that the Department has translated and made available on its website in the languages included in Tiers 1, 2, and 3 of the CIFD's LAP. A landlord shall also post and maintain a copy of the RTCP Notice in a conspicuous common area of the residential building where the Tenant resides.

C. No Private Cause of Action. This article does not create any private cause of action against the City of Los Angeles arising from or relating to any legal services or Legal Representation provided under Right to Counsel Program or arising from or relating to any delay or denial of legal services or Legal Representation under the Right to Counsel Program. Notwithstanding any other provision of law, no attorney-client relationship is established between any Tenant, including any Covered Tenant, and the City of Los Angeles by way of the provision of Legal Representation under this article or otherwise. The attorney-client relationship, privilege, and any liability rests exclusively between the Covered Tenant and the designated Right to Counsel Program attorney.

SEC. 166.04. REMEDIES.

In any action by a landlord to recover possession of a Rental Unit, a Tenant may raise as an affirmative defense the failure of the landlord to comply with any provision of this Right to Counsel Program Ordinance. A Tenant who successfully asserts the landlord's failure to comply as an affirmative defense shall be entitled to their reasonable attorney's fees and costs.

SEC. 166.05. SEVERABILITY.

If any provision of this article is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this article which can be implemented without the invalid provisions, and to this end, the provisions of this article are declared to be severable. The City Council hereby declares that it would have adopted this article and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable.

