CITY AND COUNTY OF SAN FRANCISCO
BOARD OF SUPERVISORS
BUDGET AND LEGISLATIVE ANALYST
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Policy Analysis Report

To: Supervisor Campos
From: Budget and Legislative Analyst's Office
Re: Analysis of Unlawful Detainer (Eviction) Lawsuits Filed in San Francisco
Date: April 15, 2014

Summary of Requested Action

Your office requested that the Budget and Legislative Analyst conduct an analysis of the number of Unlawful Detainer (eviction) lawsuits filed in the San Francisco Superior Court in Calendar Years 2012 and 2013. You also requested that the analysis include the number of defendants (tenants) that were self-represented versus the number of defendants that were represented by a licensed attorney.

Executive Summary

- Unlawful detainer lawsuits are court proceedings required by State law for landlords to evict a tenant who has not vacated a residence after receiving an eviction notice. In Calendar Year 2013, 3,423 Unlawful Detainer lawsuits were filed with the San Francisco Superior Court; 3,695 Unlawful Detainers were filed in 2012. Tenants represented themselves in the majority of these cases in both years.

- In Calendar Year 2013, tenants represented themselves in 1,541, or 45 percent of all Unlawful Detainer cases filed in San Francisco Superior Court. Attorneys provided representation to tenants in only 588 cases, or 17.2 percent of all Unlawful Detainer cases in 2013. The same pattern was found in 2012, with tenants representing themselves in 1,856 cases, or 50.2 percent of the total, and attorneys providing representation in only 478, or 12.9 percent, of all cases.

- In Calendar Years 2013 and 2012, one or more of the parties did not appear in court for their Unlawful Detainer proceedings for 1,294 and 1,361 cases, or 37.8 percent and 36.8 percent of all cases, respectively.

- Limited information exists on where tenants live after Unlawful Detainer proceedings are concluded. For a sample of 856 tenants with cases filed in 2012 and served by the nonprofit organization Eviction Defense Collaborative, the organization reports that 703 of the tenants, or 82.1 percent of all tenants served by the organization, relocated

subsequent to Unlawful Detainers being filed against them. Only 153, or 17.9 percent of the tenants served by the organization, remained in their rental unit.

- Of 575 of the 703 tenants served by the Eviction Defense Collaborative that had to relocate after an Unlawful Detainer filing in 2012, 320, or 55.6 percent, remained in San Francisco. However, 177, or 30.8 percent, of the sample of tenants left San Francisco.

- For Calendar Years 2013 and 2012, there were 1,981 and 1,677 eviction notices reported to the Rent Board, respectively. The City And County of San Francisco's Residential Rent Stabilization and Arbitration Ordinance requires that all eviction notices issued to San Francisco tenants be reported to the San Francisco Rent Board, with the exception of those issued for non-payment of rent.

- The 3,423 Unlawful Detainer filings reported by the Superior Court for Calendar Year 2013 and the 3,695 filed in 2012 are significantly higher than the 1,981 and 1,677 eviction notices reported to the San Francisco Rent Board for those two years, respectively.

- Two key factors affecting the difference between the number of Unlawful Detainer proceedings and eviction notices reported by the Rent Board are: 1) the Residential Rent Stabilization and Arbitration Ordinance does not require landlords to report eviction notices for non-payment of rent, though such evictions are still subject to State Unlawful Detainer requirements, and 2) eviction notices from rental units built on or after June 13, 1979 are not subject to the City's Residential Rent Stabilization and Arbitration Ordinance but are subject to State law Unlawful Detainer requirements. For these two reasons, the Budget and Legislative Analyst concludes that Rent Board statistics undercount total evictions in San Francisco.

For further information about this report, contact Fred Brousseau at the Budget and Legislative Analyst's Office.

I. Background

Evictions and Unlawful Detainers

Unlawful detainers are court proceedings required by State law for landlords to evict a tenant who has not vacated a residence within a specified period of time after receiving an eviction notice.[1] Eviction notices fall into one of two categories:

1) 3-day Notices to Cure or Quit; or
2) 30-, 60- or 90-day Notices Terminating Tenancy.[2]

3-day Notices give tenants the option of remaining in their unit if they "cure" a problem such as paying their rent, removing a pet not allowed by their rental agreement or by correcting some other violation of their rental agreements. 30-, 60- or 90- day notices are used in situations where the landlord is not offering that option, but, instead, is terminating the tenancy. 3-day Notices to Cure or Quit are most typically used for For Cause evictions and 30-, 60- and 90-day Notices Terminating Tenancy are used for No Fault evictions such as a landlord removing a tenant while substantial rehabilitation of the rental unit is taking place or an Ellis Act eviction in which tenants must vacate their rental unit because their landlord reports that they are going out of the rental business.

In instances when a tenant has not "cured" the problem stated within the required three days of receiving a 3-day Notice to Cure or Quit and remains in the rental unit or hasn't vacated the premises by the deadline for a 30-, 60- or 90- day Notice Terminating Tenancy, the landlord cannot take possession of the rental unit without first filing a Summons and Complaint, or Unlawful Detainer lawsuit, in Superior Court. Once filed and the tenant is served with the complaint, the tenant has five days to respond, or "Answer".[3] The matter then proceeds through the Court and can be disposed of after a hearing, a jury trial, or as a default judgment in instances when the tenant does not respond to the Summons and Complaint. Some landlords and tenants may also settle their case before it is disposed of through a court proceeding.

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[1] California Civil Code Sect. 1940 et seq., Code of Civil Procedures Sect. 1166.

[2] 60-day notices are most common but 30-day notices are required for tenants that have been in a rental unit for less than one year. 90-day notices are required for tenants who use Section 8 vouchers for their rental.

[3] The period to answer could be 15 days in instances where multiple attempts to serve the tenant in person have failed and the landlord obtains permission from the court to send the notice by mail.

The Residential Rent Stabilization and Arbitration Ordinance of the City and County of San Francisco ("City") establishes rental rate and eviction controls for most residential rental units built before June 13, 1979. The ordinance specifies 16 just causes, or allowable reasons for evictions, separated into For Cause and No Fault evictions, as shown in Exhibit 1.

Exhibit 1: Summary of Just Cause Evictions

Ordinance Section	For Cause Evictions	Ordinance Section	No-Fault Evictions
37.9(a)(l)	Non-payment or habitual late payment of rent	37.9(a)(8)	Owner/relative move-in
37.9(a)(2)	Breach of rental agreement	37.9(a)(9)	Condominium conversion sale
37.9(a)(3)	Committing a nuisance	37.9(a)(10)	Demolish/remove from use
37.9(a)(4)	Illegal use of rental unit	37.9(a)(11)	Capital improvement work
37.9(a)(5)	Failure to renew agreement	37 .9(a)(12)	Substantial rehabilitation
37.9(a)(6)	Failure to permit landlord access	37 .9(a)(13)	Ellis (withdrawal of unit)
37 .9(a)(7)	Unapproved sub-tenant	37.9(a)(14)	Lead remediation
37 .9(a)(16)	Good Samaritan	37 .9(a)(15)	Development agreement

Source: San Francisco Residential Rent Stabilization and Arbitration Ordinance

The Residential Rent Stabilization and Arbitration Ordinance ("Rent Ordinance") requires that copies of all Notices to Vacate, or eviction notices, except for 3-day Notices to Cure or Quit for non-payment of rent, be reported to the Rent Board. Such eviction notices are compiled by the Rent Board and comprise the Rent Board's monthly and annual eviction notice statistics.

II. Unlawful Detainer and Eviction Statistics for 2012 and 2013

As mentioned above, once an Unlawful Detainer is filed, most tenants have five days to respond, or "Answer", if they received the Unlawful Detainer Summons and Complaint in person. Most tenants do file an Answer with the Superior Court that explains their side of the dispute. If the tenant does not provide a timely response, the landlord could request that the Court issue a "Default Judgment" in favor or the landlord.

If a tenant files an Answer with the Court, the landlord could request a trial. At the trial, and in any pre-trial proceedings, tenants can represent themselves before the court (self-represented), have a licensed attorney represent them, or fail to appear in court. Disputes could also be resolved in a Settlement Conference prior to the case going to trial. According to San Francisco Superior Court representatives, cases in which one or more of the parties do not appear could have been settled outside of Court, but the Superior Court does not have record of such resolutions.

As shown in Exhibit 2, 3,423 Unlawful Detainers were filed in San Francisco Superior Court for San Francisco tenants in Calendar Year 2013 and 3,695 were filed in Calendar Year 2012. The caseload data shows a similar pattern for the two years: in 2013, tenants represented themselves in 1,541 cases, or 45 percent, of all cases; in 2012, 1,856, or 50.2 percent of all cases, were self-represented. Only 588 cases, or 17.2 percent of all cases, were represented by attorneys in 2013 and only 478, or 12.9 percent of all cases, were represented by attorneys in 2012. For over one-third of the cases, one or more of the parties did not appear in court in both 2013 and 2012.

Exhibit 2: Number of Unlawful Detainers Filed in San Francisco Superior Court, by Representation or No Appearance Calendar Years 2012 and 2013

Year	# Self-represented	# Represented by Attorneys	# No Appearance Cases	Total
2013	1,541	588	1,294	**3,423**
% Total	45.0%	17.2%	37.8%	100.0%
2012	1,856	478	1,361	**3,695**
% Total	50.2%	12.9%	36.8%	100.0%

Source: San Francisco Superior Court

The number of Unlawful Detainers filed in Superior Court in 2013 and 2012 was significantly greater than the 1,981 and 1,677 eviction notices filed with the San Francisco Rent Board for Calendar Years 2013 and 2012, respectively. The Budget and Legislative Analyst has identified two key reasons for this difference. First, by the City's Rent Ordinance and unlike for other types of eviction notices, landlords are not required to report 3-day Notices to Cure or Quit for non-payment of rent to the Rent Board but they are required by State law to file Unlawful Detainer lawsuits in instances where tenants remain in their rental units and have not cured the problem within the required 3-day timeframe. Though Superior Court does not track its Unlawful Detainer cases by type of eviction notice (i.e., non-payment of rent vs. other types), the Budget and Legislative Analyst assumes that many Unlawful Detainer cases in excess of the number of Rent Board-reported eviction notices are therefore for 3-Day Notices to Cure or Quit due to non-payment of rent.

Rent Board representatives report that some landlords file eviction notices for non-payment of rent with the Rent Board even though they are not required to do so by the Rent Ordinance. The Rent Board includes such eviction notices reported to them in their regular compilations of eviction notices but Rent Board officials report that they assume their compilations undercount actual evictions for non-payment of rent since

landlords are not legally required to report this type of eviction notice to the Rent Board.

A second explanation for the Superior Court's annual Unlawful Detainer caseload exceeding the number of eviction notices reported by the Rent Board is that rental units built on or after June 13 1979 are not covered by the Rent Ordinance's eviction controls. Therefore, eviction notices for such units are not required to be filed with the Rent Board though, by State law, they would have to go through an Unlawful Detainer proceeding in Superior Court like any other eviction in situations where the tenant has not voluntarily vacated their rental unit within the timeframe stipulated in their eviction notice. As a result of these two factors, the Budget and Legislative Analyst concludes that Rent Board eviction notice statistics undercount the total number of evictions in San Francisco.

III. Results of Unlawful Detainer Proceedings

Limited information exists from the Superior Court on the outcomes of Unlawful Detainer cases, such as which party received a favorable ruling and whether or not the tenants remained in their homes, moved to another location within San Francisco or moved outside of San Francisco.

The nonprofit organization Eviction Defense Collaborative (EDC) attempted to gather post-Unlawful Detainer court proceeding data for clients they assisted in 2012 in filing an Answer, or initial response, to Unlawful Detainer Summons and Complaints. One of EDC's purposes in collecting this information was to determine if the tenants they assisted were able to remain in their rental units after receiving an Unlawful Detainer Summons and Complaint.[4]

EDC was able to gather information for 856 of their clients from 2012, or 23.3 percent of the 3,695 Unlawful Detainers filed that year.[5] Of the 856 EDC clients served who had received an Unlawful Detainer Summons and Complaint, 703, or 82.1 percent, relocated from their rental units as a result of the Unlawful Detainer filing. Only 153, or 17.9 percent of the 856 EDC clients served, remained in their homes.

[4] The Eviction Defense Collaborative (EDC) filed initial responses for 2,060, or 55.8 percent of the 3,695 Unlawful Detainers filed in 2012. According to EDC, client tenants that go to trial could represent themselves, be represented by EDC, or by a licensed attorney referred by EDC.

[5] Information on where EDC clients currently live was gathered from interviews with clients, emergency contacts, the SF Superior Court and the United States Postal Service.

Exhibit 3 shows the post Unlawful Detainer lawsuit locations for 575 of the 703 EDC clients served that vacated their rental units after Unlawful Detainer lawsuits were filed against them in 2012. As shown, 320 of the 575 clients, or 55.6 percent of the sample, remained in San Francisco, but almost a third of the sample, or 177 EDC clients, left San Francisco. The whereabouts of 78 of the EDC clients served out of the sample of 575, or 13.6 percent, were unknown, as their addresses were only a post office box or the client reported being homeless.

Exhibit 3: Location of a Sample of Tenants, Post 2012 Unlawful Detainer Lawsuit

Location	Number	Percent
New location in San Francisco	320	55.6%
Location outside San Francisco	177	30.8%
Uses P.O. Box or is Homeless	78	13.6%
Total	575	100%

Source: Eviction Defense Collaborative