

Communication from Public

Name: Paul A.

Date Submitted: 07/19/2022 06:10 PM

Council File No: 21-0042-S3

Comments for Public Posting: When the city councilmen create a resolution such as the eviction moratorium, it unfairly ties the hands of the landlords and allow tenants to take advantage of their decision with impunity. The decision is very unfair and bias against the small landlords of this city. Through their power and authority they have negatively impacted us small landlords with no way for them to obtain rent relief. There is no more pandemic, and their is no relief from bad tenants who take advantage of the system. This moratorium must be repealed and landlords should be financially compensated by the city for the losses due to the actions of the City Council.

Communication from Public

Name: Alexander Harnden // Keep LA Housed Coalition
Date Submitted: 07/19/2022 11:10 AM
Council File No: 21-0042-S3
Comments for Public Posting: Enclosed, please find detailed written recommendations on behalf of the Keep LA Housed Coalition (<https://www.keeplahoused.org/>)



To: Los Angeles Housing Department
From: Keep LA Housed Coalition
Re: Recommendations for LA City Emergency Tenant Protections (CF 21-0042-S3)
Date: July 15, 2022

The COVID-19 pandemic exacerbated the crisis Los Angeles renters have been experiencing for years. Local emergency eviction protections have staved off the worst consequences of the pandemic and economic crisis for low-income tenants, but these communities have not yet recovered. Household finances have not recovered for those at the lowest incomes, and tenants are still waiting for emergency rental assistance. Low-income communities are still at risk of COVID-19, with thousands of residents under quarantine or isolation orders each day. The most recent surge has driven up hospitalizations and pushed the LA County COVID-19 community level into the “high” category.¹ Many lives have been lost because of the virus, including primary breadwinners and care providers. Recovery for these families will be long and difficult.

On June 24, 2022, the City Council approved a motion instructing the Housing Department, with the assistance of the City Attorney, to report back in 30 days on recommendations and possible amendments to the City of LA’s eviction moratorium.² The motion, as amended, requires the Housing Department to conduct outreach with tenants during the development of the report, as well as include in the report a phased-in timeline that allows for adequate outreach to tenants and aligns with state policies. Very importantly, the motion also requires the Housing Department to report back on existing protections for tenants, gaps in those protections, and options to address those gaps, including the expansion and strengthening of just cause protections. The County Board of Supervisors is also reviewing options to strengthen post-pandemic permanent tenant protections.³

Emergency eviction protections have kept tens of thousands of Angelenos in their homes during the pandemic, and should remain in place while COVID-19 continues to impact our communities. At the same time, we acknowledge that the City must be prepared for an eventual

¹ Money, L. & Lin II, R., *L.A. County on verge of indoor mask mandate as deaths, hospitalizations rise*, L.A. Times (July 14, 2022),

<https://www.latimes.com/california/story/2022-07-14/l-a-county-on-track-for-new-indoor-covid-mask-mandate>

² Los Angeles City Clerk, *Emergency Rental Assistance Program (ERAP) / Waitlist / Eviction Moratorium / May 2023 Rental Repayment / COVID-19 Pandemic*, Council File: 21-0042-S3 (June 28, 2022),

<https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=cfi.viewrecord&cfnumber=21-0042-S3>.

³ Board of Supervisors of the County of Los Angeles, *Statement of Proceedings*, item 5, pg. 11 (Jan. 25, 2022), http://file.lacounty.gov/SDSInter/bos/sop/1119222_012522.pdf.

end to the state of emergency. But phasing out emergency protections should not mean a return to a pre-pandemic world where tens of thousands of low-income tenants faced eviction each year, paid an unsustainable amount of income to rent, and perpetually lived on the brink of homelessness. These issues disproportionately affect tenants of color, contributing to a widening racial wealth gap. We must recognize that the status quo prior to the pandemic was not acceptable and use the lessons from this crisis to build a more just, healthy, and equitable Los Angeles.

The Keep LA Housed coalition⁴ makes the following recommendations to strengthen permanent tenant protections in the City of Los Angeles. These recommendations are consistent with and stem from our demand for a countywide Tenant Bill of Rights for all tenants in Los Angeles County.⁵ While some of these components of the Tenant Bill of Rights are already in place in the city, the City should strengthen existing policies and programs and adopt the following additional policies:

- ✓ Expand just cause eviction protections to cover all tenants and require landlords to file eviction notices with the City.
- ✓ Enact permanent limits on evictions for failure to pay rent.
- ✓ Reduce allowable rent increases allowed under the Rent Stabilization Ordinance.
- ✓ Require relocation assistance for non-RSO tenants displaced by large rent increases.
- ✓ Enforce the City’s Tenant Anti-Harassment Ordinance.
- ✓ Adopt a codified right to counsel for low-income tenants at risk of eviction with fully funded tenant outreach and education resources.
- ✓ Strengthen code enforcement programs.
- ✓ Adopt the Fair Access for Renters package to remove discriminatory barriers to housing.

I. Emergency eviction protections have reduced evictions without causing undue hardship for landlords.

Before state, local, and federal governments adopted emergency eviction protections in response to the COVID-19 pandemic, eviction lawsuits were distressingly common. Data shows that since 2010 there has been an average of 171,733 evictions filed annually in California. Los Angeles County accounts for approximately one third of those filings. In 2019, landlords filed

⁴ Keep LA Housed is a coalition of tenants, tenant rights advocates, public interest lawyers, and community based organizations with the goal of eliminating rent debt, eviction, and other harmful consequences of rent debt accrued during the COVID-19 pandemic in the City and County of Los Angeles. For a list of the steering committee organizations and endorsing organizations, see <https://www.keeplahoused.org/coalition>.

⁵ Keep LA Housed, *We’re Not Going Back: Recommendations for Countywide Post-Pandemic Tenant Protections in Los Angeles* (May 10, 2022), https://www.keeplahoused.org/s/KLAH-Report_Not-Going-Back-xrbj.pdf.

40,572 evictions against tenants in Los Angeles County.⁶ Based on analysis of formal filing rates versus informal evictions, it is likely that several times as many renter households faced eviction through informal processes.⁷ During the pandemic, emergency protections limited evictions for failure to pay and on no-fault grounds, dramatically reducing the number of evictions filed. In Los Angeles County, **the number of evictions filed decreased by 67%.**⁸

The emergency protections during the pandemic, while imperfect, have proven effective at reducing evictions and have not caused significant long-term hardship for landlords. According to analysis by JP Morgan Chase, landlords across the country recovered short term rental revenue losses by mid 2020 and, overall, experienced higher cash flows during the pandemic years than years prior.⁹ Moreover, in Los Angeles County, landlords experiencing financial hardship due to the pandemic could receive partial property tax deferment; mortgage and rent relief; and access to foreclosure prevention, dispute resolution, small claims, and real estate fraud assistance.¹⁰ And residential property values have increased substantially during the pandemic, adding to the wealth of many landlords.¹¹

The reduction in evictions during the pandemic—despite unprecedented economic and public health impacts on low-income communities—was accomplished through several interrelated local, state and federal policies. These include emergency eviction protections largely prohibiting “no-fault” evictions and evictions for failure to pay for tenants impacted by COVID-19; converting some financial obligations of tenants to consumer debt; preventing the issuance of summonses for eviction cases by the courts; strengthening anti-harassment measures; placing limits on rent increases; and expanding tenant education, legal services, outreach and emergency rental assistance. Elected leaders at all levels of government recognized the need to prevent evictions during the pandemic and local, state, and federal restrictions on evictions for failure to pay were enacted.¹² There was a broad recognition that tenants who could not pay rent

⁶ Los Angeles Superior Court data collected and maintained by Kyle Nelson for LA Renters’ Right to Counsel Coalition.

⁷ Utilizing Mathew Desmond’s analysis of evictions at the Eviction Lab, we assume for every formal eviction there are five informal evictions. Gromis, A., & Desmond, M., *Estimating the Prevalence of Eviction in the United States: New Data from the 2017 American Housing Survey* (2021) *Cityscape*, 23(2), 279–290.

⁸ *Supra*, note 5.

⁹ Demsas, J., *The landlords are (largely) all right*, Vox (Nov. 4, 2021), <https://www.vox.com/2021/11/4/22759224/landlords-rent-relief-eviction-moratorium-cash-balance-covid-19>.

¹⁰ Los Angeles County Treasurer and Tax Collector, *BOARD MOTION JANUARY 25, 2022, AGENDA ITEM NO. 5 – REPORT BACK – PROPERTY TAX PAYMENT FORGIVENESS* (Feb. 8, 2022), <http://file.lacounty.gov/SDSInter/bos/supdocs/165821.pdf> (summarizing property tax deferment options and other resources for landlords).

¹¹ See S&P Dow Jones Indices LLC, S&P/Case-Shiller CA-Los Angeles Home Price Index [LXXRSA], Federal Reserve Economic Data, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/LXXRSA>, [retrieved July 11, 2022].

¹² See, e.g., Coronavirus Aid, Relief, and Economic Security (“CARES”) Act (15 U.S.C.A. § 9058), H.R.748, 116th Cong. § 4024 (2020); Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19, 85 Fed. Reg. 55292 (Sept. 4, 2020) (extended by Pub. L. 116-260, § 502 (Dec. 27, 2020), extended by 86 Fed. Reg. 8020 (Feb. 3, 2021), extended by 86 Fed. Reg. 16731 (April 1, 2021), invalidated by *Alabama Association of Realtors v. Department of Health and Human Services*, 21A23 (Aug. 26, 2021)) (“CDC Eviction Moratorium”); Cal. Rules of

because they became ill, or lost income due to necessary public health measures, should not be evicted. While these measures were far from perfect, and many tenants were subjected to unnecessary uncertainty and hardship due to the lack of a total ban on evictions or equitable measures to completely resolve rent debt, these emergency measures did effectively reduce the number of evictions and meaningfully prevent homelessness for renters.¹³ In states that did not adopt restrictions on eviction for failure to pay, the majority of non-payment evictions were for relatively small amounts of money. In one study, in all jurisdictions examined, the majority of cases filed during the pandemic were for less than \$1,643.¹⁴

When the City’s emergency protections expire, low-income tenants that experience illness or sudden loss of income due to COVID-19—or any other reason—will be at risk of eviction if they cannot pay their rent in full and on time. Even two years into the pandemic, low-income tenants continue to struggle to pay rent. As of April, 2022, 12% of renter households in the Los Angeles Metropolitan Area were “not at all confident” that they could pay their next month’s rent on time.¹⁵ Evictions fuel the homelessness crisis; as we house and shelter people experiencing homelessness, others continue to replace them. The Los Angeles County homelessness count continues to rise and over half of those surveyed experiencing homelessness for the first time report financial crisis as the cause.¹⁶ The City should build upon the precedent set by pandemic-related tenant protections and ensure we never go back to a status quo where temporary illness or income disruption leads one to lose their home and possibly experience homelessness. Adopting a Tenant Bill of Rights for LA City tenants is a step toward mitigating those harms and addressing underlying structural racism in the housing market, and should be a cornerstone of the City’s recovery actions.

Court, Emergency Rule 1 (adopted April 6, 2020, rescinded Sept. 1, 2020); Cal. Assem. Bill 3088 (2021-2022 Reg. Sess.) Sept. 1, 2020; Cal. Sen. Bill 91 (2021-2022 Reg. Sess.) Jan. 29, 2021; Cal. Assem. Bill 832 (2021-2022 Reg. Sess.) June 28, 2021; Cal. Assem. Bill 2179 (2021-2022 Reg. Sess.) March 31, 2022; Los Angeles Mun. Code § 44.99 et seq. (Temporary Protection of Tenants During COVID-19 Pandemic); Resolution of the Board of Supervisors of the County of Los Angeles Further Amending and Restating the County of Los Angeles COVID-19 Tenant Protections Resolution (Jan. 25, 2022).

¹³ Despite the emergency protections, a significant number of eviction cases were filed and tenants were evicted during the pandemic. For example, 24,699 evictions were filed between March 2020 and March 2022. While most evictions do not require a sheriff lockout, there were nonetheless 13,780 lockouts between March 2020 and September 2021, according to Los Angeles Sheriff’s Department data. Los Angeles Superior Court and Los Angeles Sheriff’s Department Lockout Data (2021) collected and maintained by Kyle Nelson for LA Renters’ Right to Counsel Coalition.

¹⁴ Louis, R., Durana, A., & Hepburn, P., *Preliminary Analysis: Eviction Claim Amounts During the COVID-19 Pandemic*, Eviction Lab (Aug. 27, 2020), <https://evictionlab.org/covid-eviction-claims/>.

¹⁵ U.S. Census Bureau, *Household Pulse Survey, Week 44* (Mar. 30, 2022 - Apr. 11, 2022), tbl. 2b, Los Angeles-Long Beach-Anaheim, CA Metropolitan Area, https://www2.census.gov/programs-surveys/demo/tables/hhp/2022/wk44/housing2b_week44.xlsx.

¹⁶ Los Angeles County Homeless Services Authority, *2020 Greater Los Angeles Homeless Count Results* (Sept. 3, 2020), <https://www.lahsa.org/news?article=726-2020-greater-los-angeles-homeless-count-results&ref=hc>.

II. The City should maintain the Local Emergency Period and its emergency tenant protections while COVID-19 continues to impact our community and until stronger permanent protections are adopted.

While everyone is anxious for the world to get back to normal, the City must not abruptly end its life saving protections. Prematurely lifting protections will displace many workers from the region, harming these families and the businesses that rely on them, and undermining our economic recovery. The City should continue to maintain its emergency protections so long as COVID-19 continues to pose a significant public health risk and cause widespread disruptions. As case rates remain high, and ongoing disruptions to businesses, schools, and childcare appear likely, the City’s emergency eviction protections will remain an important tool to stabilize households during the ongoing pandemic. Our pandemic recovery is not equitable and ensuring that vulnerable tenants continue to be protected from predatory and speculative forces should remain a priority. Furthermore, while we recognize that some small landlords are struggling to keep up with their costs, the solution should be to provide additional relief to keep them afloat, not to let them evict struggling tenants and further exacerbate our housing and homelessness crisis.

Nearly all COVID-19 eviction protections in state law have expired, leaving only local protections standing between vulnerable tenants and the severe disruptions caused by eviction and displacement. These protections should not be lifted abruptly or prematurely. And the City should strengthen its permanent protections before eventually ending its emergency protections. Nothing in state law requires the City to end its emergency protections by a specific date.¹⁷

In addition to strengthening the City’s permanent protections as outlined below, the City should also “grandfather in” occupants and pets currently protected by the emergency measures and allow them to continue in their live units without a risk of eviction. Two years into the pandemic, it does not make sense to rip families apart, especially ones who have settled into safe and stable living conditions.¹⁸

¹⁷ Cal. Code of Civ. Proc. § 1179.05 partially preempts local COVID-19 eviction protections, but the preemptive effect on the City’s protections is very narrow. Under § 1179.05(a)(2)(B), the 12-month repayment period in LAMC § 44.99.2(A) for “COVID-19 rental debt” must begin on August 1, 2022. “COVID-19 rental debt” is a defined term in state law that only includes rent that was due between March 1, 2020 and September 30, 2021. The City is not preempted from allowing a 12-month repayment period for rent debt accrued after September 30, 2021. For example, if the City keeps its emergency nonpayment protections in place through the end of 2022, rent that came due after Sep. 30, 2021 would not need to be repaid until the end of 2023 under the City’s 12-month repayment period. State law only requires that rent debt accrued between March 1, 2020 and September 30, 2021 be repaid by August 2023.

¹⁸ Furthermore, the City should adopt permanent protections in rental housing to help keep pets and people together, such as prohibiting pet rent and enacting reasonable rules to allow tenants to have pets. The City has recognized the need to protect tenants with pets by adopting policies to allow pet ownership in publicly financed buildings. L.A. Mun. Code § 51.20 et seq.

III. The City should strengthen its permanent protections before emergency protections are lifted.

Before the emergency protections are scaled back, the City should adopt permanent measures as part of a Tenant Bill of Rights for LA City tenants, protecting tenants from arbitrary eviction, harassment, discrimination, and unreasonable rent increases. We must recognize that the status quo prior to the pandemic was not acceptable and use the lessons from this crisis to build a more just, healthy, and sustainable city for low-income tenants.

A. Expand just-cause eviction protections to cover all tenants and require landlords to file eviction notices with the City.

All tenants deserve the basic guarantee of just cause eviction protections. Without just cause eviction protections, tenants can be evicted for unfair or arbitrary reasons, or for no reason at all. The City’s Rent Stabilization Ordinance (LARSO) provides just cause eviction protections for tenants that live in rent stabilized units.¹⁹ When the City’s emergency eviction protections expire, the approximately 650,000 tenants that do not live in rent stabilized units²⁰ will not be covered by any local just cause protection. Before the emergency measures are lifted, the City should expand the eviction protections in its rent stabilization ordinance to apply to all tenants, and strengthen those protections as discussed below.

The City Council has adopted a motion to explore expanding the just cause protections in LARSO to cover additional units, but the recommendations in the initial report on this motion did not go far enough and would leave thousands of tenants vulnerable to eviction.²¹ The January 2020 recommendations would needlessly leave out tens of thousands of tenants living in single family homes not owned by corporations, REITs, or LLCs with a corporation or REIT member. And the tenants in single family homes that would nominally be covered by the protections would need to determine the ownership structure of the entity that owns the property where they live. In many cases, the membership of an LLC is not public information. For equal protection and ease of implementation and enforcement, we urge the City to apply just cause protections to all rental units.

Further, to ensure the requirement for just cause and other City eviction protections are meaningful and can be properly enforced, the City should require landlords to submit copies of

¹⁹ L.A. Mun. Code § 151.09.
²⁰ Estimate based on American Community Survey 2019 5-year data for tenant household size and number of rental units, and vacancy rate, and LAHD data on number of rental units covered by LARSO. See U.S. Census Bureau, *American Community Survey*, tbl. B25003, B25008, DP04, <https://www.census.gov/programs-surveys/acs>. LAHD, Report Dashboard for RSO, <https://housing.lacity.org/RSO> [retrieved July 1, 2022].
²¹ L.A. City Council Motion No. 17-0454 (Apr. 19, 2017).

notices to terminate tenancy to be filed with the City in order to evict a tenant from any unit.²² The City should use this data to connect tenants at risk of eviction with legal support and resources.

B. Enact permanent limits on evictions for failure to pay rent.

Without the local emergency eviction protections, tenants can be legally evicted from their homes for missing *any* portion of their monthly rent that remains unpaid after the expiration of a three day notice.²³ This draconian law does not care if the tenant is only short by one dollar, does not care if the tenant is able to pay the unpaid rent between the expiration of the notice and the Unlawful Detainer trial, and does not care if the tenant is waiting on rental assistance to help cover their arrears. There are no exceptions for tenants that fall ill or unexpectedly lose income. Any unpaid rent can result in eviction.

During the pandemic, temporary changes to local, state and federal law acknowledged that tenants should not be evicted if they were unable to pay rent because they became ill with COVID-19, were unable to work because of needed public health measures, or were otherwise unable to pay rent due to the pandemic.²⁴ And unprecedented rental assistance programs relieved the burden from landlords. These were lifesaving measures that prevented countless evictions. Fundamentally, these protections separated the legal question of whether a tenant contractually owes money to their landlord from the legal consequence of losing one's home—allowing missed rent to be addressed through emergency rental assistance programs, voluntary repayment agreements, or small claims court rather than eviction courts. But the COVID-19 pandemic was not the first time that tenants struggled to pay rent because they fell ill, experienced an unexpected loss of income, or faced some other unforeseen or unavoidable circumstance. These scenarios are common and would often lead to a household being evicted prior to the enactment of COVID-19 eviction protections.

The emergency measures adopted during the pandemic have demonstrated that limits on evictions for failure to pay dramatically reduce the number of evictions filed and that such limits can be implemented so as not to cause undue hardship for landlords. Therefore, we recommend that the City adopt a modified form of these protections on a permanent basis to ensure that tenants do not lose their homes just because they missed a small amount of rent. Eviction is an extraordinary legal remedy and should be reserved for extraordinary circumstances - not as a debt collection tool to recover relatively small sums.²⁵

²²The cities of Cudahy and East Palo Alto, along with L.A. County, already have this requirement. *See* Cudahy Mun. Code § 5.12; East Palo Alto Mun. Code § 14.04.160(D) | L.A. County Code § 8.52.090(B)(4).

²³ Cal. Code of Civ. Proc. § 1161(2).

²⁴ *See supra*, note 8.

²⁵ For example, Small Claims Court provides an accessible venue for parties to resolve disputes and recover amounts up to \$10,000 without needing an attorney. *See* California Department of Consumer Affairs, *The Small Claims Court: A Guide to its Practical Use*, https://www.dca.ca.gov/publications/small_claims/small_claims.pdf.

Specifically, we recommend that the City Council amend the City’s just cause protections so that failure to pay rent is only cause for termination if the tenant fails to pay for multiple months such that the amount exceeds the jurisdictional threshold of \$10,000 for small claims court. Tenants should have a reasonable amount of time to repay missed rent, after which the landlord may collect the rent as a contractual obligation either through small claims court, civil court, or other civil collection. In short, the tenant would still owe this money, but failing to pay relatively small amounts would not be grounds for eviction and these cases would be handled in small claims court rather than eviction court, in the same way other debts under this amount are treated under the law.

Reasonable limits on evictions for failure to pay will dramatically increase housing stability for low-income tenants without creating an undue burden on landlords. Over a third of adults in the United States report that they would need to borrow money or sell something in order to cover an unexpected \$400 expense.²⁶ Common situations that can lead to eviction can often be remedied by allowing tenants time to get back on their feet. However, the existing social safety nets that would help tenants cover unpaid rent do not provide relief within the 3 day window state law requires to avoid eviction. For example, if a tenant unexpectedly loses their job, it may take several weeks to receive unemployment insurance - but benefits are backdated to the date of application, which would allow tenants to repay rent owed to their landlord.²⁷ However, under the current rules, if an eviction is filed against a tenant in this situation, they lose the right to repay their rent obligation and remain in their housing,²⁸ and eviction judges are prohibited from awarding landlords unpaid rent without displacing the tenant.²⁹ By establishing a monetary threshold for eviction for nonpayment, tenants that experience a temporary loss of income or unexpected expense will be far less likely to lose their housing and landlords will ultimately be made whole through voluntary repayment or small claims court judgment.

Eviction regulations should also work in coordination with rental assistance for low-income tenants and mortgage assistance for small landlords who are at risk of foreclosure to support tenants and landlords experiencing financial hardship. This rental and mortgage assistance should be conditioned on an agreement that the tenant will not be evicted, and should be in addition to other forms of relief that state and local government has provided to property owners, such as foreclosure prevention services and waiver of penalties for failure to pay property taxes on time for owners experiencing financial hardship.

²⁶ Board of Governors of the Federal Reserve System, *The Fed—Report on the Economic Well-Being of U.S. Households in 2020—May 2021—Dealing with Unexpected Expenses* (May 19, 2021), <https://www.federalreserve.gov/publications/2021-economic-well-being-of-us-households-in-2020-dealing-with-unexpected-expenses.htm>.

²⁷ California Employment Development Department, *Unemployment Insurance – After You Apply* (Feb. 17, 2022), https://edd.ca.gov/en/Unemployment/After_you_Filed [retrieved May 9, 2022] (“It takes at least three weeks to process a claim for unemployment benefits and issue payment to most eligible workers.”).

²⁸ Cal. Code of Civ. Proc. § 1161(2).

²⁹ Cal. Code of Civ. Proc. § 1179 (allowing a judge to prevent forfeiture in cases of hardship only if the tenant has made full payment of rent).

The City has the legal authority to regulate substantive grounds for eviction, including removing certain reasons as grounds for eviction. The City’s own Rent Stabilization Ordinance already regulates such substantive grounds.³⁰ California courts have consistently ruled that local jurisdictions have the power to regulate eviction, so long as the regulations are substantive in nature, rather than procedural.³¹ In addition, the state COVID-19 Tenant Relief Act of 2020 implicitly acknowledges a local jurisdiction’s power to regulate evictions based on failure to pay rent.³²

Cities across the country have begun to adopt similar measures to restrict evictions for nonpayment of rent. For example, the District of Columbia recently banned evictions in situations where the tenant owes less than \$600.³³ The San Francisco Board of Supervisors voted to require an additional 10 day cure period before landlords can file evictions for many reasons, including nonpayment of rent.³⁴ The American Bar Association has also called for policies to allow tenants more time to repay missed rent in its “Ten Guidelines for Residential Eviction Laws.”³⁵ The City can build on this momentum and adopt an ordinance to prohibit evictions based on nonpayment of relatively small amounts of money, paired with tenant support services, such as access to counsel and educational resources, rental assistance programs for tenants, and mortgage relief programs for landlords.

C. Reduce allowable rent increases allowed under the Rent Stabilization Ordinance.

Rent increases on RSO units have been prohibited during the state of emergency.³⁶ This has spared rent-burdened tenants from unaffordable rent hikes and likely contributed to the reduction in evictions during the emergency period. Tenants not covered by a rent freeze have seen significant rent increases. According to estimates from the Census Bureau’s Household Pulse Survey, most renter households in California experienced a rent increase in the last 12 months, and about a third experienced a rent increase over \$100 per month.³⁷ Nationally, rents

³⁰ L.A. Mun. Code §151.09.

³¹ See *Tri Cty. Apartment Ass'n v. City of Mt. View*, 196 Cal. App. 3d 1283 (1987); *S.F. Apartment Ass'n v. City & Cty. of S.F.*, 20 Cal. App. 5th 510 (2018); *Birkenfeld v. City of Berkeley*, 500 P.2d 1006 (Cal. 1976).

³² Cal. Code of Civ. Proc. § 1179.05(b).

³³ D.C. Off. Code § 16-1501(b) (“The person aggrieved shall not file a complaint seeking restitution of possession pursuant to this section for nonpayment of rent in an amount less than \$600. Nothing in this subsection shall prevent the person aggrieved from filing a complaint to recover the amount owed.”).

³⁴ S.F. Admin. Code § 37.9(o).

³⁵ American Bar Association, *Ten Guidelines For Residential Eviction Laws* (Feb. 14, 2022), <https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2022/612-midyear-2022.pdf>

³⁶ L.A. Mun. Code § 151.32. Before the pandemic, landlords were allowed to increase the rent in excess of inflation year after year. For *nine consecutive years* in the 2010’s, the annual allowable rent increase exceeded inflation. See LAHD, *Rent Stabilization Bulletin: Allowable Rent Increases* (Dec. 7, 2021), [Allowable Rent Increase Bulletin](#).

³⁷ Census Bureau, *Household Pulse Survey, Week 46, tbl. 2 Change in Monthly Rent During the Last 12 Months, Cal.*, https://www2.census.gov/programs-surveys/demo/tables/hhp/2022/wk46/housing2_week46.xlsx.

See also, Jha, S., *Think rent is rising fast? It’s worse than you think (and inflation might be too)*, L.A. Times (July 11, 2022) [Think rent is rising fast? It’s worse than you think \(and inflation might be too\)](#).

are rising at the fastest pace in decades, with rents for new tenants rising at the highest rate on record.³⁸ When the emergency protections expire, Los Angeles tenants could face historically high rent increases. If the current rate of inflation continues, landlords will be allowed to impose **8%** rent increases after the emergency protections expire - an increase that many households cannot afford. For the City's quarter-million renter households that are already paying more than half their income to rent,³⁹ an increase of this size can be tantamount to an eviction.

Before the emergency rent freeze expires, the Rent Stabilization Ordinance should be amended to **limit the annual allowable rent increase to 60% of the change in CPI or 3%, whichever is lower.**⁴⁰ This will spare countless tenants from financial hardship and displacement, without depriving landlords of a fair return on their investment. Landlords who can show that this limitation is depriving them of a fair and reasonable return on their investment could continue to apply for an individual waiver. This change would bring the City of LA into line with many of its neighboring jurisdictions with rent stabilization ordinances that allow increases at only a percentage of CPI.⁴¹ The city of Oakland also recently adopted a similar protection.⁴²

D. Require relocation assistance for non-RSO tenants displaced by large rent increases.

All tenants should have access to relocation assistance when they are required to move for no fault of their own. The City requires relocation assistance as part of its Rent Stabilization Ordinance.⁴³ Currently, when a tenant is being evicted for a no-fault just cause reason, such as an owner move-in or Ellis Act eviction, tenants are entitled to relocation assistance at an amount set by the City.⁴⁴ This requirement should be expanded, consistent with an expansion to universal just cause protections, to cover all rental units in the City. However, additional protections are needed for tenants not covered by the City's rent stabilization ordinance to prevent a loophole that would allow tenants to be forced out through large rent increases and receive no relocation assistance. While the City cannot prevent rent increases in units ineligible for rent stabilization under Costa-Hawkins, the City *can* still do more to protect the tenants living in these units.

³⁸ *Id.*; Boesler, M. & Gopal, P., *Rents in US Rise at Fastest Pace Since 1986, Buoying Inflation*, Bloomberg (July 13, 2022),

<https://www.bloomberg.com/news/articles/2022-07-13/rents-in-us-rise-at-fastest-pace-since-1986-buoying-inflation>.

³⁹ According to the U.S. Census Bureau, *American Community Survey, 2019 5-yr tbl. B25070: Gross Rent as a Percentage of Household Income in the Past 12 Months*, <https://www.census.gov/programs-surveys/acs>, an estimated 267,572 renter households in the City of Los Angeles are paying more than half their income to rent.

⁴⁰ A version of this, limiting the allowable increase to 60% of the change in CPI and removing the 3% floor on rent increases, was already introduced by the City Council in 2020. L.A. City Council Motion. No. 20-0200 (Feb. 12, 2020).

⁴¹ Santa Monica City Charter § 1805(a)(1) (setting Annual General Adjustment at 75% of CPI); West Hollywood Mun. Code § 17.36.020 (setting Annual General Adjustment at 75% of CPI).

⁴² Oakland Mun. Code § 8.22.070.

⁴³ L.A. Mun. Code §§ 151.09 G., 151.30.

⁴⁴ L.A. Housing Dep't, *Rent Stabilization Bulletin: Relocation Assistance* (July 11, 2022), <https://housing.lacity.org/wp-content/uploads/2022/01/Relocation-Assistance.pdf>.

Requiring landlords to provide tenants financial assistance if the tenant is displaced due to a large rent increase will greatly increase the likelihood that displaced tenants find adequate housing and can avoid homelessness. For example, if a landlord issues a rent increase above the amount allowed under the City’s RSO, the tenant household would have two options: 1) accept and pay the increased rent, or 2) terminate their tenancy and request financial assistance from the landlord to relocate. Tenants would need to notify the landlord of their need for assistance within a reasonable time and, if the landlord does not rescind or reduce the rent increase, the landlord would be required to pay the tenant relocation assistance. This type of policy has been adopted in other jurisdictions for units not covered by rent stabilization, including the cities of Long Beach⁴⁵ and Baldwin Park,⁴⁶ and the County Board of Supervisors has studied the policy as well.⁴⁷ This policy would mitigate the harm caused to tenants from having to incur unexpected moving expenses due to large rent increases and significantly increase the likelihood that a tenant successfully finds replacement housing. The policy would not cause an undue burden on landlords, as the annual rent increases allowed under the RSO generally allow landlords a fair return. Requiring landlords to pay financial assistance to tenants in non-rent stabilized units who are displaced by large rent increases will meaningfully increase housing stability for the approximately **650,000 tenants** in Los Angeles that do not live in units covered by the City’s rent stabilization ordinance.⁴⁸

E. Enforce the City’s Tenant Anti-Harassment Ordinance.

Landlord harassment contributes to tenant displacement, gentrification, residential instability, and homelessness. Even if a tenant is not facing eviction in court, they may still face harassment, including coercion to leave their home without court process through tactics such as refusal to make repairs, utility shut offs, and/or illegal lockouts. Recent data suggests that tenants in the City of Los Angeles faced increased landlord harassment and illegal lockouts during the pandemic. Landlord harassment remains an issue for tenants as communities continue to recover from the effects of the pandemic. In 2021, an estimated 500 or more tenants experienced landlord harassment in the City of Los Angeles *each month*.⁴⁹

⁴⁵ City of Long Beach Ordinance No. ORD-19-0014 (adopted June 11, 2019), https://library.municode.com/ca/long_beach/ordinances/municipal_code?nodeId=962139 (repealed by City of Long Beach Ordinance No. ORD-19-0035 (adopted Dec. 10, 2019), https://library.municode.com/ca/long_beach/ordinances/municipal_code?nodeId=995716).

⁴⁶ Baldwin Park Code of Ordinances § 129.11(d)(5) (applies within 18 months of a change in property ownership).

⁴⁷ County of L.A. Department of Consumer and Business Affairs, *Analysis for Economic Displacement Assistance: Item No. 10, Agenda of September 10, 2019* (Oct. 1, 2020), <http://file.lacounty.gov/SDSInter/bos/supdocs/140418.pdf>.

⁴⁸ See *supra*, note 20.

⁴⁹ Cantong, J., *Landlord Harassment & Illegal Eviction*, USC Price Center for Social Innovation, tbl. 2 “Landlord/Tenant Dispute Calls by Month, 2010-2021” (Mar. 22, 2022), <https://usc-ndsc-wordpress.azurewebsites.net/landlord-harassment-illegal-eviction/>. See also, Dillon, L. & Poston, B., *Despite protections, landlords seek to evict tenants in Black and Latino areas of South L.A.*, L.A. Times (June 18, 2020), <https://www.latimes.com/homeless-housing/story/2020-06-18/despite-protections-landlords-attempting-to-evict-tenants-in-south-l-a-black-and-latino-neighborhoods-data-shows>.

In August 2020, the City adopted a strong Tenant Anti-Harassment Ordinance (TAHO). However, despite calls from advocates for amendments, the law continues to be challenging to administer and enforce. Therefore, in order to ensure that TAHO protects tenants, the City should both amend the law and provide resources tailored to enforcement.

TAHO requires several amendments to make it more readily enforceable. First, while the private right of action should be secondary to City enforcement, the remedies should be modified to better encourage the private bar to accept anti-harassment cases. Specifically, the language in LA Municipal Code (LAMC) § 45.35(B) and (C) should be amended to read that prevailing tenants “shall” be awarded damages and fees, rather than “may.” Using the permissive language “may” prevents the private bar from being willing to take on these cases. The civil penalties should also be revised. In addition to the flat penalty, the ordinance should also include mandatory treble actual damages (including for mental/emotional distress) if larger than the applicable penalty. This should be accompanied by an explicit 3 year statute of limitations for bringing TAHO claims.⁵⁰ If private attorneys are incentivized to represent tenants in TAHO lawsuits, it would be easier for tenants to find counsel to enforce their rights.

Second, the standard for harassing conduct in LAMC § 44.33 should be changed from “a landlord’s knowing and willful course of conduct directed at a specific tenant or tenants that causes detriment and harm, and that serves no lawful purpose” to “bad faith.” This is an easier-to-understand standard that can encompass what the law currently says, and can be further defined in implementing guidelines. Oakland has already adopted this standard in its Tenant Protection Ordinance.⁵¹

Third, language should be added to TAHO stating that “irreparable harm is presumed by violation of this statute.” This language will not affect the underlying merits of a tenant’s claims or a landlord’s defense, but it will better enable tenants to obtain preliminary injunctions forcing landlords to halt the allegedly harassing behavior at the start of litigation, rather than allow tenants to be subject to continuing harassment while they litigate anti-harassment lawsuits.

Last, the law should be amended to retroactively apply starting on March 4, 2020, the beginning of the COVID-19 “Local Emergency Period” as defined in LAMC § 44.99.1(C). These temporary COVID-19 tenant protections include a similar aim and purpose to prevent tenant harassment, but TAHO is more inclusive and will lead to greater enforcement.

Further, a law is only helpful if it can be enforced. In addition to the above changes to the ordinance language, the City must commit to providing resources to ensure that TAHO can be enforced and becomes a meaningful right for all Angelenos. As advocates have previously mentioned, the Housing Department must be equipped to process complaints regarding landlord

⁵⁰ Without this, tenants will only have 1 year to bring their claims, which will reduce the number of enforcement actions filed. Cal. Code of Civ. Proc. § 340.

⁵¹ Oakland Mun. Code § 8.22.640(A).

harassment. This requires, at a minimum, 1) a public awareness campaign to make sure tenants know their rights and landlords know what conduct is prohibited; 2) a complaint system that can receive complaints online, via phone, or in-person and confirms to the complainant that it has been received and assigns a case number; and 3) staff that are dedicated to investigating complaints and working up cases for prosecution.

In addition to the Housing Department receiving and investigating complaints, the City Attorney must be empowered to be the primary enforcer of TAHO. While private enforcement is important and the law should be strengthened to encourage it (as described above), TAHO is first and foremost a public protection statute, and the City's public prosecutor should be tenants' first line of defense. City Attorney prosecution is also important because it is high profile and provides a greater deterrent effect than private enforcement, especially with the threat of both civil and criminal charges. TAHO and other tenant protections are key homelessness prevention strategies – the City should be responsible for enforcing TAHO and making sure tenants aren't harassed out of their homes and onto the streets. Resources to fund the City Attorney and LAHD in this important work could come from a variety of sources, including landlord fees (similar to SCEP), a City ballot measure, or ARPA funds.⁵²

F. Adopt a codified right to counsel for low-income tenants at risk of eviction with fully funded tenant outreach and education resources.

In order to prevent the inflow into homelessness and to ensure tenants are not unjustly evicted, the City should follow the recommendations of the Los Angeles Right to Counsel Coalition and codify a Right to Counsel for tenants at risk of eviction. As numerous studies have indicated, including a report by the City's own Housing Department, a Right to Counsel can help prevent default judgments and inappropriate evictions and reduce ensuing homelessness.⁵³ Right to Counsel should be a codified right for low-income renters that includes outreach, education, and free legal representation in eviction actions.⁵⁴ A Right to Counsel would prevent homelessness; affirmatively further fair housing; create a more level playing field between tenants and landlords; reduce eviction filings and default judgments; preserve housing that is affordable to tenants; reduce displacement and stabilize communities; conserve public and private resources by stabilizing housing; and educate tenants and landlords on their rights and responsibilities.

The City already funds the StayHousedLA program, which is currently serving thousands of tenants with eviction prevention and defense services. However, thousands of tenants' needs still go unmet because it does not yet provide sufficient funding to guarantee Right to Counsel

⁵² ARPA funds are not an ongoing source of support, but could be used for initial start-up costs.

⁵³ L.A. Dep'tm of Housing & Cmty. Investment, *Report Back Regarding Recommendations for a City of Los Angeles Eviction Defense Program* (Nov. 1, 2019), https://clkrep.lacity.org/onlinedocs/2018/18-0610_rpt_MAYOR_11-01-2019.pdf

⁵⁴ *Id.*

for all low income tenants facing eviction. By leveraging the service provision infrastructure of StayHousedLA, the City could realize a true Right to Counsel by codifying the right to counsel through an ordinance and guaranteeing access to eviction prevention and defense.

If this is not a codified right, access to legal representation will be subject to increases and decreases of funding in response to political ebbs and flows. Further, a permanent, codified right is more likely to be known and understood by tenants than a mere program; consequently, more tenants will not only have access to, but also take advantage of, the legal services available. Without representation, the data paints a clear picture of the inevitable outcome: tenant protections will go unenforced and tenants remain unprotected. Yet, where tenants have a right to counsel, data shows that evictions decrease. In New York City, where there is such a law, 86% of renters facing eviction that receive legal representation are able to stay in their homes, and the eviction filing rate has been decreased by 30%.⁵⁵

Independent studies have found that a right to counsel is a highly cost-effective homelessness prevention strategy. A study of proposed right to counsel programs in Los Angeles found that, for every \$1 invested, the program would generate returns of approximately \$3.48 to the City of Los Angeles.⁵⁶ The analysis found that this return on investment would be generated primarily by the avoidance of public costs related to shelter and housing programs, school funding, public health, and that a right to counsel program could provide numerous additional, unquantifiable benefits in terms of tenant health, education, employment, and more.⁵⁷ To utilize the Right to Counsel resource effectively, the City should additionally require that tenants are notified about the availability of legal representation and education at all possible intervention points, including whenever a notice of termination is served.⁵⁸

G. Strengthen code enforcement programs.

Substandard housing has detrimental effects on the health and safety of tenants. Communities where housing is riddled with mold, pest infestations, and other habitability issues have higher rates of asthma and other respiratory illnesses, especially in children.

The City's Systematic Code Enforcement Program (SCEP), while a nationwide model, is not currently functioning as intended.⁵⁹ Despite the program's mandate, the City has been unable

⁵⁵ Office of Civil Justice, N.Y. City Dep't of Social Services/Human Resources Administration, *Annual Report*, 23 (2020), https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ_Annual_Report_2020.pdf.

⁵⁶ Stout, *Cost-Benefit Analysis of Providing a Right to Counsel to Tenants in Eviction Proceedings*, 8 (Dec. 10, 2019), https://info.stout.com/hubfs/PDF/Eviction-Reports-Articles-Cities-States/Los%20Angeles%20Eviction%20RTC%20Report_12-10-19.pdf.

⁵⁷ *Id.*, at 93.

⁵⁸ We are recommending that copies of termination notices be sent to the City, which will facilitate and could automatically trigger this notification. See section III.A.

⁵⁹ See Dillon, L., *Mold and sewage plague South L.A. apartments even after inspections, tenants say*, L.A. Times (Apr. 21, 2022),

to fulfill this mandate. This appears to be the result of several factors. One is that the program relies on the landlord to provide notice. As a result, tenants regularly receive no notice of a pending inspection. In larger properties, even if the landlord acts in good faith, they may provide a notice that an inspector will be coming over 5 to 7 days, without specifying which day the inspection will occur in a unit. Tenants cannot guess when the inspection will take place and cannot afford to take off that many days of work. Some landlords have even encouraged tenants to deny inspections, using the pandemic as an excuse to evade accountability for dangerous conditions. Further, even when inspections occur, inspectors are not citing clear habitability issues. Finally, early in the implementation of SCEP, outreach workers would contact tenants ahead of the inspections to notify and provide tenants with education and answer questions, but this no longer happens.

To fix these issues, the City must ensure that two inspectors carry out all inspections to ensure validity and deter corruption. The City should also ensure larger landlords have all their properties inspected around the same time. On top of these reforms, it is imperative that the City educate tenants through clear notices and outreach programs. City code enforcement officers should have clear communication channels with the health department and be trained to identify and test for toxic mold and other health-threatening conditions. In addition, once an inspector identifies violations that may require permits, landlords should be required to fill out a tenant habitability plan regardless of whether they obtain a permit. These changes, along with more enforcement from the City Attorney's office, are needed to preserve Los Angeles' housing stock in a habitable condition. Lastly, SCEP should be expanded to cover all rental units - not just units in multifamily buildings. This will improve housing quality for the hundreds of thousands of tenants renting single family homes.

The City could also strengthen the Rent Escrow Account Program (REAP). REAP is intended to resolve persistent health and safety issues, but currently the program is not an effective tool for holding landlords accountable. Some properties are in REAP for over 20 years with no meaningful compliance from landlords. To strengthen REAP, the program should include, beyond notices, fines and penalties for non-compliance, a strategy to ensure that properties that enter the program do not remain in escrow indefinitely, and an option for the City or qualified mission-based affordable housing providers or community land trusts to acquire the properties in particularly egregious cases of slum housing and non-compliance.⁶⁰

<https://www.latimes.com/homeless-housing/story/2022-04-21/mold-broken-pipes-health-problems-apartment-compl-ex>.

⁶⁰ The County Board of Supervisors is also considering similar proposals to strengthen code enforcement programs. See Bd. of Supervisors of the Cnty. of L.A., *Statement of Proceedings*, item 5 (Apr. 5, 2022), http://file.lacounty.gov/SDSInter/bos/sop/1122935_040522.pdf.

H. Adopt the Fair Access for Renters package to remove discriminatory barriers to housing.

A comprehensive approach to the housing crisis and our recovery must also include policies which address challenges to renters accessing new housing. Enacting policies which ensure fair access to prospective housing for renters, while allowing landlords to evaluate tenants based on appropriate factors, helps stabilize communities and prevent discrimination. The City should strengthen its anti-discrimination laws protecting tenants by adopting the Fair Access for Renters motions recently introduced and authored by Councilmembers Bonin, Raman, and Harris-Dawson.⁶¹

Landlord screening practices have expanded in recent years to require tenants to submit a range of personal information, much of which is not relevant to the question of whether the applicant can afford to pay the rent or will comply with their lease. For example, landlords often rely on the use of credit reports to assess whether an applicant will be a good tenant, but numerous studies have shown racial disparities in credit scores due to centuries of discrimination that have contributed to a wide wealth gap between racial groups.⁶² Further, credit reports include information other than a tenant's income and history of rent payments, including other debt records that could be erroneous. Much of the information in a credit report is not relevant to a tenant's ability to afford housing, and on-time rent payments are typically not factored into an individual's credit score. Similarly, many landlords require tenants to disclose whether an eviction has been filed against them, without asking whether the tenant may have ultimately won the eviction case. Finally, criminal records screening has become a standard practice which creates a barrier for many housing applicants despite strong evidence that stable housing reduces recidivism, and many records are simply not indicative of whether someone will be a good tenant.

These arbitrary and discriminatory screening practices make it harder for vulnerable tenants, and in particular Black and brown tenants, to secure the housing they need, cause many tenants to expend considerable resources repeatedly applying for housing, and make our communities less safe by compounding our challenges with respect to housing insecurity. In addition, despite existing source of income discrimination protections, these barriers continue to stand in the way of Section 8 voucher holders and others receiving housing assistance accessing housing to exit homelessness.⁶³

⁶¹ L.A. City Council Motion No. 22-0265 (Mar. 9, 2022), https://clkrep.lacity.org/onlinedocs/2022/22-0265_mot_3-08-22.pdf; L.A. City Council Motion No. 22-0279 (Mar. 9, 2022), https://clkrep.lacity.org/onlinedocs/2022/22-0279_mot_3-09-22.pdf; L.A. City Council Motion No. 22-0280 (Mar. 9, 2022), https://clkrep.lacity.org/onlinedocs/2022/22-0280_mot_3-09-22.pdf.

⁶² See National Consumer Law Center, *Past Imperfect: How Credit Scores and Other Analytics "Bake In" and Perpetuate Past Discrimination* (May 2016), https://www.nclc.org/images/pdf/credit_discrimination/Past_Imperfect050616.pdf (citing to several studies).

⁶³ See Wagner, D., *As Landlords Intensify Tenant Background Checks, Some Lawmakers Want New Limits On Screening*, LAist (May 2, 2022),

As we emerge from the pandemic, these concerns are increased by the fact that many struggling tenants made use of emergency eviction protections or rental assistance, which were put in place in recognition of the way COVID suddenly impacted millions of tenants' ability to make rent and stay housed. We must not now allow those tenants to be punished for making use of these resources, and must ensure that screening practices are reasonably related to whether a renter will be a suitable tenant. We simply cannot afford to allow tenants to be denied housing based on discriminatory and arbitrary factors, especially given the increased homelessness which will result from allowing such practices to continue.

IV. Conclusion

The pandemic has demonstrated the fundamental flaws in our eviction system, as well as the merits of protecting vulnerable tenants from harassment, housing insecurity, and eviction with a uniform set of policies. We must not falter in our commitment to protecting tenants for the duration of the public health emergency, and we must seize on the lessons learned during the pandemic to advance a more uniform, equitable and just set of housing policies for the future.

As we plan for a post-pandemic world, we must address the inequities which have caused uneven impacts of the pandemic and our preexisting housing crisis on low-income tenants and communities of color. We call for a Tenant Bill of Rights to be adopted for LA City tenants to ensure a more just and equitable recovery.

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[Alliance of Californians for Community Empowerment](#)

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<https://laist.com/news/housing-homelessness/los-angeles-la-renter-tenant-screening-credit-score-check-landlord-voucher-income-housing-apartments-bonin-ramn-city-council-rental-access-ordinance>