



September 27, 2021

Lily Mei, Mayor  
City of Fremont  
3300 Capitol Ave #A  
Fremont, CA 94538

**RE: Fremont Rental Assistance Program – Fails to allow Landlords to Apply for Funding - Violation of Federal and State Law**

Dear Mayor Mei:

On behalf of the members of the California Apartment Association, I write to communicate our organization’s strong concern over the City of Fremont’s (the “City”) administration of its Rental Assistance Program, also known as “Keep Fremont Housed Program” (the “Program”), **specifically, the program’s failure to allow landlords to apply for rent relief dollars on behalf of their tenants, as required by state and federal law.**

**The Program**

The City’s Program proports to provide “rental assistance and/or utility assistance, using federal U.S. Department of Treasury stimulus funds, to eligible low-to-moderate income households unable to pay their rent and utilities due to a COVID 19-related job loss or loss of income. These funds are aimed at residents who are at risk of experiencing homelessness or housing instability.”<sup>1</sup> Unfortunately, contrary to federal and state law, the Program fails to allow landlords to apply for rental assistance on behalf of needy tenants.

**Federal and State Law Require Cities to Allow Landlords to Apply for Rental Assistance**

Section 501(f)(2) of subtitle A of title V of division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) provides that nothing shall “preclude a landlord or owner of a residential dwelling from...applying for such [rental] assistance on behalf of a renter of such dwelling.”

California Health and Safety Code Section 50897.2(f) incorporates this requirement by specifically requiring all Option B cities (Fremont) to “be solely responsible for compliance with all applicable management,

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<sup>1</sup> <https://fremont.gov/keepfremonthoused>



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implementation, and reporting requirements established under state and federal law.”

Refusal to comply with these requirements “shall result in the applicant [i.e. state or local government] being prohibited from receiving state block grant funds and may result in the department [i.e. HCD] recouping block grant funds that are spent in a manner inconsistent with” state and federal law.<sup>2</sup>

Here, both federal and state law are crystal clear: landlords must be allowed to apply for rental assistance. As an Option B city, Fremont’s failure to adhere to this requirement will force the Department of Housing and Community Development to recoup moneys from the Program.

**The COVID-19 Rental Housing Recovery Act (the “Recovery Act”) Requires Landlords to Apply for Rental Assistance**

In order for a landlord to file a complaint for unlawful detainer, Civil Code Section 1179.11(a) (“Section 1179.11”) requires a landlord to complete an application for rental assistance to cover the rental debt demanded by the complaint.

In Fremont, owners will be unable to comply with state law due to the fact that Fremont prohibits owners from applying for rent relief dollars prior to filing a complaint against a tenant for non-payment of rent.

Section 1179.11 presupposes the ability of a landlord to directly apply for rental assistance in order to remedy the problem at hand—the non-payment of rent. Therefore, it is abundantly clear that the Recovery Act requires landlords to be able to apply for rental assistance in order to prevent an eviction from proceeding.

It is imperative that access to rental assistance be available to every tenant who deserves it. Preventing landlords from applying for rental assistance on behalf of tenants who need help is unnecessary and in conflict with federal and state law.

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<sup>2</sup> Health and Safety Code section 50891.2.1(a)(5).



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We write requesting that the City immediately revise the Program to allow for landlords to apply under the Program. **The program must be corrected on or before October 1, 2021, in order for landlords to comply with law.**

The California Apartment Association is the largest statewide rental housing trade association in the country, representing over 50,000 single family and multi-family apartment owners and property managers who are responsible for over 2 million affordable and market-rate rental units throughout the State of California. Thank you for your attention to our request.

Sincerely,

**CALIFORNIA APARTMENT ASSOCIATION**

A handwritten signature in blue ink, appearing to read 'E. P. Madison, Jr.', is written over a light blue circular stamp.

By  
Embert P. Madison, Jr.  
State Advocacy and Compliance Counsel

cc: Debra Margolis, City Attorney  
Mark Danaj, City Manager  
Members Fremont City Council