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January 13, 2026

VIA E-MAIL via TRUFILING

Court of Appeal for the Second Appellate District
Division 7
State of California
Justices Martinez, Feuer, and Stone
Office of the Clerk
300 S. Spring Street
Los Angeles, CA 90013

Re: Apartment Association of Greater Los Angeles County v. City of Los Angeles et al. - Case No. B336071,
Superior Court Case No. 23STCP00720

Honorable Justices Martinez, Feuer, and Stone:

Appellant Apartment Association of Los Angeles County, Inc., dba Apartment Association of Greater Los Angeles ("Appellant") submits this letter brief in response to the Court's December 30, 2025 Order inviting the parties to address whether the Court's decision in *California Apartment Association v. City of Pasadena* (Dec. 18, 2025, B329883) ___Cal.App.5th___ [2025 Cal.App. Lexis 841, 2025 WL 3676957] ("*California Apartment Association*") has any effect on the issues presented in this case.

As explained below, *California Apartment Association* is not only relevant, but entirely dispositive on the issue of whether Ordinance No. 187764 (the "Relocation Assistance Ordinance") is preempted by the Costa-Hawkins Act, Civil Code section 1954.50 *et seq*., because the Relocation Assistance Ordinance is indistinguishable in all material respects from the relocation assistance provision held to be preempted in *California Apartment Association*.

In addition, while Ordinance No. 187763 (the "Eviction Threshold Ordinance") may be structured differently than the notice requirement invalidated in *California Apartment Association*, the Eviction Threshold

Ordinance was adopted for the same improper purpose—to extend the cure period provided by state law before a landlord may pursue an eviction for nonpayment of rent—and is thus preempted by the Unlawful Detainer Act for the same reasons explained in *California Apartment Association.*

1. <u>The Relocation Assistance Ordinance is preempted by Costa-Hawkins Act for the reasons explained in *California Apartment Association.*</u>

California Apartment Association held that section 1806(b)(C) of City of Pasadena Measure H was preempted, because its effect was to frustrate the purpose of the Costa-Hawkins Act. (Slip Opinion ("Slip Op."), p. 62.) That provision required landlords to "provide Relocation Assistance to any Tenant household who is displaced from a Rental Unit due to inability to pay Rent increases in excess of 5 percent plus the most recently announced Annual General Adjustment in any twelve-month period." (Slip Op., p. 53.)

The Relocation Assistance Ordinance at issue here similarly requires landlords to "provide the relocation assistance specified in this section to a tenant who elects to relinquish their tenancy following a proposed rental increase that exceeds the lesser of (1) the Consumer Price Index - All Urban Consumers, plus five percent, or (2) ten percent." (AR 623.) Aside from slightly different ways of measuring the threshold that triggers relocation benefits, the two provisions are nearly identical. For that reason, nearly every word of the Court's analysis of the Pasadena provision applies equally to the Relocation Assistance Ordinance challenged in this case. As summed up in *California Apartment Association*:

> Like the ordinance in *Palmer/Sixth*, the relocation assistance requirement financially penalizes landlords for exercising their rights under the Costa-Hawkins Act. Even if imposing an obligation to pay relocation assistance is not a direct restriction on a landlord's ability to set the rent, the money a landlord must pay in relocation assistance reduces the amount of income the landlord receives from the rental property. The Costa-Hawkins Act was meant to rein

> in rent control by allowing landlords to raise the rents on exempt units to their fair market value. [Cites.] The relocation assistance requirement counteracts that purpose by protecting tenants, at landlords' expense, from the free market. However worthy and laudable that goal of [the Relocation Assistance Ordinance] is, state law provides for a different purpose.

(Slip Op., p. 62.)

Moreover, the *California Apartment Association* decision thoroughly analyzed and rejected the same arguments made by Respondents in this case. The primary argument advanced by both the City and Intervenors as to why the Relocation Assistance Ordinance is not preempted by the Costa-Hawkins Act is their claim that it is a lawful "eviction regulation" that must be upheld under the Act's savings clause. (*See* City's Respondents Brief, pp. 32-46 [repeatedly characterizing the ordinance as regulating "constructive evictions"]; Intervenors' Opposition Brief, pp. 24-27.)

California Apartment Association exhaustively analyzed the same argument (Slip Op., pp. 63-70), explaining that the savings clause set forth in Civil Code section 1954.42, subdivision (c) was inapplicable, because "[t]he requirement for a landlord to pay relocation assistance when a tenant must vacate the unit in response to a lawful rent increase is not a basis for eviction." (Slip Op., p. 64.) The Court also rejected the entire "premise that tenants who are displaced because they cannot pay lawful, good faith rent increases are 'constructively evicted.'" (Slip Op., p. 65 ["the relocation assistance requirement does not pertain to, much less regulate, constructive evictions"].) The same analysis applies here.[1]

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[1] Indeed, the analysis is arguably even more clear-cut here, since the Relocation Assistance Ordinance requires benefits be paid to any tenant who "elects to relinquish their tenancy" following a proposed rent increase above the applicable threshold, not just those with a demonstrated "inability to pay." (*Compare* AR 623, Slip Op., p. 53.)

In short, *California Apartment Association* decided the same issues presented in connection with Appellant's challenge to the Relocation Assistance Ordinance and is thus dispositive to that portion of the case.

2. *California Apartment Association* confirms the Eviction Threshold Ordinance is preempted by the Unlawful Detainer Act.

A. The Decision's discussion of facial challenges demonstrates Appellant has properly stated a facial challenge to the Eviction Threshold Ordinance.

The City argued in its Respondent's Brief that Appellant had not stated a proper facial challenge to the Eviction Threshold Ordinance, because Appellant does not argue that it will delay all evictions for nonpayment of rent. (*See* City's Respondent's Brief, pp. 20-23.)

California Apartment Association addressed a similar argument made with respect to the relocation assistance provision at issue there. As noted by the Court, "[t]he proper focus of constitutional inquiry is the group for whom the law is a restriction, not the group for whom the law is irrelevant." (Slip. Op., p. 58, quoting *Tom v. City and County of San Francisco* (2004) 120 Cal.App.4th 674, 680.) Thus, the Court found "the fact that some tenants will not move if their rent is raised does not mean there is not "a total and fatal conflict" between the Costa-Hawkins Act and said provision, explaining:

> For those tenants who *are* "displaced from [their] Rental Unit[s] due to inability to pay Rent increases," landlords will incur the obligation to pay relocation assistance under section 1806(b)(C). Accordingly, the issue is ripe for petitioners' facial challenge.

(Slip Op., pp. 59-60, emph. in original.)

Similarly, here, it does not matter that the Eviction Threshold Ordinance does not delay every eviction within the City, because in every situation *where it applies* (*i.e.*, where it restricts evictions), it interferes with

the timeline established by the State Legislature and prevents landlords from exercising their rights under the unlawful detainer statute.

B. The Eviction Threshold Ordinance is preempted for the same reasons as the notice provision at issue in *California Apartment Association*.

As explained in *California Apartment Association*, per the Unlawful Detainer Act, "[u]nlawful detainer proceedings are summary in nature, providing for shorter timelines and a more limited scope than standard civil actions." (Slip Op., p. 71.) "For evictions based on the nonpayment of rent, a landlord must serve the tenant with a three-day notice to pay rent or quit the premises before filing an unlawful detainer complaint." (*Id*. [also explaining the law seeks "to balance tenants' occupancy rights against landlords' rights to earn income"].)

The notice provision held to be preempted in *California Apartment Association* required that "before a landlord may initiate an action to terminate a tenancy or endeavor to recover possession of a rental unit based on a tenant's failure to pay rent, the landlord must provide the tenant with" a written notice affording the tenant "a reasonable period to cure" the problem. (Slip Op., p. 72.) Although Pasadena argued the provision should not be read to extend the notice timeline under Code of Civil Procedure section 1161, the Court found such argument unpersuasive, concluding the "additional cure period thus extends the three days' notice required under the Unlawful Detainer Act." (Slip Op., p. 74.)

Having concluded the provision had a procedural effect, the Court explained that whether it was preempted was determined by whether or not "it serves a ***distinct purpose***." (Slip Op., p. 75, emph. added, discussing *Birkenfeld* v. City of Berkeley (1976) 17 Cal.3d 129, 149.) The Court ultimately concluded the notice provision was procedural in nature, and thus preempted:

> The requirement is not substantive merely because the ordinance is worded to provide that landlords may not take action to terminate a tenancy unless the

> tenant has failed to pay the outstanding rent after receiving a Written Notice to Cease…. The ordinance also provides that a landlord's failure to serve the tenant with a Written Notice to Cease and allow for the cure period to run constitutes a complete affirmative defense in an unlawful detainer action…. That is the epitome of a "procedural barrier[ ] between the landlord and the judicial proceeding."

(Slip Op., p. 78, internal citations omitted.)

As detailed in Appellant's prior briefing, the structure of the Eviction Threshold Ordinance (which bars landlords from commencing an eviction based on nonpayment of rent until "the amount due exceeds one month of fair market rent") is somewhat different than that at issue in *California Apartment Association*, but the purpose and effect of the ordinance is the same. Like the Pasadena provision, the Eviction Threshold Ordinance effectively extends the cure period for nonpayment of rent beyond that provided by state law and provides an affirmative defense where a landlord fails to comply. (Los Angeles Municipal Code Section 165.07, AA 500 ["In any action by a landlord to recover possession of residential real property, the tenant may raise as an affirmative defense the failure of the landlord to comply with this Article."].) Moreover, that procedural impact is not incidental, but the very purpose of the ordinance. Indeed, the Court need look no further than the City's own brief to confirm that the Eviction Threshold Ordinance was adopted for the purpose of extending the eviction timeline set forth in the Unlawful Detainer Act:

> The City enacted the Threshold Eviction Ordinance in response to evidence that tenants who experience sudden losses in income could *avoid* eviction **if given more time** to seek help. (See AR 2221 ["if a renter loses their employment and applies for unemployment benefits, on average it takes six weeks to receive the assistance [when] the eviction process may [already be] underway."].)

(City's Respondent's Brief, p. 28 italics in original, bold added]; *see San Francisco Apartment Assn. v. City & County of San Francisco* (2024) 104 Cal.App.5th 1218, 1232-1233 [concluding that an ordinance adopted because of concern that the three-day period provided by the unlawful detainer statute does not provide tenants "enough time to access the resources and help they need" to avoid eviction was procedural and thus preempted].)

Respondents will likely argue that *California Apartment Association* is distinguishable because the Eviction Threshold Ordinance does not require service of a separate written notice before a landlord can initiate an unlawful detainer procedure. But while the Court noted that requirement was a factor in its decision, it emphasized the extension of the state law timeline in concluding the Pasadena notice requirement was procedural. (Slip Op., at 77-78.) Here, while the Eviction Threshold Ordinance might not require the service of an additional piece of paper before a landlord may commence an unlawful detainer action, it has a far greater procedural impact on the unlawful detainer timeline established by state law. The notice at issue in *California Apartment Association* might extend the timeline by a few days; the effect of the Eviction Threshold Ordinance is to delay the speedy timeline provided by state law by at least one month, dramatically shifting the balance between tenants' and landlords' rights. (*See* Slip Op., p. 71.) Allowing the City to deliberately thwart the speedy timeline provided by the Unlawful Detainer Act via the Eviction Threshold Ordinance would thus undermine the policy choices made by the State legislature (and provide other cities with a roadmap for sidestepping this Court's ruling in *California Apartment Association*).

RUTAN & TUCKER, LLP

Peter J. Howell

PJH

CERTIFICATE OF SERVICE

(*Apartment Association of Greater Los Angeles County v. City of Los Angeles et al. - LASC Case No.: 23STCP00720 California Court of Appeal - Case No. B336071*)

I am a resident of the State of California. I am over the age of 18 and not a party to the within action. My business address is Rutan & Tucker, LLP, 18575 Jamboree Road, 9th Floor, Irvine, California 92612. My electronic notification address is pcarvalho@rutan.com.
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EXECUTED on January 13, 2026, at Irvine, California.

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1/13/2026

Date

/s/Pamela Carvalho

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