



September 21, 2021

Mr. Patrick Ure
Manager, Housing and Neighborhood Services Bureau
Department of Development Services
City of Long Beach
411 W. Ocean Blvd., 3rd Fl.
Long Beach, CA 90802

Cc: Honorable Mayor Robert Garcia and Members of the City Council

Subject: Substantial Remodel Lease Terminations

Dear Mr. Ure:

On behalf of a coalition comprised of the region's businesses, property owners, investors, managers and suppliers of rental homes, and REALTORS®, we are following-up to our August 26, 2021 meeting with Long Beach City staff and PlaceWorks, Inc. relative to agenda item no. 35 (21-0608) considered by the City Council on July 6, 2021.

PRIOR UNANIMOUS COUNCIL ACTION SHOULD BE HEDED

The Long Beach Development Services Department (LBDS) has created a webpage, presentation material, meeting notes, memo(s), etc. on this matter that fail to fully incorporate, adequately capture, and reasonably follow the direction provided by the City Council on July 6, 2021, and as recorded in the accompanying meeting minutes:

A motion was made by Councilwoman Allen, seconded by Councilwoman Saro, to approve recommendation, as amended, for the ordinance to [1] prohibit substantial remodel evictions based on building permits issued on or after July 6, 2021; [2] the temporary prohibition to be in effect until December 31, 2021, it may be extended by the City Council to accommodate the ongoing feasibility program, or it may be terminated prior to December 31, 2021, if the City Council does not move forward with any such program; [3] the feasibility program to study the scope and impact of the eviction problem related to renovations, and to explore options outside of legislative options; [4] develop a plan to address those who are at risk of eviction due to a permit issued prior to July 6, 2021; [5] reach out to additional organizations than those listed in the staff letter; and [6] to consider civil penalties or other sanctions for bad actors who are issuing invalid termination notices.

This coalition submitted a written request on August 20, 2021 to LBDS for further information on the “scope and impact of the eviction problem related to renovations...[which] likely aligns with work already being conducted by City staff as directed by the Council to study.” The data sought includes how many complaints LBDS has received on this issue over the past two years; how many such complaints are currently or were made on properties that have (or have not) obtained permits for substantial modification work; the general nature of such complaints; and how many of the complaints were generated by individuals living at the property in question.

LBDS’ (Mr. Ure’s) response was: “The Housing and Neighborhood Services Bureau has not received any complaints from any individuals regarding substantial remodels.” This would appear to indicate that “a [Staff] plan to address those who are at risk of eviction due a permit issued prior to July 6, 2021...and a report regarding interim measures to assist those facing eviction” would be rendered futile since LBDS has no record of alleged tenant displacement.

Part of the Council directive was “to explore options outside of legislative options...and to consider civil penalties or other sanctions for bad actors who are issuing invalid termination notices.” Such research by LBDS would have yielded insight to the current superseding state laws in place and other proposed measures that have dealt specifically with eviction moratoria.

CURRENT STATE LAW PROVISIONS AND PROTECTIONS

Since the start of the pandemic, the California State Legislature has passed various eviction moratoria to keep residents housed. The Tenant Protection Act of 2019 (“AB 1482”), effective January 1, 2020, was temporarily suspended and consequently superseded by the COVID-19 Tenant Relief Act of 2020 (“AB 3088”), the Eviction Moratorium Extension and State Rental Assistance Program (“SB 91”), and most recently the State Rent Moratorium Extension and the COVID Rental Housing Recovery Act (“AB 832”).

AB 3088 temporarily required all residential landlords in California to comply with the just cause eviction procedures of AB 1482 in order to find a tenant guilty of unlawful detainer on or after March 1, 2020 and before July 1, 2021. Under AB 832, these same just cause eviction rules were extended through September 30, 2021. This is the case (for condos and single-family homes), even when the property would otherwise be exempt under AB 1482.

Under these new laws (i.e., AB 3088, SB 91, and AB 832), a landlord cannot evict on the basis of “substantial rehabilitation”, which is one of the “no fault” reasons under AB 1482 (unless for the purpose of maintaining habitability). Of course, as a practical matter, neither can the landlord evict on the basis of nonpayment of rent. So, while such state laws are and have been in effect there are only ten “at-fault” reasons and three “no-fault” reasons.

Furthermore, the Judicial Council of California approved on April 6, 2020 rules, including effectively suspending all unlawful detainer actions until ninety days after California’s COVID-19 state of emergency ends. This suspends the issuance of a summons and entry of defaults in unlawful detainer actions, meaning new unlawful detainer cases cannot be filed in most circumstances, unless there is a health and safety reason.

PROBLEMATIC PUSH FOR RENT CONTROL PROGRAM

According to LBDS staff, a tenant habitability program (THP) “is only part of a rent control program, there is still a significant cost to administering such a program, likely averaging \$2 million annually. The City would need to cover these costs for the initial two-year start-up period...future costs would be passed on to property owners and likely trickle down to tenants [and] needed property repairs may be avoided by owners.”

As part of a City memo dated May 11, 2021, LBDS staff described that “since January 2021, the [Building and Safety] Bureau has experienced a 50 percent vacancy rate, up from 27 percent vacancy overall in 2020...permit turnaround times, customer communication, and overall development review process have not met the City’s goals nor the needs or expectations of our customers.” Given LBDS staff’s own assessment of its “lack of administrative infrastructure”, a THP does not appear to be viable.

Moreover, in its March 2019 report on tenant assistance policies, LBDS staff states “the results of this survey and further research by City staff show local just-cause ordinances to be an infrequently adopted policy approach to enhance housing stability...”, underscoring how such rent control programs ultimately contribute to a drop in the quality, quantity, safety, and habitability of the existing rental housing stock over time.

PRIORITIZING EXISTING, UNUSED RENTAL ASSISTANCE

According to the State of California Business, Consumer Services and Housing Agency (BCSH), so far the state has provided \$526 million of the \$2.2 billion that renters have applied for and only a portion of the \$5.2 billion in federal funds from the U.S. Department of Treasury’s Emergency Rental Assistance (ERA) program set aside for rent relief that is eligible for distribution.

As you are aware, the Long Beach Emergency Rental Assistance Program (LB-ERAP), part of the Long Beach Recovery Act, is designed to assist landlords and income-eligible tenants (renters) who have experienced financial loss or hardship due to COVID-19 through rental assistance. According to City staff’s August 24, 2021 memo, the LB-ERAP has leveraged over \$50 million in state and federal funds and “approved more than \$3.6 million in payments and an additional \$4.8 million in payments are ready for final approval.” **This means more than \$40 million is still available for eligible Long Beach residents who need rental assistance.**

In accordance with City Council action on June 15, 2021, the City Manager was requested to establish a policy for any tenant facing an imminent eviction to be provided with special priority assessment under the LB-ERAP. Additionally, the City also participates in the countywide Stay Housed L.A. County program that provides legal assistance and support for tenants facing eviction amid the COVID-19 pandemic. City data and analysis on the extent to which these resources are being utilized would help inform strategies to ensure all available LB-ERAP funding is deployed.

CONCLUDING THOUGHTS

In March 2020 the City Council adopted Ordinance No. ORD-20-0007 to enact “more protective” measures than state law affecting substantial remodel of residential real property and the issuance of termination of tenancy notices, and since that time the City has acknowledged that it has not received any complaints of violations of the ordinance.

Beginning in August 2020, state law (AB 3088, SB 91 and AB 832) extended just cause evictions to all properties and prevented termination of tenancy based on the intent to demolish or to substantially remodel the residential real property unless to comply with California Health and Safety Code.

Through spring 2022, property owners are required to take steps in compliance with state law to demonstrate that they have made a good faith effort to seek rental assistance for a tenant or that they worked with a tenant who is seeking relief before seeking the termination of residential tenancy.

Before the City considers new bureaucracy and unwieldy programs, LBDS staff should first look to disburse the \$40 million in available LB-ERAP funding to those tenants attesting that they could not pay rent due to COVID and subsequently explore how ORD-20-0007 might be effectively implemented going forward.

Respectfully,

Elaine Hutchison, Interim President
Apartment Association Southern Cities (AACSC)

Fred Sutton, Senior Vice President of Government Affairs
California Apartment Association (CAA)

Jeremy Harris, President and CEO
Long Beach Area Chamber of Commerce (The Chamber)

Phil Hawkins, Chief Executive Officer
Pacific West Association of REALTORS® (PWR)

Keith Kennedy, President
Small Property Owners Association (SPOA)