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April 17, 2023  
**Via Electronic Mail**

Hon. Mayor Tim Sandoval, and  
Members of the Pomona City Council  
505 South Garey Avenue  
Pomona, California 91766

Re: Introduction and Adoption of Urgency Ordinance No. 4329 Related to Relocation Assistance  
(Agenda Item 13)

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Dear Hon. Mayor Sandoval and Members of the Pomona City Council:

At the City Council meeting on Monday, April 17<sup>th</sup>, the Council will consider the adoption of an Urgency Ordinance No. 4329 (Agenda Item 13) that will amend the existing Urgency Ordinance No. 4320 to radically increase the relocation fee burden on rental housing providers for No-Fault terminations of tenancy. The Apartment Association of Greater Los Angeles (AAGLA) strongly objects to the ordinance being proposed as an “urgency” and strongly opposes the new ordinance based on the illegality of the original ordinance, lack of rent control study required under the original ordinance, complete lack of facts, research, and analysis by the City to warrant these proposed modifications and failure by the City to hold substantive discussions with all impacted stakeholders, including small mom-and-pop rental housing providers and AAGLA.

By passing the original ordinance in August 2022, the City is exposing itself to substantial litigation and liability by rental housing providers throughout Pomona. The original ordinance contains **no provision for annual rent increases** as per Section 5(a) of the ordinance, “Rent Increases.” However, the ordinance does seem to anticipate such increases based on Section 5(a)(3) that specifically limits rent increases to no more than one rent increase “in any 12-month period following the effective date of this ordinance.” Instead, **the ordinance locks in by a time in perpetuity a total dollar figure of 4% based on rents in place as of August 1, 2022**. Further, the ordinance itself contains no sunset date despite its allegedly being passed as an “urgency ordinance” under Section 2, entitled “Urgency Rent Control Measures,” whereby the ordinance states “Based on the findings set forth in this urgency ordinance, the City Council hereby determines that urgency rent control measures are warranted...” and Section 14 entitled “Urgency Measure.”

According to AAGLA’s outside counsel, Craig Mordoh, the law specifically prohibits such perpetual price controls. As stated in a California Supreme Court decision in the matter of Birkenfeld vs. Berkeley, 17 Cal. 3d 129, 169,



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*"It is clear that if the base rent for all controlled units were to remain as the maximum rent for an indefinite period many or most rent ceilings would be or become confiscatory. For such rent ceilings of indefinite duration an adjustment mechanism is constitutionally necessary to provide for changes in circumstances and also provide for the previously mentioned situations in which the base rent cannot reasonably be deemed to reflect general market conditions."*

According to California law, the original ordinance is fundamentally and fatally defective and so too is this new ordinance amending specific provisions within the original ordinance. Therefore, the City should immediately terminate the existing ordinance to limit further legal exposure to the City and damage to its rental housing providers, particularly those who are independent, moms and pops.

Rather than try to rush to "fix" the fatally flawed original ordinance, the City Council should instead work towards a permanent ordinance and receive stakeholder input. The original ordinance clearly stated the City's intent under the seventh "Whereas" in that "the City Council desires to evaluate rent stabilization policies." It went on to specifically include a provision under Section 15 entitled "Rent Control Study" that instructs City staff to conduct such a study "to include, but not be limited to...**rental market analysis...landlord and tenant grievance...**" Until such a study has been completed, this proposal to amend the City's already defective ordinance is extremely premature, inappropriate and ineffective.

In addition, many of the reasons given as the basis for the original ordinance and this new ordinance are false and do not justify an "urgency ordinance." In the first "Whereas", it states that renters must choose between paying rent and providing food and medical care for themselves and their families. This is patently untrue as many government programs already exist to assist low-income households with food and medical care, including CalFresh (aka Supplemental Nutrition Assistance Program a/k/a SNAP), Women, Children and Infants (WIC), and Medi-Cal (a/k/a Medicaid). In the second "Whereas" it quotes an old report from 2017 from the California Housing Partnership Coalition regarding rent increases for all of the Los Angeles County combined and not just Pomona. In contrast, CoStar (a third-party aggregator of rental housing data) reports that rent increases have been steadily declining since 2021. Further, in this newly proposed ordinance under the seventh "Whereas", the **"City acknowledges that the countywide emergency for COVID-19 has already ended"** and accordingly, merely postulates, without data, that residential evictions will increase at some unknown point in time. **The City's lack of data and use of old data clearly shows that whatever "urgency" may have existed, no longer exists in Pomona and it is unjustified, inappropriate and bad governance for the City Council to promote any ordinance on an "urgency" basis rather than conducting the normal review process.**

Further, there has been no data presented in the staff report indicating that the existing urgency ordinance passed in August 2022 is in any way insufficient for covering the legitimate costs to renters in relocating due to No Fault tenancy termination. The current ordinance requires the payment of relocation fees in the amount of two months of current rent in effect PLUS \$1,000. The existing ordinance has been in place now for **8 months**, yet there is no data on how many renters have been relocated due to No Fault tenancy terminations, actual costs such renters experienced in moving, specific reason given for relocation (owner move-in, etc.), size of properties from which they were relocated, type of ownership for such property (individual/trust, corporation, REIT) and length of



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ownership. Moreover, there is **no data** presented regarding the new mechanisms being proposed such as the number of renters that: (1) are seniors that were relocated, (2) are disabled that were relocated, (3) have minor children that were relocated, and (4) are at or below 80% Area Median Income (AMI) that were relocated. Until such data has been gathered and analyzed it is extremely premature for the City Council to now consider modifying the existing urgency ordinance.

Based on the extremely complicated new system the City has proposed, it appears that the City Council is now attempting to change the legitimate function of relocation fees from covering moving costs to a new form of private welfare for renters that is inappropriate and extremely damaging to small business owners in Pomona that are providing much needed rental housing. The average effective rent in Pomona is just \$1,659 per unit according to CoStar. The newly proposed dramatically increased relocation fee would equate to **over five (5) months' worth of rent at the lowest amount proposed** which is for a non-qualified renter who has lived in their rental unit for fewer than three years and at its highest amount it would be over one entire years' worth of rent.

Relocation fees are not supposed to be a windfall to the renter or a substitute for government welfare, they are supposed to match the actual costs incurred by the renter due to the relocation. Almost 20% of Pomona's rental housing are properties with 4 or fewer units. These are typically owned by independent, mom-and-pop rental housing providers that are retirees or very often recent immigrants or first generation families relying on their property for daily living expenses and medical care. It is wrong and completely unfair for the City to place a private welfare burden onto their backs rather than the City itself providing financial assistance directly via general funds as a needed government paid safety net.

Many small, independent owners are already facing substantial financial losses due to the over 3 years of statewide and countywide eviction moratoriums resulting in non-payment of rents and as a result many are on the brink of being forced to sell their properties or move into them themselves to save on expenses. The proposed ordinance would push mom-and-pop owners into the choice between struggling to pay **up to \$17,580** to move into their own privately owned property or sell the entire property. This is grossly unfair as it unjustly enriches the renters for housing they have already received in forcibly returning 5 months' worth of rent PLUS \$1,000 and severely punishes rental housing owners for merely providing rental housing to those that seek it.

Further, when an independent, mom-and-pop rental property owner is financially forced into selling their property to a developer, it is often torn down and replaced with a far more profitable development such as condominiums or other uses and no longer used for long term, naturally occurring affordable rentals. Thus, many more renters must relocate than had the relocation fees been low enough for the existing owner to keep the building himself/herself. This can easily be the result in smaller buildings with 20 or fewer units and if the City Council moves forward with the new proposed structure, it should include a substantial reduction in relocation fees for independent, mom-and-pop owners with 20 or fewer units.

While we applaud the City Council's recognition that not all renters earn 80% AMI or less, this proposal fails to fully recognize it's acknowledgement. Relocation fees are a form of government created financial aid, even though they are not being paid by the government itself. All government



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financial aid is targeted to be received by only those most in need to reduce the overall costs of providing such unearned funding. Similarly, by creating this new welfare system on the backs of a single small business segment, rental housing owners, rather than via a City funded rental subsidy program, it is the City Council’s obligation to minimize the cost of the program to the greatest extent possible.

All other such government assistance programs are limited to low-income households, including CalFresh, Medi-Cal, and Supplemental Security Income (SSI). Thus, while the new mechanism recognizes that low-income renters being defined as 80% AMI or less should be receiving relocation fees, those renters making **above** this amount should **not** be receiving any relocation fees whatsoever as such assistance is inappropriate as a government created program. Therefore, the City Council should eliminate all categories of relocation fees for renters that do not fall within the stated 80% AMI or less requirement.

It appears that City staff are recommending that the City Council adopt a far more complicated and inappropriate relocation fee structure from a much larger city – City of Los Angeles -- with no stated reasoning as to why Pomona specifically needs such a structure. In addition, there is no analysis of the extremely high administrative costs of managing such a far more complicated system. The City should conduct a detailed analysis as to new computer systems that would need to be purchased up front to monitor such a complicated system, staff time needed in managing it and any new staff positions that might be needed to determine the extent of the financial costs to the City in making such a significant change to the existing program at this time.

Based on the fundamentally and fatally flawed original ordinance, the lack of a completed study by staff on rent stabilization and other direct renter assistance programs, including direct rental subsidies, and utter lack of data evidencing any need for either an urgency ordinance or regular ordinance at this time, we strongly urge the City Council to reject the adoption of this newly proposed urgency ordinance and immediately terminate the original ordinance as well. Instead, we urge the City Council to have staff conduct the originally directed study with full and robust stakeholder engagement, including small rental housing providers and AAGLA.

Thank you for your time and consideration of these matters. If you have any questions, please call me at (213) 384-4131; Ext. 309 or contact me via email at [janet@aagla.org](mailto:janet@aagla.org).

Yours sincerely,

*Janet M. Gagnon*

Janet M. Gagnon, Esq.