APARTMENT ASSOCIATION OF LOS ANGELES COUNTY, INC. v. CITY OF LOS ANGELES
Case Number: 23STCP00720
Hearing Date: May 17, 2023

ORDER DENYING MOTION FOR PRELIMINARY INJUNCTION

Petitioner, Apartment Association of Los Angeles County, Inc., seeks a preliminary injunction enjoining the City of Los Angeles from enforcing Ordinance 187763 and Ordinance 187764.

Respondent, the City of Los Angeles, opposes the motion.

Petitioner's request for a preliminary injunction is DENIED.

Petitioner's request for judicial notice (RJN) of Exhibits A through C is granted. (Evid. Code, § 452, subd. (b).)

The City's RJN of Exhibits A through K is granted. (Evid. Code, § 452, subd. (a), (b), (c) and (h).)

The City's evidentiary objections are overruled except for objections 2 (as to "irreparably" only), 3, 9, 10 and 13 which are sustained.

LEGAL STANDARD

The standards governing a preliminary injunction are well known. "[A] court will deny a preliminary injunction unless there is a reasonable probability that the plaintiff will be successful on the merits, but the granting of a preliminary injunction does not amount to an adjudication of the merits." (*Beehan v. Lido Isle Community Assn.* (1977) 70 Cal.App.3d 858, 866.) "The function of a preliminary injunction is the preservation of the status quo until a final determination of the merits." (*Ibid.*)

As the parties recognize, "Trial courts traditionally consider and weigh two factors in determining whether to issue a preliminary injunction. They are (1) how likely it is that the moving party will prevail on the merits, and (2) the relative harm the parties will suffer in the interim due to the issuance or nonissuance of the injunction." (*Dodge, Warren & Peters Ins. Services, Inc. v. Riley* (2003) 105 Cal.App.4th 1414, 1420.) "[T]he greater the . . . showing on one, the less must be shown on the other to support an injunction." (*Ibid.* [quoting *Butt v. State of California*, (1992) 4 Cal.4th 668, 678].) The burden of proof is on the plaintiff as the moving party "to show all elements necessary to support issuance of a preliminary injunction." (*O'Connell v. Superior Court* (2006) 141 Cal.App.4th 1452, 1481.)

Preliminary injunctive relief requires the use of competent evidence to create a sufficient factual showing on the grounds for relief. (*See e.g., Ancora-Citronelle Corp. v. Green* (1974) 41 Cal.App.3d 146, 150.) A plaintiff seeking injunctive relief must also show the absence of an adequate damages remedy at law. (Code Civ. Proc., § 526, subd. (a)(4).)

A preliminary injunction ordinarily cannot take effect unless and until the petitioner provides an undertaking for damages which the enjoined respondent may sustain by reason of the injunction if the court finally decides the petitioner was not entitled to the injunction. (*See* Code Civ. Proc., § 529, subd. (a); *City of South San Francisco v. Cypress Lawn Cemetery Assn.* (1992) 11 Cal.App.4th 916, 920.)

ANALYSIS

Likelihood of Success on the Merits:

Preemption:

Under the California Constitution, "[a] county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general [state] laws." (Cal. Const., art. XI, § 7.)

Petitioner brings this proceeding to challenge two ordinances adopted by the City Council in February 2023—Ordinance No. 187763 and Ordinance No. 187764.

Petitioner's claim is based upon preemption. " 'If otherwise valid local legislation conflicts with state law, it is preempted by such law and is void.' " (*Sherwin-Williams Company v. City of Los Angeles* (1993) 4 Cal.4th 893, 897 (*Sherwin-Williams*) [quoting *Candid Enterprises, Inc. v. Grossmont Union High School Dist.* (1985) 39 Cal.3d 878, 885].) To determine whether there is a "conflict" between local legislation such as the challenged ordinances and state law, the court considers whether the local legislation "duplicates, contradicts, or enters into an area fully occupied by general law, either expressly or by legislative implication." (*Ibid.* [*cleaned up*].)

Local legislation duplicates state law where it is "coextensive therewith." For example, in *In re Portnoy* (1942) 21 Cal.2d 237, 240, the Supreme Court found invalid a municipal ordinance where the "entire text" of the ordinance could be found in the state law. The Supreme Court invalidated the ordinance "to the extent of such duplication." (*Ibid.*)

Local legislation is contradictory to state law "when it is inimical thereto."[1] (*Sherwin-Williams, supra,* 4 Cal.4th at 897.) For example, in *Ex Parte Daniels* (1920) 183 Cal. 636, 641, the Supreme

[1] Conflict does not merely refer to a conflict in language. It can refer to a conflict of jurisdiction where the Legislature has adopted a general scheme for the regulation of a particular subject. (*American Financial Services Assn. v. City of Oakland* (2005) 34 Cal.4th 1239, 1252-1253.) The

Court found a municipality's motor vehicle speed limit ordinance setting a rate lower than state law was in "direct conflict" with state law and therefore invalid. (*Id.* at 637, 647-648.)

Local legislation enters into an area fully occupied by state law when the Legislature has expressly or implicitly manifested its intent to fully occupy the area. "Where the Legislature has manifested an intention, expressly or by implication, wholly to occupy the field . . . municipal power [to regulate in that area] is lost." (*O'Connell v. City of Stockton* (2007) 41 Cal.4th 1061, 1068 [quoting 8 Witkin, Summary of Cal. Law (10th ed. 2005) Constitutional Law, § 986, p. 551].)

The Legislature expressly manifests its intent to fully occupy the area with a clear declaration. For example, in 1981, the Legislature made clear its intent to regulate the sale of spray paint: " 'It is the intent of the Legislature in enacting this act to preempt all local government regulations relating to sales and possession of aerosol containers of paint . . . .' " (*Sherwin-Williams, supra,* 4 Cal.4th at 900 [citation omitted].)

The Legislature impliedly expresses its intent to fully occupy the area in light of the

> "following indicia of intent: (1) the subject matter has been so fully and completely covered by general law as to clearly indicate that it has become exclusively a matter of state concern; (2) the subject matter has been so fully and completely covered by general law as to clearly indicate that it has become exclusively a matter of state concern; or (3) the subject matter has been partially covered by general law, and the subject is of such a nature that the adverse effect of a local ordinance on the transient citizens of the state outweighs the possible benefit to the locality." (*Id.* at 898 [internal quotation marks and citation omitted].)

Petitioner contends both ordinances are preempted by state law. The ordinances became effective March 27, 2023.

Legislative Background:

On January 20, 2023, the City Council adopted the Just Cause for Eviction Ordinance of the City of Los Angeles (Just Cause Ordinance). The Just Cause Ordinance prohibits evictions without a just cause. (City's RJN Ex. E, p. 3.)[2]

On February 3, 2023, the City Council adopted Ordinance No. 187763. The ordinance amended the RSO and the Just Cause Ordinance by restricting a landlord's ability to bring an unlawful

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conflict of jurisdiction is similar to a finding the Legislature implicitly intended to fully occupy the subject area.

[2] The City notes Just Cause Ordinance protections are similar to those provided by the City's Rent Stabilization Ordinance (RSO). The Just Cause Ordinance, however, applies to a wider range of rental units within the City. (City's RJN Ex. F; LAMC §§ 165.00, 165.02, 165.03.)

detainer until the tenant surpasses a threshold amount of unpaid rent—"one month of fair market rent for the Los Angeles metro area set annually by the U.S. Department of Housing and Urban Development for an equivalent sized rental unit as that occupied by the tenant." (City's RJN, Ex. G.)

On February 7, 2023, the City Council adopted Ordinance No. 187764. The ordinance adds a provision to the Just Cause Ordinance requiring landlords of rental units not covered by the RSO to pay "relocation assistance" to vacating tenants following a proposed rental increase. (City's RJN, Ex. H.)

Second Cause of Action – Ordinance No. 187764 (Relocation Expenses):

As noted, Ordinance No. 187764 adds a new provision to the Just Cause Ordinance requiring landlords of rental units not covered by the RSO to pay "relocation assistance" to tenants who choose to end their tenancy following a proposed rent increase "that exceeds the lesser of (1) the Consumer Price Index – All Urban Consumers, plus five percent, or (2) ten percent." (Verified Pet. ¶ 14; Pet.'s RJN, Ex. A.) Under the ordinance, the amount of the required relocation assistance is equal to three times the fair market rent in the Los Angeles Metro area for a rental unit of a similar size, plus $1,411 in moving costs. (Verified Pet. ¶ 14; Pet.'s RJN, Ex. A.)

Petitioner argues Ordinance No. 187764 is expressly preempted by the Costa-Hawkins Act (Civ. Code, § 1954.50, *et seq.*). Petitioner asserts the ordinance directly conflicts with Civil Code section 1954.52, subdivision (a) which provides in pertinent part:

> "(a) Notwithstanding any other provision of law, an owner of residential real property may establish the initial and all subsequent rental rates for a dwelling or a unit about which any of the following is true:
>
> (1) It has a certificate of occupancy issued after February 1, 1995.
>
> (2) It has already been exempt from the residential rent control ordinance of a public entity on or before February 1, 1995, pursuant to a local exemption for newly constructed units.
>
> (3)(A) It is alienable separate from the title to any other dwelling unit or is a subdivided interest in a subdivision, as specified in subdivision (b), (d), or (f) of Section 11004.5 of the Business and Professions Code." (Emphasis added.)

Petitioner contends Ordinance No. 187764 prevents landlords from exercising their right under the Costa-Hawkins Act "to establish 'all subsequent rental rates for a dwelling or unit' by making it prohibitively expensive to do so." (Motion 12:21-23.) That is, Petitioner argues the ordinance discourages landlords from increasing rents over a certain amount by imposing "substantial" relocation benefits as a form of penalty for doing so. Petitioner contends, despite

state law, the ordinance regulates rents by requiring relocation assistance only where a rent increase exceeds a cap. The effect of the ordinance, according to Petitioner, is to control the amount of rent increases imposed by landlords.

Petitioner also argues the ordinance conflicts with state law because the ordinance imposes a financial penalty on landlords for raising rents—conduct state law expressly allows. (See *San Francisco Apartment Assn. v. City and County of San Francisco* (2016) 3 Cal.App.5th 463, 477. See also *Palmer/Sixth Street Properties, L.P. v. City of Los Angeles* (2009) 175 Cal.App.4th 1396, 1411.) A conflict between local and state law is created even where "the ordinance does not directly impose a hard limitation or 'cap' on the amount rent can be increased, it accomplishes the same purpose by financially penalizing rental housing providers who attempt to raise rents above the specified limits." (Pet., ¶¶ 25-27; Ex Parte 14:24-16:14.) Local ordinances may not subvert the purpose of the Costa-Hawkins Act. (See *Bullard v. San Francisco Residential Rent Stabilization Bd.* (2003) 106 Cal.App.4th 488, 492.)

The City argues Petitioner mischaracterizes the ordinance. The City enacted the ordinance as an eviction control. The City notes it is well-established that local government has the authority to "regulate or monitor the grounds for eviction." (Civ. Code, §§ 1954.52, subd. (c). ["Nothing in this section shall be construed to affect the authority of a public entity that may otherwise exist to regulate or monitor the basis for eviction."] See also 1954.53 subd. (e). ["Nothing in this section shall be construed to affect the authority of a public entity that may otherwise exist to regulate or monitor the grounds for eviction."])

First, the court notes Ordinance No. 187764 does not—on its face—regulate the amounts a landlord may charge for rent. That is, there is no limit to the rent increases a landlord may wish to charge. Thus, the ordinance does not conflict with Civil Code section 1954.52, subdivision (a) because a landlord may continue to "establish the initial and all subsequent rental rates" for those units specified in Civil Code section 1954.52, subdivision (a).

Petitioner contends, however, Ordinance No. 187764 conflicts with state law because it penalizes conduct state law allows. (See *Bullard v. San Francisco Residential Rent Stabilization Bd., supra,* 106 Cal.App.4th at 492.) Petitioner argues "the City has . . . attempted to prevent property owners from exercising their right under the [Costa-Hawkins] Act to establish 'all subsequent rental rates for a dwelling or unit' by making it prohibitively expensive to do so." (Motion 12:21-23.)

The City explains it enacted Ordinance No. 187764 to prevent landlords from circumventing the Just Cause Ordinance which limits no-fault evictions. Specifically, at the time it adopted the ordinance, the City found:

> "While the adoption of a Just Cause ordinance will extend protections from arbitrary eviction to all tenants citywide, tenants in unregulated units (not subject to the RSO nor the Tenant Protections Act of 2019) may be economically displaced when their landlords impose high rent increases that the tenants cannot afford.

> In these cases, tenants who cannot afford the rent increases have no choice but to vacate their homes." (City's RJN Ex. J, p. 4.)

San Francisco Apartment Assn. v. City and County of San Francisco (2022) 74 Cal.App.5th 288 is instructive but not controlling. There the Court addressed a challenge to an ordinance prohibiting landlords from using bad faith, pretextual rent increases to coerce tenants to vacate units exempt from rent control. The Court determined the ordinance was a valid exercise of local authority to regulate grounds for evictions. The Court rejected the landlord's argument the ordinance indirectly limited the amount of rent a landlord could charge in contravention of state law. The Court explained the ordinance "do[es] not prevent landlords from earning rent as determined by the free market, and it imposes no caps to ensure the availability of affordable rental housing" but, instead, "prohibit[s] a landlord from designating as rent an artificial sky-high amount that the landlord does not intend to collect but intends to cause the tenant to vacate the unit voluntarily or by eviction for nonpayment of the unrealistic figure." (*Id.* at 292.) "Costa Hawkins does not protect a landlord's right to use a pretextual rent increase to avoid lawfully imposed local eviction regulations." (*Ibid.*)

Petitioner distinguishes *San Francisco Apartment Assn. v. City and County of San Francisco, supra,* 74 Cal.App.5th at 288 by characterizing the ordinance as applying to bad-faith "pretextual" rent increases imposed "in an effort to avoid eviction laws while forcing the tenant to vacate." (*Id.* at 292-294 ["it is not reasonable to conclude that the Legislature intended to authorize a pretextual rent increase imposed, not for the purpose of collecting additional rent, but to remove tenants in circumvention of applicable local eviction regulations"].)

The City argues Ordinance No. 187764 is about relocation assistance for tenants—not capping rents. The City asserts: "A landlord covered by the Costa-Hawkins Act may increase rents to whatever the market will bear. The ordinance does not prevent a tenant from accepting that rent increase. It requires payment of relocation assistance only when the 'tenant elects to relinquish their tenancy' following a large rent increase." (Opposition 14:5-8.) That a tenant may elect to pay the increased rent and not vacate demonstrates, according to the City, the ordinance does not limit the amount of rents charged by a landlord.

Legislative history aids the City's argument. Relocation assistance—in the face of a high rent increase—safeguards "tenants from economic displacement due to high rent increases for non-RSO units, ..." (City RJN, Ex. J, p. 4.) It continues:

> "Additional protections are needed to close a loophole that allows tenants in non-RSO units to be forced out through large rent increases amounting to a constructive eviction of the tenant, with no allowance for relocation. Relocation assistance based on economic displacement would provide renters who are not protected by the RSO or State law with the financial means to secure alternative housing when forced to relocate due to high rent increases, ..." (City RJN, Ex. J, p. 5.)

Petitioner's theory the ordinance penalizes a landlord for acts permitted by state law cannot be disregarded as completely without merit; a landlord wishing to raise rents beyond a regulated cap incurs a substantial relocation expense. Petitioner argues the ordinance is nothing more than the City's attempt to sidestep the Costa-Hawkins Act.

During oral argument, the City asserted *San Francisco Apartment Assn. v. City and County of San Francisco, supra,* 74 Cal.App.5th at 288 authorizes Ordinance No. 187764. While the ordinance at issue was designed to combat bad faith evictions, the Court found the city properly exercised its police power to regulate the grounds for eviction.

It appears the focus of the ordinance is, as claimed by the City, relocation fees where there is a constructive eviction. Under the RSO and Just Cause Ordinance, a no-fault eviction requires a landlord to pay relocation fees. (See Los Angeles Municipal Code, §§ 151.09.G, 151.30.E, 165.03.H.) A landlord who has the authority to raise rents to any level may displace a tenant through a substantial rent increase—a constructive eviction that avoids the Just Cause Ordinance. Ordinance No. 187764 does not preclude the landlord from raising the rent to whatever amount chosen by the landlord. It does, however, consistent with the RSO and Just Cause Ordinance, require the landlord to pay relocation fees as if the tenant vacated the unit through a no-fault eviction. To the extent the ordinance addresses constructive evictions and dislocation of tenants, it does not regulate rent and is not in conflict with state law.

Based on the foregoing, the court finds Petitioner has some ability to prevail on the merits of its challenge to Ordinance No. 187764.

First Cause of Action - Ordinance No. 187763 (Unpaid Rent Threshold):

State law expressly provides that a landlord may serve a three-day notice to pay rent or quit "at any time within one year after the rent becomes due . . . ." (Code Civ. Proc., § 1161.) The three-day notice initiates the process of bringing an unlawful detainer action.

Ordinance No. 187763 amended the RSO and the Just Cause Ordinance. Under the ordinance, merely owing rent is not a ground for a tenant's eviction. Instead, for a landlord to proceed with an eviction, a tenant must owe the landlord more than "one month of fair market rent for the Los Angeles metro area set annually by the U.S. Department of Housing and Urban Development for an equivalent sized rental unit as that occupied by the tenant." (City's RJN Ex. G; Los Angeles Municipal Code §§ 151.09.A.1; 165.03.A.)

Petitioner argues Ordinance No. 187763 is expressly preempted by the state's statutes addressing unlawful detainer actions. Petitioner argues under state law, a landlord's right to serve a three-day notice is not dependent on the amount of the tenant's default. Accordingly, Petitioner contends Ordinance No. 187763 conflicts with state law by requiring past due rent to exceed a threshold before a landlord may serve a notice to pay rent or quit the premises thereby "unlawfully regulat[ing] the ***timing*** of unlawful detainer actions based on non-payment of rent . . . ." (Motion 14:16-17.) Petitioner argues the ordinance directly conflicts with state law

by prohibiting landlords, under many if not most circumstances, from serving the three-day notice authorized by state law immediately after any amount of rent becomes due.

The relevant framework for whether the ordinance is preempted by the state's unlawful detainer statutes is set forth in *Birkenfeld v. City of Berkeley* (1976) 17 Cal.3d 129 (*Birkenfeld*).

In *Birkenfeld,* the plaintiff argued a local law limiting the grounds for eviction of tenants in rent-controlled apartments was preempted by the state's unlawful detainer statutes. (*Id.* at 136.) The Supreme Court rejected the argument. The Supreme Court reasoned:

> "The purpose of the unlawful detainer statutes is procedural. The statutes implement the landlord's property rights by permitting him to recover possession once the consensual basis for the tenant's occupancy is at an end. In contrast the charter amendment's elimination of particular grounds for eviction is a limitation upon the landlord's property rights under the police power, giving rise to a substantive ground of defense in unlawful detainer proceedings. The mere fact that a city's exercise of the police power creates such a defense does not bring it into conflict with the state's statutory scheme. . . . [T]he statutory remedies for recovery of possession and of unpaid rent [citations] do not preclude a defense based on municipal rent control legislation enacted pursuant to the police power imposing rent ceilings and limiting the grounds for eviction for the purpose of enforcing those rent ceilings." (*Id.* at 149.)

Under *Birkenfeld*, "municipalities may by ordinance limit the substantive grounds for eviction by specifying that a landlord may gain possession of a rental unit only on certain limited grounds. [Citations.] But they may not procedurally impair the summary eviction scheme set forth in the unlawful detainer statutes . . . ." (*Rental Housing Assn. of Northern Alameda County v. City of Oakland* (2009) 171 Cal.App.4th 741, 754 (*Rental Housing Assn.*) [emphasis added].)

Petitioner acknowledges *Birkenfeld* and *Rental Housing Assn.* Nonetheless, Petitioner contends the "the City cites no authority that holds or suggests a municipality may go so far as to remove a default in the payment of rent as a substantive basis for eviction." (Reply 7:13-14.)

The law permits the City under its police powers to limit the substantive grounds for eviction. The City has the authority to determine whether unpaid rent is a ground for eviction, or in this case, the amount of unpaid rent that constitutes the trigger for an eviction. Such control is about the substantive basis for eviction. The ordinance defines the triggering event which then allows the state law's procedural process for unlawful detainer to begin. The substantive trigger for eviction specified in the ordinance is separate and distinct from the procedural process that occurs after a valid ground for eviction arises. As soon as the substantive threshold is crossed, the landlord is free to serve a three-day notice to pay or quit the premises.

The court finds Petitioner has not demonstrated a likelihood of success Ordinance 187763 is preempted by the state's unlawful detainer statutes.[3]

Based on the foregoing, the court finds Petitioner has not demonstrated a strong probability of prevailing on the merits of its challenge to both ordinances. Nonetheless, Petitioner has shown some ability to prevail on its challenge to Ordinance No. 187764.

Balancing the Harms:

The second part of the preliminary injunction analysis requires the court to evaluate the harm the plaintiff is likely to sustain if the preliminary injunction is denied compared to the harm the defendant is likely to suffer if the injunction is issued. (*IT Corp. v. County of Imperial* (1983) 35 Cal.3d 63, 69-70.) "However, '[a] trial court may not grant a preliminary injunction, regardless of the balance of interim harm, unless there is some possibility that the plaintiff would ultimately prevail on the merits of the claim.' " (*Law School Admission Council, Inc. v. State of California* (2014) 222 Cal.App.4th 1265, 1280 [quoting *Butt v. State of California* (1992) 4 Cal.4th at 678].)

Petitioner notes its members would be irreparable harmed by the enforcement of both ordinances if the preliminary injunction does not issue. As to Ordinance No. 187764, if any of Petitioner's members wish to raise rental rates over the limits specified, those landlords will either forego such increases or pay thousands of dollars to any tenant who decides to vacate a unit in the face of the rent increase.[4] As to Ordinance No. 187763, Petitioner's members will be prevented from timely collecting overdue rent and/or recovering possession of their properties. Petitioner also argues landlords are rarely successful in collecting back rent from tenants once the tenant is more than one month delinquent. (Yukelson Decl., ¶ 6.)

Petitioner's members' injuries are monetary only. None of the evidence introduced by Petitioner suggests any landlord is in imminent danger of defaulting on mortgages or recurring expenses.

Generally, harm is not considered irreparable if damages will compensate an injured plaintiff adequately.[5] (Cf. *Department of Fish & Game v. Anderson-Cottonwood Irrigation Dist.* (1992) 8 Cal.App.4th 1554, 1564-1565. ["The usual statement of this factor is in terms of 'inadequacy of

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[3] During argument Petitioner suggested there is no bright line between substantive and procedural rules. The court agrees. Accordingly, the court does not find Petitioner has no chance of prevailing on its challenge to Ordinance No. 187763.

[4] During argument, the City noted Petitioner presented evidence from one witness who could not raise a tenant's rent by 12 percent and instead settled with a 10 percent increase to avoid the possibility of having to pay relocation assistance.

[5] As noted by Petitioner during argument, a landlord will have no ability to recover a non-imposed rent increase where it exceeds the threshold in Ordinance No. 187764. Thus, monetary damages are not available.

the legal remedy' or, even more narrowly, 'inadequacy of damages.' The idea, which dates from the time of the early courts of chancery, is that an injunction is an unusual or extraordinary equitable remedy which will not be granted if the remedy at law (usually damages) will adequately compensate the injured plaintiff. [Citation.] [¶] Our statutes cover this factor in the following language: 'When pecuniary compensation would not afford adequate relief.' "])

The City reports if the court were to grant the preliminary injunction there will be a significant number of evictions. Petitioner has already identified 176 tenants whom its members would evict but for the ordinances. (See Amareld Decl. ¶ 5; Gurfinkel Decl. ¶ 3; Gorokhovsky ¶ 5.)

In contrast to monetary injuries, the City argues eviction constitutes a real, irreparable harm to those evicted. (See LAMC § 165.01 ("Displacement through arbitrary evictions affects the public health, safety and welfare of Los Angeles residents.") Further, the City notes its legislative findings that the City is currently in the midst of a housing shortage crisis resulting in homelessness, and the housing crisis has been exacerbated by "rent gouging." (See Civ. Code, § 1947.12, subd. (m)(1). ["The Legislature finds and declares that the unique circumstances of the current housing crisis require a statewide response to address rent gouging by establishing statewide limitations on gross rental rate increases."]; see also City's RJN Exs. L, M.)

Accordingly, the court finds the balance of harms weighs in City's favor. Petitioner's harms are either subject to recovery through a judgment or monetary in nature (lost profits). The City identifies harms that will be suffered by a significant number of tenants in the City through the loss of their housing.

CONCLUSION

Based on a balance of Petitioner's likelihood of success on the merits of its claims and consideration of the parties' competing harms, the court finds Petitioner has not demonstrated it is entitled to a preliminary injunction during the pendency of this litigation. The motion is therefore denied.

IT IS SO ORDERED.

May 18, 2023

Hon. Mitchell Beckloff
Judge of the Superior Court