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January 13, 2026

California Court of Appeals
Second Appellate District, Division 7
300 S. Spring Street, 2nd Floor, North Tower
Los Angeles, CA 90013

Re: *Apartment Association of Greater Los Angeles County, Inc.*
v. City of Los Angeles et al., Case No. B336071

Dear Judges Martinez, Feuer, and Stone:

Intervenors Community Power Collective and InnerCity Struggle respectfully submit this supplemental letter brief in response to the panel's December 30, 2025, order inviting the parties to file supplemental letter briefs on the effect of the decision in *California Apartment Association v. City of Pasadena* (Dec. 18, 2025, B329883) ___Cal.App.5th___ [2025 Cal.App. Lexis 841, 2025 WL 3676957] (the "Pasadena Case") on the issues presented in this matter (the "Los Angeles Case").

As elaborated below, a straightforward application of the standard set forth in *Birkenfeld v. City of Berkeley* (1976) 17 Cal.3d 129 with respect to Ordinance No. 187763 (the "Los Angeles Eviction Threshold Ordinance") demonstrates that the ordinance is not preempted. The Los Angeles Eviction Threshold Ordinance is readily distinguishable from the Measure H provisions invalidated under the *Birkenfeld* test applied in the Pasadena Case.

With respect to Ordinance No. 187764 (the "Los Angeles Relocation Assistance Ordinance"), Intervenors urge this panel to reject Petitioner's preemption challenge by applying the standard for contradiction preemption repeatedly articulated by the California Supreme Court, which recognizes that when a local

ordinance “does not prohibit what the statute commands or command what it prohibits, the ordinance is not inimical to the statute.” (*Big Creek Lumber Co. v. County of Santa Cruz* (2006) 38 Cal.4th 1139, 1161, *as modified* (Aug. 30, 2006) [cleaned up].) Should this panel instead follow the panel in the Pasadena Case in applying the standard articulated in *Coyne v. City and County of San Francisco* (2017) 9 Cal.App.5th 1215 to the contradiction preemption inquiry, the Los Angeles Relocation Assistance Ordinance nonetheless survives challenge. Under that standard, the panel may and should look to the reasonableness of the requirements imposed by the ordinance. (*Id.* at p. 1227.) Because the ordinance here sets a one-time, specified amount of relocation assistance that is reasonably tailored, it is not preempted.

Background

The Los Angeles Case

This matter involves state-law preemption challenges to two ordinances enacted in 2023.

The first, the Los Angeles Eviction Threshold Ordinance, amends Los Angeles’s Rent Stabilization Ordinance and Just Cause Ordinance (“JCO”) such that a tenant cannot be evicted unless they owe more than “one month of fair market rent for the Los Angeles metro area . . . for an equivalent sized rental unit as that occupied by the tenant.” (AA 57 [Text of Ordinance No. 187763].)

The trial court rejected Petitioner’s arguments that the Los Angeles Eviction Threshold Ordinance was preempted by California’s unlawful detainer statute set forth at Code of Civil Procedure section 1161. (AA 911-19.) It “disagree[d] with Petitioner’s characterization of the ordinance” as a “financial threshold [that functions as] a proxy for an extension of the time provided by the unlawful detainer statute.” (AA 913.) It found, instead, that the Los Angeles Eviction Threshold Ordinance is a “valid exercise of [the City’s] police powers to regulate the substantive ground for eviction” under the test articulated in *Birkenfeld*. (AA 911.)

The second challenged ordinance, the Los Angeles Relocation Assistance Ordinance, amends the JCO to require landlords to pay reasonable relocation assistance to a tenant 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” if a tenant chooses to end a 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.” (AA 61 [Text of Ordinance No. 187764].)

The trial court rejected Petitioner’s contention that the ordinance was preempted because it interfered with a landlord’s right under the Costa-Hawkins Rental Housing Act (“Costa-Hawkins Act”) to establish “all subsequent rental rates for a dwelling or unit.” (Civ. Code § 1954.52(a).) Specifically, the trial court reasoned that the Los Angeles Relocation Assistance Ordinance “does not directly regulate the rental rates landlords may charge for any rental units.” (AA 904.) And, while the trial court determined that the “deterrent effect of the [Los Angeles] Relocation Assistance Ordinance seemingly conflicts” with the relevant provisions of the Costa-Hawkins Act (AA 906), it concluded that the ordinance was not preempted because it regulated evictions, a power expressly reserved to local authorities by the savings clause at section 1954.52(c) permitting local authorities to “regulate or monitor the basis for eviction.” (AA 907-910.)

The Pasadena Case

As relevant here, petitioners in the Pasadena Case contended several provisions of Pasadena’s voter-adopted Measure H are preempted by state law. (*California Apartment Ass’n, supra*, 2025 WL 3676957 at *1.).

The first requires landlords to pay relocation assistance to tenants who are displaced “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” (the “Pasadena Relocation Assistance Requirement”). (*California Apartment Ass’n, supra*, 2025 WL 3676957 at *22).

Despite holding that provision “does not directly conflict with the right to raise rents,” (*California Apartment Ass’n, supra*, 2025 WL 3676957 at *25), the panel held that the Pasadena Relocation Assistance Requirement was preempted on contradiction grounds because it “financially penalizes landlords for exercising their rights under the Costa-Hawkins Act, (*id.* at *26). The panel further concluded that the Pasadena Relocation Assistance Requirement did not fall within the Costa-Hawkins Act’s savings clause. (*Id.* at *26-29.)

The additional provisions of Measure H at issue in the Pasadena Case impose a notice requirement that landlords must satisfy prior to pursuing an eviction for nonpayment of rent. Specifically, before initiating 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 a written notice to cease that gives the tenant “an opportunity to cure an alleged violation or problem prior to initiating legal proceedings to terminate tenancy” (§§ 1803(cc), 1806(a)(1).) And, in the event a tenant has failed to pay rent, the landlord may not “take action to terminate [the] tenancy, ... including but not limited to ... serving any ... eviction notice,” unless the tenant “has failed, after receiving a [the written notice to cease], to pay the Rent.” (§ 1806(a)(1).)

The panel agreed with petitioners that sections 1803(cc) and 1806(a)(1) of Measure H “are reasonably read together to require that a landlord serve a Written Notice to Cease on a tenant and then allow the tenant a reasonable period to cure the nonpayment of rent before a three-day notice may be served or any other action taken to institute eviction proceedings” and that this “additional cure period ... extends the three days’ notice required under the Unlawful Detainer Act.” (*California Apartment Ass’n, supra*, 2025 WL 3676957 at *31.) The panel then concluded the requirement imposed a procedural barrier to section 1161’s unlawful detainer scheme under the test articulated by the California Supreme Court in *Birkenfeld* and was therefore preempted. (*Id.* at *29-32.)

On January 2, 2026, intervenors and respondents in the Pasadena Case timely filed a petition for rehearing, asserting that the opinion had ascribed a purpose to the Costa-Hawkins Act not

found in other published opinions and that the opinion had misapplied the standard for conflict preemption. The petition for rehearing was denied on January 8, 2026.

Effects of the Pasadena Case on the Los Angeles Case

The Los Angeles Eviction Threshold Ordinance is Not Preempted Under the Birkenfeld Test

The Pasadena Case’s conclusion that the notice requirement in Measure H was preempted under the rubric set forth in *Birkenfeld* does not support reversing the trial court’s well-reasoned order in this matter.

The trial court in the Los Angeles Case, like the panel in the Pasadena Case, recognized that *Birkenfeld* governs the preemption inquiry. (See AA at 911 [stating that the “relevant framework for determining whether the [Los Angeles Eviction Threshold Ordinance] is preempted by the state’s unlawful detainer statutes is set forth in *Birkenfeld* ...”]; *California Apartment Ass’n, supra*, 2025 WL 3676957 at *29 [citing *Birkenfeld* preemption test].)

Under that test, a court examines whether a measure enacted by a municipality imposes procedural barriers to the state’s summary eviction scheme. As the *Birkenfeld* court described, “[t]he purpose of the unlawful detainer statutes is procedural.” (*Birkenfeld, supra*, 17 Cal.3d at p. 149.) Although municipal governments may not “*procedurally* impair the summary eviction scheme set forth in the unlawful detainer statutes,” they “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.” (*Rental Housing Ass’n. of Northern Alameda County v. City of Oakland* (2009) 171 Cal.App.4th 741, 754, citing *Birkenfeld, supra*, 17 Cal.3d at pp. 149, 151 [emphasis added].)

The Los Angeles Eviction Threshold Ordinance is not preempted because it regulates substance, not procedure: It dictates that a landlord’s right to evict a tenant lawfully in possession of residential housing “is limited to defaults in payment where the

amount due exceeds one month of fair market rent...”. (AA 57.) It imposes no additional procedural requirements on landlords wishing to initiate unlawful detainer actions, nor does it modify the procedures required by the unlawful detainer statute itself. Rather, it imposes a substantive limitation on the available grounds for eviction that is not in conflict with section 1611. (Intervenors’ Opp’n at pp. 15-20.)

The notice requirement contained in Pasadena’s Measure H—which requires that landlords provide a written notice to cease to tenants and afford tenants an additional period to cure the nonpayment of rent—is readily distinguishable from the Los Angeles Eviction Threshold Ordinance. Unlike Measure H, the Los Angeles Eviction Threshold Ordinance “does not require landlords to provide written notice or to do any other affirmative act.” (*See San Francisco Apartment Assn. v. City and County of San Francisco* (2018) 20 Cal.App.5th 510, 518.)

The Los Angeles Eviction Threshold Ordinance is also unlike those provisions found preempted in cases cited in the Pasadena Case. (*Cf. Birkenfeld, supra*, 17 Cal.3d at p. 151 [finding charter amendment requiring a landlord to obtain a certificate of eviction before seeking to repossess a unit “raise[d] procedural barriers between the landlord and the judicial proceeding”]; *San Francisco Apartment Ass’n. v. City and County of San Francisco* (2024) 104 Cal.App.5th 1218, 1232 [finding that an ordinance requiring a written warning with a ten-day cure period prior to proceeding under the timeline pursuant to the unlawful detainer statute was preempted].)¹

¹ The panel in the Pasadena Case declined to reach petitioner’s argument that Measure H’s notice requirement was preempted because state law fully occupied the field of landlord-tenant notification timelines. (*California Apartment Ass’n, supra*, 2025 WL 3676957 at *29 n.19, citing *San Francisco Apartment Ass’n., supra*, 104 Cal.App.5th at pp. 1238-40). In any event, *San Francisco Apartment Association* is inapposite to this case. The ordinance at issue there required a ten-day notice-and-cure period prior to service of the three-day statutory notice pursuant to the unlawful detainer statutes. (*Id.* at p. 1226.) In concluding that

The Relocation Assistance Ordinance Survives Under the California Supreme Court’s Conflict Preemption Test, as well as Under the Coyne Prohibitive-Price Standard When Evaluated for Reasonableness

Intervenors’ petition for rehearing in the Pasadena Case asserted that the opinion incorrectly applied the standard for conflict preemption. (Pet. for Reh’g at pp. 16-24.) Intervenors in the Los Angeles Case respectfully agree and urge this panel to follow the “contradictory and inimical” contradiction preemption standard articulated by the California Supreme Court, and not the “prohibitive price” contradiction preemption variant applied in the Pasadena Case.

The “contradictory and inimical form of preemption does not apply unless the ordinance directly requires what the state statute forbids or prohibits what the state enactment demands,” and “no inimical conflict will be found where it is reasonably possible to comply with both the state and local laws.” (*City of Riverside v. Inland Empire Patients Health & Wellness Center, Inc.* (2013) 56 Cal.4th 729, 743 [cleaned up].) That standard is not met here for the reasons described in the City’s and Intervenors’ opposition briefs. (Resp’ts Opp’n at pp. 36-41; Intervenors’ Opp’n at pp. 27-29.)

Nor does *Palmer/Sixth Street Properties, L.P. v. City of Los Angeles* (2009) 175 Cal.App.4th 1396, upon which the Pasadena Case relied, counsel in favor of finding conflict preemption here. The *Palmer* court concluded that an ordinance denying developers the right to establish initial and subsequent rental rates for affordable housing units was inimical to the Costa-Hawkins Act. (*Id.* at p. 1411.) The relevant provision “clearly restrict[ed] the

ordinance was impliedly preempted, the court concluded that state law fully occupied the field of landlord-tenant *notification* timelines (*Id.* at p. 1238). There is no additional notice requirement imposed by the Los Angeles Eviction Threshold Ordinance: A landlord may serve a three-day notice under section 1161 once the substantive grounds for eviction have been met.

initial rents” for the units at issue and preserved the regulated rent levels for 30 years or the life of the units, whichever is greater. (*Ibid.*) It therefore conflicted directly with the Costa-Hawkins Act. Such conflict is not present here.

Importantly, the “inextricably intertwined” language in *Palmer*, (*Palmer, supra*, 175 Cal.App.4th at p. 1412), did not concern whether the in-lieu fee at issue burdened a landlord’s right or financially penalized landlords. The court’s determination that that fee—which a landlord could pay rather than build the affordable housing units under the ordinance—was “inextricability intertwined” concerned whether the in-lieu fee provision could be severed from the “invalid portion of the Plan’s affordable housing requirements.” (*Ibid.* [emphasis added].)

Nor should the panel follow the Pasadena Case in extending the prohibitive-price standard set forth in *Coyne* to Petitioner’s preemption challenge.² First, the prohibitive-price standard articulated in *Coyne* is not consistent with the standard for contradiction preemption articulated by the California Supreme Court. (*See Sherwin-Williams Co. v. City of Los Angeles* (1993) 4 Cal.4th 893, 902 [recognizing that an ordinance that “does not prohibit what the statute commands or command what [the statute] prohibits” is not subject to contradiction preemption].) Second, the prohibitive-price standard has historically been applied in cases involving the Ellis Act, not the Costa-Hawkins Act. (*Coyne, supra*, 9 Cal.App.5th at p. 1226; *see also id.* at pp. 1226-27 [citing application in cases asserting preemption under the Ellis Act, not the Costa-Hawkins Act].) The purpose of the Ellis Act is to permit landlords to “go out of business.” (*Id.* at p. 1218 [cleaned up].) Application of the prohibitive-price standard makes sense in that context, where a landlord has no ability to redress ordinance-imposed effects (e.g., to recoup any payment required under an ordinance, mitigate the effects of any ordinance-imposed waiting period, or avoid any imposed permit requirement). In Ellis

² (*See* 16 Cal. Jur. 3d Courts § 316 [“A court of appeal is free to disagree with a decision by a panel of a different division of the same appellate district, or even with a decision by a different panel of the same division.”].)

Act cases, a landlord is seeking to exit the market entirely, and ordinance-imposed restrictions impose an *inevitable* burden on that right. (*Coyne, supra*, 9 Cal.App.5th at pp. 1227, 1229.) By contrast, a landlord exercising their rights under the Costa-Hawkins Act can readily mitigate any financial impact of the Los Angeles Relocation Assistance Ordinance by exercising the very right they are guaranteed under the Act for any subsequent tenancy: the right to establish “the initial and all subsequent rental rates for a dwelling or unit.” (Civ. Code § 1954.52(a).)

Even if the panel in this matter elects to apply the prohibitive-price standard, the Los Angeles Relocation Assistance Ordinance survives challenge. *Coyne* acknowledged, in citing *Pieri*, that courts may look to the reasonableness of required payments to evaluate conflict preemption. (*See Coyne, supra*, 9 Cal.App.5th at p. 1227 [observing that *Pieri v. City and County of San Francisco* (2006) 137 Cal.App.4th 886 “added reasonableness to its formulation of the prohibitive price standard”].) In finding that the ordinance at issue imposed a prohibitive price, the *Coyne* court reasoned that the ordinance’s requirement that landlords pay two years of ongoing rental subsidies *up to a \$50,000 ceiling* was “a form of ransom.” (*Coyne, supra*, 9 Cal.App.5th at p. 1230.) The Los Angeles Relocation Assistance Ordinance, by contrast, sets a one-time, specified amount that is reasonable: “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.” (AA 61.) It is unlike the Pasadena ordinance, which does not specify the amount of required relocation assistance, let alone an upper bound for such assistance. (*California Apartment Ass’n, supra*, 2025 WL 3676957 at *22.)

Intervenors acknowledge that the Pasadena Case determined that the Pasadena Relocation Assistance Requirement did not fall within the Costa-Hawkins Act’s savings clause because the requirement “does not pertain to, much less regulate, constructive evictions.” (*California Apartment Ass’n, supra*, 2025 WL 3676957 at *27.) Intervenors further recognize that the trial court in this matter relied upon the same savings clause to find the Los Angeles Relocation Assistance Ordinance was *not* preempted. (AA 907-10.)

Intervenors respectfully disagree with the Pasadena panel's analysis with respect to that issue.

First, the panel's conclusion that the term "evictions" as used in the savings clause does not encompass constructive evictions (*California Apartment Ass'n, supra*, 2025 WL 3676957 at *27) is not consistent with case law. (See, e.g., *San Francisco Apartment Ass'n v. City & Cnty. of San Francisco* (2022) 74 Cal. App. 5th 288, 292 [recognizing that preventing the imposition of artificially high rents to coerce a tenant to elect to vacate fell within the scope of the savings clause preserving the city's authority to regulate grounds for eviction].) Second, as the trial court in this case recognized, constructive evictions are not limited to situations where the landlord engages in wrongful conduct. (AA 909-10.) Intervenors acknowledge, however, that if this panel were to apply the reasoning of the panel in the Pasadena Case, it would bar the City's reliance on the savings clause to avoid preemption.

If this panel disagrees with the trial court's conclusion that the ordinance is a permissible eviction regulation, it should nonetheless reject Petitioner's preemption challenge to the Los Angeles Relocation Assistance Ordinance because the ground upon which Petitioner challenged the ordinance—contradiction preemption—is not met. (See *Sherwin-Williams, supra*, 4 Cal.4th at p. 902 [recognizing there is no contradiction preemption where an ordinance "does not prohibit what the statute commands or command what it prohibits."].) As the panel in the Pasadena Case correctly observed, the "relocation assistance requirement does not directly conflict with the right to raise rents, because nothing in section 1806(b)(C) constrains landlords from setting the rent on, exempt units whenever they want and at whatever rate they choose." (*California Apartment Ass'n, supra*, 2025 WL 3676957 at *25.) The same is true for the ordinance here.

Sincerely,



Anna (Coll) Gorn (SBN 337548)

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PROOF OF SERVICE

I, the undersigned, declare:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 1900 Avenue of the Stars, Suite 1400, Los Angeles, California 90067.

On January 13, 2026, I served the foregoing document described as follows:

**INTERVENORS COMMUNITY POWER COLLECTIVE AND
INNERCITY STRUGGLE'S SUPPLEMENTAL LETTER
BRIEF IN RESPONSE TO DECEMBER 30, 2025, ORDER**

on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

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I caused said documents to be prepared in portable document format (PDF) for e-mailing and uploading the document listed above to the Court's Electronic Filing Service Provider TrueFiling (<https://tf3.truefiling.com/>) for e-service to the email address(es) set forth on the attached service list. To my knowledge, the e-service was reported as complete and without error. See Cal. R. Ct. R. 2.251 and CCP § 1010.6.

Executed on January 13, 2026, Los Angeles, California.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Robby Perkins Jr.

Typed Name

/s/ Robby Perkins Jr.

Signature

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Apartment Association of Greater Los Angeles County v.
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Case No. BC 336071

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