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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, EASTERN DIVISION

MELVIA HARRIS and ROBERTA KNIGHTEN,

Plaintiffs,

vs.

CITY OF LOS ANGELES,

Defendant.

Case No. 5:24-cv-02679-JGB-SHK

REPLY MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION OF INTERVENER SAJE TO DISMISS UNDER FRCP 12(b)(1) AND 12(b)(6)

Date: July 28, 2025
Time: 9:00 a.m.
Place: Riverside Courtroom 1
Judge: Hon. Jesus G. Bernal

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I. MOST OF PLAINTIFFS' CLAIMS ARE UNTIMELY OR UNRIPE

A. Plaintiffs' Challenges To The "4% Rent-Increase Cap[s]"

1. Plaintiffs' Physical Takings Claim Is Untimely

As the Motion explains, (1) Plaintiffs allege that the "4% Rent-Increase Cap[s]" are physical takings *because* those caps appropriated from Plaintiffs the right "to exclude tenants *who do not pay market-based rates*," and (2) this claim is untimely because LARSO *always* has prohibited excluding such tenants. SAJE MTD at 5:9-17 & n. 4. In response, Plaintiffs contend that their claim is timely because under *Flynt v. Shimazu*, 940 F.3d 457, 462-63 (9th Cir. 2019), a new claim arises each time they are precluded from removing their below-market tenants. Opp. at 19:2-11. But this is wrong because *Flynt* did *not* involve a takings claim, and *different* accrual rules apply to takings claims:

> In other contexts, the harm inflicted by the statute is continuing, or does not occur until the statute is enforced—in other words, until it is applied. In the takings context, the basis of a facial challenge is that the very enactment of the statute has reduced the value of the property or has effected a transfer of a property interest. *This is a single harm, measurable and compensable when the statute is passed*.

Levald, Inc. v. City of Palm Desert, 998 F.2d 680, 688 (9th Cir. 1993) (emphasis added). Indeed, the very case *Flynt* principally relied upon actually followed *Levald* and held that the continuing accrual rule does *not* apply to takings claims.[1] In short, as confirmed by recent persuasive authority in the Ninth Circuit, *Flynt*'s continuing accrual rule does not apply to Plaintiffs' physical takings claim.[2]

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[1] *Compare Kuhnle Bros., Inc. v. County of Geauga*, 103 F.3d 516, 521 (6th Cir. 1997) (takings claim accrued upon statute's passage) *with id*. at 521-22 (deprivation of liberty without substantive due process claim subject to continuing accrual rule).

[2] *California Association for Preservation of Gamefowl v. Stanislaus County*, No. 1:20-cv-01294-ADA-SAB, 2023 WL 1869010, at *6-9 *[fn. continued on next page]*

As anticipated, Plaintiffs also contend that this claim is timely because the "4% Rent-Increase Cap[s]" were adopted within the limitations period and are "actively preventing Plaintiffs from removing [existing below-market] tenants *to make room for renters willing to pay market rates*." Opp. at 19:6-10 & n.6 (emphasis added). This too is wrong. SAJE MTD at 5:18 to 6:7; *see id*. at 3:11 to 5:7. First, the only issue decided by the City within the limitations period was whether or not to extend the temporary pandemic-era ban on otherwise permissible LARSO rent increases (a ban first adopted in 2020, and set to expire by its own terms as of February 1, 2024). The original City Council motion sought to "move back the February 1st, 2023 [sic] date by six months." But the motion was amended instead to limit LARSO rent increases for four months to 4%, rather than the 7% that would have been permissible had the prior ban simply expired on February 1, 2024, and the 1985 LARSO rent-increase formula therefore governed.[3] Given that Plaintiffs could not have evicted existing below-market tenants to make way for market-rate tenants *whether or not this 4% cap was adopted*, that cap did not restart the limitations period for Plaintiffs' claim. *See Action Apartment Ass'n, Inc. v. Santa Monica Rent Control Bd.*, 509 F.3d 1020, 1027 (9th Cir. 2007).[4] *Second*, because this full legislative history proves that this 4% cap was simply a four-month extension (in less strict form) of the 2020 pandemic-era restriction on rent increases

(E.D. Cal. Feb. 9, 2023), *report adopted* 2023 WL 3862717 (E.D. Cal. Jun. 7, 2023), *aff'd* No. 23-15975, 2024 WL 4688890, at *1-2 (9th Cir. Nov. 6, 2024).

[3] *See* 10/25/23 Motion by Councilmember Soto-Martinez (SAJE Reply RFJN Ex. W); 11/1/23, L.A. City Housing and Homelessness Comm. Rep. (SAJE RFJN Ex. M, available at Dkt. 20-13); L.A. City Ord. 188,071 (SAJE Reply RFJN Ex. X).

[4] *Id.* ("The only question that remains is *whether [plaintiff's] asserted injury arises from* provisions that were enacted in 1979 or from substantive amendments that were enacted [within the limitations period] and that altered 'the effect of the ordinance on' [plaintiff]. If [plaintiff] challenges either the substance of the 1979 provisions or the mere re-enactment of those provisions [], then its claim is time-barred.") (emphasis and brackets added).

otherwise permitted under LARSO, that cap did *not* restart the limitations period no matter what its impact.[5]

2. Plaintiffs' Equal Protection Claim Is Untimely

As the Motion explains, (1) Plaintiffs also allege that the "4% Rent-Increase Cap[s]" violate equal protection *because* they interfere with the right to exclude for owners of housing built on or before October 1, 1978, while at the same time "the City imposes no rent-increase caps at all" on later built units, and (2) this claim is untimely because LARSO rent caps *always* have applied only to this pre-LARSO housing. SAJE MTD at 2:27 to 3:10; *see also* Compl. ¶¶ 3, 122, 128; Opp. at 3:20, 20:11-14. In response, Plaintiffs raise the same arguments as they raise with respect to their physical takings claim. Opp. at 21:14 to 22:9. But the same accrual rules for takings claims (discussed above) also apply to this related equal protection claim.[6] Plaintiffs arguments therefore fail for the same reasons discussed above.

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[5] *See De Anza Properties X, Ltd. v. County of Santa Cruz*, 936 F.2d 1084, 1086 (9th Cir. 1991); SAJE MTD at 4:5-19 & n.2, 6:1-4. In a footnote regarding their equal protection claim, Plaintiffs assert that the limitations period also should be restarted by the resumed application of the 1985 LARSO rent formula following the expiration of the four-month extension, given that the formula had been suspended from 2020 to June 30, 2024. Opp. at 22 n.10. This too is wrong because (1) the statute of limitations ran long ago on the application of the 1985 formula, SAJE MTD at 4:20 to 5:7, 6:4-7, and (2) a change to one part of a statutory or regulatory scheme (here, the rent increases allowed from 2020 to June 30, 2024) does not restart the limitations period for a Section 1983 challenge to the unchanged parts (here, application of the 1985 formula after June 30, 2024). *See Gissendaner v. Commissioner, Georgia Dept. of Corrections*, 779 F.3d 1275, 1280-81 (11th Cir. 2015).

[6] *See Norco Constr., Inc. v. King County*, 801 F.2d 1143, 1145-46 (9th Cir. 1986) (same accrual rule for as-applied takings claim, and related equal protection and due process claims, challenging a land use decision); *Rancho de Calistoga v. City of Calistoga*, No. C 11–05015 JSW, 2012 WL 250107, *3 (N.D. Cal. Jun. 27, 2012) (same accrual rule for facial takings claim, and related equal protection and due process claims, challenging rent control ordinance); *cf. Action*, 509 F.3d at 1027 (adopting facial takings accrual rule for substantive due *[fn. continues on next page]*

3. Plaintiffs' Regulatory Takings Claim Is Not Ripe

Plaintiffs assert their regulatory takings challenge to the "4% Rent-Increase Cap[s]" is ripe—notwithstanding their failure to seek a "just and reasonable return" rent increase—because it certain such a request will not lead to Plaintiffs receiving *market* rents. Opp. at 19:15 to 20:5. But Plaintiffs' concede that such a request might result in *some* rent increase. Opp. at 15:19-20. And resolving *that* uncertainty plainly is material *because* Plaintiffs expressly tie their allegations of both severe economic harm, and frustration of reasonable expectations, *to just how low the "4% Rent-Increase Cap[s]" are* (and not to the mere fact that their rents are not equal to market rents). Opp. at 18:4-18.[7] Thus, as demonstrated by the Ninth Circuit and District Court cases cited in the Motion (cases Plaintiffs simply ignore), Plaintiffs' regulatory takings claim is not ripe. SAJE MTD at 6:11-23. *See generally MacDonald, Sommer & Frates v. Yolo County*, 477 U.S. 340, 348-49 (1986).

B. Plaintiffs' Challenges To The "Relocation-Fee Requirement"

Plaintiffs do not dispute that the "Relocation-Fee Requirement" was fully imposed outside the limitations period. Plaintiffs instead assert that their physical and regulatory takings claims nevertheless are timely because (1) they purportedly did not accrue at all until Plaintiffs wanted to do an owner-family move-in eviction within the limitations period, and/or (2) *Flynt*'s continuing accrual theory saves these claims. Opp. at 24:4-8. But both assertions are wrong because the "property"

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process challenge to rent control ordinance). The *Ellis* case that Plaintiffs chiefly rely upon is not to the contrary, as (1) like *Flynt*, it did not involve a takings claim, and (2) it did not involve an equal protection claim challenging any type of land use regulation. *See Ellis v. Salt River Project 1 Agric. Improv. & Power Dist.*, 24 F.4th 1262, 1271-72 (9th Cir 2022).

[7] "It is inconceivable to think that a 4% cap on rent increases for 17 months after four years of no increases—all while inflation hit a 40-year high—did not impose severe economic burdens on Plaintiffs. . . . Plaintiffs had no reason to expect that kind of digression to what practically amounts to a 'confiscatory' rate given the recent hyperinflationary market conditions." *Id.*

at issue—Plaintiffs' right to exclude tenants for owner family move-ins without the restriction—was taken by the *imposition* of the "Relocation-Fee Requirement", thereby causing an immediate injury triggering immediate accrual under binding Ninth Circuit authority. SAJE MTD at 7:3-13; Part I.A.1 above; *see* Opp. at 6:20-23 (asserting existence of "Relocation-Fee Requirement" is "depressing the sale price" of LARSO properties). The "Relocation-Fee Requirement" claims are untimely.[8]

C. Plaintiffs' "FMR Eviction Restriction" Regulatory Takings Claim

Plaintiffs assert their regulatory takings challenge to the "FMR Eviction Restriction" is ripe—notwithstanding their failure to seek a "just and reasonable return" rent increase—because "obtaining a marginal rent adjustment would not change the calculus" under *Penn Central*. Opp. at 15:15-16:2. This plainly is wrong. Just two pages earlier, Plaintiffs assert that they "satisfy the first *Penn Central* factor" *because* they allege that "Plaintiffs cannot recover rental income to cover the properties' basic operating costs" due to the "FMR Eviction Restriction". Opp at 13:19-23. Assuring that owners recover their basic operating costs is an express ground for granting a "just and reasonable return" request. *See* RAC Reg. 244.01 (SAJE RFJN Ex. C, available at Dkt. 20-3). This claim is not ripe.

II. PLAINTIFFS FAIL TO STATE ANY VALID CLAIMS

A. Plaintiffs Have Not Stated Any Valid Physical Takings Claims

As the Motion explains, binding precedent requires dismissal of all of Plaintiffs' physical takings claims. SAJE MTD at 8:8 to 16:7. In response, Plaintiffs first assert that "[a]fter *Cedar Point*, the right to compensation is triggered if [governments] . . . interfere with the owner's right to exclude others from it." Opp. at 16:7-10 (brackets in original; internal quotes omitted), *citing and quoting in part Sheetz v. Cnty. of El Dorado*, 601 U.S. 267, 274 (2024); *accord* Opp. at 9:14-16. But this is a gross overstatement, as (1) *Cedar Point* itself states that many types

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[8] SAJE's alternative ripeness argument appears moot. *See* SAJE MTD at 7:14-21.

of limitations on the right to exclude are *not* physical takings, *see Cedar Point Nursery v. Hassid*, 594 U.S. 139, 156-57, 159-62 (2021), and (2) *Sheetz* did not even consider—let alone discuss or decide—when a limitation on the right to exclude is or is not a physical takings. Plaintiffs more detailed attempts to defend each of their specific physical takings claims are equally devoid of merit.

The "4% Rent Increase Cap[s]": As the Motion explains, *Yee* found the rent control system at issue was not a physical takings given that (1) the owners voluntarily rented to the tenants, and (2) the owners had the right—after a notice period—to evict the tenants in order to change the use of the land. *Yee v. City of Escondido*, 503 U.S. 519, 527-28 (1992); *id*. at 528-32; *accord Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg'l Plan. Agency*, 535 U.S. 302, 322-23 (2002). As both of these factors are present here, the "4% Rent Increase Cap[s]" are not physical takings. *Cedar Point* is not to the contrary. SAJE MTD at 8:11 to 9:18, 11:1 to 16:7.

In response, Plaintiffs first assert that *Yee* is not controlling because it did not address "ordinary rent control statutes". Opp. at 16:21 to 17:7. But *Yee* expressly considered the differences between the mobile home statutes and ordinary rent control, and then concluded that these differences did not impact the physical takings analysis. *Yee*, 503 U.S. at 529-31.

Plaintiffs next assert that *Loretto* shows that the mere fact that they initially invited their tenants does not automatically mean that it cannot be a physical taking to preclude Plaintiffs from evicting their below-market tenants. Opp. at 17:8-17; *see id*. at 11:11-12:11. But that is *not* the issue presented here. *Yee* found that there was no physical takings due to *both* the owners' initial invitation, *and* the owners' right to evict in order to change the use of the land. *Loretto* is fully consistent with *that* holding because—unlike the statutes at issue in *Yee* (and unlike LARSO)—the statute at issue in *Loretto* did *not* permit the landlord to go out of the cable TV hookup rental business and thereby remove the cable TV hookup from its property.

1 *See Loretto v. Teleprompter Manhattan CATV Corp.*, 53 N.Y.2d 124, 131 & n.4,
2 134-36 (1981), *rev'd* 458 U.S. 419, 421, 439 & n.17 (1982). Indeed, *Yee* expressly
3 recognized this factual distinction when it explained that the cable TV hookup
4 statute in *Loretto* had caused a physical taking, and therefore it was no answer in
5 *that* case to say the landlord could go out of the rental housing business, whereas in
6 *Yee* the rent control system did not create a physical taking given the owners' right
7 to go out of the mobile home rental business. *See Yee*, 503 U.S. at 531-32.
8 Plaintiffs further assert that *Cedar Point* is inconsistent with the foregoing. In
9 particular, Plaintiffs assert that *Cedar Point*'s recognition of the continuing validity
10 of *PruneYard*'s holding (i.e., that limitations on how a businesses may treat their
11 invitees on the premises, including restrictions on the right to exclude, are not *per se*
12 takings) is irrelevant here because *PruneYard* involved a "publicly accessible
13 business" and Plaintiffs' properties purportedly are not such businesses. Opp. at 12
14 n.2. But this is wrong for all of the reasons explained in the Motion, including that
15 the Court in *Yee* twice cited to *PruneYard* to support the conclusion that the mobile
16 home park owners did not have an automatic right to compensation due to the
17 imposition of rent ceilings and limitations on their rights to exclude. SAJE MTD at
18 11:17 to 12:28. Indeed, Justice Holmes long ago rejected the notion that rental
19 housing was less subject to regulation because each building was not subject to "use
20 by the public generally". *Block v. Hirsh*, 256 U.S. 135, 155 (1921).
21 Plaintiffs also assert that *Block* used a no longer valid "emergencies-are-
22 different approach", and therefore *Block* is not the type of longstanding background
23 restriction on property rights that *Cedar Point* acknowledged would preclude a
24 finding that rent control constituted a physical takings. Opp. at 17:17-20 & n.5; *see*
25 *id*. at 12:12 to 13:12. This too is error. *Block* relied on the exigent conditions
26 created by WWI to conclude that the police power allowed temporary price controls
27 on rental housing, a narrow view of the police power to regulate pricing that the
28 Supreme Court repudiated long ago. *See, e.g.*, *Birkenfeld v. City of Berkeley*, 17

1 Cal.3d 129, 153-59 (1976). However, as the Motion explains, the relevant
2 background restriction recognized by *Block* is that *whenever* the police power
3 authorizes rent control, a landlord may *not* evict tenants in violation of the rent
4 control law. *See* SAJE MTD at 13:1 to 16:7; *compare, e.g.*, *Cedar Point*, 594 U.S.
5 at 160-61 (when searches comply with the Fourth Amendment, they are not physical
6 takings). Indeed, as part of its reasoning, *Tahoe-Sierra* confirmed that *Block* held "a
7 government regulation that merely prohibits landlords from evicting tenants
8 unwilling to pay a higher rent" is not a physical taking. *Id.*, 535 U.S. at 321-22.
9 *The "FMR Eviction Restriction*: As the Motion explains, this provision at
10 most equates to a small reduction in the total rent due during a tenancy, and is not a
11 physical takings under *FCC v. Fla. Power Corp.,* 480 U.S. 245 (1987). SAJE MTD
12 at 9:19 to 10:11. In response, Plaintiffs assert that *FCC* is not controlling, because it
13 left open whether a restriction on terminating the lease following the rent reduction
14 would constitute a physical taking. Opp. at 11:2-10. But *Yee* answered that separate
15 question—there is no physical takings. And Plaintiffs' same arguments regarding
16 *Loretto*, *PruneYard* and *Block* again are invalid. So too is Plaintiffs insistence that a
17 trio of cases compel a different result. Opp. at 9:19 to 11:2. *Ala. Ass'n of Realtors*
18 *v. HHS*, 594 U.S. 758, 765 (2021), simply stated the obvious: the CDC eviction
19 moratorium "intrude[d]" on landlords' right to exclude. The Federal Circuit went
20 further in *Darby Dev. Co. v. U.S.*, 112 F.4th 1017, 1035 (Fed. Cir. 2024),
21 concluding that the CDC moratorium plausibly effected a physical takings. But
22 *Darby* is not persuasive here because (1) it failed even to consider *Cedar Point*'s
23 recognition of the continued validity of *PruneYard* (i.e., that regulation of the
24 grounds for exclusion of persons a business invites onto its premises is not a *per se*
25 takings); (2) it concerned a COVID eviction moratorium, rather than rent control,
26 which has long been upheld as not a takings under *Block*; and (3) it expressly
27 cabined the scope of its holding to extraordinary cases where there is no path to
28 eviction at all, which is not the case here. Finally, the Eighth Circuit's similar

conclusion in *Heights Apartments, LLC v. Walz*, 30 F.4th 720, 733 (8th Cir. 2022), is likewise is unpersuasive because (1) it is based on an inaccurate statement of the facts in *Yee*, and (2) for the same reasons *Darby* is not persuasive.

The "Relocation-Fee Requirement: As the Motion explains, this provision of LARSO likewise is not a physical takings under *Ballinger v. City of Oakland*, 24 F.4th 1287 (9th Cir. 2022). SAJE MTD at 10:12-26. In response, Plaintiffs assert that *Ballinger* is not controlling because it involved an alleged physical taking of money. Opp. at 23:12-15. But to reach its holding, *Ballinger* reasoned—in express consideration of *Cedar Point*—that the relocation fee requirement at issue was legally indistinguishable from rent control and not a physical takings under *Yee*. *Ballinger*, 24 F.4th at 1292-94. This controlling reasoning applies to Plaintiffs' claim that the relocation fee took their right to exclude. *See Kagan v. City of Los Angeles*, No. 21-55233, 2022 WL 16849064, at *1 (9th Cir. Nov. 10, 2022).

B. Plaintiffs Have Not Stated Any Valid Regulatory Takings Claims

As the Motion explains, the Complaint fails to allege that any of the *Penn Central* factors support a valid regulatory takings claim. SAJE MTD at 16:8 to 20:7. Nothing in the Opposition provides a meaningful response.

Economic Impact: Plaintiffs cite no authority disputing that (1) "economic impact is determined by comparing the total value of the affected property before and after the government action," and (2) only an extreme diminution in value will potentially support a regulatory takings claim. *Colony Cove Props., LLC v. City of Carson*, 888 F.3d 445, 451 (9th Cir. 2018). Instead Plaintiffs simply assert, despite persuasive contrary authority in the Ninth Circuit (SAJE MTD at 17:4-10), that they need not plead those facts now. But even if that were correct (which it is not), Plaintiffs surely must plead *some* facts that support a plausible inference they can meet the substantive standard. Yet Plaintiffs have not done even this. For example, how it is possible that adoption of the "FMR Eviction Restriction"—which at most

might reduce each tenant's rent by a few thousand dollars over the entire course of their tenancy—caused a severe diminution in the value of the properties?

Objectively Reasonable Investment-Backed Expectations: Here too Plaintiffs fail to identify facts plausibly supporting their claim that the challenged provisions interfered with objectively reasonable expectations. For example, Plaintiffs' assertion (Opp. at 23:7-9) that it was reasonable to expect that the relocation fee requirements already in place would not increase, or even would go away, is directly contrary to the authorities cited in the Motion. SAJE MTD at 17:17 to 18:2.

Character of LARSO: Plaintiffs have no response to the Ninth Circuit cases holding rent control is not like a physical invasion, and Plaintiffs' assertions that the challenged provisions are physical takings are wrong as discussed above.

C. Plaintiffs Have Not Stated A Valid Equal Protection Claim

As the Motion explains, Plaintiffs' equal protection claim fails *ab initio* because (1) the City only has power under State law to impose rent caps on housing built prior to LARSO, and (2) under *Thornton v. City of St. Helens*, 425 F.3d 1158, 1167-68 (9th Cir. 2005), it is *not* unequal treatment of "similarly situated" groups when a city extends a regulation only to those whom the city has the power to regulate under state law. SAJE MTD at 20:12-28. In response, Plaintiffs' assert that the City's ability to regulate *other* aspects of housing built after LARSO's adoption distinguishes *Thornton*. Opp. at 20 n.7. But this asserted distinction is factually wrong: *Thornton* held not only that businesses outside the city were not similarly situated, but also that other businesses *within* the city were not similarly situated because they were not subject to the *specific* state licensing regime at issue that granted the city approval power. *Thornton*, 425 F.3d at 1161, 1167-68. Plaintiffs' asserted distinction also is legally irrelevant because logic dictates—and *Thornton* held—that it is a city's lack of power to impose the *specific* regulation at issue on a group that makes the group not "similarly situated". *Id.*; *accord Signs for Jesus v. Town of Pembroke*, 977 F.3d 93, 113-14 (1st Cir. 2020).

As the Motion further explains, Plaintiffs' equal protection claim also fails because imposing rent caps only on pre-LARSO housing is rational. SAJE MTD at 21:1-18. Plaintiffs' first respond by asserting that (1) their "right to exclude" is a fundamental right triggering strict scrutiny, and (2) the contrary holding in *Yim v. City of Seattle*, 63 F.4th 783, 798 (9th Cir. 2023), is irrelevant because it involved a substantive due process claim. Opp. at 20:11-15 & n.8. But *Yim* is controlling because fundamental rights are the same for both substantive due process and equal protection claims.[9] Plaintiffs next respond by asserting that (1) it is irrational to encourage new housing construction by exempting it from rent caps, and (2) the contrary conclusion of *Marcus Brown Holding Co. v. Feldman*, 256 U.S. 170, 198-99 (1921), is irrelevant because it involved an emergency. Opp. at 21:1-13 & n.9. But *Marcus Brown* is controlling because its equal protection reasoning applies equally to the housing crisis LARSO addresses (and in any event is persuasive).

D. Plaintiffs Have Not Stated A Valid First Amendment Claim

As the Motion explains, Plaintiffs' obligation to post (i.e. host) the City's notice does not violate the First Amendment under *Rumsfeld v. Forum for Academic & Institutional Rights, Inc.* (*FAIR*), 547 U.S. 47, 63-65 (2006). SAJE MTD at 21:24 to 23:17 & n.13. In response, Plaintiffs cite (1) *Wooley v. Maynard*, 430 U.S. 705, 715 (1977), which held that it violated the First Amendment to compel a Jehovah's Witness to display on his car the state's ideological motto which he found morally objectionable, and (2) *Green v. Miss U.S.A., LLC*, 52 F.4th 773, 783 n.10 (9th Cir. 2022), which suggested in dicta that it potentially would violate the First Amendment to compel an owner to display at his business an ideological poster (e.g., Black Lives Matter). But posting by Plaintiffs on their rental properties a

[9] *See, e.g.*, *Vacco v. Quill*, 521 U.S. 793, 799 (1997) (no fundamental right to die for equal protection), *citing Washington v. Glucksberg*, 521 U.S. 702, 719-28 (1997) (same for substantive due process); *Bowers v. Whitman*, 671 F.3d 905, 909-10, 916-17 (9th Cir. 2012) (no fundamental right to use property for either).

notice clearly labeled as a City summary of LARSO that landlords are legally obligated to post is "simply not the same" as either of these factual situations, and "it trivializes the freedom protected in...*Wooley* to suggest that it is." *Nat'l Ass'n of Mfrs. v. Perez*, 103 F. Supp. 3d 7, 17 (D.D.C. 2015), *quoting FAIR*, 547 U.S. at 62.

As the Motion further explains, the "Renter Protections Notice Requirement" is in any event a proper regulation of commercial speech. SAJE MTD at 23:3-25:20. In response (Opp. at 25:6-17 & nn. 12-13), Plaintiffs first assert that the Notice is not commercial speech. This is wrong as Plaintiffs simply ignore both the holding in *S.F. Apartment Ass'n v. City & County of San Francisco*, 881 F.3d 1169, 1175, 1177-78 (9th Cir. 2018), and the fact that the notice provides summary disclosure of legally implied pricing and other terms of Plaintiffs' current and continuing rental agreements (which the tenants generally have discretion to terminate). *See generally In re Marriage of Walton*, 28 Cal.App.3d 108, 112 (1972) (existing and future law incorporated into contracts). Plaintiffs alternatively assert that, even if the Notice is commercial speech, (1) it is "controversial", so *Zauderer* does not apply, and (2) it is a compelled disclosure, so *Central Hudson* also does not apply. Both of these points are wrong as (1) Plaintiffs ignore the caselaw cited in the motion showing why the Notice is not "controversial", SAJE MTD at 23:24 to 24:1, and (2) the Ninth Circuit does apply *Central Hudson* to compelled disclosures. *See Nat'l Ass'n of Wheat Growers v. Bonta*, 85 F.4th 1263, 1282-83 (9th Cir. 2021).

III. CONCLUSION

For the foregoing reasons, the Court should dismiss Plaintiffs' Complaint.

DATED: July 14, 2025 MUNGER, TOLLES & OLSON LLP

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CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Intervener SAJE, certifies that this brief is 12 pages, which complies with the page limits (12 pages) set by Paragraph 9.b of the Court's Standing Order dated January 7, 2025 (ECF No. 17), and thereby also complies with Local Rule 11-6.1.

DATED: July 14, 2025 MUNGER, TOLLES & OLSON LLP

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