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CITY CLERK

Affordable Housing Services
1516 Navarro Avenue
Pasadena, CA 91103

March 25, 2019

Mayor Terry Tornek
Members of City Council
City of Pasadena
100 North Los Robles Avenue
Pasadena, CA 91101

Re: TENANT PROTECTION ORDINANCE PASADENA MUNICIPAL CODE CHAPTER 9.75 -
Agenda Item 15

Honorable Mayor and Council Members:

Affordable Housing Services, a housing provider to, and advocate for, low and very low income tenants, urges the Council to direct the Planning and Housing Departments to:

- Adopt relocation and moving expense benefits that address Pasadena’s present day rental market realities and
- Direct the Planning and Housing Departments to undertake forthwith the thorough review of tenant protections and the preservation of City’s affordable housing stock that were to be completed in 2016 according to the current Housing Element of the City’s General Plan.

The Tenant Protection Ordinance (TPO) under current review was largely drafted in 2004 and only been “tweaked” since that time - this in spite of the many changes in the City’s rental market. As a result, the 2004, the TPO deals almost exclusively with relocation and moving expense benefits for only a select class of tenants who have been displaced through no fault of their own, i.e., when the owner decides to get of the business, the government orders tenants to vacate, or the units are to be demolished. It does not address the ramifications of an increased corporate ownership of both single family and multifamily rental units, short term rental such as AirBnB, the now all-too-common practices of enormous and multiple increases in rents and no cause evictions.

As a result of changes in the rental market, the TPO is no longer relevant - if it ever was.¹ It needs a complete re-haul, taking into account the current realities of the market and increasing housing instability

¹Between 2004 and 2017, only 91 households were able to take advantage of the TPO’s benefits. Pasadena Star News October 30, 2018.

of the City's tenant population. To address these concerns the TPO must address more than limited relocation and moving cost benefits for a select group of tenants. It should also address how to protect tenants in good standing who are evicted without cause and how to prevent precipitous increases in rents on the basis of only 30 or 60 days notice, thereby constructively evicting tenants.

Unlike in 2004, when a significant number of Pasadena rental units were owned by individuals who also managed the buildings, corporations now own an increasing share of the Pasadena market - including single family homes. Rents are escalating in Pasadena and the nature of the market has changed significantly. Unlike individual owners interested in maintaining a steady flow of income, corporate owners seeking market rate rents tend to hold on to units until prospective tenants meet their prices.

Increasingly, households of color, seniors with disabilities and other fair housing protected Pasadena residents are being permanently displaced from the city because there are only inadequate protections in place. The City has agreed to affirmatively further the fair housing rights of these households. Unless and until the TPO remedies are enhanced, the City is failing in this obligation.

RECOMMENDATIONS FOR TPO MODIFICATIONS

- #1 *City Council Should Direct the Planning and Housing Departments to Conduct the Studies of the TPO and How to Preserve the City's Inventory of Unsubsidized Affordable Housing That Were to be Conducted in 2016 Forthwith*

The City's current Housing Element (HE), which was approved by both City Council and the State of California, set forth that the City would conduct two studies - one of the TPO and one on how to preserve the City stock of unsubsidized affordable housing. Both of these studies were to have been completed by 2016; neither has been undertaken. Each should be initiated forthwith. Both are necessary to increase the housing security of the City's tenant population.

The cuts in the Housing and Planning staffs have resulted in unintended consequences. For example, the senior housing complex at 1070 North Lake was converted from affordable to unaffordable housing without monitoring or intervention by City staff. Similarly, but with even less notice, small apartment complexes are changing hands and rents of long term tenants are escalating with very little notice.

Increasingly, tenants are receiving one than one rent increase a year. Most employees only receive one cost of living pay raise a year. Thus, planning huge and multiple rent increases is both unaffordable and disruptive. On the basis of 30 or 60 day notices, families are required to leave school districts, take on long commutes to work and relinquish ties to friend and medical and other services.

Approximately 20 years ago, Southern California was targeted by the real estate industry as having too low rents; the real estate industry trusts and others undertook efforts to increase the area's rents. Over the last seven years especially, our rents have increased markedly. At present, the City has done nothing to study, much less address, its loss of privately held, unsubsidized stock of affordable housing. Because Pasadena will not consider rent control or just cause eviction protections, tenants in good standing are being routinely evicted so owners may raise rents. Pasadena's failure to consider the increase in legal and illegal AirBnB and other short term rentals on its long term rental market has also had deleterious impacts on the City's renters and its affordable housing stock. There is significant support for rent control and just cause eviction protections in Pasadena. Advocates collected more than 10,000 signatures in support of putting these measures on the 2018 ballot. These signatures reflect more

signatures collected in favor of rent control and just cause eviction protections than received by any member of Council - including the Mayor - when s/he was last elected.

Those who oppose rent control argue that under rent control landlords are likely to fail to maintain their units. Rent control advocates who knocked on doors in 2017 and 2018 documented that the City's rental units are not well maintained. According to tenants in these units, many multifamily rental complexes are not inspected every four years, as mandated by city ordinance. The failure to inspect is another unintended consequence of the City's reduction in Planning Department staff.

Since there are a disproportionate number of fair housing protected households who rent in Pasadena, the Planning Department should determine whether discrimination is occurring in the manner in which the current rental marketplace is operating, e.g., impacts of precipitous rent increases, impacts of more than one rent increase per year. Since the need for affordable rental housing is acute and the possibility of fair housing violations occurring is significant, AHS urges the Planning Department undertake the HE promised studies as soon as possible. It also urges that the City update its impediment to fair housing choice analysis forthwith.

#2 *In the Interim, the City Should Adopt a TPO that is No Longer Out of Synch with its Rental Market and Offer Meaningful Protections for Current Tenants*

The TPO covers too few good tenants who lose their housing through no fault of their own. The TPO only covers tenants whose units: i) are to be demolished, ii) have to be vacated because of a governmental decree or iii) whose owner is going of the business. The TPO does not cover tenants who are in full compliance whose landlord chooses nonetheless to evict them for no cause in the hopes of raising their rents to exorbitant levels.

Because there are no rent control or just cause eviction protections in Pasadena, tenants may be evicted on the basis of 30-day (if the tenant has lived there less than a year) or 60-day (if more than a year) notice to leave. No reason need be given. Evicted tenants, not matter how compliant they are with their lease provisions, are not entitled to relocation benefits under our City's TPO. Tenants who are evicted without good cause should be entitled to relocation and moving benefits. Only with such coverage would some tenants avoid permanent displacement from our City. Given that persons of color, persons with disabilities and other fair housing protected households are at a higher risk of displacement, the City should immediately review the limited nature of the protections it offers.

The relocation benefits offered under Pasadena's TPO are lower than those offered in Los Angeles, where rents are often lower than in Pasadena. Pasadena's TPO relocation benefits should be at least as high as those available in Los Angeles. The benefits offered have little or no relationship to the needs of tenants, but appear to address the desire of owners to keep their costs to a minimum. Given that 56% of Pasadena's residents are renters, AHS urges the Council to address this imbalance by affording tenants more equitable benefits.

In addition, the TPO limits its protection to those tenants with an income of less than 140% of median income, or \$70,845/year. The cutoff at 140% of median appears only to benefit owners and AHS recommends that there be no cap on those to be protected, thereby permitting all renters to receive

benefit. In so doing, the City would better protect renters, as well as its stock of unsubsidized affordable housing.

The TPO's relocation benefits are out of synch with the market

The TPO's relocation rent allowance is based on HUD's calculation of Pasadena's fair market rent (FMR) as set forth below:

0 BR	\$943/month
1 BR	\$1,137/month
2 BR	\$1,420/month
3 BR	\$1,907/month
4 BR	\$2,295/month

The amounts that landlords are expected to pay under the TPO seem more designed to protect owners rather than afford displaced tenants, who have done nothing wrong, the opportunity to rent other units in Pasadena. During the best of times, HUD's FMRs are at least 20% below the going rental rates in Pasadena. Currently, these FMRs are further out of synch with Pasadena's private market rents.

In August 24, 2017, the Pasadena Weekly cited Pasadena's median 1 BR rent as \$2,130 (which is approximately \$1,000/month above HUD's FMR) and a 2 BR renting for \$2,550 (which is approximately \$1,100 over HUD's FMR.) Approximately six weeks ago, a developer testified before Council that he will be charging \$1,200/month rent for a 150-200 s/f unit - which is the size of a one car garage and smaller than a studio unit. One bedroom apartments in Pasadena are being advertised for rents ranging from \$2,721/month to \$3,174.

The TPO should revise its relocation rents and tie the benefits to the private market rents, not HUD's FMRs. To do otherwise provides windfall profits to landlords seeking to evict good tenants for no reason other than to increase rents on affordable apartments. More fundamentally, if Pasadena continues to allow owners evicting tenants without cause, it should, at a minimum, require these owners to pay relocation benefits tagged to private market rents, as well as moving costs. To do otherwise, creates a substantial risk of permanent displacement of lower income tenants, especially those households who fall into fair housing categories.

#3 - Staff Recommended Modification: Expand TPO to Cover Change in Property Ownership that is Coupled with Steep Increases in Rents

The Housing Department staff recommends that the TPO's scope of applicability should be expanded to include situations in which eligible tenants are displaced (resulting from large rent increase, lease termination, or eviction) in connection with a change in ownership of the rental property. Under this provision, the new property owner would be required to comply with TPO if notice (large rent increase, lease termination, eviction) is issued to tenants within three (3) years after the date of change in property ownership. A rent increase would be considered "large" if it exceeds CPI + 5% in a 12-month period. The new property owner and tenant would be responsible for enforcement of the TPO in such situations.

For the first time, the staff proposes to have the TPO take into account rental increases associated with changes in ownership - through sales and inheritance. Anecdotal evidence suggests that this kind of recognition is beneficial.

AHS urges that defining a "large increase" as an "increase of CPI + 5% in 12 month period" does not provide the kind of protection that is required. At a minimum, the definition should be lowered to level that does not carry with it a risk of homelessness. A recent Zillow study reveals that where rents increase 5% or more, homelessness increases. *See*

<https://www.zillow.com/research/rents-larger-homeless-population-16124/>. Since the CPI is lately approximately 2%, the increase would have to be approximately 7% before it a tenant would receive TPO benefits. The risk of homelessness for the tenant is therefore substantial. The City in already experiencing increases in homelessness; it should not endorse a standard that would lead to more homelessness. AHS recommends that the City instead endorse a standard that does not exceed 3%. In doing so, Pasadena would embrace an approach that is similar to Los Angeles City and Los Angeles County rent increases.

AHS also recommends that the City arrange for tenants with incomes of less than 140% of AMI to have access to free legal services if the City continues to require them to resort to judicial enforcement of their rights. Another alternative is for the City to develop an administrative enforcement mechanism for tenants complaining of landlords increasing rents and failing to pay benefits; typically tenants cannot afford the time or money to file judicial complaints against their landlords and supplying an administrative mechanism to enforce such rights may provide an appropriate solution. In addition, it should be noted that the UD Registry, a log maintained by landlords, tracks tenants who utilize the courts against their landlords. This information is made available to landlords investigating prospective tenants. Such landlords are likely to avoid renting to "litigious" tenants.

#4 - Staff Recommended Modification: Relocation Allowance to Address Market Rents

Housing Department staff recommends increasing the TPO Relocation Allowance amount to 2.5 times the HUD FMR. Currently, the TPO Relocation Allowance base amount is twice (2.0 times) the HUD FMR, which was originally intended to reflect the first and last month's rent that a tenant would typically have to pay to move into a rental unit. The purpose of the staff's proposed modification is to recognize that current market rents in Pasadena exceed HUD FMR values.

For the reasons set forth above, AHS urges that private market rents should be used when assessing the amounts of relocation benefits available under its TPO, not HUD's FMRs.

Using the 2.5 times the HUD FMR is an inexact measure, for which there is no documented justification. From the data submitted, there does not appear to be a correlation between the proposed allowance and the escalating market rents. Assuming the proposed allowance is currently appropriate, there is nothing to guarantee it will be appropriate going forward. The Housing Department should be charged with the responsibility for modifying the standard on an annual or semiannual basis. The Department should be given staff adequate to meet this and its other obligations.

#5 - Staff Proposed Modification to Enhance the TPO Relocation Allowance for Long Duration Tenants

The Housing Department staff proposes requiring owners to pay TPO Relocation Allowance, *regardless of the reason for termination of tenancy*, to tenants who have maintained continuous tenancy for a

minimum period of 10 years.² Tenants with 10 or more years of tenancy under this provision would be required to be income-eligible, i.e., having an income of 140% or less of AMI, and be in good standing. The total amount of TPO Relocation Allowance to be paid by Owner would be based on the length of tenancy. Each additional year of tenancy after the minimum 10 years would qualify the tenant for an increase of 10% on the TPO Relocation Allowance base amount. An eligible tenant with 20 or more years of tenancy would qualify for an amount equal to 200% of the base TPO Relocation Allowance.

This proposal disadvantages tenants for conditions over which they typically have no control, e.g., evictions based on changes in ownership and the new landlords' desire for higher profits. Informal comparisons of tenures of affordable housing residents and those in for-profit units reveal that the staff proposal may well be suitable to affordable housed tenants, but not others.

For various reasons, American households reportedly change occupancy 11 times in a lifetime. There is no reason to suspect that Pasadena tenants differ in their housing patterns.

AHS urges that all tenants - no matter how long they have been in place - be awarded relocation benefits if they are being evicted without cause, as well as for the reasons the TPO currently sets forth, i.e., demolition of the units, governmental dictates and the owner getting out the business.

Low wage tenants are especially vulnerable to homelessness no matter how long they have been in place. If they are evicted after only a short tenancy, they are likely not to have funds to again move. (Conversely, those who have been in place for a longer period may have savings on which to rely.)

As noted above, AHS recommends that the income eligibility requirement be eliminated.

"Good standing" is too loosely defined under the current TPO. Some owners have been known to dredge outdated, nonmaterial incidents to support their denial of relocation benefits. AHS urges that "good standing" be clearly and more restrictively defined. If a landlord is currently accepting rent from a tenant, s/he should be deemed to be in "good standing."

#6 *Compensation for the Loss to the City of Unsubsidized Affordable Housing Units*

Pasadena has a vested interest in preserving its stock of affordable housing units, including those units that are unsubsidized. It should clearly enunciate this interest, especially in those units that house tenants with incomes at or below 140% of the area median. Those owners who seek to get out of the rental market, demolish units housing tenants with incomes at or below 140% of the area median or convert such units to market rental rates or condominiums should pay an affordable housing loss fee to the city's affordable housing trust fund. The amount of the fee should be determined by the Housing Department and modified on an annual basis.

#7 *Need for City to Play An Active Role in Preserving Tenants' Rights and Unsubsidized Affordable Housing Units*

The current TPO language and the staff proposals rely upon tenants pressing their legal claims in court. Most tenants do not have the time, expertise or the funds to mount a pro se legal challenge against their landlords. In addition, legal challenges are protracted engagements, requiring tenants to advance moving

²Displaced tenants who have not maintained continued tenancy for the minimum 10-year period would be considered for eligibility under the standard TPO scope of applicability thresholds and eligibility requirements.

costs, security deposits, utility connection fees, rent, *etc.* before being allowed access to courts where they may earn a judgment reimbursing them for relocation and moving costs many months later.

AHS recommends shifting the burden of enforcement from the tenant to the city; it urges the city to establish an administrative vehicle by which tenants may identify any benefits due them. Landlords would then be penalized if they fail to pay benefits in a timely manner. We strongly suggest a large monetary fine for noncompliance with this ordinance. A monetary fine should be designed to send a message to others contemplating bad acts and reimburse the city for its enforcement costs.

The city is charged with “affirmatively furthering fair housing choices” i.e., ensuring the fair housing vulnerable households (persons of color, persons with disabilities, etc.) are protected and can exercise housing choices. Setting up administrative enforcement remedies would facilitate these choices.

AHS respectfully urges the Council to act expeditiously to protect tenants by:

1. Undertaking the TPO and affordable housing preservation studies that were to be conducted in 2016
2. Utilizing private market rents rather than HUD’s fair market rents to define relocation benefits
3. Eliminating caps on which tenants are to receive relocation benefits
4. Raising moving cost benefits to a realistic level

as soon as possible, for the Pasadena rental market is changing very swiftly.

Sincerely submitted,

Michelle White

Executive Director

Flores, Valerie

Subject: FW: Vote NO to Expand Renter Relocation Benefits As Proposed

From: Danielle Elliot
Sent: Monday, March 25, 2019 2:42:20 PM (UTC-08:00) Pacific Time (US & Canada)
To: cityclerk
Subject: Fw: Vote NO to Expand Renter Relocation Benefits As Proposed

CAUTION: This email was delivered from the Internet. Do not click links or open attachments unless you know the content is safe.

Please include the following communication in the Public Record.

----- Forwarded Message -----

From: Danielle Elliot <d.elliott1@sbcglobal.net>
To: ttornek@cityofpasadena.net <ttornek@cityofpasadena.net>
Cc: jkennedy@cityofpasadena.net <jkennedy@cityofpasadena.net>; district1@cityofpasadena.net <district1@cityofpasadena.net>; mmcaustin@cityofpasadena.net <mmcaustin@cityofpasadena.net>; gmasuda@cityofpasadena.net <gmasuda@cityofpasadena.net>; vgordo@cityofpasadena.net <vgordo@cityofpasadena.net>; smadison@cityofpasadena.net <smadison@cityofpasadena.net>; awilson@cityofpasadena.net <awilson@cityofpasadena.net>
Sent: Monday, March 25, 2019, 2:00:37 PM PDT
Subject: Vote NO to Expand Renter Relocation Benefits As Proposed

Mayor Tornek, Vice Mayor Hampton and esteemed City Councilmembers,

The City of Pasadena has long been a bastion of clarity and fairness. The Council has always balanced priorities of its residents and the City's need for growth and change. This balance has resulted in thriving communities and a city that is world renowned. Housing providers, like myself, are your constituents too. We are the key to resolving the housing issue in our city.

Unfortunately, we are under attack with draconian measures like the **Renter Relocation Benefits Ordinance** that is being proposed today. Passage of this measure will only result in the decline of real estate investment and slow the creation of affordable housing in our beautiful city.

We all must share the burden of unworkable policies that have resulted in the failure to build more affordable housing. By working together we can find real solutions to this and other issues that confront us.

Therefore, **change** the proposed **Renter Relocation Benefits Ordinance** to the following:

1. New Owners Qualifying period for **payment of relocation benefits to 1 year.**
2. **Define "Large Rental Increase"** in alignment with current State Law which is **above 10%.**
3. **Relocation benefits for long term renters to 5%,** more reflective of Pasadena's historical rent averages.

Keep our city thriving, Vote NO on the proposed **Renter Relocation Benefits Ordinance** and implement the above changes.

Respectfully submitted,

Danielle Elliott

Pasadena Property Owner

APARTMENT ASSOCIATION OF GREATER LOS ANGELES

CITY CLERK

19 MAR 25 02:58 PM

AAGLA

Danielle Leidner-Peretz
Director, Government Affairs
& External Relations
danielle@aagla.org
213.384.4131; Ext. 309

March 25, 2019

Via Electronic Mail

Hon. Mayor and City Council
Pasadena City Hall
100 North Garfield Ave.
Pasadena, California 91101

Re: Tenant Protection Ordinance (Agenda Item 15)

Dear Hon. Mayor Tornek and Members of the Pasadena City Council:

The purpose of this letter is to express the Apartment Association of Greater Los Angeles' (AAGLA) general support for the modifications being proposed to the Tenant Protection Ordinance (TPO), but with consideration of additional revisions, as discussed herein. We appreciate the Council's thoughtful review of the issues, your consideration of feedback provided by all stakeholders, including both property owners and renters, and the goal of reaching a balanced solution.

AAGLA represents thousands of small "mom and pop" rental housing providers. Many of our members are retired seniors that worked regular 9-5 jobs for decades, scrimping and saving to afford their small investment in rental property that secures and supplements their retirement and at the same time provides affordable housing to their neighbors. Some of our members are multi-generational immigrants that chose to make a small community investment as their way to house themselves and others. Our members are regular people that are providing affordable rental housing to their communities and are your constituents. They are the types of owners that the City seeks all owners to be, responsible, caring and reasonable.

We remain concerned with several provisions within the proposal to modify the TPO and urge the Council to consider and make further amendments prior to its adoption.

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- ***Modification 1 – Change in Ownership***

The current proposal would require new rental property owners to pay relocation benefits to displaced renters if during the first two (2) years following a change in ownership, the new owner increases rent in excess of the area's Consumer Price Index (CPI) plus five percent (5%) within any twelve (12) month period, or notifies the renter of any lease termination or eviction.

We believe that the 2-year wait period is excessive for property owners to begin to recover the cost of their newly acquired investment. This 2-year wait period may also have a detrimental impact on overall property sales values, which would hurt smaller, "mom and pop" owners by limiting an owner's ability to identify potential purchasers and ultimately this may impede sale of their property.

We strongly urge the City Council to consider a shorter qualifying period of no more than one-year, which would be far more adequate and fairer. Additionally, we believe that the amount of rent increase that triggers relocation benefits should be in alignment with current State law which deems ten (10%) percent or greater as a substantial rent increase.

- ***Modification 3 – Long-Term Tenancies Enhanced Relocation Allowance***

The proposed annual ten (10%) percent increase for relocation benefits payable to long-term renters for each year beyond the 10-years of residency is disproportionate to rental rates in Pasadena and its surrounding areas, and when compared to rental rates being charged by smaller "mom and pop" owners in the areas, which are generally far lower. Additionally, long-term renters have often benefitted for years by having received during their tenancy under market rate rents charged when renting from small owners as they have resided in their unit for a longer period while paying lower rent. We strongly urge the City Council to consider a more reasonable, five (5) percent annual relocation fee increase for the long-term renters, which is more in alignment with historical average rental increases in the City of Pasadena and its surrounding areas.

We urge the City Council to consider and implement the recommended changes prior to adoption of the proposed ordinance modifications.

Thank you for your consideration of our proposed amendments. If you have any questions, please call me at (213) 384-4131, Ext. 309 or contact me via electronic mail at danielle@aagla.org.

Very truly yours,



Danielle Leidner-Peretz