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memorandum

To

Pasadena Rental Housing Board

From

**Karen M. Tiedemann, Interim Counsel to the PRHB
Nazanin Salehi, Interim Counsel to the PRHB**

RE

PRHB Policy & Programs Ad Hoc Committee Report on Recommended Amendments to the Pasadena Fair and Equitable Housing Charter Amendment (Article XVIII)

RECOMMENDATION

It is recommended that the Pasadena Rental Housing Board approve the following:

- (1) Find that the proposed action is exempt from the California Environmental Quality Act (“CEQA”) pursuant to State CEQA Guidelines Section 15061(b)(3) (common sense exemption);
- (2) Receive a report from Policy & Programs Ad Hoc Committee on recommended amendments to the Pasadena Fair and Equitable Housing Charter Amendment (Article XVIII) and public comments on the report, and provide feedback.

BACKGROUND

On November 8, 2022, the voters of the City of Pasadena (the “City”) voted to adopt Measure H (“Charter Amendment”), which amended the City’s Charter to impose rent control and just cause eviction protections. The Pasadena City Council (“City Council”) adopted a resolution certifying the results of the November 8, 2022, election on December 12, 2022, and the charter amendment was thereafter filed with the California Secretary of State and took effect on December 22, 2022.

Provisions of the Charter Amendment were challenged in *California Apartment Association, et al. vs City of Pasadena, et al* (Los Angeles Superior Court Case No. 22STCP04376). On March 28, 2023, the Los Angeles Superior Court substantially upheld the Charter Amendment but made findings that certain provisions of the Charter Amendment were preempted by State law and reformed the Charter Amendment to

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remove those preempted provisions. As a result of the removal of the preempted provisions certain remaining provisions of the Charter Amendment require technical amendments to conform to the Courts decision as well as State law.

In addition, Rental Housing Board (“Board”) and the Rent Stabilization Department (“Department”) have been made aware of areas of the Charter Amendment that would benefit from further clarification or minor revision. They have also heard requests for more substantive policy changes to the Charter Amendment.

The City Council is currently in the process of developing a measure to put on the ballot for the November 5, 2024 General Election that would amend and revise certain other provisions of the City Charter (unrelated to Article XVIII). At its April 24, 2024 meeting, the Board formally decided to consider recommendations for minor changes to the Charter Amendment that could be added to the City Council’s ballot measure and adopted a resolution adopting a purpose and procedures to facilitate and guide the review and recommendation process. (See **Attachment B.**)

The Board’s resolution established the following schedule for the amendment review process:

1. Collect all suggested amendments by April 12, 2024.
2. The Ad Hoc Policy Committee will review all suggested amendments by April 23, 2024.
3. Full Board review and public comment on the Committee’s report at May 8, 2024 Board meeting.
4. Full Board vote on final recommendations at the May 22, 2024 Board meeting.
5. Board’s recommendations presented to City Council at the June 3, 2024 City Council meeting.
6. City Council vote on Board recommendations at the June 17, 2024 City Council meeting.

DISCUSSION:

In accordance with the scheduled established in the Board’s resolution, the Policy & Programs Ad Hoc Committee (the “Committee) has received and reviewed all suggested amendments to the Charter Amendment. The Committee has compiled its recommendations into a report for review by the full Board. (See **Attachment A.**)

The Committee's report includes its recommendations for suggested changes to the Charter Amendment, an explanation of the reason for the recommendation and proposed ballot language recommended amendments. In brief, the recommended amendments include:

1. Removal of the deadline for the implementation of the Rental Registry, and removal of the April 1st deadline for annual registration by Landlords.
2. Clean-up changes aligning § 1806(a)(10)(Withdrawal of the Unit Permanently from the Rental Market) with the state Ellis Act requirements.
3. Clean-up changes to the relocation assistance disbursement schedule to align the requirements with state noticing requirements.
4. Clean-up changes to the security deposit interest adoption schedule.
5. Addition of a partial exemption from the rent stabilization provisions of the Charter Amendment for Rental Units leased to government subsidized tenants. *(Proposed ballot language in the Report subject to further discussions with the City of Pasadena's Housing Department.)*
6. Changes to the process for removal of a Board member.
7. Changes to make Board member compensation optional at the discretion of each individual Board member. *(Proposed ballot language in the Report subject to further discussions with the City Attorney's Office.)*

In addition, the Committee's report includes a comprehensive list of all suggestions received by the Board that the Committee is not recommending for placement on the ballot. These recommendations included:

1. Expansion of the exemption for tax credit projects.
2. Addition of an exemption for duplexes.
3. Addressing the permitting issues in § 1806(a)(10).
4. Addition of language granting the Board expanded contracting powers.
5. Inclusion of language regarding self-certification of maximum lawful rent.
6. Codification of the definition of "Natural Person."
7. Codification of the definition of "Mom and Pop Landlord."

8. Addition of a “Mission Statement” to the Charter Amendment.
9. Creation of a task force between the Board, the Rent Stabilization Department and the City’s Housing Department.
10. A statement that the Board will not adjudicate terminations of tenancies and evictions.
11. Several recommendations related to justice for renters.

Staff’s recommendation is that the full Board review and receive public comment on the Ad Hoc Committee’s Report, and provide feedback on the recommendations by the Ad Hoc Committee.

FISCAL IMPACT:

The receipt of a presentation and public comment on and discussion of the Policy & Programs Ad Hoc Committee’s Report is not expected to have a fiscal impact on the Board or Department budget.

ATTACHMENTS:

- (1) **Attachment A** – PRHB AD HOC POLICY & PROGRAMS COMMITTEE REPORT ON AMENDMENTS TO ARTICLE XVIII OF CITY CHARTER
- (2) **Attachment B** – A RESOLUTION OF THE PASADENA RENTAL HOUSING BOARD ESTABLISHING A PURPOSE AND PROCEDURES FOR REVIEWING AND RECOMMENDING AMENDMENTS TO THE PASADENA FAIR AND EQUITABLE HOUSING CHARTER AMENDMENT (ARTICLE XVIII)

**PASADENA RENTAL
HOUSING BOARD**

MAY 8, 2024

ITEM 4

ATTACHMENT A

**PASADENA RENTAL HOUSING BOARD
AD HOC POLICY & PROGRAMS COMMITTEE**

**REPORT ON
AMENDMENTS TO ARTICLE XVIII OF CITY CHARTER**

BACKGROUND

On November 8, 2022, the voters of the City of Pasadena (the “City”) voted to adopt the Pasadena Fair and Equitable Housing Charter Amendment (“Charter Amendment”), which amended the City’s Charter to impose rent control and just cause eviction protections on most residential rental units in the city. The Pasadena City Council (“City Council”) adopted a resolution certifying the results of the election on December 12, 2022, and the Charter Amendment thereafter took effect on December 22, 2022.

Through their implementation of the Charter Amendment, the Rental Housing Board (“Board”) and the Rent Stabilization Department (“Department”) have been made aware of areas of the Charter Amendment that would benefit from further clarification or minor revision. They have also heard requests for more substantive policy changes to the Charter Amendment. Since the City Council is currently in the process of developing a measure to put on the November 2024 ballot that would amend and revise certain other provisions of the City Charter, the Board has decided to consider recommendations for minor changes to the Charter Amendment that could be added to the City Council’s measure.

On April 10, 2024, the Board adopted a resolution establishing a purpose and procedures for considering recommendations for changes to the Charter Amendment. The Policy & Programs Ad Hoc Committee of the Board has used the purpose and procedures to complete an initial evaluation of the suggested changes received from the public, Board members and the Board’s consultants. This report details the recommendations of the Ad Hoc Committee for consideration by the full Board.

PURPOSE AND CRITERIA

As a reminder, the Board’s goal in considering changes to the Charter Amendment is to further the existing purpose of the law. Charter Amendment Section 1801 provides:

“The purpose of this Amendment is to promote neighborhood and community stability, healthy housing, and affordability for renters in Pasadena by regulating excessive rent increases and arbitrary evictions to the maximum extent permitted under California law, while ensuring Landlords a fair return on their investment and guaranteeing fair protections for renters, homeowners, and businesses.”

In evaluating each suggested change, the Ad Hoc Committee considered the criteria outlined below. If any of the factors in criteria 1 through 4 were applicable to the suggested change, this would support recommending the change to the Board. If any of the factors in criteria 5 through 9 were applicable to the suggested change, this would support not

recommending the change to the Board. If factors from both categories of criteria were applicable to a suggested change, then the Ad Hoc Committee balanced the factors in order to reach its recommendation.

- (1) The suggested amendment seeks to replace language that was stricken as invalid by the court decision.
- (2) The suggested amendment seeks to clarify an area of ambiguity in the Charter Amendment that cannot be resolved via regulation.
- (3) The suggested amendment seeks to bring the requirements of the Charter Amendment into alignment with the existing practices of other City departments and/or the practical operations of the rental housing market.
- (4) The suggested amendment would reduce any of the following: (a) administrative burden; (b) financial costs; or (c) legal liability of the either or both the Board and/or the Department.
- (5) The suggested amendment would likely make the Charter Amendment more difficult to enforce and/or implement.
- (6) The suggested amendment would have the effect of undermining, eliminating or fundamentally altering one or more material provisions of the Charter Amendment.
- (7) The suggested amendment would make it more difficult for the Board or the Department to regulate excessive rent increases and/or arbitrary evictions.
- (8) The suggested amendment would likely make it more difficult for the Board or the Department to ensure Landlord's a fair rate of return on their rental property.
- (9) The suggested amendment would increase any of the following: (a) administrative burden; (b) financial costs; or (c) legal liability of the either or both the Board and/or the Department.

The Ad Hoc Committee also considered whether the recommended change fell into one or two categories:

(a) Cleanup. Minor amendments that clarify or align existing provisions of the Charter Amendment.

(b) Substantive. These are amendments that require a policy decision to be made by the Board.

The Ad Hoc Committee's designations and considerations are explained in the following section, along with proposed language for the ballot measure.

COMMITTEE RECOMMENDATIONS

A. RENTAL REGISTRY DEADLINE.

Category: Clean-up

Criteria: 2, 4

Reason for Proposed Recommendation: The effective date of the Charter Amendment is December 22, 2022. Therefore, the Rental Registry and online portal would have had to become operational no later December 22, 2023. Since the deadlines has already passed, the language should be removed from the Charter Amendment.

Additionally, the Charter Amendment provides that Owners must register no later than April 1st of each year. However, because of the current timeline for implementation of the Rental Registry and the fact that property registration is set to be aligned with payment of the annual Rental Housing Fees, it is possible that the annual April 1 deadline will not work. The recommended change will give the Board flexibility to establish the annual schedule for registration and payment of fees, including the ability to adopt an initial grace period, if necessary.

Revise Section 1812 as follows:

~~(b) **Date of Implementation.** The Rental Registry, online portal, and all forms necessary for their effective and efficient use shall be available and operational within one year of the effective date of this article.~~

(e) (b) **Owner Information Submission.** All Owners of Property subject to registration must complete and submit a rental registry form for each such Property no later than 90 days after the Rental Registry becomes operational, and subsequently every following year, as established by regulation by the Rental Board ~~no later than April 1st.~~ In the event of any change in Property ownership, the new owner must register or update the Rental Registry within 30 days of the change of ownership.

B. ELLIS ACT.

Category: Clean-up

Criteria: 1, 4

Reason for Proposed Recommendation: Section 1806(a)(10) originally provided that Tenants subject to termination of their tenancy due to withdrawal of the rental unit from the rental market would be entitled to a minimum of 180 days' notice but the Ellis Act limits

the notice period to 120 days except for senior or disabled tenants. The Court struck the 180-day language. The inclusion of the 120 days conforms to the Ellis Act.

The Ellis Act requires that a legislative body elected by the voters adopt regulations implementing the Ellis Act. Since the Rental Board is not elected, only the City Council can adopt the regulations so inclusion of regulations adopted by the City Council conforms the language to the Ellis Act.

The Charter Amendment does not define senior but in Section 1806(a)(9)(F) provides additional eviction protections to elderly or disabled tenants in the event of an owner move in and defines elderly as any person 60 years or older. The Ellis Act defines elderly as any person 62 or older. In order to clarify that for purposes of Ellis Act evictions the definition of senior or elderly is pursuant to State law, language has been added.

Revise Section 1806(a)(10) to read as follows:

Withdrawal of the Unit Permanently from Rental Market. To the extent required by California Government Code Section 7060 et seq., the Landlord may seek in good faith to recover possession to withdraw all Rental Units of an entire Property from the rental market. The Landlord first must have filed the requisite documents with the Rental Board initiating the procedure for withdrawing Rental units from rent or lease under California Government Code Section 7060 et seq. and all regulations passed by the Rental Board and/or the City Council of the City, with the intention of completing the withdrawal process and going out of the rental business or demolition of the Property. If demolition is the purpose of the withdrawal, then the Landlord must have received all needed permits from the City of Pasadena before serving any notices terminating a tenancy based on Subsection (a)(10) herein. Tenants shall be entitled to a minimum of 120 days' notice or one (1) year in the case Tenants are defined as senior or Disabled as defined in California Government Code Section 7060 et seq. Notice times may be increased by regulations if state law allows for additional time.

C. RELOCATION ASSISTANCE SCHEDULE.

Category: Clean-Up

Criteria: 2, 3

Reason for Proposed Recommendation: As currently written, the timeframes for disbursement of the Relocation Assistance payments do not work for tenants who are only entitled to 30-days' written notice under state law because they have resided in their Rental Unit for less than a year. The amendments seek to provide an alternate timeline for the disbursement of payments that works for Tenants on this shorter termination timeline.

Revise 1806(b) to read as follows:

Relocation Assistance. A Landlord seeking to recover possession under Subsections (a)(8)—(11) above shall provide Relocation Assistance. The Landlord shall provide a minimum of fifty percent (50%) of the required Relocation Assistance within ten (10) days of service of any written notice of termination pursuant to Subsections (a)(8)—(11) to the Tenant(s). For any Tenant entitled to at least sixty (60) days' written notice pursuant to Civil Code Section 1946.1, the Landlord may elect to pay the remaining Relocation Assistance owed to a Tenant pursuant to this subsection to an escrow account no later than twenty-eight (28) days prior to the expiration of the written notice of termination, to be disbursed to the Tenant upon certification of vacation of the Rental Unit. The escrow account shall provide for the payment prior to vacation of all or a portion of the monetary relocation benefits for actual relocation expenses incurred or to be incurred by Tenant prior to vacation, including but not limited to security deposits, moving expense deposits and utility connection charges. For any Tenant entitled to at least sixty (60) days' written notice pursuant to Civil Code Section 1946.1, the Landlord may also disburse the remaining Relocation Assistance directly to the Tenant no later than twenty-eight (28) days prior to the expiration of the notice of termination. For any Tenant entitled to less than sixty (60) days' written notice pursuant to Civil Code Section 1946.1, the Landlord shall disburse the remaining Relocation Assistance directly to the Tenant at the time that the Tenant vacates the Rental Unit.

D. SECURITY DEPOSIT INTEREST SCHEDULE.

Category: Clean-Up

Criteria: 2, 3

Reason for Proposed Recommendation: The current language of Section 1806(f)(1) requires that the Rental Board announce the interest rate for the subsequent year by October 1 and that the interest rate must be paid on interest rates paid by banks on October 1. Complying with both of these requirements means that the interest rate for security deposit lags by a full year. Moving the date for announcement of the interest rate to November 1 will allow the most current October 1 interest rate to be used for subsequent calendar year.

Revise 1806(f)(1) to read as follows:

- (1) The interest rate shall be based on the average of the interest rates on savings accounts paid on October 1 of the ~~previous year~~ in which the interest rate is adopted, by at least five Federal Deposit Insurance Corporation (FDIC) insured banks with branches in Pasadena. The Rental Board shall adopt the rate by ~~October 4~~ November 1 of each year. The interest rate established by the Rental Board shall be the rate in effect from January 1 through December 31 of the subsequent year.

E. GOVERNMENT SUBSIDIZED TENANT EXEMPTION.

Category: Substantive

Criteria: 3, 4, 6

Reason for Proposed Recommendation: The current language in the Charter Amendment only exempts Rental Units occupied by a government-subsidized tenant, such as a tenant with a Section 8 Housing Choice Voucher, if there are applicable federal or state administrative regulations or laws that specifically exempt the Tenant from local rent control. There is no applicable federal or state law or administrative regulation that specifically exempts Section 8 Housing Choice Voucher recipients from municipal rent control. Therefore, if the Rental Unit in which a Section 8 Housing Choice Voucher recipient resides is otherwise covered by either the just cause for eviction protections or both the rent stabilization and just cause for eviction protections of the Charter Amendment, then the Section 8 voucher recipient's tenancy is covered by those same provisions.

The City's Department of Housing, which functions as the local public housing authority in Pasadena, has expressed that tenants served by its voucher/subsidy programs have struggled to find housing due to the limitations of the Section 8 program, namely the "Payment Standard" requirement which limits the subsidy the Department can provide. The Department of Housing has shared that the layering of the provisions in the Charter Amendment limiting rent increases is likely to make it even more difficult for these tenants to find housing because it further restricts the amount of rent landlords receive.

Although this change will constitute a material alteration of the exemptions in the Charter Amendment, the Policy Ad Hoc Committee determined that this was outweighed by other factors. The most important of these factors was that the recommendation carved out only a limited exception to the rent stabilization provisions of the Charter Amendment for Rental Units leased to government-subsidized tenants so long as the rent for the Rental Unit does not exceed the Payment Standard. This limited nature of this exemption would not impact the Board's ability to regulate excessive rent increases and should ensure that the tenants of these Rental Units are not impacted by large rent increases (because as long as the rent for a unit remains under the Payment Standard, the tenant will not be

required to pay more than 30 percent of their household income as their portion of the rent). As such, the exemption should help facilitate the Department of Housing's and the Rental Housing Board's mutual goal of ensuring safe, stable, and affordable housing for tenants in the City. The limited nature of the exemption

Revise 1804 to read as follows:

- (a) Fully Exempt (Exempt from Both Rent Stabilization and Just Cause for Eviction). The following Rental Units are exempt from all provisions of this Article:

...

(4) Rental Units which a government unit, agency or authority owns, operates, or manages, ~~or in which government-subsidized Tenants reside,~~ if applicable federal or state law or administrative regulation specifically exempt such units from municipal rent control; and

...

- (b) Partially Exempt (Just Cause for Eviction Applies). The following Rental Units are exempt from Sections 1807, 1808, and 1809 of this Article (regarding Stabilization of Rents) and from Sections 1813 and 1814 (regarding Petitions for Individual Rent Adjustment), but are not exempt from Section 1806 (Just Cause for Eviction Protections):

...

(3) Rental Units leased to tenants assisted under the Section 8 program (42 U.S.C. Section 1437f) or the Shelter Plus Care Program (42 U.S.C. 11403 et. seq.) or similar federally funded rent subsidy program. However, the exemption from Sections 1807, 1808, 1809, 1813, and 1814 shall apply only for so long as the rent demanded does not exceed the authorized Payment Standard minus the applicable utility allowance, which, for purposes of this subsection, is the maximum monthly rental assistance potentially available to an assisted household before deducting the household share of income paid for rent and utilities as established by the City of Pasadena Department of Housing or successor agency. For Rental Units where the rent demanded exceeds the Payment Standard minus the applicable utility allowance, the Payment Standard or an initial rent above the Payment Standard if approved by the City of Pasadena Department of Housing, as reported to the Board, or its designee, by the City of Pasadena Department of Housing or successor agency, shall become the Rental Unit's Base Rent and the reference point from which the Rent shall be adjusted in accordance with Sections 1807, 1808, and 1809.

F. REMOVAL OF BOARD MEMBERS.

Category: Substantive

Criteria: 4

Reason for Proposed Recommendation: As currently written, Rental Housing Board members can be removed via (1) a petition signed by 10% of the qualified voters of the district from which the Board member was appointed for Tenant members or (2) a petition signed by 5% of the qualified voters in the city for at-large members.

The recommended changes are two-fold. First, the changes will add a layer of oversight to the removal petition process by requiring that the petition be presented to the City Council for a vote prior to removal of the Board member. This will ensure that voter-signed petitions are not merely frivolous or without merit. Second, the changes will provide an additional mechanism for the removal of Board member by the City Council where the Board member has engaged in egregious or repeated violations of the Board's Code of Conduct. This can include, but is not limited to, absenteeism, harassment or committing a felony that indicates the Board member is unfit to participate on the Board.

Revise 1811(d) to read as follows:

Term of Office. Rental Board members shall serve four (4) year terms, unless they are appointed to fill unexpired terms or are designated to fill a two (2) year term on the initial Board. Those members filling unexpired terms shall serve the remaining length of the unexpired term. Members may serve no more than eight (8) consecutive years. Member terms shall be staggered. Four (4) of the tenant appointees initially appointed shall serve for four (4) years; the terms of the remaining initial tenant appointees shall be two (2) years. Two (2) of the at-large appointees initially appointed shall serve for four (4) years; the terms of the remaining initial at-large appointees shall be two (2) years. The initial term for any alternate shall be for four (4) years. The City Council will appoint members to the Board with careful alacrity, taking care to ensure there are no unfilled Board seats. Tenant members of the Board may be removed by the City Council if the City Council is presented with a petition signed by 10% of the qualified voters of the district from which the tenant was appointed and a majority of the City Council votes to remove the Tenant member. At-large members may be removed by the City Council if the City Council is presented with a petition signed by 5% of the qualified voters of the City and a majority of the City Council votes to remove the at-large member. Any member of the Board may be removed by the City Council upon petition by the Rental Board for repeated or significant violations of the Rental Board's Code of Conduct, which shall be established by the Rental Board by regulation. A petition of the Rental Board to remove a Board member must be approved by a majority of the Rental Board members in attendance at the meeting where the petition is voted on. No vote of the electorate will be required to remove a Board member.

G. BOARD COMPENSATION.

Category: Substantive

Criteria: 3, 4

Reason for Proposed Recommendation: Board compensation has been an area of difficulty in implementation, particularly because the Charter Amendment requires Board members to be compensated. City could not allow Board members to waive their compensation without violating the requirements of the Charter Amendment. However, there are reasons why Board members may prefer to waive compensation, including eligibility for government benefits programs (e.g., Social Security retirement benefits), employment eligibility status state and federal tax implications, and related reasons.

The recommendation would change the language of the Charter Amendment to provide that Rental Board member may be compensated at their own election, thereby allowing Board members to waive compensation for personal and financial reasons. A Board member's waiver of compensation for their time committed to Rental Board meetings would also prevent the creation of employment records (e.g., timesheets) discoverable to the public via a California Public Records Act request.

Revise 1811(j) to read as follows:

Compensation. Each member of the Rental Board ~~may~~ shall be compensated on an hourly basis for their time committed to Rental Board meetings, at the election of the Board member. The chairperson of the Board will record the length of each meeting, and all Board Members in attendance will be compensated accordingly. Board Members will be compensated for a maximum of twenty (20) hours per week. The hourly rate of compensation shall be equal to 2.5 times the Pasadena minimum wage.

SUGGESTED CHANGES NOT RECOMMENDED

In addition to the changes that the Ad Hoc Committee is recommending, the Ad Hoc Committee also considered a number of other suggestions that they are not currently recommending for inclusion on the 2024 ballot measure. These are:

A. TAX CREDIT EXEMPTION.

- **Category:** Substantive
- **Criteria:** 2, 6, 7
- **Explanation:** Expand the existing exemption for "Rental Units owned or operated or managed by not-for-profit organization pursuant to a tax credit program" in Charter § 1804(a)(3) to exempt all Rental Units owned, operated or managed under a tax credit program regardless of the type of ownership entity.

- **Not Recommended Because:** The suggested amendment would have the effect of fundamentally altering (i.e., expanding) one of the exemptions to the Charter Amendment, and would therefore make it more difficult for the Board to regulate excessive rent increases for tenants of tax credit rental Units.

B. DUPLEX EXEMPTION.

- **Category:** Substantive
- **Criteria:** 6, 7
- **Explanation:** Add language to § 1804(b) exempting duplexes from the rent stabilization requirements of the Charter Amendment.
- **Not Recommended Because:** Providing this additional exemption would undermine the purpose of the Charter Amendment by reducing the number of tenants who are protected from excessive rent increases and would eliminate material provisions of the Charter Amendment.

C. NEEDED PERMITS.

- **Category:** Substantive
- **Criteria:** 5
- **Explanation:** Amend Charter § 1806(a)(10)(Withdrawal of the Unit Permanently from Rental Market) to clarify the meaning of “needed permits” in the following requirement: “If demolition is the purpose of the withdrawal, then the Landlord must have received all needed permits from the City of Pasadena before serving any notices terminating a tenancy based on Subsection (a)(10) herein.”
Not Recommended Because: The change would be complex and difficult to address in the existing Charter Amendment. Furthermore, the Board has already resolved this issue, in collaboration with the City’s Planning and Community Development Department, via adopted regulations.

D. BOARD CONTRACTING POWER.

- **Category:** Substantive
- **Criteria:** 5, 9
- **Explanation:** Add language to the Charter Amendment allowing the Rental Housing Board to sign large contracts (exceeding the current \$74,999 threshold) without City Council approval.
- **Not Recommended Because:** The change would be complex and difficult to add to the existing Charter Amendment. Additionally, the City has indicated that the \$74,999 threshold is likely to be increased soon.

E. MAXIMUM LAWFUL RENT.

- **Category:** Cleanup
- **Criteria:** 5

- **Explanation:** Add language clarifying that landlords may self-certify the maximum lawful rent for a unit rather than requiring the Board to certify the maximum lawful rent for a unit.
- **Not Recommended Because:** This can be accomplished via Board regulations.

F. DEFINITION OF “NATURAL PERSON.”

- **Category:** Substantive
- **Criteria:** 5
- **Explanation:** In § 1803, codify the definition of “natural person” adopted by the Board in Resolution No. RHB-2023-16 (i.e., PRHB Regulations Chapter 4: Just Cause for Eviction).
- **Not Recommended Because:** The adoption of the definition in the regulations is sufficient to allow the Board to enforce the requirements of the Charter Amendment. Additionally, codification of this term would make it more difficult to amend the definition in the future, if necessary.

G. DEFINITION OF “MOM AND POP LANDLORD.”

- **Category:** Substantive
- **Criteria:** 5
- **Explanation:** Add a definition to § 1803 of “Mom and Pop Landlord.” The recommended definition from the member of the public was as follows: “Natural Persons that own no more than 6 rental units and one single-family dwelling in the county of Los Angeles.”
- **Not Recommended Because:** This term is not used anywhere in the Charter Amendment and therefore codifying the definition of the term in the Charter Amendment is not appropriate. Additionally, such definition may be adopted by the Board via regulations if used in such regulations.

H. MISSION STATEMENT.

- **Category:** Substantive
- **Criteria:** None
- **Explanation:** Add a mission statement to the Charter Amendment.
- **Not Recommended Because:** The Charter Amendment already includes a “Purpose” in § 1801 which addresses this recommendation.

I. HOUSING DEPARTMENT COLLABORATION.

- **Category:** Substantive
- **Criteria:** 5
- **Explanation:** Include language in the Charter Amendment providing for the creation of a “task force” to encourage closer collaboration between the

Rental Housing Board/Rent Stabilization Department and the City's Housing Department.

- **Not Recommended Because:** There is no need to formalize a “task force” in the Charter Amendment for the two departments to collaborate. In fact, the collaboration between the two Departments is already occurring to ensure housing goals are met throughout the City.

J. ADJUDICATION OF EVICTIONS.

- **Category:** Substantive
- **Criteria:** None
- **Explanation:** Include language in the Charter Amendment expressly prohibiting the Rental Housing Board from adjudicating terminations of tenancies and evictions.
- **Not Recommended Because:** The Board does not have jurisdiction over eviction proceedings, so the recommendation is already in place. There may be a confusion about the Board being allowed to intervene or pursue in court proceedings, but removing Board authority in this manner would reduce enforcement capability and therefore not meet the criteria for our charter review. Moreover, there may be no practical way for Board to intervene in unlawful detainer action, making that particular concern moot.

K. JUSTICE FOR RENTERS RECOMMENDATIONS.

- **Category:** Substantive
- **Criteria:** None
- **Explanation:** A number of “Justice for Renters” recommendations were provided by a member of the public. These included (1) setting rents of non-luxury units by City, rather than market; (2) December rent holiday for non-luxury units, to be funded by tax breaks; (3) utility bill rebate for non-luxury units; (4) no rent increase or eviction for tenants over 60; (5) moratorium on luxury construction.
- **Not Recommended Because:** The Board does not have the authority to implement these recommendations, which exceed the scope of the purpose of the Charter Amendment. Complex changes would have to be made to the Board's powers and duties to allow the Board to implement these suggestions, the legality of which would require greater research. All of this could open the Board up to greater legal liability.

**PASADENA RENTAL
HOUSING BOARD**

MAY 8, 2024

ITEM 4

ATTACHMENT B

M David Kroot
Lynn Hutchins
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Rafael Yaquián
Celia W. Lee
Dolores Bastian Dalton
Joshua J. Mason
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Marc A. Bentzen
Benjamin Funk
Aileen T. Nguyen
Katie Dahlinghaus
Matthew S. Heaton
Nazanin Salehi
Erin C. Lapeyrolerie
Minda Bautista Hickey
Colleen A. Wisel
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April 10, 2024

memorandum

To
Pasadena Rental Housing Board

From
Karen M. Tiedemann, Interim Counsel to the PRHB
Nazanin Salehi, Interim Counsel to the PRHB

RE
Adopt a Resolution Establishing a Purpose and Procedures for Reviewing and
Recommending Amendments to the Pasadena Fair and Equitable Housing Charter
Amendment (Article XVIII)

RECOMMENDATION

It is recommended that the Pasadena Rental Housing Board approve the following:

- (1) Find that the proposed action is exempt from the California Environmental Quality Act (“CEQA”) pursuant to State CEQA Guidelines Section 15061(b)(3) (common sense exemption);
- (2) Adopt a resolution of the Pasadena Rental Housing Board establishing a purpose and procedures for reviewing and recommending amendments to the Pasadena Fair and Equitable Housing Charter Amendment (Article XVIII).

BACKGROUND

On November 8, 2022, the voters of the City of Pasadena (the “City”) voted to adopt Measure H (“Charter Amendment”), which amended the City’s Charter to impose rent control and just cause eviction protections. The Pasadena City Council (“City Council”) adopted a resolution certifying the results of the November 8, 2022, election on December 12, 2022, and the charter amendment was thereafter filed with the California Secretary of State and took effect on December 22, 2022.

Provisions of the Charter Amendment were challenged in *California Apartment Association, et al. vs City of Pasadena, et al* (Los Angeles Superior Court Case No. 22STCP04376). On March 28, 2023, the Los Angeles Superior Court substantially upheld the Charter Amendment but made findings that certain provisions of the Charter

Amendment were preempted by State law and reformed the Charter Amendment to remove those preempted provisions. As a result of the removal of the preempted provisions certain remaining provisions of the Charter Amendment require technical amendments to conform to the Courts decision as well as State law.

In addition, Rental Housing Board (“Board”) and the Rent Stabilization Department (“Department”) have been made aware of areas of the Charter Amendment that would benefit from further clarification or minor revision. They have also heard requests for more substantive policy changes to the Charter Amendment.

The City Council is currently in the process of developing a measure to put on the ballot for the November 5, 2024 General Election that would amend and revise certain other provisions of the City Charter (unrelated to Article XVIII). The Board has decided to consider recommendations for minor changes to the Charter Amendment that could be added to the City Council’s ballot measure. Because the Board has received requests for several amendments to the Charter Amendment, the Board must determine which of the suggested amendments to recommend to the City Council for inclusion on the ballot. Staff recommends that the Board adopt a purpose and procedures to facilitate and guide the review and recommendation process.

DISCUSSION:

Staff recommends that the Board establish that the purpose for considering amendments to the Charter Amendment is not to enact sweeping changes to or overhaul the Charter Amendment scheme, but rather to further the existing purpose of the Charter Amendment, as stated in Section 1801. In addition, the Board should establish criteria to be used by the Board’s Ad Hoc Policy Committee in reviewing all of the suggestions received from the Board and from the public.

Further, based on the limited timeline for making recommendations to the City Council, Staff recommends that the Board adopt the following procedures for the review and recommendation process:

1. Collect all suggested amendments by April 12, 2024.
2. The Ad Hoc Policy Committee will review all suggested amendments by April 23, 2024.
 - The Committee will compile its recommendations into a report to be presented to the full Board. The report will include a list of all suggestions received by the Board, whether being recommended for inclusion on the ballot or not, as well as proposed ballot language for any amendments that the Committee is recommending.

3. Full Board review and public comment on the Committee's report at May 8, 2024 Board meeting.
4. Full Board vote on final recommendations at the May 22, 2024 Board meeting.
5. Board's recommendations presented to City Council at the June 3, 2024 City Council meeting. *[The City Council's Task Force on Charter Amendment is planned to present its recommendations at the same City Council meeting.]*
6. City Council vote on Board recommendations at the June 17, 2024 City Council meeting.

FISCAL IMPACT:

The adoption of the resolution establishing a purpose and procedures for reviewing recommendations to the Charter Amendment is not expected to have a fiscal impact on the Board or Department budget.

ATTACHMENTS:

- (1) **Attachment A – A RESOLUTION OF THE PASADENA RENTAL HOUSING BOARD ESTABLISHING A PURPOSE AND PROCEDURES FOR REVIEWING AND RECOMMENDING AMENDMENTS TO THE PASADENA FAIR AND EQUITABLE HOUSING CHARTER AMENDMENT (ARTICLE XVIII)**

**PASADENA
RENTAL HOUSING BOARD
RESOLUTION NO. RHB-2024-XX**

A RESOLUTION OF THE PASADENA RENTAL HOUSING BOARD ESTABLISHING A PURPOSE AND PROCEDURES FOR REVIEWING AND RECOMMENDING AMENDMENTS TO THE PASADENA FAIR AND EQUITABLE HOUSING CHARTER AMENDMENT (ARTICLE XVIII)

WHEREAS, the Pasadena Fair and Equitable Charter Amendment (“Charter Amendment”) went into effect on December 22, 2022, and the Rental Housing Board (“Board”) was appointed on April 19, 2023; and

WHEREAS, the Charter Amendment was reformed by the Los Angeles Superior Court to address provisions that were preempted by state law in the decision issued in *California Apartment Association, et al. vs City of Pasadena, et al* (Los Angeles Superior Court Case No. 22STCP04376); and

WHEREAS, the reformed provisions need additional technical amendments to address the Court’s decision and conform the Charter Amendment to State Law; and

WHEREAS, the purpose of the Charter Amendment is to promote neighborhood and community stability, healthy housing, and affordability for renters in Pasadena by regulating arbitrary evictions to the maximum extent permitted under California law; and

WHEREAS, the Rental Housing Board (“Board”) and the Rent Stabilization Department have, while implementing the Charter Amendment, been made aware of areas of the Charter Amendment that would benefit from further clarification or minor revision in furtherance of the purpose of the Charter Amendment;

WHEREAS, the City of Pasadena (“City”) is preparing certain technical amendments to the Pasadena City Charter to be submitted to the voters at the November 5, 2024 General Municipal Election; and

WHEREAS, the Board’s goal is to make recommendations to the City Council regarding minor amendments to the Article XVIII of the City Charter to be included on the ballot for the November 5, 2024 General Municipal Election;

WHEREAS, the Board endeavors to create a purpose and procedures to guide its review of suggest amendments to the Charter Amendment and to inform its ultimate recommendations to the City Council;

WHEREAS, the Board held a publicly noticed meeting on April 10, 2024, and discussed and solicited public feedback on proposed purpose and procedures for reviewing and recommending amendments to the Charter Amendment;

NOW, THEREFORE, BE IT RESOLVED by the Pasadena Rental Housing Board that purpose and procedures set forth in Exhibit A are hereby adopted.

The foregoing Resolution was regularly introduced and adopted at a Regular Meeting of the Rental Housing Board of the City of Pasadena, duly held on 10th day of April 2024, by the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

DESIREE ACOSTA
RECORDING BOARD SECRETARY

RYAN J. BELL
CHAIR, RENTAL HOUSING BOARD

Exhibits): A. Purpose and Procedures for Potential Amendments to Pasadena Fair and Equitable Housing Charter Amendment

EXHIBIT A

PASADENA RENTAL HOUSING BOARD

Purpose and Procedures for Potential Amendments to Pasadena Fair and Equitable Housing Charter Amendment (Article XVIII)

BACKGROUND

On November 8, 2022, the voters of the City of Pasadena (the “City”) voted to adopt the Pasadena Fair and Equitable Housing Charter Amendment (“Charter Amendment”), which amended the City’s Charter to impose rent control and just cause eviction protections on most residential rental units in the city. The Pasadena City Council (“City Council”) adopted a resolution certifying the results of the election on December 12, 2022, and the Charter Amendment thereafter took effect on December 22, 2022.

Shortly before the Charter Amendment went into effect, the California Apartment Association (“CAA”) filed suit challenging the Charter Amendment. On March 28, 2023, a Los Angeles Superior Court judge rejected most of the CAA’s claims. However, the judge determined that some of the notice provisions in the Charter Amendment directly conflicted with and were preempted by state law. Among the invalidated provisions was the 180-day notice requirement in Charter Amendment Section 1806(a)(10).

On April 19, 2023, the City Council appointed members to serve on the Pasadena Rental Housing Board (“Board”) to administer Charter Amendment. The Board is the charter-created governmental body within the City that is generally responsible for the enforcement and implementation of the Charter Amendment. (Charter Amendment § 1811.) Since its appointment, the Board has promulgated regulations for the administration and enforcement of the Charter Amendment, has provided trainings and resources about landlords’ and tenants’ rights and obligations under the Charter Amendment, has facilitated the establishment of the Rent Stabilization Department (“Department”) within the City to support the Board’s work, and has otherwise endeavored to implement the provisions of the Charter Amendment.

Through their implementation, the Board and the Department have been made aware of areas of the Charter Amendment that would benefit from further clarification or minor revision. They have also heard requests for more substantive policy changes to the Charter Amendment. Since the City Council is currently in the process of developing a measure to put on the November 2024 ballot that would amend and revise certain other provisions of the City Charter (unrelated to Article XVIII), the Board has decided to consider recommendations for minor changes to the Charter Amendment that could be added to the City Council’s measure.

This document establishes the purpose that will guide the Board and the procedures that the Board will follow in considering recommendations for changes to the Charter Amendment.

PURPOSE AND CRITERIA

The Board's goal in considering amendments to the Charter Amendment is not to enact sweeping changes to or overhaul the Charter Amendment scheme, but rather to further the existing purpose of the Charter Amendment itself. Charter Amendment Section 1801 provides:

“The purpose of this Amendment is to promote neighborhood and community stability, healthy housing, and affordability for renters in Pasadena by regulating excessive rent increases and arbitrary evictions to the maximum extent permitted under California law, while ensuring Landlords a fair return on their investment and guaranteeing fair protections for renters, homeowners, and businesses.”

In reviewing suggested changes for inclusion on the 2024 ballot measure, the Board, particularly the Policy & Programs Ad Hoc Committee which will be tasked with the responsibility of reviewing suggested amendments and ultimately developing proposed language for any suggested amendments, shall determine whether:

- The suggested amendment seeks to replace language that was stricken as invalid by the court decision.
- The suggested amendment seeks to clarify an area of ambiguity in the Charter Amendment that cannot be resolved via regulation.
- The suggested amendment seeks to bring the requirements of the Charter Amendment into alignment with the existing practices of other City departments and/or the practical operations of the rental housing market.
- The suggested amendment would reduce any of the following: (a) administrative burden; (b) financial costs; or (c) legal liability of the either or both the Board and/or the Department.

In addition, the Board shall consider whether the suggested amendment's utility is undermined by any of the following anticipated impacts:

- The suggested amendment would likely make the Charter Amendment more difficult to enforce and/or implement.
- The suggested amendment would have the effect of undermining, eliminating or fundamentally altering one or more material provisions of the Charter Amendment.
- The suggested amendment would make it more difficult for the Board or the Department to regulate excessive rent increases and/or arbitrary evictions.

- The suggested amendment would likely make it more difficult for the Board or the Department to ensure Landlord's a fair rate of return on their rental property.
- The suggested amendment would increase any of the following: (a) administrative burden; (b) financial costs; or (c) legal liability of the either or both the Board and/or the Department.

PROCEDURES

The Board proposes to follow the procedure outlined below to determine which suggested amendments to the Charter Amendment it will recommend to the City Council for placement on the November 2024 ballot:

STEP 1: The Board will continue to collect suggested amendments from the public and Board members through **APRIL 12, 2024**.

STEP 2: The Policy Ad Hoc Committee will review all suggested amendments and indicate (1) the type of amendment and (2) the committee's recommendation. The types of amendments will fall into one of two categories:

(a) Cleanup. Minor amendments that clarify or align existing provisions of the Charter Amendment.

(b) Substantive. These are amendments that require a policy decision to be made by the Board.

The Policy Ad Hoc Committee will compile its recommendations into a report to be presented to the full Board for consideration at a regularly scheduled meeting. The Policy Ad Hoc Committee's report shall disclose every suggested amendment received and shall provide an explanation of the Committee's reasoning for the suggested amendments that the Committee recommends including on the ballot measure.

In addition, Department Staff, Board consultants and the Policy Ad Hoc Committee will draft proposed ballot language for each amendment that the Policy Ad Hoc Committee is recommending for inclusion on the ballot measure.

TARGET DATE FOR COMPLETION: APRIL 23, 2024

STEP 3: The full Board will review the report, receive public comment on the report, and provide feedback.

TARGET MEETING: MAY 8, 2024

STEP 4: The full Board will vote on the recommendations in the Policy Ad Hoc Committee's report and the proposed ballot language.

TARGET MEETING: MAY 22, 2024

STEP 5: The Board's recommendations will be presented to the City Council for consideration for inclusion on the ballot measure. *[The City Council's Task Force on Charter Amendment is planned to present its recommendations at the June 3, 2024 City Council Meeting.]*

TARGET CITY COUNCIL MEETING: JUNE 3, 2024

STEP 6: The Board's recommendations will be voted on by City Council for consideration for inclusion on the ballot measure.

TARGET CITY COUNCIL MEETING: JUNE 17, 2024