No. 21-788

In The Supreme Court of the United States

APARTMENT ASSOCIATION OF LOS ANGELES COUNTY, INC., dba APARTMENT ASSOCIATION OF GREATER LOS ANGELES,

Petitioner,

v.

CITY OF LOS ANGELES, CALIFORNIA, et al.,

Respondents.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Ninth Circuit

BRIEF IN OPPOSITION FOR INTERVENOR-RESPONDENTS ALLIANCE OF CALIFORNIANS FOR COMMUNITY EMPOWERMENT ACTION AND STRATEGIC ACTIONS FOR A JUST ECONOMY

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QUESTION PRESENTED

Facing an unprecedented public health crisis, the City of Los Angeles ("the City") enacted a temporary, local ordinance in March 2020 delaying certain residential evictions, including evictions for failure to pay rent due to COVID-19. The ordinance permits evictions on most grounds for the duration of the local emergency and requires tenants to pay all past due rent in full after the protections expire. The City also established an emergency rental assistance program, funded by federal and state dollars, which has directed over $730 million to date to landlords to compensate for the temporary deferral of rent. The ordinance aimed to prevent a surge in homelessness and protect the local community from a sharp increase in COVID-19 transmission that would overwhelm the hospital system and cause mass death.

Both the district court and Ninth Circuit denied Petitioner's request for a preliminary injunction, relying on this Court's well-established Contracts Clause doctrine rearticulated only four years ago in *Sveen v. Melin*, 138 S. Ct. 1815 (2018). The question presented by this Petition is:

- Whether the Ninth Circuit erred in holding that, under more than a century of Contracts Clause doctrine, the district court did not abuse its discretion in denying a preliminary injunction that would enjoin the City of Los Angeles's emergency COVID-19 eviction protections.

RULE 29.6 STATEMENT

Intervenor-Respondents, Alliance of Californians for Community Empowerment ("ACCE") Action and Strategic Actions for a Just Economy ("SAJE"), represent thousands of Los Angeles tenants and are a 501(c)(4) and a 501(c)(3) nonprofit organization, respectively. They have no parent entities and no publicly held company owns 10% or more of their stock.

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INTRODUCTION

While the COVID-19 pandemic has often raised difficult and unprecedented questions, this Petition does not. Petitioner asks the Court to depart from well-established and uniformly-applied Contracts Clause precedent to reverse the denial of a preliminary injunction on a limited record. No circuit split or unresolved question of federal law justifies granting this request. The Petition for Certiorari should be denied.

In March 2020, the COVID-19 pandemic drove the City of Los Angeles—and the country—into a two-year crisis that compelled government entities at all levels to take emergency measures to protect public health and avert mass casualties. Recognizing that the resulting economic crisis would prompt a wave of evictions that would cause widespread homelessness and exacerbate the pandemic, the City enacted a temporary ordinance delaying some residential evictions for, among other reasons, a tenant's inability to pay rent due to COVID-19 (the "Eviction Ordinance"). Contrary to Petitioner's characterization, the narrowly drawn ordinance is not a "moratorium"; it does not prevent landlords from filing for evictions. Landlords are also entitled to the same amount of rent as they were before the ordinance. The Eviction Ordinance requires tenants to pay all rent owed within one year of the end of the local emergency, and, under state law, any past due rent must be paid in full by no later than May 31, 2023. Moreover, the City is addressing the financial impact on landlords of delayed rental payments through a state and federally-funded emergency rental

assistance program that has provided over $730 million to date in direct payments to landlords.

Petitioner Apartment Association of Greater Los Angeles ("AAGLA"), a landlord industry group, sought to enjoin the Eviction Ordinance as a violation of the Contracts Clause and was rebuffed by the district court and a unanimous Ninth Circuit panel. Now, it asks this Court to grant interlocutory review on a straightforward Contracts Clause claim. AAGLA's request should be rejected for three reasons.

First, Petitioner's claimed split between the Ninth and Second Circuits is nonexistent. The Second Circuit did not apply a different legal standard to a Contracts Clause challenge, but simply applied the same well-established law to different facts on a different procedural posture. *Melendez v. City of New York*, 16 F.4th 992, 1040 n.70 (2d Cir. 2021). Indeed, every court that has considered the question has uniformly rejected Contracts Clause challenges to COVID-19 emergency eviction protections. That is because the Contracts Clause balancing test is well-settled and "long applied." *Sveen v. Melin*, 138 S. Ct. 1815, 1821 (2018). Only four years ago, the Court rearticulated the two-part Contracts Clause test that requires weighing the severity of the contract impairment against "whether the state law is drawn in an 'appropriate' and 'reasonable' way to advance 'a significant and legitimate public purpose.'" *Id.* at 1822 (quoting *Energy Rsrvs. Grp., Inc. v. Kansas Power & Light Co.*, 459 U.S. 400, 411–12 (1983)). Where the government is not a party to the contract, "courts properly defer to legislative judgment

as to the necessity and reasonableness of a particular measure." *Energy Rsrvs.*, 459 U.S. at 413 (quoting *U.S. Trust Co. of N.Y. v. New Jersey*, 431 U.S. 1, 23 (1977)). The Ninth Circuit applied this test to the Eviction Ordinance and found that it likely passed constitutional muster, following the Court's long history of upholding temporary mortgage and foreclosure moratoria in the face of public emergencies.

Second, even if there were a conflict among lower courts, this case is a poor vehicle to address it. This case arises on the appeal of a denial of a motion for a preliminary injunction, and no special circumstances justify deviating from the Court's typical practice of denying interlocutory review. Even if Petitioner could show a likelihood of success on the merits, it could not obtain an injunction because it manifestly failed to establish irreparable harm. Indeed, landlords can be nearly fully compensated today for the temporary deferral of rent through hundreds of millions of dollars in government rental assistance. Additionally, the City has begun taking steps to reassess the Eviction Ordinance, so this case may be moot by the time this matter is heard on the merits.

Finally, the Ninth Circuit correctly applied this Court's precedent to conclude that Petitioner was unlikely to succeed on the merits of its Contracts Clause claim. For these reasons, this case is not a good candidate for review and the Court should deny the Petition.

STATEMENT OF THE CASE

A. The Contracts Clause

The Contracts Clause provides that "[n]o State shall . . . pass any . . . Law impairing the Obligation of Contracts." U.S. Const. art. I, § 10, cl. 1. For over a century, it has been "settled law" that the Contracts Clause "does not prevent the state from exercising such powers . . . necessary for the general good of the public," including its inherent "police power . . . to protect the lives, health, morals, comfort and general welfare of the people, [which] is paramount to any rights under contracts between individuals." *Manigault v. Springs*, 199 U.S. 473, 480 (1905). As part of a "rational compromise between individual rights and public welfare," courts balance impairment of private contracts with public need. *Home Bldg. & Loan Ass'n v. Blaisdell*, 290 U.S. 398, 442 (1934). This Court has consistently upheld measures that temporarily pause landowners' right to repossess property during emergencies, including in the face of World War I and the Great Depression. *See Block v. Hirsh*, 256 U.S. 135, 155 (1921) (confirming the broad scope of the state's "police power . . . , under which property rights may be cut down, and to that extent taken, without pay"); *Marcus Brown Holding Co., Inc. v. Feldman*, 256 U.S. 170, 198 (1921); *Edgar A. Levy Leasing Co., Inc. v. Siegel*, 258 U.S. 242, 247 (1922); *Blaisdell*, 290 U.S. at 440.

As recently articulated in *Sveen v. Melin*, this "long applied" balancing test operates in two stages.[1] *Sveen*, 138 S. Ct. at 1821. First, the Court examines whether the law has "operated as a substantial impairment of a contractual relationship," considering "the extent to which the law undermines the contractual bargain, interferes with a party's reasonable expectations, and prevents the party from safeguarding or reinstating his rights." *Id.* at 1821–22 (quoting *Allied Structural Steel Co. v. Spannaus*, 438 U.S. 234, 244 (1978)). While a "[m]inimal alteration of contractual obligations may end the inquiry at its first stage," a "[s]evere impairment" pushes the inquiry into the second stage. *Allied Structural Steel*, 438 U.S. at 245.

If there is a substantial impairment, the Court balances that impairment against the second factor: "[W]hether the state law is drawn in an 'appropriate' and 'reasonable' way to advance 'a significant and legitimate public purpose.'" *Sveen*, 138 S. Ct. at 1822 (quoting *Energy Rsrvs.*, 459 U.S. at 411–12). Unless the government is a party to the contract in question, once a legitimate public purpose has been identified, "courts properly defer to legislative judgment as to the necessity and reasonableness of a particular measure."

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[1] The Court has also articulated the test as three stages: 1) "substantial impairment," 2) "significant and legitimate public purpose," and 3) "reasonable" and "appropriate" means. *Energy Rsrvs.*, 459 U.S. at 411–12. The substance of the inquiry is the same, but as *Sveen* is the Court's most recent pronouncement, we refer to the inquiry in two stages.

Energy Rsrvs., 459 U.S. at 413 (quoting *U.S. Trust Co. of N.Y.*, 431 U.S. at 23).

The Court has routinely applied a balancing test to determine whether emergency measures are reasonable. In *Home Building & Loan Association v. Blaisdell*, the Court outlined five significant factors that guide courts in determining whether emergency legislation was "appropriate" and "reasonable": (1) whether there was an "emergency need" for the law; (2) whether the law "was enacted to protect a basic societal interest, not a favored group"; (3) whether the relief was "appropriately tailored to the emergency that it was designed to meet"; (4) whether "the imposed conditions were reasonable"; and (5) whether "the legislation was limited to the duration of the emergency." *Allied Structural Steel*, 438 U.S. at 242 (citing *Blaisdell*, 290 U.S. at 445–47) (hereinafter "*Blaisdell* factors"). In evaluating the factors, courts apply a presumption of legislative deference, recognizing that the legislature is best situated to determine whether a measure constitutes "the most appropriate way[] of dealing with the problem[s]" identified. *Keystone Bituminous Coal Ass'n v. DeBenedictis*, 480 U.S. 470, 506 (1987).

Blaisdell followed a series of decisions upholding legislation protecting housing in exigent circumstances. Between 1921 and 1922, the Court upheld three housing measures addressing extreme housing shortages in the wake of World War I. *See Block*, 256 U.S. at 156 (upholding a District of Columbia rent control law); *Marcus Brown Holding Co*., 256 U.S. at 199

(upholding the government's power to impose temporary moratoria on landowners' repossession remedies during the housing shortages post-World War I); *Edgar A. Levy Leasing Co.*, 258 U.S. at 247–48 (upholding an emergency New York housing law that allowed a tenant to absolve himself *entirely* from allegedly "unreasonable" and "unjust" amounts of rent provided for under his lease).

The Court's subsequent Depression-era decisions confirmed that governments may permissibly enact temporary legislation to address social and economic crises. *Blaisdell*, 290 U.S. at 447 (upholding a Minnesota emergency foreclosure measure in the wake of a housing crisis); *Veix v. Sixth Ward Bldg. & Loan Ass'n of Newark*, 310 U.S. 32, 38–42 (1940) (rejecting a challenge to emergency legislation restricting the withdrawal of shares from loan associations). In the decades since, the Court has upheld legislation enacted in response to circumstances far less dire than the COVID-19 pandemic, while applying a presumption of legislative deference to the measure's reasonableness. *See Keystone Bituminous Coal*, 480 U.S. at 506 (rejecting a Contracts Clause challenge to a state law overriding damages waivers in mining contracts due to the state's public interest in environmental restoration); *Energy Rsrvs.*, 459 U.S. at 417 (holding that it was a valid exercise of police power to protect consumers from the escalation of natural gas prices caused by deregulation).

While the COVID-19 pandemic may be an unprecedented emergency, when viewed against the long

history of emergency housing protections, the Eviction Ordinance is not an unprecedented measure.

B. The City of Los Angeles's Eviction Ordinance

In March 2020, the COVID-19 pandemic drove the country into a two-year public health and economic disaster. Tens of thousands of Americans lost their jobs in the wake of business and school closures. Almost a million Americans lost their lives.[2]

The crisis hit Los Angeles particularly hard. Before the pandemic, approximately 41,290 people were unhoused on any given night in the City.[3] The economic toll pushed many low-income households over the edge. In June 2020, nearly 1 million Angelenos were out of work, forcing many families to choose between rent and putting food on the table.[4]

To stem the anticipated "tidal wave" of evictions that would push thousands into homelessness and exacerbate the public health emergency, the City enacted the Eviction Ordinance in March 2020. *Apartment*

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[2] Kamp et al., *One Million Deaths: The Hole the Pandemic Made in U.S. Society*, WALL ST. J. (Jan. 31, 2021, 11:50 PM), https://www.wsj.com/articles/one-million-deaths-the-hole-the-pandemic-made-in-u-s-society-11643662159.

[3] *2020 Greater Los Angeles Homeless Count Results*, L.A. HOMELESS SERVS. AUTH. (Sept. 3, 2020), https://www.lahsa.org/news?article=726-2020-greater-los-angeles-homeless-count-results.

[4] *COVID-19 Job Losses in L.A.*, L.A. CONTROLLER (July 2020), https://lacontroller.org/data-stories-and-maps/job-losses/.

Ass'n of L.A. Cnty., Inc. v. City of Los Angeles, 500 F. Supp. 3d 1088, 1103 (C.D. Cal. 2020) (hereinafter "*AAGLA*"). Recognizing that "the COVID-19 pandemic threatens to undermine housing security and generate unnecessary displacement of City residents," the City declared that the ordinance would "protect public health, life, and property" by keeping residents in their homes. L.A., Cal. Mun. Code ("LAMC") § 49.99.

Drawn more narrowly than a blanket moratorium, the Eviction Ordinance provides an affirmative defense to residential evictions of a "tenant for nonpayment of rent . . . if the tenant is unable to pay rent due to circumstances related to the COVID-19 pandemic." *Id*. § 49.99.2(A). It also prohibits residential evictions "for a no-fault reason" and evictions "based on the presence of unauthorized occupants" and pets "or for nuisance related to COVID-19." *Id.* §§ 49.99.2(B)-(C). The ordinance does not place a moratorium on evictions and does not prohibit landlords from evicting tenants on a variety of other grounds, including (1) nonpayment of rent for tenants with the ability to pay; (2) nonpayment of rent if the inability to pay is unrelated to COVID-19; (3) nuisances unrelated to COVID-19; and (4) illegal activity. *See id*. § 49.99.2(G).

Importantly, Los Angeles landlords continue to possess the ability to initiate actions to evict tenants. Tenants who are unable to pay rent due to COVID-19 may invoke the ordinance as an affirmative defense to an eviction, which they must prove in court to stave off eviction. *Id.* § 49.99.6.

The Eviction Ordinance is temporary: it will expire with the end of the local emergency period, and requires that tenants repay all deferred rent within 12 months thereafter. *Id.* § 49.99.2(A). In addition, state law enacted after the City's Eviction Ordinance put an end date on the repayment period, requiring that tenants repay all COVID-19 rental debt by May 31, 2023. Cal. Civ. Code. § 1179.05(a)(2)(C). As noted by the district court, the ordinance "does not deprive landlords of their contract remedies" nor "excuse[s] tenants from their contractual obligations to pay rent, and landlords remain free to sue in contract for back rent owed." *AAGLA*, 500 F. Supp. 3d at 1095.

Finally, the City Council implemented an emergency rental assistance program, which has paid over $730 million dollars to date in federal funds to directly compensate landlords.[5] Further, California recently pledged to allocate money from the state general fund to cover any additional need for rental assistance beyond the funds allocated by the federal government and further support landlords. S.B. 115, 2021–2022 Leg., Reg. Sess. (Cal. 2022). Far from being left high and dry under the Eviction Ordinance, landlords can be made whole through government assistance even before the expiration of the local emergency.

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[5] L.A., Cal., Mot. 21-0042-S3 (Feb. 22, 2022), https://clkrep.lacity.org/onlinedocs/2021/21-0042-S3_misc_2-22-22.pdf.

In February 2022, the Los Angeles City Council introduced a motion to "reassess" the ordinance in light of the current state of the pandemic.[6]

C. Procedural Background

In June of 2020, Petitioner filed suit challenging the Eviction Ordinance under the Contracts Clause, the Takings Clause, and the Tenth and Fourteenth Amendments of the U.S. Constitution. Five months later, Petitioner sought to enjoin certain provisions of the ordinance as a violation of the Contracts Clause.

The district court denied Petitioner's request for preliminary injunctive relief, holding that it could not demonstrate a likelihood of prevailing on the merits of its Contracts Clause claim. *AAGLA*, 500 F. Supp. 3d at 1010. While the district court found that AAGLA was likely to succeed on the merits in showing that the Eviction Ordinance was a "substantial impairment to contract rights," the court held that AAGLA could not show that the ordinance was not "reasonable" and "appropriate" under "the City Council's reasoned balancing of competing interests, including those of tenants, landlords, and public health." *Id.* at 1099. Analyzing the prohibition under the *Blaisdell* factors, the Court noted that the ordinance was "addressed to protect a basic societal need, is temporary in nature, does not disturb landlords' ability to obtain a judgment for contract damages, does not absolve tenants of any obligation to pay any amount of rent, does not appear to

[6] *See* Mot. 21-0042-S3, *supra* note 5.

impact landlords' ability to obtain housing, and was implemented in the context of a state of emergency." *Id.* at 1098–99. The district court further determined that AAGLA had not shown irreparable harm or that the balance of the equities favored a preliminary injunction. *Id.* at 1103.

AAGLA appealed the district court's denial. In a unanimous opinion by Judge Bress, joined by Judge Bybee and Judge Cardone, the Ninth Circuit held that there was "no apparent basis under modern cases to find the challenged provisions unconstitutional under the Contracts Clause." *Apartment Ass'n of Los Angeles Cnty., Inc. v. City of Los Angeles*, 10 F.4th 905, 909 (9th Cir. 2021). First, the Court "assum[ed] without deciding that the eviction moratorium is a substantial impairment of contracts." *Id.* at 913–14. However, after extensively reviewing this Court's precedent and "defer[ring] to local officials in the reasonableness analysis," the Court undertook a "careful examination" of the ordinance and upheld the district court. *Id.*

In assessing the measure's reasonableness, the Ninth Circuit noted that "[t]he City fairly ties the moratorium to its stated goal of preventing displacement from homes, which the City reasonably explains can exacerbate the public health-related problems stemming from the COVID-19 pandemic." *Id.* at 914. The Ninth Circuit emphasized the hundreds of millions in rent relief provided directly to landlords, and noted that the City had "given landlords flexibility in meeting their obligations, such as payment plans for utilities and penalty waivers for property taxes." *Id.* at 916.

Thus, the Ninth Circuit concluded that Petitioner was unlikely to succeed on the merits and that the district court did not err in denying a preliminary injunction.

REASONS FOR DENYING THE PETITION

I. Lower Courts Have Uniformly Applied this Court's Contracts Clause Jurisprudence and There Is No Circuit Split that Warrants Review.

Petitioner's primary argument in support of its Petition is that the opinion below conflicts with the recent Second Circuit case *Melendez v. City of New York*, 16 F.4th 992 (2d Cir. 2021). But no such circuit split exists. This Court's Contracts Clause doctrine is well-established, was reaffirmed only four years ago, and has been uniformly applied by lower courts. The *Melendez* court reached a different result because the case presented different facts on a different procedural posture, not because of a divergence in the legal standard applied. Nor does *Allied Structural Steel* or any other decision of this Court or lower court conflict with the Ninth Circuit's analysis.

A. *Melendez v. City of New York* Presents No Conflict with the Ninth Circuit's Decision.

Petitioner attempts to manufacture a circuit split by arguing that there is a conflict in "the standard of review that applies to Contracts Clause challenges,"

Pet. 16, between the opinion below and *Melendez*. This argument is predicated on a mischaracterization of both decisions and this Court's precedents in general. As the Second Circuit explicitly stated, *Melendez* applies the same analysis as the Ninth Circuit in the opinion below and presents no conflict with the Ninth Circuit's decision. *See Melendez*, 16 F.4th at 1040 n.70 ("The Ninth Circuit's recent rejection of a Contracts Clause claim . . . is not to the contrary."). Any difference in result between the two cases can be explained by distinctions in their factual and procedural postures, and Petitioner's real dispute is with the result of the Ninth Circuit's Contracts Clause analysis, not the legal standard applied.

In *Melendez*, the Second Circuit reviewed an order granting a motion to dismiss a Contracts Clause challenge to New York's Guaranty Law under Federal Rule of Civil Procedure 12(b)(6). The Guaranty Law, which took effect in May of 2020, "render[ed] permanently unenforceable personal liability guaranties on certain commercial leases for any rent obligations arising during a specified pandemic period." *Id.* at 1004. In reversing the district court, the Second Circuit applied a straightforward Contracts Clause analysis to the Guaranty Law. First, it considered "the extent to which the law undermines the contractual bargain" and concluded that the Guaranty Law constituted a substantial impairment to landlords' contracts. *Id.* at 1033 (quoting *Sveen*, 138 S. Ct. at 1822). Next, the Second Circuit noted that "the record before us plausibly suggests a significant and legitimate purpose" for the

Guaranty Law, in light of the economic impact of the pandemic. *Id.* at 1038. Finally, the court applied the five *Blaisdell* factors to hold that, even while deferring to "legislative judgments about the means reasonable and appropriate to address public emergency," it could not conclude without discovery that the law was a "reasonable and appropriate means" to address the COVID-19 crisis, in part, because the Guaranty law "permanently and entirely extinguishes" certain contractual obligations. *Id.* at 1038–47. Thus, it held that the district court erred in dismissing the case.

The Ninth Circuit in this case applied the same legal standard as the Second Circuit. Contrary to Petitioner's misrepresentations that the Ninth Circuit "skip[ped] the substantial impairment analysis altogether," Pet. 16, the Ninth Circuit instead "assum[ed] without deciding that the eviction moratorium is a substantial impairment of contracts," adopting the district court's analysis that Petitioner was likely to show that the Eviction Ordinance would be a substantial impairment of its contractual rights.[7] *AAGLA*, 10 F.4th at 913. The Ninth Circuit then proceeded to the second prong of the test, where, like the *Melendez* court, it applied the same balancing test to consider whether the

[7] This Court has likewise assumed a substantial impairment of a contract on a limited record before proceeding to the second stage of the analysis. In *Keystone Bituminous Coal*, for example, this Court assumed a substantial impairment after noting the "dearths in the record" at the first stage of the analysis. 480 U.S. at 504 n.31.

ordinance was "reasonable" and "appropriate" under the circumstances. *Id.*

The difference in outcome between the Ninth Circuit's decision in this case and *Melendez* is a consequence of dramatically different facts. *Melendez*, 16 F.4th at 1040 n.70. The Guaranty Law at issue in *Melendez* was significantly more invasive than the Eviction Ordinance in several important respects. *First*, New York's Guaranty Law rendered *permanently unenforceable* personal liability guaranties of commercial lease obligations from March 7, 2020 to June 30, 2021 for tenants subject to shut-down orders or other pandemic-related restrictions. *Melendez*, 16 F.4th at 1033. Unlike the Eviction Ordinance, the Guaranty Law "permanently and entirely extinguish[ed]" rent arrears for guarantors during that sixteenth-month period. *Id.* at 1039. In contrast, the City's protections do not "eliminate[] any obligation to pay lawfully charged rent" and merely defer tenants' rent obligations to the year after the expiration of the local emergency period. LAMC § 49.99.2(A).

Second, as the Second Circuit noted, the Guaranty Law did not provide for any manner to compensate landlords or their principals for the permanent loss of rent. *Melendez*, 16. F.4th at 1042. Here, as the Ninth Circuit explicitly noted, the City Council implemented an emergency rental assistance program to help landlords and renters. *AAGLA*, 10 F.4th at 916. The emergency rental assistance program has provided over $730 million to date in direct compensation to Los Angeles landlords.

Third, the Eviction Ordinance cuts more narrowly than the Guaranty Law by conditioning its reach on need. The ordinance prohibits evictions of tenants for "failure to pay rent *due to COVID-19*." LAMC § 49.99 (emphasis added). By contrast, the Guaranty Law "permanently absolve[d] *all* small-business lease guarantors of any responsibility . . . regardless of their ability to pay." *Melendez*, 16 F.4th at 1043 (emphasis added). This Court has weighed the inclusion of a need condition in evaluating a measure's reasonableness. *See W.B. Worthen Co. v. Kavanaugh*, 295 U.S. 56, 61 (1935) (holding law violated the Contracts Clause where there was no "requirement that the debtor shall satisfy the court of his inability to pay"); *W.B. Worthen Co. v. Thomas*, 292 U.S. 426, 434 (1934) (finding violations where law had "no limitations as to time, amount, circumstances, or need").

The factual distinctions aside, the procedural posture of *Melendez* was also materially different. *See Melendez*, 16 F.4th at 1040 n.70. The plaintiff's burden in *Melendez* was significantly less onerous than in the instant case because the Second Circuit was reviewing the denial of a motion to dismiss. Unlike the preliminary injunction presented by this case, where Petitioner must demonstrate that it is likely to succeed on the merits, the Second Circuit plaintiffs only needed to show a claim to relief that, when viewed most favorably to plaintiffs, was plausible on its face. *See id.*; *compare Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008) (outlining the test for a preliminary injunction), *with Ashcroft v. Iqbal*, 557 U.S. 662,

678 (2009) (outlining the standard to survive a motion to dismiss).

Petitioner's real dispute is not that the opinion below is inconsistent with *Melendez*, but that it disagrees with Ninth Circuit's handling of the substantial impairment analysis and the ultimate denial of the preliminary injunction. To be sure, the Ninth Circuit did not quote the exact phrase from *Allied Structural Steel* seized on by the Petitioner: "The severity of the impairment is said to increase the level of scrutiny to which legislation will be subjected." Pet. 7 (quoting *Allied Structural Steel*, 438 U.S. at 245). However, Petitioner ignores the fact that the analysis of the "severity of the impairment" serves to "push the inquiry to a careful examination of [the legislation's] nature and purpose." *Allied Structural Steel*, 438 U.S. at 245. While "[m]inimal alteration of contractual obligations may end the inquiry at its first stage," more substantial impairment means that courts must engage in the balancing test required by the second stage of the Contracts Clause analysis. *Id.* Following *Allied Structural Steel* and *Energy Reserves*, the Ninth Circuit assumed a substantial impairment, and—like the Second Circuit—engaged in the second stage of the Contracts Clause balancing test with a presumption of legislative deference to the measure's reasonableness. *See Melendez*, 16 F.4th at 1035 (quoting *Allied Structural Steel*, 438 U.S. at 245); *AAGLA*, 10 F.4th at 913–17.

Thus, while the Second Circuit may have held there was a plausible Contracts Clause claim in *Melendez*, the two cases differ not in the legal standard applied

but in their factual and procedural postures. No conflict in "the standard of review that applies to Contracts Clause challenges" exists. Pet. 16.

B. Neither *Allied Structural Steel* Nor Any Lower Court Decision Conflicts with the Ninth Circuit.

Petitioner further attempts to invent a circuit split by incorrectly stating that the Ninth Circuit held that Courts *must* defer to all legislative enactments. Pet. 22. Petitioner argues that such a holding would conflict with this Court's precedent in *Allied Structural Steel* and would set up two "irreconcilable" propositions: "[G]reater severity [of the contractual impairment] leads to great scrutiny, *but* courts must also defer to all legislative enactments that do not affect public contracts." *Id.* But yet again, Petitioner misrepresents the Ninth Circuit's decision. The Ninth Circuit did not hold that legislative deference was dispositive; rather, it assumed a "substantial impairment" to contracts, and then balanced the "necessity and reasonableness" of the ordinance, while applying a presumption of legislative deference. *AAGLA*, 10 F.4th at 913. Indeed, Petitioner fails to cite a single lower court case that conflicts with the Ninth Circuit, and every court that has considered a Contracts Clause challenge to a COVID-19 eviction ordinance has upheld the measure.

The Ninth Circuit applied the straightforward doctrine articulated by this Court in both *Allied Structural Steel* and *Energy Reserves*. First, the Court

conducts a "threshold inquiry" of whether a substantial impairment to contracts exists. *Energy Rsrvs.*, 459 U.S. at 411. While "[m]inimal alteration of contractual obligations may end the inquiry at its first stage," "[s]evere impairment . . . will push the inquiry to a careful examination of the nature and purpose of the state legislation." *Allied Structural Steel*, 438 U.S. at 245. The Court then considers whether the state has a "significant and legitimate public purpose behind the regulation," and whether the "adjustment of 'the rights and responsibilities of contracting parties [is based] on reasonable conditions and [is] of a character appropriate to the public purpose justifying [the legislation's] adoption.' " *Energy Rsrvs.*, 459 U.S. at 411–12 (quoting *U.S. Trust Co.*, 431 U.S. at 22). Unless the state is a party to the contract, "courts properly defer to legislative judgments as to the necessity and reasonableness of a particular measure." *Id.* at 412–413 (quoting *U.S. Trust Co. of N.Y.*, 431 U.S. at 22–23).

In *Allied Structural Steel*, the Court found that Minnesota's Private Pension Benefits Protection Act, which retroactively required employers to cover pensions for employees, was a "severe disruption of contractual expectations." 438 U.S. at 247. Even weighing "the customary deference courts give to state laws directed to social and economic problems," the Court found "no showing in the record before us that this severe disruption of contractual expectations was necessary." *Id.* at 244, 247. Five years later, in *Energy Reserves*, the Court applied the test to hold that a Kansas price control law did not substantially impair a

natural gas supplier's contracts. 459 U.S. at 413–16. Weighing that minimal impairment against the statute's purpose, "particularly in light of the deference to which the Kansas Legislature's judgment is entitled," the Court found that "Kansas ha[d] exercised its police power to protect consumers from the escalation of natural gas prices caused by deregulation." *Id.* at 418, 417.

Neither of these precedents are inconsistent with the Ninth Circuit's analysis, which assumed a contract impairment and balanced it against the reasonableness of the measure in light of the COVID-19 emergency. Indeed, the same test was followed by all the lower court cases cited by Petitioner, none of which conflict with the outcome below.

For example, in *Campanelli v. Allstate Life Ins. Co.*, which Petitioner proclaims demonstrates "tension within the Ninth Circuit as to the import of *Allied Structural Steel*," the Ninth Circuit followed the same balancing test applied to the Eviction Ordinance in this case. Pet. 22; 322 F.3d 1086 (9th Cir. 2003). Rejecting a challenge to a state law that revived time-barred insurance claims for Northridge Earthquake damage, the Court balanced the contract impairment with "the legitimate public purpose of the statute" and "the reasonableness of the scope of the statute," noting that the earthquake was an emergency "one-time event with a discrete, albeit large, number of victims." *Id*. at 1099. Petitioner fails to identify any real way that the instant case differs from *Campanelli*, other than that the *Campanelli* court cited one specific phrase from *Allied Structural Steel*.

None of the other cases cited by the Petitioner conflict with the Ninth Circuit's decision. In three of the cases, the Court failed to find the substantial impairment of contracts that would push the inquiry into the second stage of the test. *See Wis. Cent. Ltd. v. Pub. Ser. Comm'n of Wis.*, 95 F.3d 1359, 1371 (7th Cir. 1996) (denying a preliminary injunction on a Contracts Clause claim); *Am. Express Travel Related Servs., Inc. v. Sidamon-Eristoff*, 669 F.3d 359, 369 (3d Cir. 2012) ("Amex fails to show that Chapter 25 imposes a substantial impairment on Amex's contractual relationships."); *Vanguard Med. Mgmt. Billing, Inc. v. Baker*, No. EDCV 17-965-GW(DTBx), 2018 WL 6137198 (C.D. Cal. Apr. 26, 2018). The cases that *did* find a substantial impairment of contracts analyzed the statutes by deferring to legislative judgment and balancing the reasonableness and necessity of the laws. *See Honeywell, Inc. v. Minnesota Life & Health Ins. Guaranty Ass'n*, 110 F.3d 547, 560 (8th Cir. 1997) (Loken, J., concurring) (holding "the State acted in furtherance of the legitimate economic interests of its citizens" and did not unconstitutionally impair Contracts Clause rights); *21st Century Oncology, Inc. v. Moody*, 402 F. Supp. 3d 1351, 1359 (N.D. Fla. 2019) (denying a preliminary injunction because the legislation served a "significant, legitimate public purpose"); *see also Ross v. City of Berkeley*, 655 F. Supp. 820, 825 (N.D. Cal. 1987).

The only cases Petitioner cites in which courts do not defer to legislative judgment concern statutes impairing public contracts, which are not owed the same

level of deference and are easily distinguished from this case. *See Elliott v. Bd. of Sch. Trs. of Madison Consol. Schs.*, 876 F.3d 926, 937 (7th Cir. 2017) (holding that the Court "d[id] not owe complete deference" to the state as "the contract is an express commitment between the State and the teachers"); *Lipscomb v. Columbus Mun. Separate School Dist.*, 269 F.3d 494, 505 (5th Cir. 2001); *W. Indian Co., Ltd. v. Gov't of Virgin Islands*, 643 F. Supp 869, 882 (D.V.I. 1986).

While Petitioner may not like the result of the balancing inquiry on their motion for a preliminary injunction, it does not follow that lower courts have struggled to reconcile the elements of time-tested Contracts Clause doctrine. Indeed, there is a wealth of other recent circuit cases that have applied the same straightforward test. *See Alarm Detection Sys., Inc. v. Vill. of Schaumburg*, 930 F.3d 812, 824 (7th Cir. 2019) (holding that the companies "failed to demonstrate a likelihood of success" even if the Contracts Clause claims were "adequately pleaded" because of the presumption of legislative deference on the second stage of the test); *ACRA Turf Club, LLC v. Zanzucchi*, 724 F. App'x 102, 108 (3d Cir. 2018) ("Assuming that the Forfeiture Amendment substantially impairs Plaintiffs' rights under the Agreement, it has a valid purpose and we conclude that it is necessary and reasonable."); *Borman, LLC v. 18718 Borman, LLC*, 777 F.3d 816, 827 (6th Cir. 2015) ("The inquiry into the substantiality of an impairment presumes interference with a contractual right and asks whether that interference deserves further constitutional scrutiny."); *see also Sullivan v.*

Nassau Cnty. Interim Fin. Auth., 959 F.3d 54, 69 (2d Cir. 2020), *cert. denied*, 141 S. Ct. 1063 (2021) (rejecting a Contracts Clause challenge after finding that a substantial impairment existed to public union contracts because a wage freeze was necessary and reasonable in the face of a fiscal emergency).

Finally, every lower court in the nation to consider a COVID-19 eviction ordinance on Contracts Clause grounds has found the measures pass constitutional scrutiny. *See Baptiste v. Kennealy*, 490 F. Supp. 3d 353, 382 (D. Mass. 2020) (denying a preliminary injunction against Massachusetts' eviction ordinance); *Heights Apartments, LLC v. Walz*, 510 F. Supp. 3d 789, 809 (D. Minn. 2020) (dismissing a Contracts Clause challenge to Minnesota's eviction ordinance); *Auracle Homes, LLC v. Lamont*, 478 F. Supp. 3d 199, 223–26 (D. Conn 2020) (denying a motion for preliminary injunction to Connecticut's eviction ordinance); *HAPCO v. City of Philadelphia*, 482 F. Supp. 3d 337, 349–55 (E.D. Pa. 2020) (denying a motion for preliminary injunction to Philadelphia's eviction ordinance); *Willowbrook Apartment Assocs., LLC v. Mayor & City Council of Baltimore*, No. 20-CV-01818-SAG, 2021 WL 4441192 (D. Md. Sept. 27, 2021) (granting defendants' motion for summary judgment on a Contracts Clause claim regarding Baltimore's eviction ordinance); *Elmsford Apartment Assocs., LLC v. Cuomo*, 469 F. Supp. 3d 148, 168–72 (S.D.N.Y. 2020) (granting the government's cross-motion for summary judgment on a Contracts Clause challenge to New York's eviction ordinance); *Jevons v. Inslee*, No. 1:20-CV-3182-SAB, 2021 WL 4443084, at

*18 (E.D. Wash. Sept. 21, 2021) (granting summary judgment to defendants in a challenge to Washington's eviction ordinance); *El Papel, LLC v. Durkan*, No. 2:20-cv-01323-RAJ-JRC, 2021 WL 4272323, at *16–12 (W.D. Wash. Sept. 15, 2021) (granting a motion for summary judgment to a Contracts Clause challenge to Washington's eviction ordinance and dismissing the challenge with prejudice); *S. Cal. Rental Hous. Ass'n v. Cnty. of San Diego*, No. 3:21CV912-L-DEB, 2021 WL 3171919 (S.D. Cal. July 26, 2021) (denying a preliminary injunction to San Diego's eviction ordinance).

In short, granting this Petition is not necessary to promote uniformity among lower courts, and could only *introduce* uncertainty into otherwise consistent district court decisions nationwide.

II. This Petition Presents a Poor Vehicle for Review.

Even if this Petition did identify any split in lower court authority warranting review, review should nonetheless be denied here because this case does not provide an appropriate vehicle to reconsider this Court's long-established Contracts Clause precedent.

A. This Petition Seeks Interlocutory Review Without a Final Judgment.

Petitioner seeks a writ of certiorari on an interlocutory basis from the Ninth Circuit's decision that the district court did not abuse its discretion in denying its

motion for a preliminary injunction. The interlocutory character of the case "of itself alone furnishe[s] sufficient ground for the denial" of this petition. *Hamilton-Brown Shoe Co. v. Wolf Bros. & Co.*, 240 U.S. 251, 258 (1916). This Court's "normal practice" is to "deny[ ] interlocutory review," even where petitions present significant statutory or constitutional questions. *Estelle v. Gamble*, 429 U.S. 97, 114–15 (1976) (Stevens, J., dissenting); *see also Abbott v. Veasey*, 137 S. Ct. 612 (2017) (Roberts, J., denying a petition to review a stay); *Mount Soledad Mem'l Ass'n v. Trunk*, 567 U.S. 944, 944 (2012) (Alito, J., concurring in denial of petition for certiorari); *DTD Enters., Inc. v. Wells*, 558 U.S. 964, 964 (2009) (Kennedy, J., joined by Roberts, C.J., and Sotomayor, J., concurring in denial of petition for certiorari); *Va. Mil. Inst. v. United States*, 508 U.S. 946, 946 (1993) (Scalia, J.) (same).

The small number of "extraordinary cases" where the Court has granted review typically involve situations where "the lower court's decision is patently incorrect and the interlocutory decision . . . will have immediate consequences on the petitioner." Stephen M. Shapiro et al., *Supreme Court Practice* § 4.18, at 30–31 (11th ed. 2019) (collecting cases). However, "in the absence of [an] unusual factor, the interlocutory nature of a lower court judgment will generally result in a denial of certiorari." *Id.*; *see also Office of Sen. Mark Dayton v. Hanson*, 550 U.S. 511, 515 (2007) (holding that no "special circumstances" existed to justify the exercise of the Court's discretionary certiorari jurisdiction).

There is no reason to deviate from the Court's typical practice of denying petitions for interlocutory review. First, the absence of preliminary injunctive relief will not impact landlords in a manner that cannot be remedied by a final judgment in Petitioner's favor if it were to prevail on the merits. As the district court recognized, there is no evidence in the record of even a single landlord facing significant financial harm or foreclosure because of the ordinance. *AAGLA*, 500 F. Supp. 3d at 1101. At most, Petitioner can speculate that some landlords could suffer a temporary loss of rent revenue, but monetary harm is precisely the kind of "adequate compensatory or other corrective relief" that "weighs heavily against a claim of irreparable harm" at the preliminary injunction stage. *Sampson v. Murray*, 415 U.S. 61, 90 (1974).

Further, while Petitioner argues that "no assurances" were provided to landlords that they would recover back rent, Pet. 27, this belies the fact that landlords can be fully compensated through COVID-19 rent relief that provides direct payments to landlords. *AAGLA*, 500 F. Supp. 3d at 1099. Moreover, while Petitioner asserts that the Eviction Ordinance has "destroy[ed]" landlords' "ability to evict," Pet. 24, as discussed above, the protections are in fact much more limited. The Eviction Ordinance is temporary, defers only a limited subset of evictions related to the pandemic, permits landlords to bring suit for breach of contract and does not prohibit landlords from initiating eviction actions in the meantime, and preserves all of

tenants' contractual obligations and landlords' eventual remedies.

Second, after delaying for five months after filing the action before seeking a preliminary injunction, Petitioner then chose to proceed on an extremely limited evidentiary record that "rest[ed] largely upon unsupported factual assertions." *AAGLA*, 500 F. Supp. 3d at 1096. Petitioner's evidence consisted primarily of four member declarations, which only confirmed that landlords were collecting rent on time and in full from the vast majority of their tenants, and none of them attested they were facing foreclosure. *Id.* at 1101–02. Discovery would allow Petitioner to litigate its Contracts Clause claim to final judgment on a full record, which this Court could then more appropriately review if warranted.

Third, by the time the Court reviews this case, the issues before it may be moot. The COVID-19 pandemic is waning and recent developments may obviate the Court's need to address the question presented. *See* William J. Brennan, *Some Thoughts on the Supreme Court's Workload*, 66 JUDICATURE 230, 231–32 (1983). Nationwide, most emergency eviction protections have been rolled back. In February 2022, the Los Angeles City Council introduced a motion to "reassess" the Eviction Ordinance "to suit the needs of Angelenos" and make recommendations on amendments to the measure and repayment programs in the next month.[8] Separately, Los Angeles County recently announced

[8] *See* Mot. 21-0042-S3, *supra* note 5.

modifications to its eviction protections through 2022, including providing notice and income requirements for tenants claiming the eviction protections.[9] As California adopts an "endemic" COVID-19 plan to return communities to normalcy and a large percentage of the population becomes fully vaccinated, the issues raised in this Petition may be moot by the time the Court considers the case.[10]

Finally, Petitioner raised numerous other claims in its original action, including a physical taking, a regulatory taking, and Tenth Amendment and due process violations. Intervenors do not believe that Petitioner can succeed on those claims; however, the fact that the district court has yet to decide them counsels against this Court's immediate review.

B. Petitioner Cannot Meet the Standard for a Preliminary Injunction.

This case is an inferior vehicle to address the question presented for another reason: Even if Petitioner could demonstrate a likelihood of success on the merits on their Contracts Clause claims, it still could not obtain a preliminary injunction because it cannot show

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[9] L.A., Cal., Mot. 22-0417 (Jan. 25, 2022), https://file.lacounty.gov/SDSInter/bos/supdocs/165606.pdf.

[10] Press Release, *Governor Newsom Unveils SMARTER Plan Charting California's Path Forward on Nation-Leading Pandemic Response*, OFF. OF GOV. NEWSOM (Feb. 17, 2022), https://www.gov.ca.gov/2022/02/17/governor-newsom-unveils-smarter-plan-charting-californias-path-forward-on-nation-leading-pandemic-response/.

irreparable harm or that the balance of equities weighs in favor of an injunction.[11] *See Winter*, 555 U.S. at 20.

First, the district court found that Petitioner failed to show any evidence that its members were likely to suffer irreparable harm. The availability of monetary damages for the sole injury alleged—a temporary deprivation of rent payments—"weighs heavily against a claim of irreparable harm." *Sampson*, 415 U.S. at 90. While the district court noted that foreclosures might have established irreparable harm under Ninth Circuit precedent, Petitioner "failed to demonstrate a likelihood, as opposed to mere possibility, that landlords are in imminent danger of losing their properties to foreclosure." *AAGLA*, 500 F. Supp. 3d at 1101. Reversing the decision below would therefore require overturning the longstanding presumption that "economic injury alone does not support a finding of irreparable harm." *Rent-A-Ctr., Inc. v. Canyon Television & Appliance Rental, Inc.*, 944 F.2d 597, 603 (9th Cir. 1991). Issuing a preliminary injunction would also necessitate disturbing the district court's factual findings, and the Court does "not grant a certiorari to review evidence

[11] Petitioner states that the "Ninth Circuit's decision to address only AAGLA's likelihood of success on the merits signals that the panel did not consider the procedural issues to pose a significant obstacle to AAGLA's request." Pet. 26. This is incorrect: the Ninth Circuit specifically acknowledged that "the district court found that AAGLA had not shown a likelihood of irreparable harm or that the balance of the equities and the public interest favored granting relief." *AAGLA*, 10 F.4th at 911. The Ninth Circuit held that AAGLA could not meet its threshold showing of likelihood of success on the merits, so there was no need for the Court to review the district court's factual findings. *Id.* at 917.

and discuss specific facts." *United States v. Johnston*, 268 U.S. 220, 227 (1925).

To be sure, in the context of vacating a stay of a preliminary injunction, the Court has recognized that there can be "a risk of irreparable harm" when "millions of landlords" are denied rent relief. *Ala. Ass'n of Realtors v. Dep't of Health & Hum. Servs.*, 141 S. Ct. 2485, 2489 (2021). That case involved a challenge to agency action, and not a Contracts Clause claim. In that case, the Centers for Disease Control and Prevention, not the landlords, bore the burden of establishing irreparable injury in seeking their stay of the district court's order invalidating the agency's eviction protections. In this case, especially considering the hundreds of millions in rent relief dedicated to making landlords whole, the district court found that Petitioner could not meet its burden of establishing irreparable harm.

Second, the district court here found that the balance of equities tipped sharply against granting an injunction. While sympathetic to the hardships to landlords posed by the pandemic, the Court held that a lifting of the Eviction Ordinance would "likely trigger a tidal wave of evictions that would not only inflict misery upon many thousands of displaced residents, but also exacerbate a public health emergency that has already radically altered the daily life of every city resident." *AAGLA*, 500 F. Supp. 3d at 1103. The record below established that landlords faced no comparable harm in the absence of an injunction, and even reported that they were receiving rent from the majority of their tenants on time. *Id.* at 1101–02.

Granting the Petition for review to address the Contracts Clause issue would result in an advisory opinion, because even if Petitioner could show likelihood of success on the merits, they cannot show they are entitled to a preliminary injunction.

III. The Ninth Circuit Correctly Applied This Court's Precedent.

The Ninth Circuit's decision to deny Petitioner's preliminary injunction was entirely correct. Petitioner cannot meet its burden on the substantial-impairment prong of the Contracts Clause analysis, and the Eviction Ordinance is "drawn in an 'appropriate' and 'reasonable' way to advance 'a significant and legitimate public purpose.'" *Id.* at 1822 (quoting *Energy Rsrvs. Grp., Inc. v. Kansas Power & Light Co.*, 459 U.S. 400, 411–12 (1983)).

First, the district court was incorrect in holding that the Petitioner was likely to show the Eviction Ordinance is a substantial impairment to contractual obligations. Substantial impairment is evaluated with a view to "the extent to which the law undermines the contractual bargain, interferes with a party's reasonable expectations, and prevents the party from safeguarding or reinstating his rights." *Id.* Past regulation of an industry is central to the substantial-impairment analysis, because it puts participants on notice that they will face further government regulation in the future. *See Veix*, 310 U.S. at 38. The Eviction Ordinance imposed a relatively minimal, foreseeable impact on

rental agreements, particularly in light of the preexisting, extensive local, state and federal regulations of evictions. *See*, *e.g.*, LAMC § 151.09 (listing permissible reasons for evicting tenants); Cal. Gov. Code § 12955(a)–(p) (barring landlords from evicting tenants on the basis of race, gender, sexual orientation, and several other factors). And, viewed against the long history of temporary housing measures enacted in response to emergencies, the Eviction Ordinance was not unprecedented.

Moreover, the relatively minimal impact of the ordinance shows that even if the measure impairs contractual relationships somewhat, it is not "severe." Pet. 20. The Eviction Ordinance will expire at the conclusion of the local emergency and preserve landlords' rights and remedies, including the right to seek unpaid back rent and evict tenants. Los Angeles landlords continue to possess the ability to initiate eviction actions. Much of the unpaid rent that Petitioner claims is offset by the over $730 million to date afforded in direct relief payments to landlords. *See supra* pp. 8-11.

But even if a substantial impairment to Petitioner's contracts exists, the ordinance's provisions constitute an "appropriate and reasonable way to advance a significant and legitimate public purpose" *even without deferring to legislative judgment*. *Sveen*, 138 S. Ct. at 1822. The Eviction Ordinance advances a legitimate public purpose: avoiding a mass eviction crisis that would generate housing insecurity and homelessness and exacerbate a deadly pandemic. Analyzed under the *Blaisdell* rubric, the ordinance is: (1) a response

to the global COVID-19 "emergency need"; (2) enacted to benefit the broader public health and welfare of the City population, "not a favored group"; (3) the legislation was expressly "limited to the duration of the emergency"; (4) relief was "tailored" to the COVID-19 emergency it was designed to meet, and not a blanket moratorium; and (5) "the imposed conditions were reasonable." *Allied Structural Steel*, 438 U.S. at 242 (characterizing the *Blaisdell* factors).

As explained above, the Eviction Ordinance's reasonableness is underscored by its limited nature and the over $730 million to date provided in direct rent relief to Los Angeles landlords. *See supra* p. 10. Only tenants who cannot pay rent due to COVID-19 may invoke the ordinance as an affirmative defense to eviction. *Id.* The protections do not eliminate tenants' obligations to ultimately pay their rent, and landlords retain their contractual rights and can still evict on most grounds. *Id.* Most losses due to deferred rental payments are offset by ample government relief. Particularly when viewed against the backdrop of a long line of Supreme Court cases upholding emergency foreclosure and housing protections, the ordinance is a modest effort to avert a housing and public health catastrophe. *See supra* pp. 4-8.

Straightforward Contracts Clause precedent compels the result in this case. This Petition is not worthy of the Court's review.

CONCLUSION

The Petition for a writ of certiorari should be denied.

Respectfully submitted,

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