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Filed March 7, 2025

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

PATRICIA ITEN, Personal
Representative of the Estate
of Howard Iten,
Plaintiff - Appellant,
v.
COUNTY OF
LOS ANGELES,
Defendant - Appellee.

No. 24-2974

D.C. No.

2:21-cv-00486-DDP-
SSC

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Dean D. Pregerson, District Judge, Presiding
Argued and Submitted March 3, 2025
Pasadena, California

Before: CLIFTON, IKUTA, and CHRISTEN, Circuit
Judges.

Howard Iten appeals from the district court's ruling dismissing with prejudice his operative complaint on the merits.¹ We have jurisdiction under 28 U.S.C. § 1291. We affirm.

The County moratorium did not substantially impair Iten's pre-existing contractual relationship with his tenant. *See Sveen v. Melin*, 584 U.S. 811, 819,

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

¹ Howard Iten passed away during the pendency of this action, and the court substituted his spouse and the personal representative of his estate, Patricia Iten, as the plaintiff-appellant in this case. Dkt. No. 36.

821 (2018) (holding that to determine when a law violates the Contracts Clause, courts apply a two-step test; the first step considers, among other things, the extent to which the law interferes with a party's reasonable expectations). The County moratorium did not upset Iten's reasonable expectations, because when Iten renegotiated the lease with his tenant, it was reasonably foreseeable that the lease might be affected by an eviction moratorium. The County moratorium, which Iten attached as an exhibit to the operative complaint, makes clear that the County first imposed a commercial eviction moratorium on March 19, 2020. The County re-ratified and amended its moratorium on March 31, 2020, April 14, 2020, May 12, 2020, June 23, 2020, July 21, 2020, and September 1, 2020, all before Iten renewed the lease with the tenant, which commenced September 1, 2020. The City of Lawndale imposed its own commercial eviction moratorium on April 6, 2020,² also before Iten renewed the lease with the tenant. Moreover, the operative complaint acknowledges that "commercial lease contracts have traditionally been subject to some measure of government oversight."³

² We grant in part and deny as moot in part the County's request for judicial notice. Dkt. No. 20. We grant the request as to the County's documents regarding the Lawndale moratorium. We otherwise deny the County's request as moot.

³ We therefore reject Iten's argument that we should follow the Eighth Circuit's opinion in *Heights Apartments, LLC v. Walz*, 30 F.4th 720, 728-30 (8th Cir. 2022) and the Second Circuit's opinion in *Melendez v. City of New York*, 16 F.4th 992, 1032-35 (2d Cir. 2021), because the challenged laws in those cases upset reasonable expectations and differed in scope from the County moratorium.

Because Iten's claim fails at step one, we do not reach the second step, whether the County moratorium is drawn in an appropriate and reasonable way to advance a significant and legitimate public purpose. *Sveen*, 584 U.S. at 819.

AFFIRMED.

Filed May 1, 2024

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

HOWARD ITEN,
Plaintiff,

v.

COUNTY OF
LOS ANGELES,
Defendant.

Case No. CV 21-00486
DDP (JEMx)

**ORDER GRANTING
DEFENDANT’S
MOTION TO
DISMISS FIRST
AMENDED
COMPLAINT**

[Dkt. 33] [JS-6]

Presently before the court for further consideration is Defendant County of Los Angeles (“the County”)’s Motion to Dismiss Plaintiff’s First Amended Complaint (“FAC”) (Dkt. 33). Having considered the submissions of the parties and heard oral argument, the court grants the motion and adopts the following Order.

I. Background

As described in this Court’s prior Order (Dkt. 44), Plaintiff Howard Iten is part-owner of a commercially zoned property in the City of Lawndale, in Los Angeles county. (FAC ¶ 8.) Beginning in March 2020, the County imposed a moratorium on commercial tenant evictions for nonpayment of rent related to the

COVID-19 global pandemic (“the Moratorium”).^{1 2} (*Id.* ¶¶ 9, 18.) The Moratorium prohibited the eviction of a commercial tenant for nonpayment of rent or late fees “if the Tenant demonstrates an inability to pay rent and/or such related charges due to Financial Impacts related to COVID-19 . . . and the Tenant has provided notice to the Landlord within seven (7) days after the date that rent and/or such related charges were due, unless extenuating circumstances exist, that the Tenant is unable to pay.” (FAC Ex. 1 (Moratorium § V(A)(1)).) Commercial tenants with fewer than ten employees could satisfy these notice requirements with a self-certification. (Moratorium § V(B)(2)(a).) Such tenants had twelve months from the expiration of the Moratorium to repay any unpaid rent.³ (FAC ¶ 31; Moratorium § V(C)(2)(a).) The Moratorium also prohibited harassment of tenants, including any attempt to evict a tenant “based upon facts which the Landlord has no reasonable cause to believe to be true or upon a legal theory which is untenable under the facts known to the Landlord.”⁴ (Moratorium § VIII(I).) Failure to comply with the Moratorium could result in civil penalties, including

¹ The term “tenant” excludes commercial tenants “that are multi-national, publicly-traded, or have more than 100 employees.” (Declaration of Kathryn D. Valois (Dkt. 24-1), Ex. A at § 3(a).)

² Although initially applicable only in unincorporated areas of Los Angeles County, the Moratorium was extended as a “baseline for all incorporated cities” on September 1, 2020, the same day Plaintiff’s lease was allegedly executed. (FAC Ex. 1 at 4.)

³ The Moratorium expired as to commercial tenants on January 31, 2022.

⁴ No Landlord is liable for harassment for pursuing eviction “unless and until the Tenant has obtained a favorable termination of that action.” (Moratorium § VIII(I).)

finest of up to \$5,000 per day, and was punishable as a misdemeanor. (Moratorium § X(A),(B).)

Plaintiff “had a number of issues” with his commercial tenant since 2015, including failure to pay rent and unauthorized alterations to the property, resulting in building code violations. (FAC ¶ 23.) In April 2020, the tenant informed Plaintiff that the tenant “is very adversely affected by Covid 19 and . . . will not be able to pay the rent.” (*Id.*) Plaintiff’s tenant did not pay rent for the next several months. (*Id.*)

The tenant’s lease expired at the end of August 2020. (FAC ¶ 24.) Notwithstanding the tenant’s nonpayment of rent and the other “issues,” Plaintiff entered into a new five-year lease with the tenant, reasoning that so doing would increase the chances that Plaintiff would recover past-due rent. (*Id.*) The new lease required the tenant to pay both base rent and \$3,200 in past-due rent every month. (FAC ¶ 26.) Although the new lease went into effect on September 1, 2020, sometime in October the tenant conveyed to Plaintiff that “times are tough and [the tenant] will not be able to pay the full amount on time.” (*Id.* ¶¶ 25, 29.) By the end of September 2021, the tenant was over \$30,000 in arrears. (*Id.* ¶ 28.)

This suit followed. Plaintiff’s FAC brings a single cause of action alleging that the Moratorium’s ban on commercial evictions violated Plaintiff’s rights under the Contracts Clause of the United States Constitution. Defendant now moves to dismiss the FAC.

II. Legal Standard

A complaint will survive a motion to dismiss when it “contain[s] sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its

face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). When considering a Rule 12(b)(6) motion, a court must “accept as true all allegations of material fact and must construe those facts in the light most favorable to the plaintiff.” *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000). Although a complaint need not include “detailed factual allegations,” it must offer “more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Iqbal*, 556 U.S. at 678. Conclusory allegations or allegations that are no more than a statement of a legal conclusion “are not entitled to the assumption of truth.” *Id.* at 679. In other words, a pleading that merely offers “labels and conclusions,” a “formulaic recitation of the elements,” or “naked assertions” will not be sufficient to state a claim upon which relief can be granted. *Id.* at 678 (citations and internal quotation marks omitted).

“When there are well-pleaded factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement of relief.” *Iqbal*, 556 U.S. at 679. Plaintiffs must allege “plausible grounds to infer” that their claims rise “above the speculative level.” *Twombly*, 550 U.S. at 555-56. “Determining whether a complaint states a plausible claim for relief” is “a context-specific task that requires the reviewing court to draw on its judicial experience and common sense.” *Iqbal*, 556 U.S. at 679.

III. Discussion

The Contracts Clause proscribes “any . . . Law impairing the Obligation of Contracts.” U.S. Const. art. I, § 10, cl. 1. As this Court has explained,

Although this language “is facially absolute, its prohibition must be accommodated to the inherent police power of the State to safeguard the vital interests of its people.” *Energy Reserves Grp., Inc. v. Kansas Power & Light Co.*, 459 U.S. 400, 410, 103 (1983) (internal quotation marks omitted). “The constitutional question presented in the light of an emergency is whether the power possessed embraces the particular exercise of it in response to particular conditions.” *Home Bldg. & Loan Ass’n v. Blaisdell*, 290 U.S. 398, 426(1934).

Apartment Ass’n of Los Angeles Cnty., Inc. v. City of Los Angeles, 500 F. Supp. 3d 1088, 1094 (C.D. Cal. 2020), *aff’d*, 10 F.4th 905 (9th Cir. 2021). To answer this constitutional question, courts employ a two-step test that looks first, as a threshold issue, to whether the law in question has “operated as a substantial impairment of a contractual relationship.” *Sveen v. Melin*, 584 U.S. 811, 819 (2018) (quoting *Allied Structural Steel Co. v. Spannaus*, 438 U.S. 234, 244 (1978)); *see also Apartment Ass’n*, 10 F.4th at 913. If so, “the inquiry turns to the means and ends of the legislation,” or “whether the state law is drawn in an ‘appropriate’ and ‘reasonable’ way to advance ‘a significant and legitimate public purpose.’” *Sveen*, 584 U.S. at 819 (quoting *Energy Reserves Group, Inc. v. Kansas Power & Light Co.*, 459 U.S. 400, 411-412 (1983)). Where there is no substantial impairment of a pre-existing contractual relationship, however, the inquiry may conclude after step one. *Sveen*, 584 U.S. at 819; *see also Allied Structural Steel*, 438 U.S. at 244-45.

In determining whether a law interferes with a contractual relationship, courts look 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.” *Sveen*, 584 U.S. at 819; *see also Apartment Ass’n*, 10 F.4th at 913. In *Apartment Association*, this Court analyzed an eviction moratorium, similar to that at issue here, implemented by the City of Los Angeles with respect to residential tenancies. *Apartment Ass’n*, 500 F. Supp. 3d at 1092. The court recognized that several other courts examining similar moratoria looked to the extensive history of governmental regulation of residential landlord-tenant relationships to conclude that additional regulations in the form of eviction moratoria were “relatively minor alterations to existing regulatory frameworks,” and therefore did not interfere with landlords’ reasonable expectations or, therefore, substantially impair existing contractual relationships. *Id.* at 1095-96 (citing, for example, *HAPCO v. City of Philadelphia*, 482 F.Supp.3d 337, 351-53 (E.D. Pa. 2020); *Auracle Homes, LLC v. Lamont*, 478 F.Supp.3d 199, 224-25 (D. Conn. 2020); and *Elmsford Apt. Assocs., LLC v. Cuomo*, 469 F.Supp.3d 148, 155-56 (S.D.N.Y. 2020).); *see also, e.g., S. California Rental Hous. Ass’n v. Cnty. of San Diego*, 550 F. Supp. 3d 853, 862 (S.D. Cal. 2021).

This Court respectfully disagreed with that rationale, observing that “the scope and nature of the COVID-19 pandemic, and of the public health measures necessary to combat it, have no precedent in the modern era, and that no amount of prior regulation could have led landlords to expect anything like” the city’s residential moratorium. *Id.* at 1096. Similarly, although the city ordinance there at issue, like the Moratorium here, did not prevent landlords

from seeking to recover unpaid rent and only temporarily limited landlords' ability to pursue evictions, this Court observed that the effects of the city moratorium "were, at least in terms of degree, unforeseeable."⁵ *Id.*

Plaintiff here makes essentially the same argument, and indeed cites to this Court's *Apartment Association* decision repeatedly for support. (Supplemental Opposition at 5-6.) The circumstances here, however, are distinguishable from those in *Apartment Association*. As an initial matter, it is not clear whether the contractual relationship at issue here predated the extension of the County Moratorium to Plaintiff's property. It is undisputed that the County extended the Moratorium to incorporated areas of Los Angeles County effective September 1, 2020. Although the FAC alleges that Plaintiff's new lease with his tenant also "commenced September 1, 2020," Plaintiff asserts in opposition to the instant motion that the Moratorium was extended "only *after* the new lease had been signed by the tenant." (Supp. Opp. at 2:7 (emphasis original)). Plaintiff elsewhere contends that he "had already negotiated the new lease" by the time the Los Angeles County Board of Supervisors extended the Moratorium on September 1. (Supp. Opp. at 8:7). Notwithstanding this lack of clarity, the court will assume for the purposes of this motion that Plaintiff executed the contract shortly before the Moratorium was extended to apply to Plaintiff.

⁵ The Court of Appeals did not reach the substantial impairment issue because, even assuming the city's eviction moratorium substantially impaired a contractual relationship, the moratorium satisfied the second, "appropriate and reasonable" prong of the Contracts Clause analysis. *Apartment Ass'n*, 10 F.4th at 913.

Even assuming, however, that Plaintiff's contract predated the Moratorium, Plaintiff's position is not comparable to that of the residential landlords in *Apartment Association*. The city moratorium at issue there was enacted in March 2020, during the earliest days of the COVID-19 pandemic. As this Court observed, public health measures like the city moratorium were unprecedented at that time. The contract at issue here, however, was allegedly executed on September 1, 2020, well into the pandemic and well after the widespread adoption of eviction moratoria in the greater Los Angeles area. Indeed, as Plaintiff here acknowledges, the City of Lawndale, where Plaintiff's property is located, implemented its own residential and commercial eviction moratorium as early as April 2020. *See* <https://lawndaleca.hosted.civicle.com/common/pages/DisplayFile.aspx?itemId=17310525>. Regardless whether Plaintiff's tenant took the steps necessary to qualify for relief under Lawndale's eviction moratorium, Plaintiff was on notice that regulations unheard of prior to the pandemic might, and indeed already did, apply.

The FAC itself alleges that the County first implemented its Moratorium even earlier, in March 2020. (FAC ¶ 18.) Although Plaintiff is correct that the first iteration of the Moratorium did not apply to his property, as it only covered unincorporated areas of Los Angeles County, the question is not whether Plaintiff beat the Board of Supervisors to the punch. Rather, the question is whether Plaintiff had a reasonable expectation in September 2020 that his new contractual relationship would, notwithstanding the continuing public health crisis and widespread adoption of COVID-related landlord-tenant regula-

tions throughout the area, remain insulated from similar measures. Even at this stage of proceedings, the answer is no. As stated above, Plaintiff's own city had already implemented a commercial eviction moratorium, which was itself preceded by the County Moratorium. Although the County Moratorium initially applied only to unincorporated areas of Los Angeles County, Lawndale, where Plaintiff's property is located, is immediately adjacent to an unincorporated area, the border of which lies less than one mile from Plaintiff's Artesia Boulevard property. See <https://lacounty.maps.arcgis.com/apps/webappviewer/index.html?id=181e4d122b564303bb775632dfaf076d>.

Although these realities alone were sufficient to notify Plaintiff that his property too, might become subject to further COVID-related restrictions, any uncertainty on that front was dispelled before Plaintiff ever executed the September 1 lease. In May 2020, County Supervisors Kuehl and Solis moved to extend the Moratorium to incorporated cities within Los Angeles County that did not provide eviction protections. See Ninth Circuit Court of Appeals No. 22-55480, ECF 25 (County's Request for Judicial Notice) at RJN 26.⁶ Even though that proposed extension might not have affected Plaintiff, the motion included a provision that the moratorium be reevaluated every 30 days "to provide further extensions." *Id.* at RJN 27. Indeed, the extension at issue here was then proposed in July 2020, when County Supervisors Kuehl and Solis advised that "the County's eviction protections should be established as the baseline for all incorporated cities within Los

⁶ Plaintiff himself also cites to these documents. (Supp. Opp. at 7 n.6, 8 n.8.)

Angeles County even in cities that have local eviction moratoria,” and made a motion to extend the Moratorium accordingly. *Id.* at RJN 33-34. Although such an extension was not adopted at that time, Supervisors Solis and Kuehl later explained that the extension of the Moratorium to incorporated areas was only delayed to September 1 to allow the Board to consider further reports from the Department of Consumer and Business Affairs. *Id.* at RJN 47. But even if the Board did not actually implement the extension until just after Plaintiff executed the new lease, it was already apparent prior to September 1 that such an extension was possible, if not likely.

Under these circumstances, Plaintiff cannot plausibly allege that the Moratorium challenged here took him by surprise or interfered with any reasonable expectation as to regulation, or lack thereof, of his landlord-tenant relationship. Accordingly, Plaintiff cannot adequately plead that the Moratorium substantially impaired a contractual relationship, and his claim fails.⁷

IV. Conclusion

For the reasons stated above, the County’s Motion to Dismiss is GRANTED. Plaintiff’s Complaint is DISMISSED, with prejudice.

IT IS SO ORDERED.

Dated: MAY 1, 2024 /s/ Dean D. Pregerson
HON. DEAN D. PREGERSON
United States District Judge

⁷ The court therefore stops at step one, without reaching the question whether the Moratorium appropriately and reasonably advances a significant and legitimate public purpose. *Sveen*, 584 U.S. at 819.

Filed September 28, 2021

* * * * *

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

HOWARD ITEN,
Plaintiff,

v.

COUNTY OF
LOS ANGELES,
Defendant.

No. 2:21-cv-00486-DDP
(JEMx)

**AMENDED &
SUPPLEMENTAL
COMPLAINT FOR
DAMAGES AND
DECLARATORY
RELIEF
(DEMAND FOR
JURY TRIAL)**

Pursuant to the Court's order of September 15, 2021, Plaintiff Howard Iten hereby files this Amended and Supplemental Complaint for Damages and Declaratory Relief against the Defendant the County of Los Angeles (hereinafter "the County") and alleges as follows¹:

JURISDICTION

1. This action arises under the Contracts Clause of Article I, Section 10, of the United States Constitution. This Court has jurisdiction through 42 U.S.C. § 1983 and 28 U.S.C. § 1331. Damages are authorized under 42 U.S.C. § 1983 and declaratory relief is authorized by the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202.

¹ Allegations pertaining to the existence of "extenuating circumstances" are to be found in Paragraph 30, *infra*.

INTRODUCTION

2. In early 2020, the COVID-19 pandemic struck the United States, prompting state and local governments throughout the country to shut down substantial parts of the economy indefinitely, creating widespread financial hardship.

3. The County's response has been, among other things, to suspend the right of property owners to evict commercial tenants for nonpayment of rent, as well as to substantially impair other rights held by landlords under existing commercial lease contracts, such as the guarantee of a monthly stream of income and provisions for assessing late fees and interest.

4. Mr. Iten recognizes and is himself affected by the economic hardship of the ongoing pandemic. And he has repeatedly tried to work with his tenant about lease violations both before and during the COVID-19 crisis. But as Mr. Iten's experience reveals, the County's broad commercial eviction moratorium puts landlords at the mercy of tenants who do not pay or who violate related lease terms, thereby depriving landlords not only of their income, but also of the ability to recover their property and to re-let it to more reliable lessee businesses.

5. The County's commercial eviction moratorium has upended lease obligations and placed in indefinite abeyance one of landlords' most basic property rights—the right of possession—leaving them little bargaining power or remedy against breaching tenants. Meanwhile, tenants remain able to enforce all of their landlords' lease obligations.

6. The County's commercial eviction moratorium disproportionately lays the economic burden of fighting the pandemic at the feet of commercial

landlords, rather than justly placing those costs on the public at large, yet it does so while doing little to keep people safely housed or otherwise serve the legitimate governmental interest in stemming the spread of COVID-19. This combination of significant economic burden and poor means-ends fit is precisely what the Constitution's Contracts Clause forbids. *See generally Allied Structural Steel Co. v. Spannaus*, 438 U.S. 234, 244 (1978) ("[Sovereign] power has limits when its exercise effects substantial modifications of private contracts. [L]egislation adjusting the rights and responsibilities of contracting parties must be upon reasonable conditions and of a character appropriate to the public purpose justifying its adoption.") (internal citations and quotations omitted).

VENUE

7. Venue is proper in this District under 28 U.S.C. § 1391(b)(1) and (b)(2). The Defendant County is considered to reside within this District and a substantial part of the events or omissions giving rise to the claims alleged herein occurred within this District.

PARTIES

Plaintiff

8. Plaintiff Howard Iten is a retired auto repair shop owner and mechanic. With his wife, he owns a one-half fee simple interest in a commercially zoned parcel in the City of Lawndale and the County of Los Angeles. Mr. Iten's former wife owns the other half-interest in the property. (For convenience, all further references in this Complaint are to Mr. Iten, but his wife and his former wife fully consent to the bringing of this action to vindicate their rights under their lease contract and the U.S. Constitution.)

Defendant

9. Defendant County of Los Angeles is a local government created under the laws of the State of California. The County’s Board of Supervisors is its governing body. In March 2020, the Board’s Chair issued and the Board itself ratified, pursuant to the County Code’s emergency services provisions, a residential and commercial eviction moratorium. The eviction moratorium has been extended and amended several times, including in September, October, and November of 2020, January and February of 2021, and most recently at the Board’s June 22, 2021, meeting.

10. The County is a “person” within the meaning of 42 U.S.C. § 1983. The County’s acts set forth below were performed under color of law. The acts alleged herein occurred and took place within the County’s jurisdiction.

GENERAL ALLEGATIONS

California Eviction Law and the County’s Commercial Eviction Moratorium

11. Among the estates in real property recognized in California are “[e]states for years,” Cal. Civ. Code § 761(3)—*i.e.*, leases.

12. In a lease, a “lessee has a present possessory interest in the premises, [while] the lessor has a future reversionary interest and retains fee title.” *Avalon-Pacific-Santa Ana, L.P. v. HD Supply Repair & Remodel, LLC*, 192 Cal. App. 4th 1183, 1190 (2011). “A possessory interest consists of a right to the possession of real property for a period less than perpetuity by one party, the holder of the possessory interest, while another party, the fee simple owner, retains the right to regain possession of the real property at a future date.” *Cal. State Teachers’*

Retirement Sys. v. County of Los Angeles, 216 Cal. App. 4th 41, 55 (2013) (internal quotations and citation omitted).

13. The relationship between landlord and lessee is typically governed by express contract. A standard provision of lease contracts is to provide for the landlord's right of immediate possession of the real property and to evict the tenant in the event of the tenant's breach of the lease by, for example, failing to pay rent in a timely fashion.

14. Nearly all such evictions in California are pursued under the state's unlawful detainer law, Cal. Code Civ. Proc. §§ 1159-1179a.

15. California's unlawful detainer statutes "were enacted to provide an adequate, expeditious and summary procedure for regaining possession of real property wrongfully withheld by a tenant," which supplanted the landlord's "common law rights and remedies [including] the right to enter and expel the tenant by force." *Martin-Bragg v. Moore*, 219 Cal. App. 4th 367, 387 (2013) (internal quotations and citations omitted).

16. A residential or commercial landlord can bring an unlawful detainer action when a tenant: (1) continues in possession of the property after the expiration of the lease term; (2) continues in possession after the default in the payment of rent; (3) continues in possession after a neglect or failure to perform other conditions or covenants of the lease agreement; (4) assigns, sublets, or commits waste upon the premises contrary to the lease agreement; or (5) gives written notice of his or her intention to terminate the tenancy. Cal. Code Civ. Proc. § 1161.

17. A landlord seeking to evict a tenant who has defaulted on rent must provide written notice demanding the payment of the rent due within three business days. Cal. Code Civ. Proc. § 1161(2). If the tenant does not pay within that period and does not vacate the premises, the landlord may commence an unlawful detainer action. *Id.* §§ 1161(2), 1166. Once served with the summons and complaint, the tenant has five court days to respond. *Id.* §§ 1167, 1167.3. The tenant may move to quash or dismiss, but if the motion is denied, the tenant is given no more than fifteen further days to respond to the complaint. *Id.* § 1167.4. If the tenant defaults, the court must immediately enter judgment and issue a writ of execution. *Id.* § 1169. If the tenant does appear, the trial must be held no later than twenty days following the request to set a trial date. *Id.* § 1170.5(a).

18. As noted above, the County has had in place since March 2020 a residential and commercial eviction moratorium. Although the County has repeatedly amended the moratorium, since at least September 2020 the moratorium has contained certain key provisions relevant to this action:

- (i) no commercial tenant evictions are allowed during the moratorium period (currently defined as from March 4, 2020, through September 30, 2021, *see* Resolution of the Board of Supervisors of the County of Los Angeles Further Amending and Restating the Executive Order for an Eviction Moratorium During Existence of a Local Health Emergency Regarding Novel Coronavirus (COVID-19) ¶ III.F. (adopted June 22, 2021, as amended July 14, 2021), a true and correct copy of which is appended to this Complaint as Exhibit 1) for

nonpayment of rent for COVID-related reasons, *id.* ¶ V.A.1.a., which include any reduction or loss of income or revenue resulting from any economic or employer impacts of COVID-19, *id.* ¶ III.I.2.;

- (ii) no interest or late fees may be charged for any rent or amounts that came due during the moratorium period, *id.* ¶¶ V.A.1., VII;
- (iii) commercial tenants with fewer than 10 employees have 12 months from the end of the moratorium period to pay rent that came due during the moratorium, *id.* ¶ V.C.2.a.; and
- (iv) landlords must accept a self-certification of the inability to pay rent for COVID-related reasons from commercial tenants with fewer than 10 employees, *id.* ¶ V.B.2.a.

19. Violation of the moratorium’s eviction- and rent-payment provisions is punishable as a criminal misdemeanor. *See id.* ¶ X.B.; Los Angeles County Code § 2.68.320.

20. Also since September 2020, the County’s moratorium has applied to all jurisdictions within the County if those jurisdictions do not have in place a moratorium as protective of tenants as the County’s. *See* Exh. 1, ¶ IV.B.2. Although the City of Lawndale, where Mr. Iten’s property is located, has in place a Commercial eviction moratorium, it unlike the County’s requires tenants to provide documentation of a COVID-related hardship. *See* City of Lawndale Urgency Ordinance No. 1170-20, § 3.a (to receive protection, a tenant must both “notif[y] the landlord in writing of lost income and inability to pay full rent due to financial impacts related to COVID-19, and provide[] documentation to support the claim”). Thus,

a commercial tenant in the City of Lawndale who has fewer than 10 employees and who self-certifies but who does not provide documentation of the inability to pay rent for COVID-19-related reasons is not protected by the Lawndale ordinance but is protected by the County's.

Mr. Iten and his Commercial Property

21. Mr. Iten and his wife jointly own a one-half interest in an approximately 2,600-square-foot commercially zoned rental property, located on Artesia Boulevard in the City of Lawndale and the County of Los Angeles.

22. From the late 1970s to the mid-2000s, Mr. Iten operated a successful auto repair shop on the site. Following his retirement and his son's running of the business for a few years, Mr. Iten decided to lease the property. In August 2015, Mr. Iten entered into a five-year standard commercial lease agreement with an auto repair company. In September 2016, that lessee entered into a sublease with another auto repair company (the Tenant) which purports to do business as a franchisee of a nationally recognized auto repair firm. The Tenant has fewer than ten employees.

23. Over the past several years, Mr. Iten has had a number of issues with the Tenant, including failure to pay rent in a timely fashion, as well as the Tenant's undertaking of unauthorized "improvements" of the property resulting in building code violations. In April 2020, the Tenant informed Mr. Iten's property management company that the Tenant "is very adversely [a]ffected by Covid 19 and . . . will not be able to pay the rent." For the next several months, the Tenant paid nothing under the lease.

24. Given this history of lease breaches, Mr. Iten would have preferred to end his business relationship with the Tenant when the 2015 lease expired at the end of August 2020 and the sublease agreement at the end of September 2020 and to commence an unlawful detainer action if necessary to evict the Tenant. But, given his understanding of the then-applicable state and local eviction moratoriums, Mr. Iten concluded that he had no prudent course of action open to him other than to negotiate a new lease with the Tenant so as to increase the chances of someday recovering the past-due rent.

25. The new lease commenced September 1, 2020, for a five-year term. It requires that base rent and operating expenses are to be paid monthly, on or before the first day of each month. If rent is not paid on or five days after the rent is due, the Tenant must immediately pay a one-time late charge equal to 10% of each such overdue amount or \$100, whichever is greater. Moreover, if a payment is missed, the interest charged is 10% per year.

26. In addition to base rent and operating expenses, the lease requires the Tenant to pay the past-due rent owing under the prior lease and sublease agreement, totaling about \$38,700. Specifically, the Tenant must make equal monthly payments of approximately \$3,200, in conjunction with payment of base rent and operating expenses, until the past-due rent is paid off.

27. The lease authorizes Mr. Iten to terminate the Tenant's right to possession by any lawful means for, among other reasons, failure of the Tenant to satisfy in a timely fashion the monetary obligations imposed by the lease.

28. Since the new lease was agreed to and initial payments made thereunder, the Tenant has failed to make any subsequent payments in a timely fashion. Moreover, the Tenant is currently over \$30,000 behind what has come due under the lease since September 1, 2020.

29. In October 2020, Mr. Iten's property management firm informed him that the Tenant had stated that "times are tough and [the Tenant] will not be able to pay the full amount on time." The Tenant has never provided documentation to substantiate a COVID-related inability to meet either the prior sublease's or the current lease's terms.

30. The Tenant has not provided timely monthly notice of the inability to meet the lease's payment terms because of a qualifying COVID-related reason, as generally required under the County's eviction moratorium. Following this Court's September 15, 2021, order, Mr. Iten's property management company contacted the Tenant to inquire as to the reason for the Tenant's failure to provide monthly notices and whether extenuating circumstances exist to excuse that failure. The Tenant responded that it is "my understanding that such notice was provided while negotiating the lease already and is not on [a] month to month basis." He elaborated that "[t]hose laws and regulations and notices you mentioned . . . do give me relie[f] so I don't stress my other businesses and carry the rent as unpaid." Thus, the "answer to your question" about whether extenuating circumstances exist "is Yes." The Tenant also informed the property management company that he "won't be able to make October rent."

Injury to Mr. Iten from the Eviction Moratorium

31. Because of the eviction moratorium, Mr. Iten is prohibited from evicting, or attempting to evict, his Tenant for failing to pay in full and in a timely fashion under the lease. Further, Mr. Iten is prohibited from charging late fees or interest, as well from attempting to recover back-rent that came due during the eviction moratorium period until twelve months following the moratorium's expiration—currently, September 30, 2022.

32. But for the eviction moratorium, Mr. Iten would immediately initiate eviction proceedings to gain possession of his property and seek other remedies available to collect rent and other amounts due from his Tenant.

DECLARATORY RELIEF ALLEGATIONS

33. An actual and substantial controversy exists between Mr. Iten and the County over the constitutionality of the County's eviction moratorium. Mr. Iten contends that the County's eviction moratorium violates the Contracts Clause of the U.S. Constitution. The County contends that the moratorium is constitutional.

34. Mr. Iten's action is justiciable now because the County's eviction moratorium has caused and will continue to cause injury to Mr. Iten and similarly situated commercial landlords by preventing him and them from enforcing lease contracts and requiring them to submit to the physical occupation of their property by those who have no right to remain there. Mr. Iten and his wife are retired and rely upon Social Security and the revenue from the leased property to survive. But for the County's eviction moratorium, Mr. Iten would be able expeditiously to evict his

nonpaying Tenant and immediately to seek to recover overdue rent, as well as to make reasonable use of his property by offering to sell it, or to rent it to tenants willing to abide by lease terms, thereby protecting his and his wife's retirement income.

35. Declaratory relief is therefore appropriate to resolve this controversy.

CLAIM FOR RELIEF IMPAIRMENT OF THE OBLIGATION OF CONTRACTS

(U.S. Const. art. I, § 10, cl. 1; 42 U.S.C. § 1983)

36. The foregoing paragraphs are hereby incorporated by reference and realleged.

37. The Constitution's Contracts Clause provides: "No State shall . . . make any . . . Law impairing the Obligation of Contracts[.]" U.S. Const. art. I, § 10, cl. 1.

38. Whether a law unconstitutionally impairs the obligation of contracts depends on three considerations: whether the law substantially impairs existing contractual rights; whether the government has identified a legitimate and significant public interest that the challenged law purportedly serves; and whether the law's impairment of contractual rights is reasonably related to that interest. *Sveen v. Melin*, 138 S. Ct. 1815, 1822 (2018); *Energy Reserves Grp., Inc. v. Kansas Power & Light Co.*, 459 U.S. 400, 411-12 (1983).

Substantial Impairment

39. The County's eviction moratorium substantially impairs commercial lease contracts, including Mr. Iten's, in four ways:

- (i) The moratorium bars Mr. Iten and similarly situated commercial landlords from evicting tenants who fail, for specified reasons, to pay rent during the moratorium period. *See* Exh. 1, ¶ V.A.1.a. The moratorium thereby eliminates the key remedy that commercial landlords possess to speedily remedy a tenant's breach.
- (ii) The moratorium bars Mr. Iten and similarly situated commercial landlords from requiring the payment of rent during the moratorium period, *see id.* ¶ V.C.2.a.—that is, for eighteen months and counting, *see id.* ¶ III.F. The moratorium thus substantially impinges upon landlords' contractual right to a monthly stream of income.
- (iii) The moratorium bars Mr. Iten and similarly situated commercial landlords from assessing late fees or interest for monetary obligations under their leases that have not been satisfied in a timely fashion during the moratorium period. *See id.* ¶ VII. The moratorium thus eliminates an important inducement to encourage tenants' adherence to their contracts as well as a safeguard for assuring adequate compensation to landlords when tenants breach their lease contracts.
- (iv) The moratorium bars Mr. Iten and similarly situated commercial landlords from requiring payment of rent that came due during the moratorium period until at least September 30, 2022—that is, for thirty months and counting. *See id.* ¶¶ V.C.2.a., III.F. The moratorium thus substantially increases the

likelihood that landlords will never recover rent that is owed, given that the longer a debt is not collected, the greater the chances that a debtor will become judgment proof or will not be locatable.

40. These impairments on commercial lease contracts are substantial because they significantly limit the remedies available to commercial landlords, such as Mr. Iten, when tenants breach their commercial leases, and dramatically undercut the economic value and security of those contracts. *Cf. Apartment Ass’n of Los Angeles County, Inc. v. Los Angeles*, No. CV 20-05193, 2020 WL 6700568, at *5 (C.D. Cal. Nov. 13, 2020) (residential landlords likely to establish substantial impairment because “some landlords may face, at the very least, the prospects of reduced cash flow and time value of missed rent payments and increased wear and tear on rental properties, and that these effects were, at least in terms of degree, unforeseeable”), *aff’d on other grounds*, No. 20-56251, 2021 WL 3745777 (9th Cir. Aug. 25, 2021); *Baptiste v. Kennealy*, 490 F. Supp. 3d 353, 383-84 (D. Mass. 2020) (residential eviction moratorium “materially undermines the contractual bargain” and “a reasonable landlord would not have anticipated a virtually unprecedented event such as the COVID-19 pandemic that would generate a ban on even initiating eviction actions against tenants who do not pay rent and on replacing them with tenants who do pay rent”).

41. Although commercial lease contracts have traditionally been subject to some measure of government oversight, there is no precedent for the substantial regulatory impairment of such contracts that the County’s eviction moratorium imposes.

Lack of Reasonable Relationship

42. Fighting the spread of COVID-19 is a legitimate and significant governmental interest. But the County's eviction moratorium is not reasonably related to that interest because its substantial impairment of the lease contract rights of commercial landlords like Mr. Iten is not reasonably related to the fight against COVID-19 and is not based on reasonable conditions.

43. First, the eviction moratorium's substantial impairment is not reasonably related because bolstering the contract rights of commercial tenants is not closely tied to governmental efforts to combat the spread of COVID-19. For example, stay-at-home orders, a prominent part of the County's and other governments' COVID-19-related efforts, required individuals to remain in their homes, not at their places of business. Moreover, in contrast to the circumstances that may obtain in residential evictions, simply because a commercial tenant loses a tenancy does not mean that the tenant will be homeless or will be forced into group housing, or even that either of those outcomes may be likely.

44. Second, the eviction moratorium's substantial impairment is not tempered by reasonable conditions, given the absence of any provision assuring a stream of income to landlords during the moratorium period. Such an assurance has, in an analogous context, been held to be an important factor in sustaining the reasonableness of governmental impairment of contracts. *Cf. Blaisdell*, 290 U.S. at 445 ("The mortgagor during the extended period is not ousted from possession, but he must pay the rental value of the premises as ascertained in judicial proceedings

and this amount is applied to the carrying of the property and to interest upon the indebtedness.”).

45. Such unreasonableness is enhanced by the absence of any County program aimed at easing the economic impact of the eviction moratorium on commercial (as opposed to residential) landlords. *Cf. Apartment Ass’n of Los Angeles*, 2020 WL 6700568, at *7 (noting that the City of Los Angeles has not “simply thrown landlords to the wolves” because it has “implemented an Emergency Rental Assistance Program . . . which will provide over \$100 million in rental assistance payments to approximately 50,000 low-income households” and which will result in money being “paid directly to the tenant’s landlord”); *Apartment Ass’n of Los Angeles*, 2021 WL 3745777, at *8 (noting the same). And although federal legislation has made funds available for small businesses like Mr. Iten’s Tenant, the money is not required to be used for rent or related lease obligations. *See, e.g.*, CARES Act, § 1102(d)(1)(A)-(F).

46. Further, the County’s eviction moratorium is not reasonably related to the economic harms that have resulted from government regulatory responses to the pandemic. Rather, the moratorium is dramatically overbroad. It makes no distinction among those businesses that have been closed during the pandemic and those, like that of Mr. Iten’s Tenant, that have been deemed “essential” and thus have remained fully open for business. *See* Exh. 1, ¶¶ III.K.3, V.A.1. Moreover, the moratorium does not even require that tenants like Mr. Iten’s actually prove any economic harm stemming from COVID-19 regulation. *See id.* ¶ V.B.2.a.

47. Accordingly, because the County's eviction moratorium substantially impairs the lease contracts of Mr. Iten and similarly situated commercial landlords, but is not reasonably related to any legitimate and significant governmental interest or based upon reasonable conditions, it violates the Constitution's Contracts Clause. The moratorium therefore deprives Mr. Iten and similarly situated commercial landlords of their rights, privileges, and immunities secured by the Constitution.

48. The County's eviction moratorium has resulted in damages to Mr. Iten of an amount subject to proof, but reasonably assessed in an amount no less than \$6,500.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays for relief as follows:

1. For a declaration that the Defendant County of Los Angeles's eviction moratorium on its face, and as applied to Mr. Iten and similarly situated commercial landlords, violates the Contracts Clause by precluding them from: (1) enforcing the eviction provisions in their rental contracts pertaining to the obligation to pay rent in a timely fashion during the moratorium period; (2) requiring their tenants to pay rent on a timely and monthly basis during the moratorium period; (3) collecting late fees and interest; and (4) requiring payment of rent that came due during the moratorium period prior to twelve months after the period's expiration;

2. For damages according to proof, including but not limited to nominal damages;

3. For an award, pursuant to 42 U.S.C. § 1988, or any other pertinent authority, of reasonable attorney fees, expenses, and costs; and

4. Any other such other relief that the Court deems just and proper.

DEMAND FOR JURY TRIAL

Because Mr. Iten seeks damages in excess of \$20 pursuant to 42 U.S.C. § 1983, he is entitled to a jury trial on all predominantly factual questions pertaining to the Contracts Clause claim advanced above. U.S. Const. amend. VII; *City of Monterey v. Del Monte Dunes at Monterey, Ltd.*, 526 U.S. 687, 709, 720 (1999). Mr. Iten therefore requests a jury trial and reserves all rights to the same.

DATED: September 28, 2021.

Respectfully submitted,
DAMIEN M. SCHIFF
LAWRENCE SALZMAN
JEREMY TALCOTT
KATHRYN D. VALOIS*
(*Pro Hac Vice*)

By s/ Damien M. Schiff
DAMIEN M. SCHIFF
Attorneys for Plaintiff

Exhibit 1

**RESOLUTION OF THE BOARD OF
SUPERVISORS OF THE COUNTY OF
LOS ANGELES FURTHER AMENDING
AND RESTATING THE EXECUTIVE
ORDER FOR AN EVICTION MORATORIUM
DURING THE EXISTENCE OF
A LOCAL HEALTH EMERGENCY
REGARDING NOVEL CORONAVIRUS
(COVID-19)**

July 14, 2021

WHEREAS, on March 4, 2020, the Chair of the Los Angeles County Board of Supervisors (“Board”) proclaimed, pursuant to Chapter 2.68 of the Los Angeles County Code, and the Board ratified that same day, the existence of a local emergency because the County of Los Angeles (“County”) is affected by a public calamity due to conditions of disaster or extreme peril to the safety of persons and property arising as a result of the introduction of the novel coronavirus (“COVID-19”) in Los Angeles County;

WHEREAS, also on March 4, 2020, the County Health Officer determined that there is an imminent and proximate threat to the public health from the introduction of COVID-19 in Los Angeles County, and concurrently declared a Local Health Emergency;

WHEREAS, ensuring that all people in the County continue to have access to running water during this public health crisis will enable compliance with public health guidelines advising people to regularly wash their hands, maintain access to clean drinking water, help prevent the spread of COVID-19, and prevent or alleviate illness or death due to the virus;

WHEREAS, ensuring that all customers in the County that receive power services from Southern California Edison and Southern California Gas Company (collectively, “Public Utilities”) continue to have access to electricity so they are able to receive important COVID-19 information, keep critical medical equipment functioning, and utilize power, as needed, will help to prevent the spread of COVID-19 and prevent or alleviate illness or death due to the virus;

WHEREAS, on March 13, 2020, the Public Utilities announced that they will be suspending service disconnections for nonpayment and waiving late fees, effective immediately, for residential and business customers impacted by the COVID-19 emergency;

WHEREAS, on March 16, 2020, Governor Newsom issued Executive Order N-28-20 that authorizes local governments to halt evictions of renters, encourages financial institutions to slow foreclosures, and protects renters and homeowners against utility shutoffs for Californians affected by COVID-19;

WHEREAS, on March 19, 2020, the Chair of the Board issued an Executive Order (“Executive Order”) that imposed a temporary moratorium on evictions for non-payment of rent by residential or commercial tenants impacted by COVID-19 (“Moratorium”), commencing March 4, 2020, through May 31, 2020 (“Moratorium Period”);

WHEREAS, on March 21, 2020, due to the continued rapid spread of COVID-19 and the need to protect the community, the County Health Officer issued a revised Safer at Home Order for Control of COVID-19 (“Safer at Home Order”) prohibiting all

events and gatherings and closing non-essential businesses and areas until April 19, 2020;

WHEREAS, on March 27, 2020, Governor Newsom issued Executive Order N-37-20 extending the period for response by tenants to unlawful detainer actions and prohibiting evictions of tenants who satisfy the requirements of Executive Order N-37-20;

WHEREAS, on March 31, 2020, the Board ratified the Chair's Executive Order and amended the ratified Executive Order to include a ban on rent increases in the unincorporated County to the extent permitted by State law and consistent with Chapter 8.52 of the Los Angeles County Code ("Code");

WHEREAS, on April 6, 2020, the California Judicial Council, the policymaking body of the California courts, issued eleven temporary emergency measures, of which Rules 1 and 2 effectively provided for a moratorium on all evictions and judicial foreclosures;

WHEREAS, on April 14, 2020, the Board further amended the Executive Order to: expand the County's Executive Order to include all incorporated cities with the County; include a temporary moratorium on eviction for non-payment of space rent on mobilehome owners who rent space in mobilehome parks; include a ban on rent increases in the unincorporated County to the extent permitted by State law and consistent with Chapters 8.52 and 8.57 of the County Code; and enact additional policies and make additional modifications to the Executive Order;

WHEREAS, COVID-19 is causing, and is expected to continue to cause, serious financial impacts to Los Angeles County residents and businesses, including the substantial loss of income due to illness, business

closures, loss of employment, or reduced hours, thus impeding their ability to pay rent;

WHEREAS, displacing residential and commercial tenants who are unable to pay rent due to such financial impacts will worsen the present crisis by making it difficult for them to comply with the Safer at Home Order, thereby placing tenants and many others at great risk;

WHEREAS, while it is the County's public policy and intent to close certain businesses to protect public health, safety and welfare, the County recognizes that the interruption of any business will cause loss of, and damage to, the business. Therefore, the County finds and declares that the closure of these businesses is mandated for the public health, safety and welfare; the physical loss of, and damage to, businesses is resulting from the shutdown; and these businesses have lost the use of their property and are not functioning as intended;

WHEREAS, because homelessness and instability can exacerbate vulnerability to, and the spread of, COVID-19, the County must take measures to preserve and increase housing security and stability for Los Angeles County residents to protect public health;

WHEREAS, a County-wide approach to restricting displacement is necessary to accomplish the public health goals of limiting the spread of COVID-19 as set forth in the Safer at Home Order;

WHEREAS, based on the County's authority during a state of emergency, pursuant to Government Code section 8630 et seq. and Chapter 2.68 of the County Code, the County may issue orders to all incorporated cities within the County to provide for

the protection of life and property, where necessary to preserve the public health, order, and safety;

WHEREAS, due to the continued, rapid spread of COVID-19 and the need to preserve life and property, the County has determined that continued evictions in the County and all of its incorporated cities during this COVID-19 crisis would severely impact the health, safety and welfare of County residents;

WHEREAS, loss of income as a result of COVID-19 may hinder County residents and businesses from fulfilling their financial obligations, including paying rent and making public utility payments, such as water and sewer charges;

WHEREAS, on May 12, 2020, the Board approved, and delegated authority to the Chair to execute, an Amended and Restated Executive Order that extended the Moratorium Period through June 30, 2020, unless further extended or repealed by the Board, and incorporated additional provisions;

WHEREAS, on May 12, 2020, the Board determined to reevaluate the Moratorium every thirty (30) days to consider further extensions;

WHEREAS, on June 23, 2020, the Board extended the Moratorium Period through July 31, 2020;

WHEREAS, on June 30, 2020, Governor Newsom issued Executive Order N-71-20, extending the timeframe for the protections set forth in Executive Order N-28-20, that authorized local governments to halt evictions for renters impacted by the COVID-19 pandemic through September 30, 2020;

WHEREAS, on September 1, 2020, Governor Newsom signed Assembly Bill (“AB”) 3088 into law to provide immediate protections and financial relief to

residential tenants, homeowners, and small landlords impacted by COVID-19, as follows:

1. Residential tenants, which includes mobilehome space renters, who are unable to pay rent between March 1, 2020, and January 31, 2021, due to financial distress related to COVID-19, including but not limited to, increased childcare or elderly care costs and health care costs, are protected from eviction as described below;

2. A landlord who serves notice on a residential tenant from March 1, 2020, through January 31, 2021, demanding payment of rent must also: (a) provide the tenant with an unsigned copy of a declaration of COVID-19-related financial distress; and (b) advise the tenant that eviction will not occur for failure to comply with the notice if the tenant provides such declaration, and additional documentation if the tenant is a high-income tenant, within fifteen (15) days;

3. A landlord may initiate an unlawful detainer action beginning October 5, 2020, if a residential tenant is unable to deliver the required declaration within the statutory time period;

4. Until February 1, 2021, a landlord is liable for damages between \$1,000 and \$2,500 for violation of the certain requirements if the residential tenant has provided the landlord with the required declaration of COVID-19-related financial distress;

5. A residential tenant who has provided the landlord with a signed declaration must, by January 31, 2021, pay at least 25 percent of rent

owed for the months of October 2020, through January 2021, inclusive; and

6. Actions adopted by local governments between August 19, 2020, and January 31, 2021, to protect residential tenants from eviction due to financial hardship related to COVID-19 are temporarily preempted, where such actions will not become effective until February 1, 2021;

WHEREAS, on January 29, 2021, Governor Newsom signed Senate Bill (“SB”) 91 into law, which extends through June 30, 2021, eviction protections under AB 3088, as well as the temporary preemption of a local jurisdiction’s ability to enact new or amend existing eviction protections for nonpayment of rent due to financial distress related to COVID-19;

WHEREAS, on February 23, 2021, Governor Newsom signed AB 81 into law, which further modified the eviction protections and the temporary preemption provisions of AB 3088 and SB 91;

WHEREAS, on September 1, 2020, the Board extended the Moratorium Period through October 31, 2020, and established the County’s eviction protections as the baseline for all incorporated cities within Los Angeles County, including cities that have their own local eviction moratoria, to the extent the city’s moratorium does not include the same or greater tenant protections as the County’s Moratorium;

WHEREAS, on September 23, 2020, Governor Newsom issued Executive Order N-80-20, further extending the timeframe for the protections set forth in Executive Order N-28-20, authorizing local governments to halt evictions of commercial renters impacted by the COVID-19 pandemic, through June 30, 2021;

WHEREAS, the County's Moratorium protects residential tenants and mobilehome space renters who are unable to pay rent due to financial impacts related to COVID-19 for the period of March 1, 2020, through September 30, 2020, and rent not paid during that period must be repaid by September 30, 2021 under AB 81;

WHEREAS, in addition to other tenant protections, the County's Moratorium protects residential tenants and mobilehome space renters from eviction for nuisance on the basis of having unauthorized occupants or pets whose presence is necessitated by or related to the COVID-19 emergency, and commercial tenants from eviction who are unable to pay rent due to the COVID-19 pandemic, except where such occupancy is a threat to the public health or safety, as determined by a court of law;

WHEREAS, on January 5, 2021, the Board extended the Moratorium and its tenant protections, where not preempted, through February 28, 2021, provided greater clarity to tenants and landlords regarding their rights and responsibilities under the Moratorium, such as harassment and retaliation protections, and added new protections to the Moratorium that would have become effective February 1, 2021; however, some of these actions were preempted by the extension of AB 3088 pursuant to SB 91 and AB 81;

WHEREAS, on February 23, 2021, the Board extended the Moratorium and its tenant protections, where not preempted, through June 30, 2021, it also removed certain tenant protections that were to take effect on February 1, 2021, due to preemption by the extension of AB 3088 pursuant to SB 91 and AB 81,

authorized administrative fines and civil penalties pursuant to Chapters 8.52 and 8.57 of the County Code, temporarily increased administrative fines and civil penalties during the Moratorium Period, and provided aggrieved tenants a private right of action for violations of the Moratorium;

WHEREAS, since the start of the COVID-19 pandemic, the primary purpose of this Moratorium has been to ensure that tenants stay housed during the pandemic, thereby minimizing the risk of uncontrolled spread of COVID-19. However, this has also prevented owner move-ins where the tenant has not suffered financial impacts from COVID-19, because such tenants currently are not required to move out under the County's Moratorium;

WHEREAS, on June 22, 2021, the Board extended the Moratorium and its tenant protections through September 30, 2021, unless otherwise preempted, and has created a limited carve-out to permit owners to move into single-family homes for use and occupancy as their principle residence, subject to certain conditions, as set forth below;

WHEREAS, on June 22, 2021, this Board authorized the following additional protections for commercial tenants: (1) require landlords to give commercial tenants with nine (9) employees or fewer notice of their rights under the Moratorium; (2) expand affirmative defenses to include protection from enforcement of personal guarantees against any natural person for commercial rental debt accrued during the Moratorium Period for commercial tenants with nine (9) employees or fewer; and (3) specify that holdover and month-to-month commercial tenants,

unless otherwise exempted, are protected by the Moratorium;

WHEREAS, on June 28, 2021, Governor Newsom signed AB 832 into law, which further modified the eviction protections and the temporary preemption provisions of AB 3088 and SB 91 and extended eviction protections through September 30, 2021, as well as the temporary preemption of a local jurisdiction's ability to enact new or amend existing eviction protections for nonpayment of rent due to financial distress related to COVID-19 through April 1, 2022; and

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary for the Board to adopt this Resolution Further Amending and Restating the Executive Order for an Eviction Moratorium ("Resolution") related to the protection of life and property.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES DOES HEREBY PROCLAIM, RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

- I. Amendment and Restatement.** This Resolution incorporates all aspects, restrictions, and requirements of the Moratorium adopted by the Board, as ratified and amended on March 31, 2020, April 14, 2020, May 12, 2020, June 23, 2020, July 21, 2020, September 1, 2020, October 13, 2020, November 10, 2020, January 5, 2021, February 23, 2021, and June 22, 2021.
- II. Moratorium Period.** The Moratorium Period is hereby extended through September

30, 2021. The Board will reevaluate the need for further extensions to or repeal of the Moratorium Period every thirty (30) days.

III. Definitions. For purposes of this Moratorium, the following terms are defined as follows:

- A. “Extension Protection Period” means the time period of July 1, 2021, through the end of the Moratorium Period.
- B. “Family Member” means Tenant’s or Landlord’s parent, child, spouse or registered domestic partner, grandparent, grandchild, aunt or uncle at least sixty-two (62) years of age, or other dependent over which the Landlord has guardianship, the spouse’s or registered domestic partner’s parent, child, grandparent, grandchild, aunt or uncle at least sixty-two (62) years of age, and other dependent over which the Tenant’s or Landlord’s spouse or domestic partner has guardianship.
- C. “Financial Impacts” means any of the following:
 - 1. Substantial loss of household income caused by the COVID-19 pandemic;
 - 2. Loss of revenue or business by Tenants due to business closure;
 - 3. Increased costs;
 - 4. Reduced revenues or other similar reasons impacting a Tenant’s ability to pay rent due;
 - 5. Loss of compensable hours of work or wages, layoffs; or

6. Extraordinary out-of-pocket medical expenses.
- D. “Landlord” includes all of the following or an agent of any of the following:
 1. An owner of real property for residential and/or commercial rental purposes (“rental unit” or “unit”).
 2. An owner of a mobilehome park.
 3. An owner of a mobilehome park space.
- E. “Landlord’s Family Member” means a Landlord’s parent, child, spouse or registered domestic partner, grandparent, grandchild, aunt or uncle at least sixty-two (62) years of age, or other dependent over which the Landlord has guardianship, the spouse or registered domestic partner’s parent, child, grandparent, grandchild, aunt or uncle at least sixty-two (62) years of age, and other dependent over which the Landlord’s spouse or domestic partner has guardianship.
- F. “Moratorium Period” means the time period commencing March 4, 2020, through September 30, 2021, unless further extended or repealed by the Board.
- G. “Personal Guarantee” means, with respect to a commercial lease with an commercial Tenant who has nine (9) employees or fewer, a term that provides for an individual who is not the Tenant to become wholly or partially personally liable for the rent, charges, or other sums required to be paid by the commercial Tenant, upon the occurrence of a default in payment. The term “Personal Guarantee” includes the execution of a

separate instrument that would otherwise qualify as a Personal Guarantee if it were included within the terms of the underlying commercial lease under which rent came due, and the individual held liable for the rent is a natural person rather than a business entity.

- H. “Protected Time Period” means the time period of March 4, 2020, through September 30, 2020, during which a residential tenant or a mobilehome space renter was unable to pay rent.
- I. “Related to COVID-19” means related to any of the following:
 - 1. A suspected or confirmed case of COVID-19, or caring for a household or family member who has a suspected or confirmed case of COVID-19;
 - 2. Lay-off, loss of compensable work hours, or other reduction or loss of income or revenue resulting from a business closure or other economic or employer impacts related to COVID-19;
 - 3. Compliance with an order or recommendation of the County’s Health Officer to stay at home, self-quarantine, or avoid congregating with others during the state of emergency;
 - 4. Extraordinary out-of-pocket medical expenses related to the diagnosis of, testing for, and/or treatment of COVID-19; or
 - 5. Child care needs arising from school closures in response to COVID-19.

J. “Residential Tenant” means a residential tenant or a mobilehome space renter.

K. “Tenant” includes all of the following:

1. Tenants of a rental unit.
2. Tenants who rent space or a lot in a mobile-home park.
3. Tenants of commercial property, as defined in subdivision (c) of Section 1162 of the Civil Code, including, but not limited to, a commercial tenant using a property as a storage facility for commercial purposes. The following tenants of commercial property are excluded from the protections of this Moratorium:
 - a. Effective June 1, 2020, commercial tenants that are multinational, publicly-traded, or have more than 100 employees.
 - b. Effective September 1, 2020, commercial tenants of space or property located at airports.

L. “Transition Protection Period” means the time period from October 1, 2020, through June 30, 2021.

IV. General Applicability of Moratorium.

A. Application. Consistent with the provisions of Paragraph V, VI, VII, and VIII, this Moratorium applies to nonpayment eviction notices, no-fault eviction notices, rent increase notices, unlawful detainer actions served and/or filed on or after March 4, 2020, and other civil actions, including, but not limited to, actions for repayment of rental debt accrued on or after March 4, 2020.

B. Jurisdiction.

1. Unincorporated County. This Moratorium applies to all unincorporated areas of the County.
2. Incorporated Cities within County. Effective September 1, 2020, this Moratorium applies to incorporated cities within the County of Los Angeles pursuant to Government Code section 8630 et seq. and Chapter 2.68 of the County Code.
 - a. It is the intent of the County, in enacting this Moratorium, to provide uniform, minimum standards protecting Tenants during this local emergency.
 - b. Nothing in this Moratorium shall be construed to preclude any incorporated city within the County from imposing, or continuing to impose, greater local protections than are imposed by this Moratorium if the protections are not inconsistent with this Moratorium and are not preempted by State or federal regulations.
 - c. Examples of greater local protections include, but are not limited to, granting additional time for commercial Tenants to notify a Landlord of an inability to pay rent, removing a requirement that a commercial Tenant notify a Landlord of an inability to pay, removing a requirement for a commercial Tenant to provide a certification or evidence of an inability to pay rent, and expanding the prohibition on

evictions of Tenants to include additional prohibited grounds for eviction.

V. Moratorium. A temporary moratorium on evictions of Tenants impacted by the COVID-19 crisis is imposed as follows:

A. Evictions. No Landlord shall evict a Tenant as follows:

1. Nonpayment of Rent. A Tenant shall not be evicted for nonpayment of rent, late charges, interest, or any other fees accrued if the Tenant demonstrates an inability to pay rent and/or such related charges due to Financial Impacts Related to COVID-19, the state of emergency regarding COVID-19, or following government-recommended COVID-19 precautions, and the Tenant has provided notice to the Landlord within seven (7) days after the date that rent and/or such related charges were due, unless extenuating circumstances exist, that the Tenant is unable to pay.

- a. Moratorium Period. Commercial Tenants who are unable to pay rent incurred during the Moratorium Period are protected from eviction under this Moratorium, so long as the reason for nonpayment is Financial Impacts Related to COVID-19, and the commercial Tenant provides notice to the Landlord to this effect within the timeframe specified in this Paragraph V. Effective June 22, 2021, a Landlord is:

- i. Required to provide notice to commercial Tenants with nine (9)

employees or fewer of their rights under this Moratorium;

- ii. Prohibited from enforcing a Personal Guarantee against a commercial Tenant with nine (9) employees or fewer, arising from commercial rental debt that is the result of Financial Impacts Related to COVID-19 accrued during the Moratorium Period; and
 - iii. Precluded from evicting a commercial Tenant whose tenancy is currently in a holdover or month-to-month tenancy.
- b. Protected Time Period. Residential Tenants who were unable to pay rent incurred during the Protected Time Period are protected from eviction under this Moratorium, so long as the reason for nonpayment was Financial Impacts Related to COVID-19, and the Residential Tenant has provided notice to the Landlord to this effect within the timeframe specified in this Paragraph V.
 - c. Transition Protection Period. Residential Tenants who are unable to pay rent incurred during the Transition Protection Period, and who are not able to meet State law requirements necessary for protection from eviction for such nonpayment, are protected from eviction under this Moratorium, so long as the reason for nonpayment was Financial Impacts Related to COVID-19, and the Residential

Tenant has provided notice to the Landlord to this effect by June 30, 2021.

- d. Extension Protection Period. Residential Tenants who are unable to pay rent incurred during the Extension Protection Period are protected from eviction under this Moratorium, so long as the reason for nonpayment was Financial Impacts Related to COVID-19, and the Residential Tenant has provided notice to the Landlord to this effect within the timeframe specified in this Paragraph V.
2. No-Fault Termination of Tenancy or Occupancy. A Tenant shall not be evicted where grounds for terminating the tenancy or occupancy is not based on any alleged fault by the Tenant, including, but not limited to, those stated in Code of Civil Procedure section 1161 et seq., and Chapters 8.52 and 8.57 of the County Code. No-Fault termination of tenancy or occupancy also includes the intent to demolish or to substantially remodel the real property.
3. Owner Move-Ins. However, as of July 1, 2021, a Landlord, who purchased a single-family home on or before June 30, 2021, and seeks in good faith to recover possession of said single-family home for the Landlord's or Landlord's Family Member's own use and occupancy as the Landlord's or Landlord's Family Member's principal residence for at least thirty-six (36) consecutive months, may displace the current Residential

Tenant and Residential Tenant's household members in order to move into the single-family home subject to the following conditions:

- a. Residential Tenant has been and is able to pay rent and does not have Financial Impacts Related to COVID-19;
- b. Landlord may only terminate a tenancy if the Landlord or Landlord's Family Member who will reside in the single-family home is similarly situated to the Residential Tenant or Residential Tenant's household members who are being displaced, as follows:
 - i. If the Residential Tenant or one of Residential Tenant's household members is at least sixty-two (62) years of age or older, then the Landlord or Landlord's Family Member who will reside in the single-family home must also be sixty-two (62) years of age or older;
 - ii. If the Residential Tenant or one of Residential Tenant's household members is a person with a disability who has a physical or mental impairment that limits one or more of a person's major life activities within the meaning of the California Fair Housing and Employment Act pursuant to California Government Code section 12926, then the Landlord or Landlord's Family Member who will reside in the single-

family home must also be a person with a disability;

- iii. If the Residential Tenant or one of Residential Tenant's household members has a terminal illness as verified by a medical care provider, then the Landlord or Landlord's Family Member who will reside in the single-family home must also have a terminal illness; or
 - iv. If the Residential Tenant is a low-income household (low-income household means a household whose income does not exceed the qualifying limits for lower income households as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937, or as otherwise defined in California Health and Safety Code section 50079.5), then the Landlord or Landlord's Family Member who will reside in the single-family home must also be a low-income household.
- c. Landlord provides Residential Tenant with at least sixty (60) days' written notice that Landlord or Landlord's Family Member will be occupying the single family home as their principal residence, thus requiring Residential Tenant to vacate the single family home within sixty (60) days, and Landlord provides a copy of said notice to the Department of Consumer and Business Affairs ("DCBA")

with proof of timely service on the Residential Tenant. The Landlord shall provide an extension to this time period if anyone in the Residential Tenant's household residing in the single-family home and/or anyone in the Landlord's or Landlord's Family Member's household who will be moving into the single family home has been diagnosed with a suspected or confirmed case of COVID-19 within fourteen (14) days of the final date of the tenancy until all affected parties have been deemed to no longer be infectious. Landlord demonstrates good faith by moving into, or having Landlord's Family Member who will principally reside in the single family home move into, the single-family home within sixty (60) days of Residential Tenant vacating the single-family home and living in the single-family home as Landlord's or Landlord's Family Member's principal residence for at least thirty-six (36) consecutive months;

- d. Landlord pays the Residential Tenant relocation assistance. The amount of relocation assistance shall be as set forth in the regulations, executive orders, or municipal code of the local jurisdiction within which the single-family home is located. If no such relocation assistance requirements exist for such owner move-ins, Landlord shall pay Residential Tenant relocation assistance as set forth in Section 8.52.110 of the County Code and DCBA's policies and procedures;

- e. Not less than sixty (60) days prior to the final date of the tenancy, the Landlord must disclose to DCBA the name(s) of the eligible individuals who will occupy the single-family home on a form approved by DCBA. DCBA may contact the Landlord at any time during Landlord's or Landlord's Family Member's thirty-six (36) month occupancy to confirm that the Landlord or Landlord's Family Member resides in the recovered single-family home and to obtain written verification of residency; and
 - f. Landlord is in compliance with all requirements of Chapter 8.52 of the County Code for single-family homes located in unincorporated County.
4. Nuisance or Unauthorized Occupants or Pets. A Residential Tenant shall not be evicted for nuisance or for unauthorized occupants or pets whose presence is necessitated by or related to the COVID-19 emergency.
5. Denial of Entry. A Residential Tenant shall not be evicted on the ground that such tenant denied entry by the Landlord into the rental unit, subject to the following:
- a. The following circumstances permit entry into the Residential Tenant's unit:
 - i. Remedying a condition that substantially endangers or impairs the health or safety of a Residential Tenant or other persons in, or in the vicinity of, the rental unit, or

- ii. Residential Tenant is causing or threatening to cause substantial damage to the rental unit.
- b. If a Landlord seeks entry pursuant to subdivision (a) above, the Landlord must:
 - i. Not permit entry by any person who is, or who the Landlord has good cause to believe is, a carrier of COVID-19.
 - ii. Ensure that appropriate social distancing, cleaning, and sanitation measures are taken to protect the Residential Tenant and members of the household from risk of transmitting COVID-19 as a result of entry into the rental unit. Such measures must account for: the Residential Tenant notifying Landlord that the Residential Tenant, or a member of the household, has or believes in good faith to have been recently exposed to COVID-19; or the Residential Tenant notifying Landlord that the Residential Tenant, or a member of the household, is at a higher risk for more serious complications from COVID-19.
 - iii. A Landlord who enters the rental unit shall promptly leave the rental unit if the Residential Tenant revokes permission to enter because of the Landlord's failure to observe appropriate social distancing, cleaning, and sanitization measures.

- c. For purposes of this subsection only, “Landlord” includes, but is not limited to, any person authorized by the Landlord to enter the rental unit, such as maintenance personnel, a prospective buyer, or a prospective tenant.
 - 6. Notwithstanding (1) through (5), above, or any other provision of this Moratorium, this Moratorium shall not apply where the eviction is necessary to maintain compliance with the requirements of Civil Code section 1941.1, Health and Safety Code sections 17920.3 or 17920.10, or any other applicable law governing the habitability of rental units, or where the Tenant’s occupancy is otherwise a threat to the public health or safety as determined by a court of law.
- B. Tenant Certification.
- 1. Residential Tenants. Residential Tenants seeking protection under this Moratorium, may provide, and Landlords must accept, a self-certification of inability to pay rent, and are required to provide notice to the Landlord to this effect within the timeframe specified in this Paragraph V, unless otherwise specified.
 - 2. Commercial Tenants.
 - a. Commercial Tenants with nine (9) employees or fewer, may provide, and Landlords must accept, a self-certification of inability to pay rent, and are required to provide notice to the Landlord to this effect within the timeframe specified in this Paragraph V.

- b. Commercial Tenants with ten (10) or more, but fewer than 100, employees must provide written documentation demonstrating financial hardship, along with notice of inability to pay rent, to the Landlord within the timeframe specified in this Paragraph V.
- C. Repayment of Rent. Unpaid rent incurred during the Moratorium Period shall be repaid pursuant to the following:
- 1. Repayment by Residential Tenants.
 - a. Residential Tenants who were unable to pay rent during the Protected Time Period shall have up to September 30, 2021, to repay unpaid rent incurred during the Protected Time Period, unless further extended by the Board.
 - b. Residential Tenants who are unable to pay rent during the Transition Time Period shall repay such rental debt pursuant to SB 91 and AB 81, unless extended further through State legislation.
 - c. Residential Tenants shall have up to twelve (12) months from the expiration of the Extension Time Period to repay unpaid rent incurred during the Extension Time Period.
 - 2. Repayment by Commercial Tenants. Commercial Tenants must adhere to the following repayment schedule at the end of the Moratorium Period:
 - a. Commercial Tenants with nine (9) employees or fewer shall have twelve (12)

months from the expiration of the Moratorium Period to repay unpaid rent.

- b. Commercial Tenants with ten (10) or more, but fewer than 100, employees, shall have six (6) months from the expiration of the Moratorium Period to repay unpaid rent, in equal installments, unless the commercial Tenant and Landlord agree to an alternate payment arrangement.
3. Partial Payments and Payment Plans. Tenants and Landlords are encouraged to agree on a payment plan during this Moratorium Period, and nothing herein shall be construed to prevent a Landlord from requesting and accepting partial rent payments, or a Tenant from making such payments, if the Tenant is financially able to do so.
4. Failure to Pay Back Rent Not Ground for Eviction. Tenant's failure to pay back unpaid rent under the terms of a payment plan, or at the end of the repayment period shall not be cause to evict the Tenant. Any term in a payment plan that allows eviction due to the Tenant's failure to comply with the terms of the payment plan is void as contrary to public policy.
5. Application of Rental Payment. Effective March 4, 2020, a Landlord is prohibited from applying a rental payment to any rental debt other than to the prospective month's rent, or such other month or rental debt that the Tenant specifies, unless the

Tenant has agreed in writing to allow the payment to be otherwise applied.

VI. Rent Increases in Unincorporated County Prohibited. Landlords shall not increase rents for Residential Tenants in the unincorporated County during the Moratorium Period, to the extent otherwise permitted under State law and consistent with Chapters 8.52 and 8.57 of the County Code. **Nothing in this Moratorium shall be construed to apply this limitation of rent increases in incorporated cities within the County.**

VII. Pass-Throughs or Other Fees Prohibited. Landlords shall not impose any pass-throughs otherwise permitted under Chapters 8.52 and 8.57 of the County Code, or charge interest or late fees on unpaid rent or other amounts otherwise owed, during the Moratorium Period. Landlords are prohibited from retroactively imposing or collecting any such amounts following the termination or expiration of the Moratorium.

VIII. Harassment and Retaliation Protections. Landlords, and those acting on their behalf or direction, are prohibited from harassing, intimidating, or retaliating against Tenants for acts or omissions by Tenants permitted under this Moratorium, and such acts by Landlord or Landlord's agent will be deemed to be violations of the Retaliatory Eviction and Harassment provisions as set forth in County Code Sections 8.52.130 and 8.57.100 and as expanded herein. Harassing,

intimidating, or retaliatory acts by Landlords, and those acting on their behalf or direction, include, but are not limited to:

- A. Interrupting, terminating, or failing to provide all services required to be provided by the Landlord related to the use or occupancy of a rental unit (“Housing Services”) under the terms of a lease agreement or under federal, State, County, or local housing, health, or safety laws unless such Housing Services are closed due to Health Officer Orders;
- B. Failing to perform repairs and maintenance required by a rental agreement or by federal, State or local housing, health, or safety laws;
- C. Failing to exercise due diligence in completing repairs and maintenance once undertaken or failing to follow appropriate industry repair, containment or remediation protocols designed to minimize exposure to noise, dust, lead, paint, mold, asbestos, or other building materials with potentially harmful health impacts;
- D. Abusing the Landlord’s right of access into a rental unit. This includes entries, and attempted entries, for inspections that are not related to necessary repairs or services; that are excessive in number; that improperly target certain Residential Tenants; that are used to collect evidence against the occupant; or that are otherwise beyond the scope of a lawful entry;
- E. Abusing a Tenant with words that are offensive and inherently likely to provoke an immediate violent reaction. This includes

words used during in-person conversations, through social media postings or messages, or other communications;

- F. Influencing or attempting to influence a Tenant to vacate a rental unit through fraud, intimidation or coercion, which shall include threatening to report a Tenant to the United States Department of Homeland Security or any other governmental or law enforcement agency;
- G. Threatening a Tenant, by word, gesture, or with physical harm;
- H. Violating any law which prohibits discrimination based on race, gender, sexual preference, sexual orientation, ethnic background, nationality, religion, age, parenthood, marriage, pregnancy, disability, human immunodeficiency virus (HIV)/acquired immune deficiency syndrome (AIDS), occupancy by a minor child, or source of income;
- I. Taking action to terminate any tenancy including service of any notice to quit or notice to bring any action to recover possession of a rental unit based upon facts which the Landlord has no reasonable cause to believe to be true or upon a legal theory which is untenable under the facts known to the Landlord. No Landlord shall be liable under this subsection for bringing an action to recover possession unless and until the Tenant has obtained a favorable termination of that action;
- J. Removing from the rental unit personal property, furnishings, or any other items

without the prior written consent of a Tenant, except when done pursuant to enforcement of a legal termination of tenancy or as otherwise authorized by law;

- K. Offering payments to a Tenant to vacate more than once in six (6) months, after the Tenant has notified the Landlord in writing that the Tenant does not desire to receive further offers of payments to vacate;
- L. Attempting to coerce a Tenant to vacate with offers of payment to vacate which are accompanied with threats or intimidation. This shall not include settlement offers made in good faith and not accompanied by threats or intimidation in pending eviction actions;
- M. Refusing to acknowledge receipt of a Tenant's lawful rent payment;
- N. Refusing to cash a rent check for over thirty (30) days;
- O. Requesting information that violates a Tenant's right to privacy including, but not limited to, residence or citizenship status, protected class status, or social security number, except as required by law or in the case of a social security number, for the purpose of obtaining information to determine qualification for tenancy, or releasing such information except as required or authorized by law;
- P. Interfering with a Residential Tenant's right to privacy including, but not limited to, entering or photographing portions of a rental unit that are beyond the scope of a lawful entry or inspection;

- Q. Interfering with a Residential Tenant's right to quiet use and enjoyment of a rental unit as that right is defined by State law;
- R. Other repeated acts or omissions of such significance as to substantially interfere with or disturb the comfort, repose, peace, or quiet of any person lawfully entitled to occupancy of such rental unit and that cause, are likely to cause, or are intended to cause any person lawfully entitled to occupancy of a rental unit to vacate such rental unit or to surrender or waive any rights in relation to such occupancy;
- S. Removing a Housing Service for the purpose of causing a Residential Tenant to vacate the residential unit or mobilehome. For example, taking away a parking space knowing that a Residential Tenant cannot find alternative parking and must therefore move; and
- T. Interfering with the right of a Residential Tenant to: organize and engage in concerted activities with other tenants for the purpose of mutual aid and protection; provide property access to tenant organizers, advocates, or representatives working with or on behalf of tenants living at a property; convene tenant or tenant organization meetings in an appropriate space accessible to tenants under the terms of their rental agreement; or distribute and post literature informing other tenants of their rights and of opportunities to involve themselves in their project in common areas, including lobby areas and bulletin boards.

IX. Administrative Fines. A Landlord, who is determined by DCBA to have violated Paragraphs V, VI, VII or VIII of this Resolution, including those relating to the harassment protections enumerated above, shall be subject to administrative fines pursuant to Sections 8.52.160 and 8.57.130 of the County Code. The maximum administrative fine for violations of Paragraph VIII of this Resolution is temporarily increased for the duration of this Moratorium from \$1,000 to up to \$5,000 per violation for each day the violation continues, and if the aggrieved Tenant is disabled or sixty-five (65) years of age or older, an additional fine of up to \$5,000 per violation per day may be assessed.

X. Remedies.

A. Civil Liability. Any Tenant, or any other person or entity acting on behalf of the Tenant who will fairly and adequately represent the Tenant's interests, including the County, may enforce the provisions of Paragraphs V, VI, VII or VIII of this Resolution by means of a civil action seeking civil remedies and/or equitable relief. Landlords shall be subject to civil penalties pursuant to Sections 8.52.170 and 8.57.140 of the County Code. The maximum civil penalty for violation of Paragraph VIII of this Resolution is increased from \$1,000 to up to \$5,000 per violation for each day the violation continues, and if the aggrieved Tenant is disabled or sixty-five (65) years of age or older, the court may award an additional penalty of up to \$5,000 per

violation per day. No administrative remedy need be exhausted prior to filing suit to enforce this Moratorium.

- B. Criminal Liability. Violation of Paragraphs V, VI, VII or VIII of this Resolution shall be punishable as set forth in Section 2.68.320 of the County Code.
 - C. Affirmative Defense. Effective March 4, 2020, any Tenant protection provided under this Moratorium shall constitute an affirmative defense for a Tenant in any unlawful detainer action brought pursuant to California Code of Civil Procedure section 1161, as amended, and any other civil action seeking repayment of rental debt. Said affirmative defenses shall survive the termination or expiration of this Moratorium.
 - D. Nonexclusive Remedies and Penalties. The remedies provided in this Moratorium are not exclusive, and nothing in this Moratorium shall preclude Tenant from seeking any other remedies or penalties available at law or in equity.
- XI.** This Moratorium addresses the County's public policy and intent to close certain businesses to protect public health, safety and welfare, and the County recognizes that the interruption of any business will cause loss of, and damage to, the business. Therefore, the County finds and declares that the closure of certain businesses is mandated for the public health, safety and welfare, the physical loss of, and damage to, businesses is resulting from the shutdown, and these businesses

have lost the use of their property and are not functioning as intended.

- XII.** Grocery stores, gas stations, pharmacies and other retailers are requested to institute measures to prevent panic buying and hoarding essential goods, including, but not limited to, placing limits on the number of essential items a person can buy at one time, controlling entry to stores, and ensuring those at heightened risk of serious complications from COVID-19 are able to purchase necessities .

XIII. Guidelines and Board Delegations.

- A. The Director of the DCBA, or his designee, shall issue guidelines to aid in the implementation of the Moratorium, including, but not limited to, guidance regarding the ways in which Tenants can certify they are entitled to protection under the Moratorium, appropriate supporting documentation for Tenants not entitled to self-certify under the Moratorium, notice requirements, and procedures for utilizing dispute resolution services offered by DCBA, among other clarifications.
- B. The Los Angeles County Development Authority ("LACDA"), acting in its capacity as a local housing authority for the County, shall extend deadlines for housing assistance recipients and applicants to deliver records or documents related to their eligibility for programs, to the extent those deadlines are within the discretion of the LACDA.

- C. The Director of DCBA, in collaboration with the Chief Executive Office (“CEO”), shall offer assistance to the State Department of Business Oversight to engage financial institutions to identify tools to be used to afford County residents relief from the threat of residential foreclosure and displacement, and to promote housing security and stability during this state of emergency.
- D. The Director of DCBA, in collaboration with the CEO and the Acting Director of Workforce Development, Aging, and Community Services (“WDACS”), shall convene representatives of utility and other service providers to seek a commitment from the providers to waive any late fees and forgo service disconnections for Tenants and small businesses who are suffering economic loss and hardship as a result of the COVID-19 pandemic.
- E. The Director of DCBA, the Acting Director of WDACS, and the Executive Director of LACDA shall jointly establish an emergency office dedicated to assisting businesses and employees facing economic instability as a result of the COVID-19 pandemic. The joint emergency office shall be provided all of the necessary resources by DCBA and WDACS, and should include opening a dedicated hotline to assist businesses and employees, web-based and text-based consultations, and multilingual services. The County shall provide technical assistance to businesses and employees seeking to access available programs and insurance, and shall work

directly with representatives from the State and federal governments to expedite, to the extent possible, applications and claims filed by County residents.

- F. The Director of DCBA and the Executive Director of LACDA shall assist small businesses in the unincorporated areas in applying for U.S. Small Business Administration (“SBA”) loans that the President announced on March 12, 2020. SBA’s Economic Injury Disaster Loans offer up to \$2 million in assistance for a small business. These SBA loans can provide vital economic support to small businesses to help overcome the temporary loss of revenue they are experiencing.
- G. The Executive Director of LACDA, or his designee, is hereby delegated authority to amend existing guidelines for any of its existing federal, State or County funded small business loan programs, including the Community Development Block Grant (“CDBG”) matching funds, and to execute all related documents to best meet the needs of small businesses being impacted by COVID-19, consistent with guidance provided by the U.S. Economic Development Administration in a memorandum dated March 16, 2020, to Revolving Loan Fund (“RLF”) Grantees for the purpose of COVID-19 and temporary deviations to RLF Administrative Plans, following approvals as to form by County Counsel.

- H. The Acting Director of WDACS shall work with the State of California, Employment Development Department, to identify additional funding and technical assistance for dislocated workers and at-risk businesses suffering economic hardship as a result of the COVID-19 pandemic. Technical assistance shall include, but not necessarily be limited to: assistance for affected workers in applying for unemployment insurance, disability insurance and paid family leave; additional business assistance for lay-off aversion and rapid response; and additional assistance to mitigate worker hardship as a result of reduced work hours or job loss due to the COVID-19 pandemic.
- I. The Director of DCBA and the Acting Director of WDACS, in collaboration with the CEO and the Executive Director of LACDA, shall create a digital toolkit for small businesses and employees to assist them in accessing available resources, including, but not limited to, disaster loans, unemployment insurance, paid family leave, disability insurance, and layoff aversion programs.
- J. The CEO's Center for Strategic Partnerships, in collaboration with the DCBA and its Office of Immigrant Affairs, and the Acting Director of WDACS, shall convene philanthropic partners to identify opportunities to enhance resources available to all small business owners and employees who may be unable or fearful to access federal and State disaster resources, including immigrants.

- K. The Executive Director of the Office of Immigrant Affairs, the CEO's Women + Girls Initiative, and the Department of Public Health's Center for Health Equity shall consult on the above directives to provide an immigration, gender, and health equity lens to inform the delivery of services and outreach.
 - L. The Director of DCBA, the Acting Director of WDACS, and the Executive Director of LACDA, or their respective designees, shall have the authority to enter into agreements with partner agencies and municipalities and hire and execute contracts for consultants, contractors, and other services, as needed, to provide consumer, tenant, and worker protections and support small businesses during the stated emergency to accomplish the above directives.
- XIV.** This Resolution shall take effect immediately upon its passage. Except as otherwise indicated, all provisions stated herein shall apply commencing March 4, 2020, and shall remain in effect until September 30, 2021, unless extended or repealed by the Board of Supervisors. This Resolution supersedes all previously issued resolutions and executive orders concerning an eviction moratorium or rent freeze within the County. It shall be superseded only by a duly enacted ordinance or resolution of the Board or a further executive order issued pursuant to Section 2.68.150 of the County Code.

XV. Severability. If any provision of this Resolution or the application thereof to any person, property, or circumstance, is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision(s) or application, and to this end, the provisions of this Resolution are declared to be severable.

XVI. Waiver Prohibited. Any waiver of rights under this Moratorium shall be void as contrary to public policy.

The foregoing Resolution Further Amending and Restating the Executive Order for an Eviction Moratorium was adopted on the 22nd day of June 2021, by the Board of Supervisors of the County of Los Angeles.

(seal of the County of Los Angeles)

Board of Supervisors of the
County of Los Angeles
By /s/ Hilda L. Solis
Chair

APPROVED AS TO FORM:

RODRIGO A. CASTRO-SILVA	Attest: Celia Zavala
County Counsel	Executive Officer
By: <u>/s/ (illegible)</u>	Clerk of the Board of
Deputy	Supervisors
	By <u>/s/ Lachelle Smitherman,</u>
	Deputy