

TUESDAY, JULY 25, 2023

Claim: Rent hike ban forces housing off market

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A lawsuit filed Monday says a Los Angeles city ordinance prohibiting rent increases unconstitutionally prevents landlords from raising rent on properties subject to a separate rent stabilization ordinance.

The measure at issue has forced numerous property owners out of the city's housing market, according to the nonprofit that filed the lawsuit.

"By preventing landlords from raising rents even modestly to account for the drastic cost of living increases and sky-high inflation we've seen in the last 3 1/2 years since the beginning of the pandemic, the rent freeze has become confiscatory across all properties subject to the city's rent stabilization ordinance," Douglas J. Dennington of Rutan & Tucker LLP in Irvine, who represents the plaintiff, said in an email on Monday.

The lawsuit is the latest filed against the city by the Apartment Association of Greater Los Angeles over tenant protection and real estate measures adopted in the wake of the COVID-19 pandemic.

Monday's complaint targets an ordinance issued in the early days of the pandemic prohibiting rent

increases for one year after the end of the emergency declared by the mayor in 2020. *Apartment Association of Los Angeles County Inc. v. City of Los Angeles et al.*, (L.A. Sup. Ct., filed July 24, 2023).

According to the complaint, the state of emergency came to an end in February, placing the expiration of the rent freeze ordinance in early 2024. While the freeze has been in effect, the complaint said, the consumer price index for the Los Angeles area has risen year over year, rising 6.6% from 2020 to 2021, 7.9% the following year and 2.5% the year after that.

"Despite these increases year-over-year in CPI, the city has not re-evaluated the ban in relation to current economic circumstances and continues to prohibit plaintiff's members from increasing rents even to account for increased expenses," the complaint said.

The ordinance violates the due process clause of the California Constitution by denying rental property owners a reasonable means of raising rent to meet rising costs, the lawsuit states.

"The city has purposefully made it economically impossible for landlords to even apply to its housing board for a modest increase in rents by imposing administrative burdens that would end up costing landlords more than they could

recover in any rent increase," Dennington said. "The California Supreme Court, in *Birkenfeld v. City of Berkeley* (1976) 17 Cal. 3d 129, has held such arduous and draconian rent control measures violate landlords' due process rights."

"Many housing providers in Los Angeles have been forced to exit the rental business, liquidate retirement savings to keep up with rapidly rising costs, or in extreme instances, are facing foreclosure proceedings," Cheryl Turner, president of the apartment owners group's board of directors, said in a news release on Monday.

A spokesman for the Los Angeles city attorney's office declined to comment on pending litigation in an email.

The landlords group previously sued the city in March over two ordinances placing restrictions on unlawful retainer actions and requiring owners of certain properties to pay "relocation assistance" to tenants who choose to leave after a rent increase. *Apartment Association of Los Angeles County Inc. v. City of Los Angeles et al.*, 23STCP00720 (L.A. Super. Ct., filed Mar. 3, 2023).

In an answer to that petition, the city asserted that the filing failed to list an actionable claim, that the claims made were unripe and that the plaintiffs had no standing to

sue. In May, Superior Court Judge Mitchell Beckloff found that the plaintiff did not provide enough support for its request for a preliminary injunction.

In March 2022, the apartment association challenged a ban on evictions adopted by the county in early 2020 and renewed in 2022 through June 30, 2023, arguing against the ban on the same constitutional grounds cited in Monday's complaint. *Apartment Association of Los Angeles County Inc. et al. v. County of Los Angeles et al.*, 22ST-CV08225 (L.A. Super. Ct., filed Mar. 7, 2022).

The case was moved to federal court, where U.S. District Judge Dean Pregerson ruled that the protections were unconstitutionally vague and granted the plaintiff's request for preliminary injunction. *Apartment Association of Los Angeles County, Inc. et al. v. County of Los Angeles et al.*, 2:22-cv-02085 (C.D. Cal., filed Mar. 29, 2022).

In Monday's complaint, the apartment owners group calls for a declaratory judgment that the rent freeze ordinance is unconstitutional, as well as enjoinder and permanent injunction against enforcing it and a binding declaration allowing landlords to impose rent increases in the future.

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