



September 10, 2021

Dear Chair Burgis, Vice-Chair Glover, and Supervisors Gioia, Mitchoff and Andersen:

This time in which we are living has been challenging for all, and it continues to get more challenging. We are writing as a coalition of organizations to ask the Board of Supervisors to take immediate action to help vulnerable residents and communities cope with the resurgence of COVID cases, stalled economic recovery, and expiration of pandemic tenant protections and unemployment assistance.

I. Policies That Have Supported the Community During Crisis

During the past eighteen months, elected leaders like you have been required to take on more complex responsibilities to protect the health and safety of Contra Costa residents and small businesses. We have appreciated your care and leadership to date in adopting bold policies to stabilize housing for vulnerable families who have been hit hard by the pandemic. The actions you have taken--such as enacting the county's eviction moratorium and rent freeze, allocating \$600,000 of CARES Act money toward legal services for tenants, providing rental assistance through CDBG, and collaborating closely with community groups to help renters and landlords to access the state's Emergency Rental Assistance Program (ERAP)--have all had a positive impact on keeping people in their homes. This increased housing stability has, in turn, reduced the spread of the virus locally, and prevented our local communities from experiencing massive displacement and homelessness.

II. COVID Mutations and Economic Challenges Require More Responsive Policies

We had all hoped and expected that, as we move into the fall, there would no longer be a need for these actions and protections to continue. **Unfortunately, the opposite is true: these local protections are needed now more than ever.** COVID cases have been spiking dramatically due to the spread of the Delta variant. On September 1, Contra Costa averaged 663 new cases per day over the previous seven days. This is comparable to the surge in January, when we saw

devastating levels of community spread.² In addition, California has one of the highest numbers of Mu variant cases, a potentially vaccine-resistant form of COVID.³ While we are all exhausted from this pandemic, our policymaking must continue to remain nimble and responsive to a virus that is rapidly evolving.

With this resurgence in cases, job growth in California has slowed from earlier this summer. A recent report from the Public Policy Institute of California found that about 23% of Californians were unemployed or underemployed in the last three months, and that these rates still exceed levels from any point during the Great Recession.⁴ Across the U.S., Black workers have been disproportionately harmed by this slow economic growth. In August, the Black unemployment rate increased to 9%, even while it fell from 5.4% to 5.2% for the workforce as a whole.⁵ Even still, federal unemployment benefit programs under the CARES Act ended on September 4. Other safety net benefits are scheduled to end on September 11, affecting an estimated 2 million California households.

Although the health and economic well-being of many residents are still precarious, the state of California does not seem likely to extend tenant and unemployment protections, seemingly due more to political considerations than actual health or economic needs. Given the end of the state's eviction moratorium on non-payment of rent at the end of this month, and the continued disparate impact of COVID-related job losses on communities of color, many local families are at increased risk of losing their homes and being pushed into the street. Thankfully, rent relief is now available to low-income renters and their landlords. As of September 7, however, the state had only paid out \$45 million of the more than \$121 million requested.⁶ This program is starting to benefit vulnerable tenants and landlords, and Contra Costa has been doing a better job than most in getting money in the hands of those that need it. But the state's payment timeline is still slow, and our communities need more time to close the gap between what has been requested and what has been paid.

In this critical moment, the county must continue its track record of taking bold action to avoid the eviction cliff and protect residents' health and safety. It is in nobody's interest to see more encampments, more COVID community spread, and more children and families traumatized. The members of the Raise the Roof Coalition have been working on the front lines for months, with great success, to connect residents to resources and assistance to help them stay housed. We come together now to urge the county to take five immediate actions to continue to provide vulnerable tenants and landlords with rent relief and prevent evictions.

² During the holiday surge, Contra Costa featured 7-day averages ranging from 489 new infections on December 30, 2020 to 758 on January 11, 2021.

³ www.independent.co.uk/news/world/americas/mu-variant-nebraska-florida-california-b1915826.htm

⁴ www.ppic.org/blog/the-summer-of-un-and-underemployment/

⁵

www.marketplace.org/2021/09/06/unemployment-rate-for-black-workers-going-the-wrong-way-as-benefits-expire/

⁶ www.housing.ca.gov/covid_rr/dashboard.html

III. Immediate Steps The Board of Supervisors Should Take To Prevent a Housing and Homelessness Crisis

We urge the Board of Supervisors to:

1. **Ensure that local courts are enforcing AB 832**, so that low-income tenants facing eviction proceedings for non-payment are connected to rental assistance through ERAP.
2. **Pass a new urgency ordinance** that temporarily restricts the definition of just cause for eviction to cases where the tenant poses an imminent threat to public health and safety.
3. **Allocate county funds toward expanded tenant legal services** and eviction defense.
4. **Communicate with local tenants** to alert them to the end of AB 832 protections and the availability of rent relief and application assistance.
5. Consider options (e.g., interest-free loans) to **incentivize landlords** to forestall evictions based on non-payment.

Additional information on each of these recommended strategies is provided below.

1. Ensure that local courts are enforcing AB 832.

The state's protections against eviction for non-payment of rent due to COVID are set to expire on September 30. However, AB 832 creates a "backstop" meant to prevent some non-payment evictions in cases involving low-income households (up to 80% of area median income). From October 1, 2021 to March 31, 2022, the courts are not allowed to issue a summons in an Unlawful Detainer (UD) case involving non-payment of rent unless the landlord demonstrates that they applied to ERAP and either the application was denied or the tenant did not complete their portion of the application within a certain amount of time.⁷ The same standard applies for eviction judgments. The purpose of this provision is to (a) ensure that tenants who have applied for ERAP will not be evicted while they are awaiting approval or payment and (b) keep tenants housed by giving those who have not yet heard about or applied to ERAP an opportunity to do so. These aspects of the statute represent a critical last line of defense for vulnerable tenants at risk of displacement or homelessness. Yet, the law is only as beneficial as its enforcement in the courts. Therefore, the county should do everything in its power to ensure that the courts are not merely complying with this aspect of the CCP 1179.11, but also taking affirmative measures to encourage the use of ERAP as a tool for eviction diversion.

We recommend working with the Presiding Judge to:

- ensure that all representatives of the court are aware of their responsibilities to oversee the changes in UD procedure outlined in AB 832;
- attach information on how to access rental assistance and legal services to all court notices in multiple languages;

⁷ California Code of Civil Procedure Section 1179.11 et. seq. This only applies to tenancies that were established before October 1st, 2021.

- change court rules on a temporary, urgency basis to state that landlords are obliged to include this attachment when they serve tenants in UD cases or else the summons is void;
- ensure that tenant attorneys are present for all mediations and hearings to remind the parties of their obligations and opportunities relative to effective state law, in particular AB 832, and ERAP;
- encourage judges and commissioners to request tenant attorneys attend all default hearings with the ability to intervene as a friend of the court; and
- provide well-trained navigators to help the parties apply to ERAP whenever they appear in court in person or via remote technology.

In sum, anytime that a landlord files a non-payment eviction case against a low-income tenant who lost income due to COVID, the courts should mobilize to support the landlord and tenant in using ERAP to resolve the dispute. The money is available. The law requires it. It would be a missed opportunity and cause of great inequity to do anything less.

2. Pass a new urgency ordinance to temporarily restrict the definition of just cause for eviction to cases where the tenant poses an imminent threat to public health and safety.

The data show that, during the pandemic, landlords who want to evict their tenants for non-payment of rent have sought to circumvent legal protections by looking for loopholes that allow them to evict economically vulnerable renters for what appear, on their face, to be other reasons. This has been especially dramatic in Contra Costa County, where tenants have been protected against eviction for non-payment of rent and some no-fault reasons, but not protected against eviction for as many as 13 other causes of action. In other words, existing protections have *permitted* more causes of action for eviction than they've *prevented* in Contra Costa. As a result, 135 local households were evicted through the courts between March 19 and December 31, 2020. By contrast, in Alameda County, only eight households were evicted during the same period.⁸ This disparity is entirely due to the fact that, in Contra Costa County, landlords were able to skirt non-payment eviction protections by summoning other causes of action against their tenants.

These causes of action have included:

- Stating that any nuisance, such as leaving a bike in front of a common area, was a threat to public health and safety.
- Refusing to make repairs to a unit, such as plumbing, and then blaming the tenant for the resulting leaks as a public health and safety threat.
- Using county infraction language to say that tenants committed a crime, such as alleging tenants used fireworks on the Fourth of July.

8

- Forcing tenants to move out because they shared their apartment with members of their immediate family, such as siblings or intimate partners, who were not authorized under the definition of “immediate family” in the county’s current urgency ordinance.

The same systemic abuse by landlords could only intensify beginning October 1, unless the Board takes action. Indeed, if the county and the courts work together to enforce the AB 832 backstop protections described above, then low-income tenants should receive some protection against non-payment evictions. But as we have seen, this backstop will only work if landlords who become impatient with the statutory process are precluded from evicting their tenants for other “proxy” reasons. Therefore, we ask the Board to temporarily limit just cause to only those cases involving an imminent threat to health and safety. The Board should make sure to extend these protections to all units, not only those covered by AB 1482. Since the passage of AB 3088 in August 2020, all tenants have been granted some form of just cause protections in light of the current crisis. Without county action, these protections will disappear on October 1. **This approach is expressly contemplated and allowed by AB 832.**⁹ Indeed, a new urgency ordinance limiting the definition of just cause is needed to secure the legislative intent of AB 832, because, without it, landlords will be able to circumvent the backstop protections that are critical to protecting low-income tenants during a public health emergency.

3. Allocate county funds toward expanded legal services and eviction defense.

We appreciate that the county directed \$600,000 of its CARES Act CDBG-CV3 funding toward legal services in November 2020. While that was a much-appreciated initial investment, it was a one-time allocation that was only sufficient to fund four attorneys for a county of 1.1 million residents. It is clear that ongoing legal services and representation for low-income tenants is absolutely critical. Given the resurgence of the pandemic and the continued threat to families’ housing security, these tenant legal services must be continued and significantly expanded as soon as possible. This need becomes even more urgent given the expiration of state eviction protections at the end of this month, which is expected to result in thousands of evictions being filed in our county. The Bay Area Equity Atlas estimated last year that more than 14,000 Contra Costa renter households were at risk of eviction pending the end of the eviction moratorium.¹⁰ To date, 9,805 families in Contra Costa County have filed requests for rent relief through ERAP.¹¹ Many of the remaining at-risk families will soon face eviction, as tenant protections expire on September 30. Though some of these tenants may be entitled to legal protections, they may not be able to access them, because housing law and court proceedings are complicated. Notably, when tenants do have legal representation, eviction rates drop by 40% or more.¹²

There are numerous other benefits to providing legal representation for tenants, including:

- keeping eviction filings off of tenants’ records;

⁹ See Section 1179.05(2)(C)(b).

¹⁰ www.bayareaequityatlas.org/research/CCCEviction

¹¹ www.housing.ca.gov/covid_rr/dashboard.html

¹² www.allincities.org/node/46986

- securing alternative housing;
- negotiating a reasonable time period for the tenant to move out (rather than become homeless);
- eliminating or reducing money owed to the landlord in situations in which the landlord failed to maintain the habitability of the property;
- reducing harassment by landlords during the lawsuit; and
- helping tenants to apply for rental assistance.¹³

Expanded legal services funding could also support bringing tenants' rights attorneys into the self-help centers in local courts to help tenants file paperwork, earmark illegal notices, and receive support in meeting important deadlines. This is an important intervention, since it can support tenants who were not aware of their rights nor had time to access legal support, and who are now responding to a very tight deadline for a UD suit.

4. Communicate with all renters about the end of AB 832 protections and the availability of rent relief and application assistance.

It is imperative that vulnerable tenants understand that the state's eviction moratorium for non-payment of rent due to COVID is expiring on September 30. This expiration date means that renters in Contra Costa County must pay October's rent in full to avoid being subject to eviction. AB 832 does allow some back-up protections for low-income tenants, as discussed above. But tenants need to know that this is the case. Given that the county, in partnership with RCF Connects, has equipped community groups to offer residents support with ERAP, any communications should include this expanded list of agencies available to support tenants. Communication channels could include Supervisors' email newsletters, county websites and social media accounts, emergency or public health-related text alerts, and communications sent to clients by the Employment and Human Services Department, Health Services Department, and Housing Authority.

5. Consider options to incentivize landlords to forestall evictions for non-payment.

We understand that many smaller and low-income landlords may also be struggling in cases where they have only received partial rent payments for an extended period of time. Perhaps some need support to access ERAP funding; others may have been denied, or have a tenant who did not respond with adequate paperwork to be approved for ERAP assistance. When AB 832 ends on September 30, there may be an increasing number of landlords who feel the pinch and then decide to proceed with filing an eviction. We urge the Board of Supervisors to explore creative ways that the county can offer immediate relief to landlords, in order to avoid evictions and allow more time for the pandemic surge to subside and for the economy to recover, in exchange for agreeing not to evict their tenants for a given period of time. We have not yet fully vetted all of the options that might be available, but we would support the county exploring this idea.

¹³

Lastly, it is important to note that these five solutions are focused on addressing the immediate housing stability crisis. We acknowledge that additional steps must be taken to ensure that Contra Costa families remain safely housed into the future. We support and have endorsed the broader and more comprehensive housing policy recommendations being advanced, through Measure X and elsewhere, by a diverse array of housing providers, regional advocates, policy organizations, and philanthropic foundations. Some of the requests in this letter are consistent with theirs. But we see these five requests as the most time-sensitive to prevent a housing and homelessness crisis.

In closing, we want to emphasize the importance and urgency of swift action on all five of these strategies to stabilize housing for Contra Costa families. It is not in the county's interest to have thousands of families and residents evicted in the coming months. Homelessness and housing insecurity create worse educational outcomes for children, impede long-term economic growth, deepen racial inequities, and negatively impact community health outcomes.¹⁴ A child who experiences homelessness or housing insecurity will be negatively affected for the rest of their life. It is imperative that the county continue to protect low-income renter households in the midst of this persistent pandemic and the resulting economic harms, which disproportionately affect the County's most vulnerable residents, particularly our Black and Latinx communities.

On behalf of the thousands of Contra Costa families we work with and serve, we want to thank the Board of Supervisors and County Administrator's Office for your leadership and vision to date in addressing the housing instability exacerbated by the COVID pandemic. We urge you to continue taking decisive and time-sensitive actions as we move into this next phase of the crisis.

Sincerely,

Kristi Laughlin, EBASE
Alex Werth, EBHO
Mariana Moore, Ensuring Opportunity Campaign

On behalf of the Raise the Roof Coalition:

The Alliance of Californians for Community Empowerment (ACCE)

Centro Legal de la Raza

Contra Costa Central Labor Council

Central County Regional Group (CCRG) of First 5 Contra Costa

¹⁴ Veronica Gaitán, *How Housing Affects Childrens' Outcomes*, Housing Matters: An Urban Institute Initiative, July 2, 2019. <https://housingmatters.urban.org/articles/how-housing-affects-childrens-outcomes>

East Bay Alliance for a Sustainable Economy (EBASE)

East Bay Housing Organization (EBHO)

Ensuring Opportunity, the Campaign to End Poverty in Contra Costa County

The Faith Alliance for a Moral Economy (FAME)

Jewish Family and Community Services East Bay

Monument Impact

Tenants Together