

Case No. A149136

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

CHUCK M. POST et al.

Defendants and Appellants,

vs.

CITY AND COUNTY OF SAN FRANCISCO et al.

Plaintiffs and Respondents.

Appeal from the Superior Court of the County of San Francisco,
Case No. CGC-15-548551
The Honorable Ronald E. Quidachay

**[PROPOSED] AMICUS CURIAE BRIEF OF TENANTS
TOGETHER
IN SUPPORT OF RESPONDENT**

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CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

- There are no interested entities or persons to list in this Certificate per California Rules of Court, Rule 8.208.
- Interested entities or persons are listed below:

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DATED: August 23, 2017

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I. INTRODUCTION

Well over one million of California's most financially vulnerable renter households—households that generally include children and/or elderly or disabled adults—pay well over 50% of their meager incomes for housing. This severe housing cost burden increases homelessness, undermines physical and mental health, interferes with educational attainment, and imposes substantial costs on impacted local communities. This problem is particularly severe in California's high cost and low vacancy coastal communities.

One of the most important programs serving to ameliorate this problem is the federally funded, but locally tailored and administered, Section 8 Housing Choice Voucher program (“Section 8 HCV program”). Over 700,000 Californians—mostly children and elderly or disabled adults living in extremely low income households—currently participate in that program. As a result, these Californians generally are lifted out of poverty and suffer far fewer of the negative impacts that are visited on those Californians living in severely housing cost burdened households.

But successful local implementation of the Section 8 HCV program can be undermined when certain landlords simply refuse to rent to any program participants. This is particularly true in local areas where there are low vacancy rates, high rents, and a substantial spread between the maximum subsidized rent payable and the local median rents.

One powerful way to overcome this impediment is to adopt a local ordinance prohibiting landlords from simply refusing to rent to any voucher holders. Indeed, a 2011 study commissioned by the United States Department of Housing and Urban Development (“HUD”) found that such a law increases the rate of utilization of the Section 8 vouchers allocated to a local public housing authority by 4 to 11 percentage points (that is, increases the number of households actually receiving rental assistance by 400 to 1100 households for every 10,000 vouchers allocated to a PHA). San Francisco passed such an ordinance, which Appellants admit they violated.

Respondents already have demonstrated why the San Francisco ordinance is not preempted by FEHA. Amicus curiae Tenants Together will not repeat their arguments here. Rather, it writes separately to provide additional background regarding the critical role local statutes like the one adopted by San Francisco can play in addressing local affordable housing crises, as well as to briefly emphasize a few points in Respondents’ legal analysis in light of this additional background.

II. BACKGROUND

A. The Severe Housing Challenges Facing Low Income California Renters

California currently has some 1.4 million “extremely low income” renter households—that is, renter households whose annual income is 30%

or less of the relevant area median income.¹ For example, a California family of four is an extremely low income household relative to the State median income if it earns \$24,250 or less.²

Some 77% of these extremely low income California renter households pay more than 50% of their incomes for housing,³ which is HUD's threshold for labeling a household "severely housing cost burdened."⁴ Indeed, these roughly one million severely burdened and extremely low income California renter households actually spend—on average—more than three-quarters of their meager incomes on housing.⁵ Hundreds of thousands of additional California renter households—

¹ See National Low Income Housing Coalition, "2017 State Housing Profile – California" (based on tabulations of 2015 census data), available at http://nlihc.org/sites/default/files/SHP_CA.pdf (hereafter, "2017 NLIHC California Profile"); see also California Department of Housing and Community Development, "California's Housing Future: Challenges and Opportunities" (January 2017) at 25 (reporting similar data from NLIHC tabulations of 2014 census data), available at <http://www.hcd.ca.gov/policy-research/plans-reports/docs/California's-Housing-Future-Full-Public-Draft.pdf> (hereafter, "2017 HCD Report").

² See 2017 NLIHC California Profile (based on tabulations of 2015 census data).

³ See *id.* (based on tabulations of 2015 census data).

⁴ See 2017 HCD Report at 24.

⁵ See Center on Budget and Policy Priorities, "How Housing Vouchers Can Help Address California's Rental Crisis" (updated Feb. 12, 2016) at text accompanying footnote 7 (based on tabulations of 2013 census data), available at https://www.cbpp.org/research/housing/how-housing-vouchers-can-help-address-californias-rental-crisis#_ftnref1 (hereafter, "2016 CBPP Whitepaper")

principally “very low income” households, as well as some “low income” households⁶—likewise are severely housing cost burdened.⁷

While securing affordable housing is a serious challenge for extremely low, very low, and low income households throughout California, the extent of the shortage of housing affordable to these families—and the percentage of such renter households that are severely cost burdened as a result—varies throughout the State.⁸

B. The Negative Impact Of The Shortage Of Affordable Rental Housing On Low Income Californians And Their Communities

The negative impacts of these severe housing cost burdens on the affected individuals—and on their local communities—are substantial.

More than two-thirds of the severely cost burdened renter households in California include members of the most vulnerable groups in society: 30% of these households include children, 31% include elderly or

⁶ “Very low income” households earn 31%-50% of the relevant area median income, while “low income” households earn 51%-80% of the relevant area median income. *See* 2017 HCD Report at 24; *see also* 2016 CBPP Whitepaper at Figure 3.

⁷ *See* 2017 HCD Report at 25 (based on NLIHC tabulations of 2014 census data); *see also* 2016 CBPP Whitepaper at text accompanying footnote 3 & Figure 3 (based on tabulations of 2013 census data).

⁸ *See* 2017 NLIHC California Profile (map by county of units affordable to extremely low income households, based on 2008-2013 HUD data); 2016 CBPP Whitepaper at Figure 1 (map by county of percentage of households earning 80% or less of area median income that are severely rent burdened based on tabulations of 2013 census data).

disabled adults, and 8% contain both children and elderly or disabled adults.⁹

The high cost of rental housing faced by these households is a major cause of homelessness, as both researchers and public officials recognize.¹⁰ And homelessness—when it occurs—takes a heavy toll on the mental and physical health of the impacted individuals.¹¹ This, in turn, interferes with homeless children’s ability to learn.¹² It also imposes substantial additional costs on the local community for increased medical and criminal justice services.¹³

The high cost of rental housing forces many lower income Californians to live in overcrowded conditions.¹⁴ It further compels all of the severely cost burdened households to spend much less on food, on

⁹ See 2016 CBPP Whitepaper at Figure 3 (based on tabulations of 2013 census data).

¹⁰ See 2017 HCD Report at App. A, p. 5 (citing research paper); 2016 CBPP Whitepaper at text accompany footnote 11; United States Conference of Mayors, “2014 Report on Status of Hunger and Homelessness” at 2 (citing survey of officials from 25 cities nationwide).

¹¹ See 2017 HCD Report at App. A, pp. 5-6 (citing research papers); 2016 CBPP Whitepaper at text accompany footnote 14 (citing research papers).

¹² 2016 CBPP Whitepaper at text accompany footnote 14 (citing research papers).

¹³ See 2017 HCD Report at App. A, p. 6 (citing studies and research papers).

¹⁴ See 2016 CBPP Whitepaper at text accompany footnote 10 & Figure 3 (based on tabulations of 2008-2013 HUD data).

health care, and on their children's development than they would if they had affordable rents.¹⁵ Indeed, when the high cost of housing is taken into consideration, California's poverty rate jumps from 15.3% to 20.6% (although the poverty rate varies throughout the State).¹⁶ Research indicates (as does common sense) that these conditions likewise can negatively impact the mental and physical health of the affected individuals, undermine academic attainment for impacted children, and thereby impose increased costs on local communities.¹⁷

C. The Role Of The Section 8 Housing Choice Voucher Program In Ameliorating The Negative Impacts Of The Shortage Of Affordable Rental Housing

The federal Section 8 HCV program plays a critical role in ameliorating the shortage of affordable housing for hundreds of thousands of extremely low income and very low income renter households throughout the State.

¹⁵ *See id.* at text accompany footnotes 8-9 (citing research papers). HUD defines housing costs as "affordable" when they equal no more than 30% of a household's income. *See* 2017 HCD Report at 24.

¹⁶ *See* Public Policy Institute of California, "Poverty in California" (Feb. 2017), available at <http://www.ppic.org/publication/poverty-in-california/>; *see also* 2016 CBPP Whitepaper at text accompanying note 6 & Appendix Table A-2 (similar data from PPIC published in 2013).

¹⁷ *See* 2016 CBPP Whitepaper at text accompany footnotes 14-15 (citing research papers); Center for Housing Policy, "The Impacts of Affordable Housing on Health: A research Summary" (Apr. 2015), available at http://media.wix.com/ugd/19cfbe_d31c27e13a99486e984e2b6fa3002067.pdf.

Congress created the Section 8 HCV program “[f]or the purpose of aiding low-income families in obtaining a decent place to live and of promoting economically mixed housing.”¹⁸ Pursuant to the program, HUD allocates available program funds to local public housing authorities (“PHAs”) throughout the country.¹⁹ Each PHA, in turn, screens applicants and issues vouchers to eligible households to the extent its allocated share of federal funding allows.²⁰ Voucher holders then are generally free to rent any housing they choose, so long as it meets certain minimum housing quality standards, the rent does not exceed certain local maximums set by HUD and each PHA (or exceed local rent control levels when applicable), and the landlord agrees to participate in the program.²¹ Each voucher holder then typically pays just 30% of its household income to the landlord, and the PHA pays the landlord the remainder of the rent due.²²

At least 75% of all voucher holders admitted into the Section 8 HCV program by each PHA must be extremely low income, and—with limited

¹⁸ 42 U.S.C. § 1437f(a).

¹⁹ *See* 24 C.F.R. §§ 982.102, .151.

²⁰ *See* 24 C.F.R. §§ 982.201, .204, .302(a).

²¹ *See* 24 C.F.R. §§ 982.302, .305, .401, .503, .505, .507, .509.

²² *See* 24 C.F.R. §§ 982.503, .508, .515. If the initial rent exceeds the local maximum set by HUD and the PHA, the voucher holder may still rent the unit by paying the additional rent, so long as the voucher holder does not thereby pay more than 40% of household income for rent. *See* 24 C.F.R. § 982.508.

exceptions—all remaining voucher holders must be very low income.²³

Each PHA also is permitted to create local preferences based on local needs that prioritize for approval the applications of households with certain characteristics. For example, such local preferences might include households with veteran members, with homeless members, with elderly members, with disabled members, with children, and/or with members who already live or work in a particular city or county served by the PHA (among other potential local preferences).²⁴ HUD itself also sets aside some funding for special vouchers to assist veterans, disabled persons,

²³ See 24 C.F.R. §§ 982.201(b) (1), (2)(i).

²⁴ See, 24 C.F.R. § 982.207 (providing that “[t]he PHA may establish a system of local preferences for selection of families admitted to the program . . . based on local housing needs and priorities,” and describing various permissible priorities); *compare, e.g.*, 2016 San Francisco Housing Authority Housing Choice Voucher Administrative Plan (hereafter, “SFHA Administrative Plan”) at 103-07, 109 (describing SFHA local preference system), available at <http://sfha.org/SFHA%20Programs%20Documents/Housing%20Choice%20Voucher%20Administrative%20Plan%20August%201,%202016.pdf> (hereafter, “SFHA Administrative Plan”), *with* Santa Monica Housing Authority Administrative Plan for the Housing Choice Voucher Program (rev. 12/16) at 4-10 to 4-13, 4-17 to 4-18 (describing SMHA local preference system), available at https://www.smgov.net/uploadedFiles/Departments/HED/Housing_and_Revelopment/Affordable_Housing/Administrative_Plan_HUD_approved_6-7-17.pdf (hereafter, “SMHA Administrative Plan”).

families at risk of losing custody of their children, and emancipated foster youth.²⁵

In California, some 700,000 people in some 300,000 renter households participate in the Section 8 HCV program as administered by some 90 different PHAs that are located in every county in the State.²⁶ 95% of the participating households are either extremely low income or very low income (the very income groups plagued by severe housing cost burdens).²⁷ Some 70% of Section 8 HCV program participants either are children, or are elderly or disabled adults.²⁸

The beneficial impact of the Section 8 HCV program on its participants—as well as on their communities—is well documented. The

²⁵ See “HUD VASH Vouchers”, available at https://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/vash;

“Family Unification Program (FUP)”, available at https://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/family;

“Non-Elderly Disabled (NED) Vouchers”, available at https://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/ned.

²⁶ See 2017 HCD Report at 11; 2016 CBPP Whitepaper at Figure 6, at text box “What are Housing Choice Vouchers?”, and at Appendix Table A-4; CBPP, “California Housing Choice Vouchers Fact Sheet” (based on tabulations of 2017 HUD data), available at https://www.cbpp.org/sites/default/files/atoms/files/3-10-14hous-factsheets_ca.pdf (hereafter, “2017 CBPP Fact Sheet”).

²⁷ See 2016 CBPP Whitepaper at text following footnote 25.

²⁸ See 2017 CPBB Fact Sheet (based on tabulations of 2016 HUD data).

Section 8 HCV program is responsible for lifting hundreds of thousands of Californians out of poverty.²⁹ Participation in the Section 8 HCV program both dramatically reduces the risk of a household becoming homeless or suffering housing instability (i.e., living doubled-up with another family), and dramatically reduces the risk of a formerly homeless household falling back into homelessness.³⁰ Participation in the Section 8 HCV program also substantially reduces the risk of a household living in overcrowded conditions, and of living in extremely high poverty neighborhoods (which in turn imparts lifelong earnings level and family stability benefits to children participating in the Section 8 HCV program).³¹

D. The Potential Role That Local Ordinances Prohibiting Landlords From Refusing To Rent To Any Voucher Holders Can Play In Promoting The Locally Successful Implementation Of The Section 8 HCV Program

Despite the enormous individual and community benefits of the Section 8 HCV program, fully successful local implementation is not without its challenges. Chief among these are ensuring that there are a sufficient number of units available for rent to program participants in the local area served by each PHA to permit full utilization of the funding and vouchers allocated by HUD to that PHA.

²⁹ See 2016 CBPP Whitepaper at text accompanying footnote 26.

³⁰ See *id.* at text accompanying footnotes 27-28, & Figure 9 (citing studies).

³¹ See *id.* at text accompanying footnotes 27 & 30, & Figure 10 (citing studies).

A variety of factors can impact the number of units available for rent to program participants. First, when vacancy rates are low in a particular locale, the ability of local program participants to successfully find housing to rent with their vouchers decreases.³² Second, when the spread increases between the maximum rent HUD will allow the PHA to pay in a particular locale (referred to as the “payment standard”) and the median rents in that local market, the ability of local program participants to successfully find housing to rent with their vouchers decreases.³³ Third, to the extent landlords in a particular locale simply choose not to rent to any participants in the Section 8 HCV program (the choice made by Appellants here), the ability of local program participants to successfully find housing to rent with their vouchers decreases.³⁴

The inability of program participants to successfully rent housing within the limited time allowed by the local PHA before their vouchers

³² See Abt Associates, “Study on Section 8 Voucher Success Rates” (2002) Vol I at pp. iv-v (prepared pursuant to contract with HUD), available at <https://www.huduser.gov/publications/pdf/sec8success.pdf>.

³³ See 2017 HCD Report, App. C at 8 & Figure C-5.

³⁴ See L. Freeman, “The Impact of Source of Income Laws on Voucher Utilization and Locational Outcome” (2011) at pp. viii-ix (study prepared for HUD finding rates at which the vouchers allocated to a PHA are actually used to rent housing increases by 4 to 11 percentage points in localities where landlords are prohibited from refusing to rent to any voucher holders), available at https://www.huduser.gov/publications/pdf/freeman_impactlaws_assistedhousingusingrcr06.pdf (hereafter, “2011 Freeman Study”).

otherwise expire is a tragedy for those participants because they lose what may well be their only opportunity to escape severe rent burden or even homelessness.³⁵ When the supply of rental housing available to program participants is sufficiently constrained that the local PHA cannot fully utilize its HUD allocation of funds and vouchers, the local community suffers the further loss of its ability to deploy all available resources to combat the negative impacts of the affordable housing shortage. Indeed, if the impact on PHA utilization is sufficiently deep and sustained, HUD can reallocate funding and vouchers away from the local PHA and thereby permanently deprive the community of the full resources it otherwise would have had available to ameliorate the negative impacts of the affordable housing shortage.³⁶

³⁵ Each PHA sets a time limit within which the voucher holder must either successfully lease housing, or must instead lose its voucher so that it may be given to the next qualified applicant on the waiting list. *See* 24 C.F.R. § 982.303; *compare, e.g.*, SFHA Administrative Plan at 136-137 (limiting maximum term of voucher to 180 days) *with* SMHA Administrative Plan at 5-12 to 5-13 (limiting maximum term of voucher to 150 days). While the unsuccessful voucher holder may return to the waiting list, it could be many years before he or she would have another opportunity. *See, e.g.*, SFHA “Frequently Asked Questions” at p. 2, ¶ 4 (advising that waiting time for a voucher may be four to nine years), available at <http://sfha.org/SFHA%20Programs%20Documents/Frequently%20Asked%20Questions.pdf>.

³⁶ *See* 24 C.F.R. § 982.102(i); 65 Fed. Reg. 21088-01 at Part IV (Apr. 19, 2000), available at 2000 WL 422843(F.R.).

One potentially powerful tool to combat these problems is the passage of a local law prohibiting landlords from refusing to rent to any voucher holders. Various states other than California, and various localities both within and outside California, have adopted such laws. A 2011 study commissioned by HUD found that the presence of such a local law increases the rate of utilization of the Section 8 vouchers allocated to a PHA by 4 to 11 percentage points (that is, increases the number of households actually receiving rental assistance by 400 to 1100 households for every 10,000 vouchers allocated to a PHA).³⁷

E. The Adoption Of The San Francisco Ordinance

As detailed in Respondents' Brief at 9-11, San Francisco adopted its ordinance prohibiting landlords from refusing to rent to any voucher holders in 1998, in response to the difficulties voucher holders had in finding rental housing in the City given the very high rent levels and the very low vacancy rates prevailing at that time in the local market. This ordinance was just one piece of an extremely robust set of laws, policies and programs that San Francisco had pursued since the 1970s—and has continued to pursue to the present—in an effort to maintain adequate affordable housing in the City.³⁸

³⁷ See 2011 Freeman Study at pp. viii-ix.

³⁸ See generally M. Rosen and W. Sullivan, "From Urban Renewal and Displacement to Economic Inclusion: San Francisco Affordable Housing

The rental market conditions leading to enactment of the San Francisco ordinance have not abated.³⁹ And as the California Department of Housing and Community Development recognized earlier this year:

California’s policies support affordable housing, sustainability and economic growth, *but the challenges and strategies to get there will differ depending on the place*. In some places with very high housing costs (e.g., coastal areas, San Francisco, San Jose, Los Angeles), challenges may be more related to avoiding displacement and housing lower-wage earners.⁴⁰

Policy from 1978 to 2012” (2012), available at http://nhlp.org/files/SanFranAffHsing_0.pdf.

³⁹ *See, e.g.*, 2017 HCD Report at App. C, p. 12 & Figure C.5 (stating that escalating rates are “making it more difficult for households with federal Housing Choice Vouchers to find homes where they can use their voucher,” then further stating that “the amount of rent a federal Housing Choice Voucher will cover cannot exceed what HUD determines to be Fair Market Rent, (FMR), which, in high-cost areas, can fall significantly below actual market rent (as shown in Figure C.5), thereby pricing families out altogether,” and then finally identifying San Francisco on Figure C.5 as having the highest rents in the State, as well as at least as large a gap between the FMR and median rents as anywhere in the State).

⁴⁰ *Id.* at App. A, p. 23 (emphasis added).

III. FEHA DOES NOT PREVENT LOCAL GOVERNMENTS FROM RESPONDING TO LOCAL AFFORDABLE HOUSING CRISES BY ADOPTING LAWS THAT PROHIBIT LANDLORDS FROM REFUSING TO RENT TO ANY VOUCHER HOLDERS

Amicus curiae Tenants Together agrees with Respondents that FEHA does not preempt San Francisco’s ordinance prohibiting landlords from refusing to rent to any voucher holders. As Respondents already have explained in detail, the Legislature limited FEHA’s express preemptive effect to “the field of regulation of discrimination in employment and housing *encompassed by the provisions of this part.*”⁴¹ Because the Legislature also expressly excluded discrimination against voucher holders from regulation under FEHA, such discrimination necessarily falls outside the scope of FEHA’s preemption provision under its plain meaning. San Francisco’s ordinance also falls outside the scope of FEHA preemption because its purpose (to make the local Section 8 program more responsive to San Francisco’s local affordable housing needs) differs from the Legislature’s purpose for regulating discrimination under FEHA (protecting civil rights).

Amicus curiae will not repeat here the supporting analysis presented by Respondents. Nor will it repeat the recent analysis of Judge Cole of the Los Angeles County Superior Court finding on summary judgment that

⁴¹ Gov’t Code § 12993(c) (emphasis added).

FEHA does not preempt Santa Monica’s ordinance prohibiting landlords from refusing to rent to any voucher holders. Amicus curiae instead provides just three brief points of emphasis.

First, Appellants cannot—and do not—dispute that San Francisco’s ordinance is an exercise of its police power in a traditionally local area of regulation (namely, land use) regarding a significant local interest that may differ from one locality to another (namely, how best to address local affordable housing needs). Therefore, even if there were any ambiguity about the intended scope of FEHA preemption (which there is not), that ambiguity properly is resolved in favor of finding no preemption here.⁴²

Second, Appellants present no evidence that the Legislature’s decision to exclude discrimination against voucher holders from regulation under FEHA was intended to deprive local governments of their ability to respond to local shortages of affordable housing by adopting laws prohibiting landlords from refusing to rent to any voucher holders.

⁴² See, e.g., Respondents’ Brief at 14-15 (citing authorities); *Big Creek Lumber Co. v. Cty. of Santa Cruz* (2006) 38 Cal.4th 1139, 1149 (“We have been particularly ‘reluctant to infer legislative intent to preempt a field covered by municipal regulation when there is a significant local interest to be served that may differ from one locality to another.’ . . . Thus, when local government regulates in an area over which it traditionally has exercised control, such as the location of particular land uses, California courts will presume, absent a clear indication of preemptive intent from the Legislature, that such regulation is *not* preempted by state statute.”) (citations omitted; emphasis in original).

Appellants cannot—and do not—dispute clear Supreme Court precedent that the Legislature’s decision to exclude an activity (here, discrimination against voucher holders) from a general legislative prohibition (here, FEHA) does not constitute evidence of a Legislative intent to affirmatively authorize that activity.⁴³ And, contrary to Appellants’ assertion, permitting local governments to prohibit landlords from refusing to rent to any voucher holders does not render FEHA’s express preemption provision meaningless when applied to the type of source of income discrimination the Legislature chose to regulate. Rather, as with all forms of discrimination actually regulated by FEHA, the express preemption provision serves to preclude local governments from creating additional procedures or remedies for addressing the covered source of income discrimination.

Third, Appellants do not effectively dispute that the purpose behind San Francisco’s ordinance differs from FEHA’s declared purpose of protecting civil rights. Rather, as its legislative history demonstrates, the ordinance was passed in response to the high rent and low vacancy conditions in the local housing market—and the resultant displacement of

⁴³ See, e.g., Respondents’ Brief at 25; *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal. 4th 729, 758 (“More fundamentally, we have made clear that a state law does not ‘authorize’ activities, to the exclusion of local bans, simply by exempting those activities from otherwise applicable state prohibitions.”).

Section 8 recipients from the City—in order to make the Section 8 program more responsive to local affordable housing needs. As such the purpose behind the ordinance has far more in common with the purposes behind San Francisco’s rent control law, inclusionary zoning law, and local affordable housing financing measures—all of which likewise seek to address the City’s affordable housing needs—than it does with FEHA’s declared purpose of protecting civil rights.

IV. CONCLUSION

FEHA does not preempt local ordinances prohibiting landlords from refusing to rent to any voucher holders. Discrimination against voucher holders is expressly excluded from the scope of FEHA’s regulation of discrimination, and therefore from its express preemption provision. And the San Francisco ordinance does not occupy the same field as FEHA because it serves a different purpose than FEHA. The Court therefore should affirm the grant of a preliminary injunction against Appellants by the trial court.

DATED: August 23, 2017

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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief has been prepared using proportionately double-spaced 13 point Times New Roman typeface.

According to the "Word Count" feature in my Microsoft Word for Windows software, this brief contains 5,459 words up to the signature lines that follow the brief's conclusion.

I declare under penalty of perjury that this Certificate of Compliance is true and correct and that this declaration was executed on August 23, 2017.

DATED: August 23, 2017

MUNGER, TOLLES & OLSON LLP
MICHAEL E. SOLOFF

By: /s/ Michael E. Soloff
MICHAEL E. SOLOFF

Attorneys for Amici Curiae,
TENANTS TOGETHER

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 350 South Grand Avenue, Fiftieth Floor, Los Angeles, CA 90071-3426.

On August 23, 2017, I served true copies of the following document(s) described as

APPLICATION OF TENANTS TOGETHER FOR PERMISSION TO FILE AN AMICUS CURIAE BRIEF IN SUPPORT OF RESPONDENT (and [PROPOSED] AMICUS CURIAE BRIEF OF TENANTS TOGETHER IN SUPPORT OF RESPONDENT)

on the interested parties in this action as follows:

Honorable Ronald E. Quidachay
San Francisco Superior Court
400 McAllister Street, Dept. 501
San Francisco, CA 94102

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the firm's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on August 23, 2017, at Los Angeles, California.

/s/ Laurie E. Thoms

Laurie E. Thoms