IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA
SECOND DISTRICT, DIVISION ONE

Case No. B339464
(Los Angeles Superior Court Case No. 23STCP03519)

FIX THE CITY, INC.,
Petitioner and Appellant,

v.

CITY OF LOS ANGELES AND CITY OF LOS ANGELES CITY COUNCIL,
Respondents.

Application for Permission to File Amicus Curiae Brief in Support of Respondents; Amicus Curiae Brief of Yes In My Back Yard

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Appeal From Los Angeles County Superior Court
Hon. Curtis A. Kin, Judge

PATTERSON & O'NEILL, PC
Ryan Patterson, State Bar No. 277971
ryan@pattersononeill.com
*Brian O'Neill, State Bar No. 298108
brian@pattersononeill.com
811 West 7th Street, Suite 1200
Los Angeles, CA 90017
Telephone: (213) 877-3110
Facsimile: (415) 907-7704
Attorneys for Amicus Curiae

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APPLICATION FOR PERMISSION TO FILE AMICUS CURIAE BRIEF

Pursuant to California Rules of Court, Rule 8.520(f), Yes In My Back Yard ("YIMBY") respectfully requests permission to file the attached amicus curiae brief in support of Respondents City of Los Angeles and City of Los Angeles City Council. No party in the pending appeal, or any counsel for a party, authored or made a monetary contribution to the preparation of any part of the proposed amicus brief.

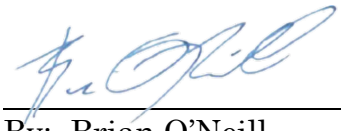
YIMBY is a § 501(c)(3) nonprofit California corporation that is dedicated to increasing the accessibility and affordability of housing in California by enforcing state housing laws, a litigation affiliate of YIMBY Action, a 501(c)(4) nonprofit. YIMBY Action has members throughout the state of California, with membership that cuts across socioeconomic lines, including members with very low, low, moderate, middle, and higher incomes. YIMBY envisions an integrated society where every person has access to a safe, affordable home near jobs, services, and opportunity.

YIMBY regularly files lawsuits against localities to enforce state housing laws and files amicus briefs in appellate and trial courts to provide courts with insight into the proper interpretation of housing laws. YIMBY has been particularly active filing litigation to support affordable housing projects that sought approval pursuant to Mayor Bass' Executive Directive No. 1, which Appellant seeks to overturn in the current case. (See, e.g., *Yes In My Back Yard v. City of Los Angeles*, Case No. 24STCP00070 (L.A. Super. Ct. November 8, 2024); *Yes In My Back Yard v. City of Los Angeles*, Case No. 24STCP00385 (L.A. Super. Ct. December 18, 2024); *Yes In My Back Yard v. City of Los Angeles*, Case No. 24STCP00524 (L.A. Super. Ct. November 11, 2024).)

YIMBY seeks permission to file the accompanying brief in support of its mission. The appellant in this case argues that the lack of housing can never constitute an emergency under state law, despite the fact that the legislature itself has recognized the housing shortage is "a crisis of historic proportions . . . ." (Gov. Code § 65589.5(2)(J).) The proposed brief will assist the Court in deciding this matter, as the brief will provide statutory analysis and legislative history to demonstrate that local governments possess the authority to address housing shortages that rise to the level of an emergency. YIMBY therefore respectfully requests the Court grant its application to file the proposed amicus curiae brief.

Dated: December 15, 2025

PATTERSON & O'NEILL, PC



By: Brian O'Neill
Attorneys for Amicus Curiae
Yes In My Back Yard

AMICUS CURIAE BRIEF IN SUPPORT OF RESPONDENTS

Pursuant to California Rules of Court, Rule 8.200(c), Yes In My Back Yard ("YIMBY"), a § 501(c)(3) nonprofit California corporation, submits this brief in support of Respondents City of Los Angeles and City of Los Angeles City Council. Specifically, YIMBY agrees with Respondents that the City had the authority to declare a housing emergency.

Amicus Curiae takes no position regarding whether all, or part, of the California Emergency Services Act ("CESA") applies to charter cities. Regardless of whether the state or local definition of a "local emergency" applies, the result is the same. An acute housing shortage can meet the definition of emergency, and the City's declaration of a housing emergency based on statistical measures that define when housing conditions in the City of Los Angeles have reached a threshold to constitute an emergency was both lawful and appropriate.

Appellant's attempt to unduly limit the definition of an emergency would strip away an important tool that can be used to mitigate the devastating effects of acute housing shortages no matter the cause of the shortage. The effectiveness of proclaiming a housing emergency is exemplified by this case, where the City's declaration of an emergency helped spur applications for more than 30,000 new affordable housing units and led to significant reductions in homelessness for two consecutive years – a first for the City of Los Angeles.[1] Respondent's effective strategy for addressing rapidly

[1] Mayor Karen Bass, *Notice of the Status of Local Emergency - Homelessness Crisis (Council File - 22-1545)*, November 4, 2025, available at: https://cityclerk.lacity.org/onlinedocs/2022/22-1545_rpt_mayor_11-04-25.pdf.

deteriorating housing conditions in the City, which has been relied upon by dozens of affordable housing developers, must be upheld.

A. An Acute Housing Shortage Meets the State Law Definition of an Emergency

CESA provides a specific, statutory definition of a "local emergency." Rather than address the statutory definition enacted by the Legislature, Appellant attempts to redefine the statutory term "local emergency" based on century old caselaw. As used in CESA, "local emergency" is a term of art and must be interpreted according to the statutory definition. (See *Arnett v. Dal Cielo* (1996) 14 Cal.4th 4, 19-20 ["when [a] word has both a specific legal meaning and a more general sense in informal legal usage or in lay speech . . . lawmakers are presumed to have used the word in its specifically legal sense."].)

When interpreting a statute, a court must "first examine the words themselves, giving them their usual and ordinary meaning and construing them in context." (*Mejia v. Reed* (2003) 31 Cal.4th 657, 663 [citing *Esberg v. Union Oil Co.* (2002) 28 Cal.4th 262, 268].) In a case where statutory language is subject to multiple interpretations, courts can look to extrinsic interpretive aids, including "the purpose of the statute, the evils to be remedied, the legislative history, public policy, and the statutory scheme encompassing the statute." (*People v. Cornett* (2012) 53 Cal.4th 1261, 1265.)

The plain language of CESA confirms that the "existence of conditions of disaster or of extreme peril to the safety of persons and property" that "are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision" constitutes a local emergency. (Gov. Code § 8558(c).) Thus, the definition of a local emergency has two elements: 1) the existence of a condition of extreme peril to the safety of persons and property, and 2)

the condition is likely to be beyond the control of that political subdivision.

Appellant admits a housing shortage meets both elements. Appellant notes that the lack of housing causes serious social and economic issues. (AOB, p. 64.) Appellant further admits housing shortages are caused by issues beyond the control of the City, including interest rates and land, labor, and material costs. (AOB, p. 67.) Housing thus fits the plain language of the two elements contained in the statutory definition of a local emergency. No further statutory construction is required. (*Solberg v. Superior Court* (1977) 19 Cal.3d 182, 198 [when "statutory language is clear and unambiguous there is no need for construction, and courts should not indulge in it."].)

B. Chronic Conditions May Constitute an Emergency and May Be Based on Numerical Thresholds

Appellant attempts to add a new element to the definition of a local emergency that appears nowhere in the statute, erroneously arguing that all local emergencies must arise from a singular, sudden event. This simply cannot be the case.

Courts must "reject interpretations that render particular terms of a statute mere surplusage, instead giving every word some significance." (*MacIsaac v. Waste Management Collection & Recycling, Inc.* (2005) 134 Cal.App.4th 1076, 1082.) The statutory definition of "local emergency" provides a non-exhaustive list of various conditions that may rise to the level of an emergency, specifically referencing a "sudden and severe energy shortage." (Gov. Code § 8558(c).) If Appellant were correct that *all* emergencies must arise from a sudden event, there would be no reason for the legislature to add a qualifier that *only* instances of an energy shortage must be "sudden." Appellant's argument would render this qualifier superfluous, and thus an "emergency" must also include conditions that are not sudden.

Many of the conditions that may give rise to a local emergency as listed in the statute – such as air pollution, drought, plant or animal infestation or disease, and epidemic – cannot be traced to a singular sudden event. Even the listed conditions that are often "sudden" are hardly unexpected. Californians unfortunately have come to expect fires, floods, and earthquakes.

The definition of an emergency correctly focuses on the severity of the *effects* of a condition, not the cause of the condition. This was confirmed in *California Correctional Peace Officers Assn. v. Schwarzenegger* (2008) 163 Cal.App.4th 802, which found that prison overcrowding was a condition that posed a serious threat to health and safety, which met the definition of an emergency – even though this emergency level of overcrowding was caused by a range of chronic issues such as staff shortages, a lack of adequate facilities, and a rising inmate population. (*Id.* at 818.)

Appellant's argument appears to be based on an erroneous reading of the definition of an emergency – that the emergency must be "caused by" a condition. This is entirely inconsistent with the definition of a local emergency. State law defines a "local emergency" to mean "the duly proclaimed *existence of conditions* of disaster or of extreme peril to the safety of persons and property . . . ." (Gov. Code § 8558(c).) Thus, an emergency is "the existence of conditions" that rise to the level of a disaster or extreme peril. In other words, the emergency *is the condition itself*, not the event that led to the condition. The phrase "caused by conditions such as" as used in the definition simply provides a non-exhaustive list of the *types* of conditions that may rise to the level of an emergency.

Appellant also argues that chronic conditions can never constitute an emergency and takes issue with utilizing statistics to proclaim an emergency – even though emergencies are often declared

based on whether conditions exceed certain numerical thresholds. For example, California's response to the Covid-19 emergency was dictated in part by whether the number of new cases per 100,000 residents of a County exceeded certain pre-defined thresholds.[2] Air quality emergencies are similarly declared based on whether established criteria for acceptable levels of air contaminants and pollutants are exceeded.[3] Respondents' decision to declare a housing emergency based on the level of housing production and homelessness is no different – the City merely provided reasonable parameters to establish whether housing conditions reached a certain magnitude to constitute an emergency.

A housing emergency is no different than other chronic conditions listed in CESA. The legislature has already found that housing shortages increase poverty and instances of first-time homelessness, force lower-income residents into crowded and unsafe housing, disrupt family life and increase health problems, and force public servants and critical safety personnel into housing farther from the communities they serve, exacerbating disaster response and increasing risk to life. (Housing Crisis Act of 2019, Stats. 2019, ch. 654 (SB 330), § 2(a)(6)(B) [superseded and extended indefinitely by Stats. 2025, ch. 22 (AB 130) § 26, eff. June 30, 2025.) In short, the

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[2] California Department of Public Health, *California's Color-Coded County Tier System*, March 2021, *available at*: https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/Tiers_Branded.pdf.

[3] South Coast Air Quality Management District, *Rule 701: Air Pollution Emergency Contingency Actions*, amended June 13, 1997, *available at*: https://www.aqmd.gov/docs/default-source/rule-book/reg-vii/rule-701.pdf.

Legislature has confirmed that housing shortages can pose a significant risk to persons and property.

When a housing shortage within a particular jurisdiction is particularly acute, such as in Los Angeles, housing conditions may rise to the level of extreme peril to the safety of persons and property regardless of the cause of the shortage. When such emergency conditions exist, a local government must be permitted to take emergency measures to reduce the harmful effects of acute housing shortages.

C. Legislative History Confirms a Housing Shortage May Constitute a Local Emergency under CESA

Courts may utilize legislative history to aid in interpreting a statute and ascertain legislative intent. (*People v. Zambia* (2011) 51 Cal.4th 965, 977.) Here, the legislative history of AB 2898 clearly demonstrates that the Legislature specifically intended CESA to allow local governments to use their local emergency powers to address long-term, chronic conditions that cause extreme peril to persons or property, including emergencies related to housing shortages.

Article 14 of CESA addresses local emergencies, which permits governing bodies or officials designated by ordinance to proclaim a local emergency. (Gov. Code §§ 8630-8634.) CESA typically requires a governing body to review the need for a local emergency every 60 days, a timeframe that was extended from 30 days with the enactment of AB 2898. (Stats. 2018, ch. 395 (AB 2898), § 1.)

The stated purpose of AB 2898 was to reduce the administrative burden of renewing emergency declarations related to ongoing, chronic emergencies like housing shortages. An assembly analysis of the bill noted that the 30-day timeframe sometimes required local governments to convene a special meeting for the sole purpose of

extending a local emergency.[4] The author's chief example in support of the bill was the "City of San Diego's declaration of a local emergency regarding its housing affordability crisis" – an emergency that was declared in 2002 and is still in effect today. (*Id.*) The Legislature passed AB 2898 unanimously.

The Legislature clearly understood that a local government's emergency powers under CESA could be used to address *any* conditions that result in extreme peril to the safety of persons and property, regardless of whether the conditions are sudden and unexpected or whether the conditions are persistent, long-standing issues. Again, the definition of an emergency is based on whether the *effects* of a condition rise to level of extreme peril to the safety of persons and property, regardless of the cause and regardless to how long the condition has existed.

D. Housing Shortages Meet the Local Definition of an Emergency

As aptly explained by Respondents, the definition of LAAC § 8.33 controls with respect to the specific definition of what constitutes a "Local Housing and/or Homelessness Emergency." (RB, pp. 47-49.) The explicit parameters in LAAC § 8.33 define when the City's housing situation has reached a magnitude that is beyond the control of normal services, thus warranting an emergency declaration.

But even if the definition of local emergency in LAAC § 8.22 applied, a housing shortage nonetheless meets the definition of a local emergency. Appellant again argues that the term "local emergency" must be based on a sudden and unexpected event. For the same

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[4] Sen. Rules Com., Off. of Sen. Floor Analyses, 3rd Reading of AB 2898, as amended Aug. 8, 2018, *available at* https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201720180AB2898#.

reasons explained above, there is no requirement in the City's definition of a local emergency that a local emergency be caused by a sudden event. This limiting language is not included anywhere in the local definition of an emergency, which, just like the state definition, focuses on the *effects* of an occurrence and whether conditions have risen to a magnitude that requires a coordinated, focused response.

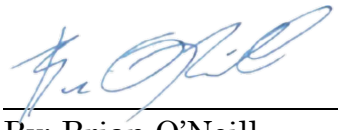
Even in the lay definition of an emergency cited by Appellant, a "sudden and unexpected happening" is merely *one* definition of an emergency. (AOB, p. 66.) Appellant confirms that an emergency is *also* defined as a "combination of circumstances which calls for an immediate action or remedy, a pressing necessity . . . ." (*Id.*) Thus, the City's definition of an emergency, which focuses on the need to address the effects of a particular issue, is entirely consistent with the common definition of emergency.

CONCLUSION

The City's emergency actions to address the rapidly deteriorating housing conditions in the City were not only lawful, they were commendable and remarkably effective. Amicus Curiae Yes In My Back Yard therefore respectfully asks this Court to uphold the ruling below and confirm that all local governments have the authority to take swift, emergency action to help combat the housing crisis.

Dated: December 15, 2025

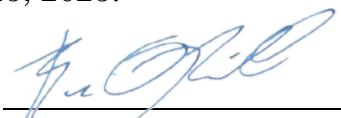
PATTERSON & O'NEILL, PC



By: Brian O'Neill
Attorneys for Amicus Curiae
Yes In My Back Yard

CERTIFICATE OF WORD COUNT

I, Brian O'Neill, certify that the attached Amici's Brief contains 2,162 words. Executed under penalty of perjury at San Francisco, California, on December 15, 2025.



Brian O'Neill