STATEMENT FROM PUBLIC COUNSEL IN RESPONSE TO COMMENTS MADE DURING THE APRIL 22, 2020 LOS ANGELES CITY COUNCIL MEETING

On April 21, Public Counsel proudly joined several other public interest law firms to research and produce a letter to the Los Angeles City Council with legal analysis supporting the City’s ability to adopt policies protecting low-income renters during the COVID-19 pandemic. During the City Council meeting on April 22, the Chief Assistant City Attorney read a single paragraph of this letter into the record, arguing that we omitted certain key facts about an Executive Order on evictions that was issued by the Governor. Based on this purported omission, a City Councilmember then said that Public Counsel committed “sins of omission” and “should be ashamed of itself.”

The fact is there was no omission. Our letter clearly addressed the impact of the Governor’s Order in multiple paragraphs following the short passage that was read into the record. If the Council had had the benefit of these additional paragraphs, they would have learned that our analysis of the Governor’s Order is in fact no different than that of the City Attorney’s (i.e., we agree that the Order suspended any preemptive effect of state laws for specific grounds for eviction). However, our legal analysis also shows that the City can go further than this Order. We support this conclusion by citing case law, engaging in detailed preemption analysis, giving examples from multiple other California jurisdictions that have taken stronger actions, noting the City’s current ordinance has already gone further than the Governor’s Order (if it was ok on March 27th, why not now?), and citing official State guidance to local jurisdictions stating “Nor does the Executive Order prohibit a city or county from imposing an absolute limitation on all evictions.”

**Executive N-28-20 Order Does Not:**

Prohibit a city or county from prohibiting evictions for reasons other than those specified in the order. For example, the Executive Order does not prevent a city or county that wants to prohibit evictions in cases for a tenant who has contracted COVID-19 or caring for someone who has contracted COVID-19, regardless of loss of income. Nor does the Executive Order prohibit a city or county from imposing an absolute limitation on all evictions. However, the Executive Order’s suspension of state laws applies only to the imposition of limitations on the specific types of evictions stated in the order.

Our letter also addresses many other legal considerations – including Takings, Contract Clause, Preemption, Police Power and emergency powers – none of these arguments were refuted during the City Council meeting.

Like everyone, we are experiencing a range of emotions during this unimaginable emergency. One emotion we are not feeling, however, is shame. To the contrary, we are prouder than ever of our team’s dedicated work to advance legal and policy strategies to meet the needs of vulnerable communities and support community-led movements for justice. Eviction during a pandemic is deadly. Displacement during a pandemic is deadly. If there was ever a time to be solution-oriented and not be deterred from bold and aggressive action, it is now. We will keep working to support the community-led movements that demand and create change in our City, and hope that the City Council will join us in these efforts.