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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

APARTMENT ASSOCIATION OF LOS ANGELES COUNTY, INC., Plaintiff and Appellant, v. CITY OF LOS ANGELES et al., Defendants and Respondents.	B345230 (Los Angeles County Super. Ct. No. 23STCV17597)

APPEAL from the judgment of the Superior Court of Los Angeles County, Lia Martin, Judge. Affirmed

Rutan & Tucker, Douglas J. Dennington and Stephanie L. Talavera for Plaintiff and Appellant.

Hydee Feldstein Soto, City Attorney, Denise C. Mills, Chief Deputy City Attorney, Kathleen A. Kenealy, Chief Assistant City Attorney, Shaun Dabby Jacobs, Supervising Assistant City Attorney and Merete Rietveld, Deputy City Attorney, for Defendants and Respondents.

In April 2020, the City of Los Angeles (the City) responded to the COVID-19 pandemic by passing an ordinance that paused automatic annual rent increases on residential rent-controlled units for four years. In July 2023, the Apartment Association of Los Angeles County, dba Apartment Association of Greater Los Angeles (AAGLA) sued the City, alleging the ordinance was facially unconstitutional because it enacted a confiscatory rent freeze. The AAGLA sought an injunction against enforcement and a declaration that going forward, landlords could impose rent increases exceeding annual rent ceilings in order to reverse the ordinance's confiscatory impact.

The trial court granted judgment on the pleadings, finding the ordinance was not facially invalid. We agree and thus affirm the judgment.

BACKGROUND

The City regulates residential rents and evictions through its rent stabilization ordinance, the goal of which is to "safeguard tenants from excessive rent increases, while at the same time providing landlords with just and reasonable returns from their rental units." (L.A. Mun. Code, § 151.01.) Rent adjustment procedures are set forth in the City's Rent Adjustment Commission Guidelines. (L.A. Housing Dept., Rent Adjustment Commission, Just and Reasonable Guidelines (Sept. 1, 2005) § 240.00 et seq., at <https://housing.lacity.gov/rental-property-owners/just-reasonable-rent-adjustment-program>[as of Jan. 22, 2026] (RAC Guidelines).)

Under the City's rent stabilization scheme, landlords with units subject to the rent stabilization ordinance are subject to rent control in the form of capped annual rental increases of 7 percent (or 9 percent if the landlord paid utilities). The rent stabilization ordinance and RAC Guidelines provide an

administrative process to ensure that the cap on annual rental increases does not prevent a landlord from achieving reasonable returns.

A landlord who is not achieving reasonable returns must apply to the Los Angeles Housing Department for permission to impose a rent increase. (L.A. Mun. Code, § 151.07, subd. (B)(1).) The application must contain sufficient financial information to permit a "Maintenance of Net Operating Income" (MNOI) analysis to determine a just and reasonable rent increase. The MNOI analysis is based on one of three formulas. (RAC Guidelines, § 245.01.) In the "1977 base year formula," the rental property's net operating income from the current year is compared to the 1977 net operating income plus a price level adjustment. (*Id*., § 242.05.) If 1977 financial information is not available, the landlord may substitute as a base year the first year following 1977 for which records are available. (*Id*., §§ 243.01, 243.02.) In the event that no financial records are available from a previous landlord, the current landlord must present two complete years of operating income, the first year becoming the base year. (*Id*., § 243.03.) A landlord who cannot do so is ineligible for a just and reasonable rent increase but may still obtain a "break-even" increase to prevent a net operating loss. (*Id*., §§ 243.03, 244.01.) To qualify, like longer term landlords, such a landlord must provide records to justify the break-even increase.

Once it receives a landlord's financial records, the housing department must review them, notify tenants, and conduct a public hearing at which the applicant and tenants may present evidence and argument. The hearing officer must issue a written decision within 75 days of the filing of the application but may delay any decision for up to 30 days if the application lacks complete information or documentation. A party may appeal the hearing

officer's decision to the Rent Adjustment Commission. (L.A. Mun. Code, § 151.07.B.4.d.)

On March 4, 2020, the City declared a local emergency in connection with the COVID-19 pandemic.

In May 2020, the City enacted Ordinance No. 186607 (the ordinance), which temporarily paused automatic annual rent increases for rent-controlled units, "unless necessary to obtain a just and reasonable return," until one year following termination of the emergency. (L.A. Mun. Code, § 151.32.)[1]

Although the ordinance froze annual rent increases, it did not change the preexisting scheme by which landlords could obtain permission to adjust rents to achieve reasonable returns.

The City declared an end to the COVID-19 emergency on February 1, 2023. The ordinance, by its terms, expired on January 31, 2024.

In July 2023, six months before the ordinance was to expire, AAGLA sued the City for injunctive and declaratory relief, alleging the ordinance enacted a facially unconstitutional rent freeze because it obligated a landlord to undergo a complex, costly, and time-consuming application and public hearing process to increase rents. AAGLA alleged this procedure had the "potential to take over four months," which "impose[d] [a] huge economic disincentive for landlords to pursue adjustments to rent" and resulted in

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[1] The ordinance provided: "The maximum adjusted rent of any occupied rental unit may not be increased unless necessary to obtain a just and reasonable return, until one year following the termination of the local emergency. 'Local emergency' is defined as the local emergency declared by the mayor on or about March 4, 2020, and ratified by the city council, in connection with the COVID-19 pandemic." (L.A. Mun. Code, § 151.32, capitalization omitted.)

"substantially greater incidences and degrees of delay than are practically necessary to achieve the goals of the ordinance." (Capitalization omitted.)

The City moved for judgment on the pleadings, arguing AAGLA failed successfully to allege the ordinance was facially invalid because nothing in the complaint indicated that as a matter of law, the ordinance deprived landlords of a procedure to obtain timely rent adjustments necessary to ensure a just and reasonable return.

The trial court agreed. It found that if, as alleged, the City was unable to process rent adjustment applications in a timely fashion, affected landlords could challenge the ordinance as applied, rather than as facially invalid.

The court granted judgment on the pleadings and entered judgment accordingly. AAGLA appeals.

DISCUSSION

A. AAGLA's Claim Is Not Moot

AAGLA alleges that for almost four years, the ordinance unconstitutionally deprived landlords of just and reasonable returns on their rental units. The City contends that any constitutional violation ended when the ordinance expired, rendering AAGLA's claim moot. We disagree.

Appellate courts will decide only actual controversies. "We will not opine on moot questions or abstract propositions, nor declare principles of law that cannot affect the matter at issue on appeal." (*Shaw v. Los Angeles Unified School Dist.* (2023) 95 Cal.App.5th 740, 772.) "A case becomes moot when a court ruling can have no practical impact or cannot provide the parties with effective relief." (*Simi Corp. v. Garamendi* (2003) 109 Cal.App.4th 1496, 1503.) An "appeal is not moot . . . where 'a material question

remains for the court's consideration,' so long as the appellate decision can grant a party to the appeal effectual relief." (*Panoche Energy Center, LLC v. Pacific Gas & Electric Co.* (2016) 1 Cal.App.5th 68, 96.)

Courts regularly find cases nonjusticiable when, for example, injunctive relief is sought but the statute under attack has been repealed. In *Howard Jarvis Taxpayers Association v. City of Los Angeles* (2000) 79 Cal.App.4th 242, for example, a taxpayer association's claim for injunctive and declaratory relief to prevent future collection of a registration fee from people engaged in home employment was rendered moot when the City revoked the fee requirement. (*Id.* at p. 249; see also *Sierra Club v. Board of Supervisors* (1981) 126 Cal.App.3d 698, 704–706 [challenge to zoning ordinance based on inconsistency with general plan became moot when, during pendency of appeal, a new general plan was adopted with which the ordinance was consistent].)

But the expiration of an ordinance does not render a matter moot where a court can still grant effective relief. In *Schmidt v. Superior Court* (1989) 48 Cal.3d 370, federal legislation invalidating a policy restricting residency to persons of a certain age in a future mobile home park did not moot an appeal seeking damages for enforcement of the policy prior to enactment of the legislation. (*Id.* at p. 373; see also *Vernon v. State of California* (2004) 116 Cal.App.4th 114, 120–121 [plaintiff's claim that regulations discriminated against him not rendered moot by grant of temporary variance from the regulations].) "[W]here a court can afford the party at least some relief, even if not all the relief originally requested, the court should not dismiss a case as moot." (*City of Cerritos v. State of California* (2015) 239 Cal.App.4th 1020, 1031.)

Here, although the ordinance has expired, alleged harm remains because AAGLA seeks a declaration entitling landlords to

adjust rents to retroactively compensate them for returns lost when the ordinance was in effect. Therefore, AAGLA's claim is not moot.

B. The Ordinance Was Not Facially Invalid

AAGLA alleges the ordinance was facially invalid because it imposed an unconstitutional rent freeze.

1. *Pertinent Legal Principles*

A motion for judgment on the pleadings is properly granted when the "complaint does not state facts sufficient to constitute a cause of action against that defendant." (Code Civ. Proc., § 438, subd. (c)(1)(B)(ii).) The grounds for the motion must appear on the face of the challenged pleading or from matters that may be judicially noticed. (*Id*., § 438, subd. (d).) The trial court must accept as true all material facts properly pleaded, but does not consider conclusions of law or fact, opinions, speculation, or allegations contrary to law or facts that are judicially noticed. (*Shea Homes Limited Partnership v. County of Alameda* (2003) 110 Cal.App.4th 1246, 1254.)

We independently review the trial court's ruling on a motion for judgment on the pleadings to determine whether the complaint states a cause of action. (*Gerawan Farming, Inc. v. Lyons* (2000) 24 Cal.4th 468, 515.) In doing so, we accept as true the plaintiff's factual allegations and construe them liberally. (*Id*. at pp. 515-516.) If the trial court's ruling on a motion for judgment on the pleadings is correct upon any theory of law applicable to the case, we will affirm it, even if we may disagree with the trial court's rationale. (*Schabarum v. California Legislature* (1998) 60 Cal.App.4th 1205, 1216.)

The due process clause of the California Constitution provides: "A person may not be deprived of life, liberty, or property without due process of law." (Cal. Const., art. I, § 7, subd. (a).)

Constitutional due process provisions "guarantee appropriate procedural protections [citation] and also place some substantive limitations on legislative measures [citations]. The latter guaranty—sometimes described as substantive due process—prevents government from enacting legislation that is 'arbitrary' or 'discriminatory' or lacks 'a reasonable relation to a proper legislative purpose.' [Citation.] In the context of price control, which includes rent control, courts generally find that a regulation bears 'a reasonable relation to a proper legislative purpose' so long as the law does not deprive investors a 'fair return' and thereby become 'confiscatory.' [Citations.]" (*Kavanau v. Santa Monica Rent Control Bd.* (1997) 16 Cal.4th 761, 771 (*Kavanau*).)

In *Santa Monica Beach v. Superior Court* (1999) 19 Cal.4th 952 (*Santa Monica Beach*), our Supreme Court held that a rent control law must possess certain structural features that safeguard against substantive due process violations: (1) The law may not " ' "indefinitely freeze the dollar amount of . . . profits [so as to] eventually caus[e] confiscatory results" ' "; (2) when the law " 'establishes a "base rent" by reference to rents on a specified date, the law should permit adjustments of that base rent for those rental units that had artificially low rents at that time' "; (3) the law "should permit individualized rent adjustments in appropriate cases even if base rent was not artificially low"; and (4) " 'the procedural mechanism by which landlords may obtain any of these adjustments must not be prohibitively burdensome . . . [or] entail "a substantially greater incidence and degree of delay than is practically necessary." ' " (*Id.* at p. 963.)

A law freezes the dollar amount of profits when it prevents a rent stabilization authority from "account[ing] for the effect of inflation on investment in determining a landlord's amount of profit or return." (*Fisher v. City of Berkeley* (1984) 37 Cal.3d 644, 683

(*Fisher*).) In *Fisher*, for example, the challenged ordinance provided for annual general adjustment of rent ceilings to cover increases or decreases relating to utilities and taxes. The City of Berkeley Rent Stabilization Board was given authority to employ a general formula based on available data relating to such expenses to make the adjustments. (*Fisher*, *supra*, 37 Cal.3d at p. 653.) The plaintiff landlords contended a general formula would not account for inflation, and the ordinance thus locked them into the fixed dollar amount of profit they were earning when the ordinance went into effect. (*Id*. at p. 682.) The court held that nothing in the ordinance precluded the rent stabilization board from invoking measures necessary to adjust for inflation when calculating the dollar amount of a landlord's profit. (*Id*. at p. 683.)

In sum, a rent control ordinance should permit a rent stabilization board to (1) invoke measures necessary to adjust for inflation when calculating the dollar amount of a landlord's profit, (2) adjust any base rent for those rental units that had artificially low rents when the base rent was established, and (3) permit individualized rent adjustments in appropriate cases. And the procedural mechanism by which a landlord may obtain these adjustments must not be prohibitively burdensome or entail unreasonable delay.

"[W]hether rental regulations are fair or confiscatory depends ultimately on the result reached." (*Fisher*, *supra*, 37 Cal.3d at p. 679.) "That determination, of course, can only be made by analyzing a challenge to the regulation as applied. Nevertheless, we will declare a regulation invalid on its face 'when its terms will not permit those who administer it to avoid confiscatory results in its application to the complaining parties.' " (*Ibid*.)

In *Birkenfeld v. Berkeley* (1976) 17 Cal.3d 129 (*Birkenfeld*), for example, our Supreme Court held a City of Berkeley rent control

law to be invalid on its face because it was impracticable within constitutional requirements. In that case, at least 16,000 rent-controlled units were subject to a new rent control law establishing a base rent as the "maximum rent." (*Birkenfeld*, *supra*, 17 Cal.3d at pp. 138, 169–170.) Although the law provided for individual rent adjustments, the enacted rent ceiling was indefinite in duration; the law required a landlord to submit individual adjustment applications for individual units (as opposed to grouping applications by, for example, buildings or property taxes); before submitting an application, the landlord had to obtain a certificate from the City building inspector that the premises complied with housing codes; the rent control board could not delegate the matter to a hearing officer; and there was no express limit on the length of time within which a decision had to be made on a petition. (*Id.* at pp. 139, 170.)

The court held that Berkeley's rent control law denied a means of reducing the City's rent control function to manageable proportions because its provisions "put the [rent control board] in a procedural straitjacket. It cannot order general rental adjustments for all or any class of rental units based on generally applicable factors such as property taxes. It cannot terminate controls over any housing. It cannot consider a landlord's petition that is not accompanied by a current building inspection certificate of code compliance. It cannot dispense with a full-blown hearing on each adjustment petition even though all nonpetitioning parties are given ample notice and none requests to be heard. It cannot accept petitions pertaining to more than one unit or consolidate petitions pertaining to individual units for hearing even in the absence of objection except when the majority of the tenants in a building give written consent to consolidation of the petitions relating to that building. It cannot delegate the holding of hearings to a hearing

officer or a member of the [b]oard. In short, it is denied the means of reducing its job to manageable proportions through the formulation and application of general rules, the appropriate delegation of responsibility, and the focusing of the adjudicative process upon issues which cannot fairly be resolved in any other way." (*Birkenfeld*, *supra*, 17 Cal.3d at p. 171.)

The court held that "in relation to the magnitude of the job to be done," "the combination of the rollback to base rents and the inexcusably cumbersome rent adjustment procedure is not reasonably related to the amendment's stated purpose of preventing excessive rents and so would deprive the plaintiff landlords of due process of law if permitted to take effect." (*Birkenfeld*, *supra*, 17 Cal.3d at pp. 169, 173.)

Eight years later, the Supreme Court in *Fisher* found that a Berkeley rent adjustment scheme governing a similar number of rental units but lacking the *Birkenfeld* defects "assure[d] reasonably prompt consideration of landlords' claims." (*Fisher*, *supra*, 37 Cal.3d at pp. 652, 691.)

2. *The Ordinance Does Not on Its Face Lead to Confiscatory Results*

AAGLA challenges the ordinance on the ground that it is facially confiscatory because the procedure to obtain a rent adjustment is so onerous that in reality it will not allow for any adjustment of rents. We disagree.

The City's rent control scheme is analogous to that in *Fisher* and differs from that in *Birkenfeld*. Few if any of the *Birkenfeld* defects inhere in the scheme, and AAGLA alleges no facts showing that the ordinance denied the Los Angeles Housing Department "the means of reducing its job to manageable proportions through the formulation and application of general rules, the appropriate delegation of responsibility, and the focusing of the adjudicative

process upon issues which cannot fairly be resolved in any other way." (*Birkenfeld*, *supra*, 17 Cal.3d at p. 171.) The ordinance does not prevent the Los Angeles Housing Department from adjusting the dollar amount of a landlord's profit, adjusting any base rent for calculation of those profits, or adjusting individualized rent in appropriate cases.

The only question is whether the ordinance causes the preexisting procedural mechanism by which a landlord may obtain any of these adjustments to be prohibitively burdensome or entail a substantially greater incidence and degree of delay than is practically necessary. (*Santa Monica Beach*, *supra*, 19 Cal.4th at p. 963.) "In this regard, . . . the law [should] permit 'general rental adjustments for all or any class of rental units based on generally applicable factors . . . ' [citations] . . . [and] should (1) allow landlords to petition for rent adjustments without having to prove building code compliance, (2) allow the governing agency to consolidate petitions for rental units in the same building, and (3) allow the governing agency to delegate hearings on petitions to hearing officers." (*Kavanau*, *supra*, 16 Cal.4th at pp. 772–773.) "All these characteristics would serve to reduce delay and make the petition process less burdensome to landlords, but . . . the state or federal Constitution [do not] require[ ] any of them per se." (*Id.* at p. 773.)

We conclude the ordinance and rent adjustment guidelines are not prohibitively burdensome on their face and do not entail a greater incidence of delay than is absolutely necessary: There is no requirement that a landlord's rent-adjustment application be accompanied by proof of building code compliance; the housing department may consolidate a landlord's petitions for units in the same building—whether or not the tenants consent; the guidelines allow the housing department to appoint hearing officers to hold

hearings, and allow the hearing officers to issue decisions that may be appealed to the Rent Adjustment Commission Board; and the ordinance and guidelines require that housing department decisions on landlord petitions be made within a maximum of 105 days. (See *Carson Mobilehome Park Owners' Assn. v. City of Carson* (1983) 35 Cal.3d 184, 193 (*Carson*) [105-day time for review and determination of rent increase applications is not excessive].)

AAGLA argues the ordinance affected 118,000 properties and could thus result in 118,000 applications pending before the City at one time, or 450 applications each working day. It argues that the City "clearly lacks the infrastructure and resources" to process so many rent adjustment applications in a timely manner. Because the City could receive at least seven times more applications than were at issue in *Birkenfeld*, AAGLA argues, the ordinance denied the means of reducing the City's job to manageable proportions. (Cf. *Carson, supra,* 35 Cal.3d at pp. 191, 194 [absence of a general rent adjustment mechanism does not render rent control law invalid where "no more than 32 applications could be pending before the rent review board at any one time"].) We disagree.

A facial analysis of a rent control ordinance must examine procedural protections in relation to "the 'magnitude of the job to be done.' " (*Fisher*, *supra*, 37 Cal.3d at p. 687, quoting *Birkenfeld*, *supra*, 17 Cal.3d at p. 169.) But even under liberal pleading standards, no fact (as opposed to a conclusion) alleged in the complaint or appearing in the record suggests that the City's rent control laws prevent the housing department from formulating procedures to handle whatever increased workload arose from operation of the ordinance. (See *Tobe v. City of Santa Ana* (1995) 9 Cal.4th 1069, 1084 [facial challenge must show that the law in question could never be applied in a constitutional manner; it is not

enough to show that the law would be unconstitutional under some circumstances].) When judging whether an ordinance is invalid on its face " 'it is to be presumed that the board will exercise its powers in conformity with the requirements of the Constitution; and if it does act unfairly, the fault lies with the board and not the statute.' [Citation.]" (*Fisher*, *supra*, 37 Cal.3d at p. 684.)

AAGLA argues the City's rent adjustment procedures are prohibitively burdensome because the MNOI analysis requires financial information going back to 1977, which most landlords do not possess, or records covering two years of a rental property's operating history, which new landlords may not possess. Even if we assume the 1977 requirement is onerous, the alternatives of producing financial information for years after 1977 are not, nor does AAGLA explain why landlords could not readily produce this information.

AAGLA therefore fails to allege facts showing that the Ordinance deprives investors of a fair return and thereby becomes confiscatory. Accordingly, the trial court's order granting judgment on the pleadings is affirmed.

C. The Trial Court Properly Denied Leave to Amend

AAGLA argues the trial court abused its discretion in denying leave to amend. We disagree.

A plaintiff challenging a trial court's denial of leave to amend must articulate the specific way to cure an identified defect. (*LeBrun v. CBS Television Studios, Inc.* (2021) 68 Cal.App.5th 199, 212.) If the plaintiff fails to do so, an appellate court may grant leave to amend only if the basis for a potentially effective amendment appears in the record and is consistent with the plaintiff's theory of the case. (*Ibid.*)

AAGLA identifies no proposed amendment that would cure the complaint's defects, and no basis for such an amendment appears in the record. Therefore, the trial court properly denied leave to amend.

AAGLA argues for the first time in its reply brief that it could amend the complaint to "further allege the futility of any type of as-applied challenge given the fact that the costs and delays attendant to such administrative processes in the City would likely have cost more than what any approved rent increase would yield," and to "incorporate as-applied challenges from its members and further address the collateral consequences that are ongoing." We are not sure what AAGLA means, but if it proposes to amend by adducing facts supporting that obtaining rent adjustment is prohibitively burdensome, that still would not show that the ordinance prevents the City's housing department from invoking measures necessary to relieve the burden. (See *Fisher*, *supra*, 37 Cal.3d at pp. 683–684 [inadequate administration of an ordinance is the fault of the administration, not the ordinance].)

AAGLA argues it could amend the complaint to "incorporate more recent proposals and enactments that also demonstrate the strong likelihood of the rent freeze recurring." (Capitalization omitted.) AAGLA apparently means it could amend the complaint to demonstrate its claims, if deemed moot, are nevertheless justiciable because the issue is capable of repetition yet evades meaningful review. Because we conclude AAGLA's claims are not moot, nothing would be gained from adducing recent City rent control proposals.

DISPOSITION

The judgment is affirmed. Respondents are awarded their costs on appeal.

NOT TO BE PUBLISHED.

ROTHSCHILD, P. J.

We concur:

WEINGART, J.

M. KIM, J.