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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

APARTMENT ASSOCIATION OF LOS ANGELES COUNTY, INC.,	)	Case No. CV 20-05193 DDP (JEMx)
	)	
Plaintiff,	)	<b>ORDER GRANTING MOTION TO INTERVENE AS DEFENDANTS</b>
v.	)	
CITY OF LOS ANGELES, ET AL.,	)	
	)	[Dkt. 13]
Defendants.	)	

Presently before the court is a motion to intervene as defendants filed by two tenant advocacy organizations, The Alliance of Californians for Community Empowerment Action ("ACCE") and Strategic Actions for a Just Economy ("SAJE") (collectively, "Proposed Intervenors.") Having considered the submissions of the parties and heard oral argument, the court grants the motion and adopts the following Order.

**I. Background**

The Apartment Association of Greater Los Angeles ("Plaintiff") represents and provides advocacy services for rental property owners throughout Southern California. On June 11, 2020, Plaintiff filed this action against the City of Los Angeles, Mayor Eric

1 Garcetti, and the Los Angeles City Council (collectively,  
2 "Defendants" or "the City"), challenging the City's implementation  
3 of Ordinance No. 186585 ("Eviction Moratorium") and Ordinance No.  
4 186607 ("Rent Freeze Ordinance") (collectively, "the Ordinances").  
5 (Compl. 2.)

6 On March 27, 2020, the Los Angeles City Council enacted the  
7 Eviction Moratorium in response to the ongoing economic crisis  
8 caused by the COVID-19 pandemic,. (Dkt. 16-5, Eviction Moratorium,  
9 Ex. 5.) The Eviction Moratorium temporarily prohibits evictions of  
10 residential and commercial tenants for failure to pay rent due to  
11 COVID-19 and prohibits no-fault evictions of residential tenants if  
12 the tenant or any member of the household is ill, in isolation, or  
13 under quarantine due to COVID-19. (Id.) Subsequently, on March 30,  
14 2020, Mayor Eric Garcetti enacted the Rent Freeze Ordinance. The  
15 Rent Freeze Ordinance prohibits owners from increasing rent on  
16 occupied rental units for one year after the end of the local  
17 emergency period. (Dkt. 16-6, Rent Freeze Ordinance, Ex. 6.) The  
18 Rent Freeze Ordinance applies only to properties that are subject  
19 to the City's rent control provisions. (Id.) The local emergency  
20 period is defined as spanning from March 4, 2020 to the end of the  
21 local emergency as declared by the Mayor. (Id.)

22 Plaintiff alleges that the Ordinances violate the Contract  
23 Clause of the United States Constitution, the Takings Clause of the  
24 United States Constitution, and Plaintiff's due process rights.  
25 (Compl. 10.) Plaintiff seeks injunctive and declaratory relief to  
26 nullify the Ordinances. (Compl. at 35.) The City has not yet  
27 responded to Plaintiff's complaint.

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1 Proposed Intervenors seek to intervene as Defendants in this  
2 case. Proposed Intervenors are member-led tenant advocacy  
3 non-profit organizations in Los Angeles that work primarily with  
4 low-income tenants. Proposed Intervenors offer, for example, pro  
5 bono legal services to tenants fighting evictions, and advocate for  
6 tenant protection policies and affordable housing. (Dkt. 13-1,  
7 13-2.) Proposed Intervenors seek intervention in this case to  
8 advocate for the interests of their members and those Los Angeles  
9 tenants who, Proposed Intervenors assert, will be  
10 disproportionately impacted by the invalidation of the Ordinances.  
11 (Mot. at 14.) The City Defendants do not oppose the motion.  
12 Plaintiff, however, does oppose the motion to intervene.

## 13 **II. Legal Standard**

14 Under Federal Rule of Civil Procedure 24, a court must allow  
15 intervention by any movant who "claims an interest relating to the  
16 property or transaction that is the subject of the action, and is  
17 so situated that disposing of the action may as a practical matter  
18 impair or impede the movant's ability to protect its interest,  
19 unless existing parties adequately represent that interest." Fed.  
20 R. Civ. P. 24(a)(2). An applicant meets these criteria, and may  
21 intervene as of right, if (1) the motion is timely; (2) the  
22 applicant has a "significant protectable" interest relating to the  
23 action; (3) disposition of the action may, as a practical matter,  
24 impair or impede the applicant's ability to protect that interest;  
25 and (4) the applicant's interest is inadequately represented by the  
26 parties to the action. California ex rel. Lockyer v. United  
27 States, 450 F.3d 436, 440 (9th Cir. 2006).

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1 When evaluating these requirements, courts are guided by "practical  
2 and equitable considerations," and generally construe the Rule to  
3 apply "broadly in favor of proposed intervenors." Wilderness Soc.  
4 v. U.S. Forest Serv., 630 F.3d 1173, 1179 (9th Cir. 2011) (quoting  
5 United States v. City of Los Angeles, 288 F.3d 391, 397 (9th Cir.  
6 2002)) (internal quotation omitted).

7 Alternatively, when an intervenor cannot satisfy the four-part  
8 test for intervention as of right, courts may allow anyone who "has  
9 a claim or defense that shares with the main action a common  
10 question of law or fact" to intervene. Fed. R. Civ. P.  
11 24(b) (1) (B).

### 12 **III. Discussion**

13 Of the factors relevant to intervention as of right, Plaintiff  
14 disputes the first and the fourth. That is, Plaintiff disputes (1)  
15 whether the Proposed Intervenors have a significant protectable  
16 interest and (2) the adequacy of representation by the parties to  
17 the action.

#### 18 A. Significant Protectable Interest

19 The interest Proposed Intervenors assert here is tenants'  
20 "legally protected property interest in remaining in their homes."  
21 (Motion at 17:24-25.) As an initial matter, Plaintiff appears to  
22 characterize the interest at stake somewhat differently.  
23 Plaintiff's only argument with respect to Proposed Intervenor's  
24 significant protectable interest is that it is unclear whether the  
25 repeal of the Ordinances will actually result in "en masse  
26 evictions." Indeed, Plaintiff appears to suggest that its  
27 interests are actually aligned with those of the Proposed  
28 Intervenors because "landlords have every incentive to work with

1 otherwise reliable tenants” and “do not want to lose tenants and  
2 create vacancies that will be difficult to fill during a major  
3 economic downturn.” (Opp. at 10:1-4.)

4 Implicit in these arguments is the assumption that the  
5 interest advanced by Proposed Intervenor’s is tenants’ interest in  
6 being allowed to remain in their homes. Although the difference  
7 between that interest and the interest put forth by Proposed  
8 Intervenor is subtle, it is significant. Proposed Intervenor do  
9 not assert that tenants have an interest in some sort of informal  
10 accommodation from landlords, whether as a matter of grace,  
11 charity, or economic calculation. Rather, Proposed Intervenor lay  
12 claim to a legally protected property interest in remaining in  
13 their homes, along with a means of enforcing those rights.  
14 Plaintiff cannot plausibly contend to share such an interest.

15 Furthermore, even if Proposed Intervenor did seek to  
16 vindicate the more utilitarian, practical interest suggested by  
17 Plaintiff, their fear that large numbers of low-income tenants  
18 will, in the absence of the Ordinances, face eviction would hardly  
19 be the product of “rampant speculation” in the context of a  
20 widespread, ongoing pandemic and historic decreases in employment  
21 and economic activity. Indeed, Plaintiff’s suggestion that  
22 landlords and tenants will come to an understanding that avoids  
23 significant numbers of evictions appears to be the far less likely  
24 of the two proposed scenarios. In any event, this Court must  
25 accept Proposed Intervenor’s allegations as true at this stage of  
26 proceedings, particularly where no discovery has yet taken place.  
27 Ctr. for Biological Diversity v. Berg, 268 F.3d 810, 819-20 (9th  
28 Cir. 2001). Proposed Intervenor have therefore adequately

1 demonstrated a significant protectable interest relating to the  
2 Ordinances.

3 B. Adequacy of Representation

4 In determining whether a proposed intervenor's interests are  
5 already adequately represented by a party to a suit, courts look to  
6 whether (1) the applicant's interests are so aligned with those of  
7 the existing party that the applicant's legal arguments will  
8 "undoubtedly" be made, (2) the present party is willing and able to  
9 make those arguments, and (3) the intervenor would "add some  
10 necessary element to the proceedings which would not be covered by  
11 the parties in the suit." Blake v. Pallan, 554 F.2d 947, 955 (9th  
12 Cir. 1977). "The most important factor in determining the adequacy  
13 of representation is how the interest [of the proposed intervenor]  
14 compares with the interests of existing parties." Arakaki v.  
15 Cayetano, 324 F.3d 1078, 1086 (9th Cir. 2003).

16 Plaintiff contends that the City shares Proposed Intervenors'  
17 ultimate objectives, and is capable of adequately representing  
18 Proposed Intervenors' interests. Plaintiff is correct that, absent  
19 a "very compelling showing to the contrary," a government is  
20 presumed to be adequately representing its constituency, "when the  
21 applicant shares the same interest." Id. At this stage, however,  
22 there is no indication that the City will "undoubtedly" make the  
23 same arguments Proposed Intervenors wish to put forth, or indeed  
24 that the City even has access to the information that would  
25 underpin those arguments, which will likely center on the  
26 experiences of particularly vulnerable tenants whose perspectives  
27 are, for a variety of reasons, not necessarily well-represented at  
28 the city level. Indeed, the City has yet to answer the Complaint,

1 and it is unclear whether the City will ultimately defend some or  
2 all of the Ordinances or their constituent parts. Furthermore,  
3 Proposed Intervenors have introduced some evidence that, although  
4 it is possible that the City shares the immediate objective of  
5 defending the Ordinances, the City's ultimate interest is in  
6 balancing a variety of competing concerns, some of which, *including*  
7 *those of Plaintiff*, may directly conflict with Proposed  
8 Intervenors' interests.<sup>1</sup> (Declaration of Cynthia Strathman ¶ 8.)  
9 Accordingly, Proposed Intervenors' have adequately demonstrated  
10 that their interests are not adequately represented by either  
11 party.

12       Having concluded that Proposed Intervenors do have a  
13 significant protectable interest at stake, that the City does not  
14 undoubtedly represent that interest, and that the other relevant  
15 factors are met, the court concludes that Proposed Intervenors are  
16 entitled to intervene in this action as of right. Even if that  
17 were not the case, however, this Court enjoys broad discretion to  
18 grant permissive intervention. Spangler v. Pasadena City Bd. of  
19 Ed., 552 F.2d 1326, 1329 (9th Cir. 1977). For the same reasons  
20 discussed above, this Court would, in the absence of a right to  
21 intervene, grant Proposed Intervenors permission to intervene as  
22 defendants in this case.

#### 23 **IV. Conclusion**

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26       <sup>1</sup> The circumstances here are therefore distinguishable from  
27 those in Oakland Bulk & Oversized Terminal, LLC v. City of Oakland,  
28 960 F.3d 603, 620 (9th Cir. 2020), where there was no evidence that  
a balancing of the interests at stake would lead the city to take a  
position adverse to the interests of the proposed intervenors.

1 For the reasons stated above, Proposed Intervenor's Motion to  
2 Intervene is GRANTED.

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6 IT IS SO ORDERED.

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9 Dated: August 5, 2020



DEAN D. PREGERSON  
United States District Judge

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