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1 FAIR EMPLOYMENT AND HOUSING COUNCIL

2 Meeting Notice and Agenda

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5 VII. Public Hearing: Proposed Fair Housing Regulations

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7 Attachment B: Notice of Proposed Rulemaking

8 Attachment C: Initial Statement of Reasons

9 Attachment D: Proposed Fair Housing Regulations

10

11 CORRECTED TRANSCRIPT 6-6-18

12 Junipero Serra Building

13 Carmel Room Auditorium (First Floor)

14 328 W. 4th Street

15 Los Angeles, California

16

17 Wednesday, April 4, 2018

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<p>1 APPEARANCES: 2 CHAIRMAN CHAYA MANDELBAUM 3 COUNCIL MEMBER DARA SCHUR 4 COUNCIL MEMBER LISA CISNEROS 5 COUNCIL MEMBER JOSEPH ORTIZ 6 COUNCIL MEMBER DALE BRODSKY 7 COUNCIL MEMBER TIM IGLESIAS 8 9 DIRECTOR KEVIN KISH 10 HOLLY A. THOMAS 11 BRIAN SPERBER 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">9 SPEAKERS</p> <p>10 WHITNEY PROUT 11 SANJAY WAGLE 12 JANET POWERS 13 DIANE DUMAS 14 SRI PANCHALAM 15 SCOTT CHANG 16 DENISE McGRANAHAN 17 DIANA PRADO 18 ADRIENNA WONG</p> <p style="text-align: right;">Page 2</p>	<p>1 the FEHA and as set forth in Government Code Section 2 12900, et seq. 3 As relates to housing of FEHA prohibits 4 harassment and discrimination because of race, color, 5 religion, sex, gender, gender identity, gender 6 expression, sexual orientation, marital status, national 7 origin, ancestry, familial status, source of income, 8 disability or genetic information. 9 The proposed regulations are slated to be 10 here in the California Code of Regulations at Title 2, 11 Sections 12005, 12010, 12060 through -63, 12100, 12120, 12 130, 155, 161, 162, 176 through 180, 185 and 265 through 13 271. 14 Copies of the proposed amendments are 15 available in the back of the room and are reflected in 16 Attachment D to the materials and the notice and Initial 17 Statement of Reasons are reflected in Attachments B and 18 C respectively. 19 The text of the Council's proposed 20 records -- regulations are also available on the 21 Council's web page. 22 We're holding this public hearing as part of 23 the formal rulemaking process. We noticed the hearing 24 more than 45 days ago in the California Regulatory 25 Notice Register published on February 16th, 2018, and</p> <p style="text-align: right;">Page 4</p>
<p>1 Los Angeles, California, Wednesday, April 4, 2018 2 10:13 a.m. - 11:26 a.m. 3 4 CHAIRMAN MANDELBAUM: We are now ready to 5 start our doubleheader of public hearing, 45-day 6 hearing. We're going to start with the proposed Fair 7 Housing ones. 8 So thank you for attending our Fair Housing 9 public hearing here in Los Angeles. 10 It is April 4th and we've made introductions 11 for purposes of the meeting, but allow me to reintroduce 12 myself and my colleagues for purposes of today's hearing 13 and subsequent rulemaking transcript. 14 I'm Chaya Mandelbaum. I'm chairperson of 15 the Fair Employment and Housing Council. And joining me 16 today are colleagues of mine on the council, Council 17 Members Iglesias, Schur and Ortiz, along with ex-officio 18 member and director of the department, Kevin Kish. 19 The purpose of today's public comment 20 hearing is to receive comments related to the issuance 21 of amendments to the Fair Employment and Housing Act 22 regulations to add Fair Housing regulations for the 23 first time. 24 The rulemaking clarifies, makes specific and 25 supplements the existing state regulations interpreting</p> <p style="text-align: right;">Page 3</p>	<p>1 also via e-mail to the thousands of individuals and 2 stakeholders on the Council's e-mail list. It was also 3 placed on the Council's web page. 4 Pursuant to that notice, we are taking 5 testimony here today and we will also accept written 6 comments to the proposed regulations until 5 p.m. today, 7 April 4th. 8 You may e-mail written comments to Council 9 at DFEHCouncil@DFEH.ca.gov or if you prefer to mail them 10 instead, you can do so in care of Brian Sperber at the 11 DFEH's Los Angeles office located exactly where we are 12 right now, 320 West 4th Street, 10th floor, Los Angeles, 13 California, 90013. 14 If you brought a written copy of your 15 comments and you don't plan to separately submit them, 16 please make sure you get them to Brian Sperber before 17 our proceedings conclude. 18 Anyone who testifies here today or submits 19 written comments will receive a copy of any changes or 20 amendments the Council makes to the proposed regulations 21 as will anyone who makes such a request. 22 Also, anyone who testifies will have a 23 15-day period within which to make written comments if 24 there are any further changes made in response to this 25 round of public comments during the rulemaking process.</p> <p style="text-align: right;">Page 5</p>

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1 We'll consider each comment here today as
2 well as all written comments received and we'll respond
3 to the comments in the Final Statement of Reason which
4 will become part of the Council's rulemaking record.
5 The hearing is being transcribed by a
6 certified court reporter and the transcript of the
7 hearing will be available as well as part of the
8 Council's official ruling record.
9 Because the hearing is being transcribed,
10 it's critical that anyone speak, do so clearly,
11 relatively slowly and that only one person speaks at a
12 time.
13 You'll not be sworn in when you testify, but
14 we do ask that you come to the front of the room and
15 speak into the microphone so that the court reporter can
16 take down your comments.
17 Please begin by stating and spelling your
18 name and stating any affiliation you're speaking on
19 behalf of.
20 We will hear written -- hear testimony,
21 rather, until all those wishing to do so have had an
22 opportunity.
23 And without further ado, we're ready to
24 begin.
25 So would someone like to kick off our public

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1 hearing?
2 MS. PROUT: Good morning. Whitney Prout
3 with the California Apartment Association. P-r-o-u-t.
4 All right. So, first of all, I'd like to
5 thank the Council for their continued work on this. I
6 think we're getting close to hopefully being able to
7 finalize these. I do have written comments which I will
8 submit by 5 p.m. today. I just have an e-mail to make
9 yet. I'm going to limit my comments to three different
10 sections today.
11 The first one relates to the retaliation
12 section, this is 12130, specifically subsections A and
13 E. These are the subsections which deal with the
14 standards that's applied to what's required to prove
15 retaliation.
16 The Council has stated that essentially if a
17 purpose for the adverse action is retaliation, then
18 that's a sufficient showing.
19 As I've stated before, I'm -- I'm concerned
20 with that. As we all know, FEHA requires a dominant
21 purpose. I understand the Council's position that
22 that's inconsistent with the F.H.A. and that we need to
23 be consistent with that for the purposes of equivalents;
24 however, I did review the cases that were cited in the
25 Initial Statement of Reasons, and it looks like the

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1 standards that the Council's relying on is this causal
2 link that's stated in Walker and the other cases.
3 As I review those, because that standard
4 says that once that prima facie showing has been made,
5 the burden shifts back to the respondent to show a
6 legitimate nonretaliatory, nondiscriminatory reason.
7 That indicates that there's more flexibility
8 in that standard which essentially there is a legitimate
9 reason for taking the adverse action that it's not
10 retaliation.
11 I provided extensive comments on this, but
12 I'd encourage the Council to consider a but-for
13 causation standard for that retaliation standard in this
14 section and that that will be consistent with both the
15 F.H.A. and more in line with the dominant purpose
16 standard required by FEHA.
17 My second comment relates to section -- I
18 believe it's 12185. This has to do with assistance
19 animals. And this is subsection B, the section which
20 relates to questions, the inquiry that can be made when
21 the animal in question is a service animal.
22 My understanding is that the Council is
23 proposing this regulation to comply with the Unruh Act
24 and the American With Disabilities Act to the extent
25 that it applies.

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1 I have reviewed those sections. I think
2 this section expands the ADA limits on inquiries that
3 can be made regarding service animals beyond what's
4 required by the Unruh Act.
5 Again, I'm providing extensive written
6 comments on this, but I would encourage the Council to
7 consider amending this so that to the extent the service
8 animal in question will not be in an area of public
9 accommodation, not a public entity or outside of the
10 ADA. That it is permitted for the housing provider to
11 request verification just of basically the two questions
12 that are stated here, which is that there is a
13 disability and that the animal's been trained to perform
14 a task related to that disability.
15 So I'd ask the Council to consider that.
16 My final -- my final comment relates to
17 Article 24, consideration of criminal history
18 information and housing. And generally I continue to be
19 and the DA continues to be concerned that the
20 regulations as written do not provide sufficient
21 guidance for a housing provider to create a coherent
22 criminal history information practice policy that's
23 compliant with these regulations.
24 The regulations allow for use of a bright
25 line practice; however, in actually reviewing the

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1 specific requirements of this section, it appears that
2 that's actually not permitted, that you have to consider
3 mitigating information, conducted individualized content
4 because that's considered a less discriminatory
5 alternative.
6 I provided written comments on the areas
7 that I -- specifically are unclear and can use
8 clarification, but DA would continue to urge the Council
9 to keep in mind the ability to create a compliant
10 practice based on these regulations, which at this point
11 are still unclear.
12 So unless the Council has questions for me,
13 I will end there.
14 CHAIRMAN MANDELBAUM: Thank you. Appreciate
15 it. Look forward to your written comments.
16 MS. PROUT: Thank you.
17 MR. WAGLE: Good morning. Sanjay,
18 S-a-n-j-a-y, Wagle, W-a-g-l-e. I'm with the California
19 Association of Realtors.
20 Good morning. We'd like to, first of all,
21 thank the Council for their work on these regulations,
22 and as well as throughout the process. We stated this
23 at one of our previous hearings. We appreciate that we
24 believe our comments have been considered, carefully
25 considered throughout this process and that we have been

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1 heard.
2 I'm going to just -- we are going to submit
3 written comments prior to 5 o'clock today.
4 I am going to raise just two -- two matters
5 in my public comments today.
6 The first concerns burden shifting in
7 discriminatory effect cases, that's Section 12062, A and
8 B of the regs. Under both -- under federal law, the
9 allocation of the burden of proof for proving a less
10 restrictive alternative under federal law rests on the
11 plaintiff in discriminatory effect cases.
12 The Council has gone ahead and placed this
13 burden on the defendant, on the business or the
14 nonbusiness entity.
15 Government Code under California law leaves
16 this provision open. It simply says that any violation
17 pursuant to that subdivision, which is Government Code
18 12955.8, shall consider the feasible alternatives, but
19 it doesn't actually place where the burden of proof
20 would lie.
21 The Council in its initial -- in its
22 Statement of Reasons states that based on a precedential
23 decision by the DFEH, as well as the fact that the
24 legislative analysts and the legislative history to the
25 enactment of that Government Code section considered the

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1 fact that burdens were sometimes put on the defendants
2 as a basis for the Council going ahead and putting the
3 burden -- putting this prong -- as on the business. We
4 don't believe that that -- we actually think that shows
5 the opposite, which is that means the legislature did
6 look at that, was aware that they could have considered
7 that and could have changed the prong, they could have
8 gone ahead and said that yes, the business must also
9 prove that there is a more feasible alternative that has
10 a less discriminatory impact. But it did not.
11 So we think that the Council should not
12 change what the legislature, I guess, did not decide to
13 change either and to continue following Government Code
14 12955.8, subdivision B-1, and use that standard for that
15 particular prong. It should not be placed on business.
16 If the Council wants to leave it open for
17 the Government Code and not follow HUD, that's one
18 thing, but it should not be shifting that burden to
19 business.
20 The second comment I'm going to be making is
21 regarding the service animal issue, and that's also
22 12185(b). We join with the California Apartment
23 Association in disagreeing with the Council's
24 limitation to an inquiry for service animals to simply
25 the two question limitation.

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1 The ADA of which the Unruh Act is
2 co-extensive applies only to public accommodations.
3 Most courts have held that aside from the commercial
4 leasing office or perhaps in the properties are being
5 shown, it does not apply to the actual residents
6 themselves. Residential apartment complexes do not fall
7 within the ADA definition of public accommodation.
8 Civil Code Sections 54.1 and 54.2, the authorities cited
9 for the proposed section is quiet on the issue of
10 verification.
11 However, in Auburn Woods, the case which
12 actually established in California the -- a lot of the
13 reasonable accommodation analysis for support animals,
14 does reference service animals and suggest that
15 verification is appropriate.
16 In that case, it stated -- and this is a
17 quote from the case -- "that it is not disputed that
18 Auburn Woods may have been entitled to further factual
19 information, including medical documentation supporting
20 information."
21 And then the Court also stated, however,
22 "and because a service animal was not at issue here,
23 there was no requirement that the" -- "that the" --
24 let's say "plaintiffs present evidence that their dog
25 was specifically trained to alleviate their disability."

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<p>1 So in that case, the Court alluded to that you could 2 require a showing of some verification for a service 3 animal.</p> <p>4 As far as the standard, we don't believe it 5 would necessarily have to be the full reasonable 6 accommodation analysis, but it would be basically to be 7 allowed to verify those two questions. So to verify for 8 a nonobvious disability that is, in fact, a disability 9 and to verify for a nonobvious nexus between the service 10 animal and a disability, a verification that that animal 11 is, in fact, a service animal.</p> <p>12 So we believe verification should be 13 permitted for those two sections.</p> <p>14 And bottom line, our -- we believe that this 15 is persuasive under the law that there should be allowed 16 to ask for verification in the context of service 17 animals. And just a -- just as a general matter, we 18 also believe that as a matter of policy this would be a 19 disaster. I think we can just look around us, even in 20 where it is allowed for it in public accommodations, 21 that people are clearly taking advantage. We live in an 22 era where right now there are people who abuse the law 23 when it comes to support -- support animals.</p> <p>24 But their verification actually has to 25 happen. A service animal standard without any</p> <p style="text-align: right;">Page 14</p>	<p>1 make that determination.</p> <p>2 COUNCIL MEMBER SCHUR: Thank you.</p> <p>3 MR. WAGLE: Okay? All right. Thank you 4 very much. And again, thank you for the opportunity to 5 speak to council.</p> <p>6 CHAIRMAN MANDELBAUM: Thank you. We 7 appreciate your comments, as always.</p> <p>8 Any other people wishing to provide -- I 9 have a feeling we're going to hear the word "community."</p> <p>10 MS. POWERS: Janet Powers, P-o-w-e-r-s. I'm 11 with Fiore, Racobs & Powers and I'm also here today on 12 behalf of the California Legislature Action Committee of 13 Community Associations Institute. There's a mouthful.</p> <p>14 Again, I want to echo some of the sentiments 15 that have already been expressed about how much hard 16 work the Council has committed to these. I feel you're 17 close to the end of a very long road here, but this is 18 such a historic event that I think it's really been 19 worth all the time and effort that you've all put into 20 it and, congratulations, close to the top of 21 Mount Everest here. And thanks also for the opportunity 22 that you've given me to come and harass you and torture 23 you and speak to you over the past year and a half on 24 these various regulations.</p> <p>25 I did submit some written comments, but</p> <p style="text-align: right;">Page 16</p>
<p>1 verification would just open the door to basically all 2 sorts of problems going forward.</p> <p>3 I think we all know what would follow from 4 that because everybody would just know this is the way I 5 get my animal in.</p> <p>6 But regardless of the consequences, we 7 believe the law does support verification for the -- for 8 the service animals to come and we also will be 9 submitting written comments.</p> <p>10 COUNCIL MEMBER SCHUR: I have a question, 11 Mr. Wagle.</p> <p>12 My mic on? Yes.</p> <p>13 Given that the government -- I'm going back 14 to your first point about shifting -- the burden 15 shifting.</p> <p>16 Given that the Government Code does not 17 allocate the burden, in the absence of direction from 18 the Council, how would you propose that the courts would 19 determine the appropriate burden?</p> <p>20 MR. WAGLE: Well, I think the legislature, 21 for whatever reason, went ahead and left that open. 22 Presumably that leaves it open to the courts based on 23 the facts and circumstances of the given case to maybe 24 make that determination, but I just don't think that 25 that provides sufficient direction for the Council to</p> <p style="text-align: right;">Page 15</p>	<p>1 while I was taking the train up today from Orange County 2 and had a moment of peace, I actually went through them 3 again, and I have some further thoughts that I'll go 4 back and put in writing and send them to Mr. Sperber.</p> <p>5 I think first anecdotally with regard to 6 Section 12005, I'm here to just let you know that since 7 the infamous peacock incident occurred on the plane, 8 requests for reasonable accommodations in community 9 associations that we represent have been up about ten 10 percent. But no requests for peacocks.</p> <p>11 Other types of poultry are -- are definitely 12 on the rise, but, apparently, since you can't bring one 13 on the plane, peacocks are now in disfavor.</p> <p>14 Under person in section -- we're still on 15 12005(v), as in Victor. The definition of persons 16 references community associations, condominiums, planned 17 developments and other common interest developments, but 18 earlier under the general prefatory language you do 19 colloquially define these as HOAs. So I'm not sure if 20 you're just defining them early on so everybody knows 21 what the heck we're talking about as an HOA or if you 22 want to keep that consistent, you could also add in HOA 23 language under (v), as in Victor, 5.</p> <p>24 I remain concerned about the direct 25 liability and vicarious liability of language in 12010,</p> <p style="text-align: right;">Page 17</p>

1 and I think the reason for that is, as you know, I come
2 and I talk about community associations. Most of the
3 people who serve on the board of directors of these
4 associations are volunteer homeowners who are foolish
5 enough to run for the board of directors and spend their
6 spare time working on behalf of the community. They
7 don't get a salary.
8 Most of them have little to no training in
9 any kind of anything having to do with the governance of
10 the association real property or Fair Housing matters.
11 Just by numerous bills that have been
12 introduced over the years in Sacramento, there is no
13 mandatory education for directors of community
14 associations, and perhaps some day there will be and we
15 can include a lot more information that we think
16 directors should have.
17 But I am a little bit concerned about
18 holding volunteer directors to the same standard of care
19 as, perhaps, others that you're considering here in the
20 definition of person. It's very hard for me to
21 understand how I'm going to explain to a board of
22 directors as their legal counsel that they're going to
23 have liability regardless of whether they knew or should
24 have known about the conduct that resulted in the
25 discriminatory housing practice.

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1 They do their best to watch out for managers
2 or other vendors of services, independent contractors,
3 but I think this one is really going to take some doing
4 for me to explain how a volunteer who meets once a month
5 is going to have the ability to oversee or somehow
6 control the activities to the degree that I think the
7 Council is -- is anticipating here.
8 So I would love to see a carveout of some
9 sort, or at least a reference to the fact that there may
10 be differences in the standard of care here.
11 We've kind of talked about this previously,
12 but I think this would be an opportunity for the Council
13 to acknowledge that not all businesses are created
14 equal.
15 The next section that I wanted to just talk
16 quickly is something that I did make a comment on at
17 Section 12120, harassment. I certainly understand and I
18 appreciate and applaud the Council's concerns with
19 regard to trying to eliminate or at least reduce hostile
20 environment harassment.
21 But I think one difficulty that we continue
22 to have with the associations is that often the type of
23 harassment that we see is resident-on-resident
24 harassment. One resident lives next door to another
25 resident that they can't stand.

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1 They have a relationship likened to
2 Hatfields and McCoys and they engage in a variety of
3 really despicable, horrible behavior toward each other.
4 The association's ability to control that is
5 extremely limited. We try to corral it generally as a
6 nuisance if we're aware of it. But certainly that can,
7 and we do occasionally see it, rise to the level of
8 something that would be discrimination based upon a
9 protected class.
10 But the association doesn't really have
11 specific authority in its governing documents to take on
12 this kind of challenge. And so I'm here to again
13 encourage you to give us that authority, give us that
14 power. Give us some tools to fight this. We have none
15 currently.
16 Most associations are not able to evict
17 people who act badly. We can't evict owners. We can't
18 even evict the tenants of owners for conduct that would
19 rise to the level of discriminatory behavior.
20 So our -- our arsenal here is very, very
21 limited. We can hold a hearing. We can fine the owner
22 of the property. We can request that the owner take
23 action. But our relationship, particularly with the
24 tenant, is very limited.
25 So while you're putting a burden on the

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1 association to try to deal with the problem, we just
2 really don't have a lot of tools and authority in place
3 to take appropriate action against these wrongdoers,
4 even if the association's board of directors come to the
5 conclusion after a hearing that, yes, such
6 discriminatory practices have occurred, our ability is
7 extremely limited.
8 We just need some help here. Put some
9 authority in the ring. Give us a little teeth that
10 would indicate that upon discovery or determination that
11 such discriminatory actions occurred that we have the
12 ability to take appropriate action, such as evicting a
13 tenant or some other type of tool that we could use.
14 On retaliation, I want to echo some of
15 the -- I'm sorry, 12130, I want to echo some of the
16 comments made previously. I do think the standard
17 really -- a but-for standard would be much clearer and
18 easier for a lot of us who have to advise these entities
19 to implement. And I'm particularly concerned and I did
20 put in my -- my -- my comments that I think associations
21 are going to be a little bit hard-pressed in terms of
22 some of the limitations that you put in the section with
23 regard to disclosure.
24 We have a variety of financial disclosure
25 duties to our membership that are imposed by the then

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<p>1 Stirling Common Interest Development Act and certainly 2 something where we're looking at a protected activity. 3 We want people to be able to file DFEH. We want them to 4 be able to implement whatever recourse they may think is 5 appropriate. And certainly an association has no 6 obvious intent to retaliate, but when I see the language 7 in I think it's -- I think it's C, that if we disclose 8 the fact that someone has filed a Fair Housing 9 Complaint, we may be in violation of the retaliation 10 section while we're looking at having to disclose 11 certain information to our members. 12 So, for example, many times when a person 13 files a Fair Housing Complaint, it's not covered by 14 insurance. They may tender the claim to their insurance 15 carrier, but sometimes the insurance carrier determines 16 that the association is guilty until proven innocent of 17 that wrongdoing. 18 So by -- by tendering the Complaint to the 19 insurance carrier, they are already making the 20 assumption that the association might have engaged in 21 intentional, willful type of discriminatory activity and 22 must be excluded from policy coverage. 23 So where we're going with this is that often 24 we have to disclose to our membership, if there is a 25 financial situation that has been created, that the</p> <p style="text-align: right;">Page 22</p>	<p>1 law -- you already put that in 12270 based on previous 2 remarks that I made, I would really appreciate if you 3 could put it in here also that we have to follow both 4 the Corporations Code and -- and the regulation. 5 So in acknowledgment that if the area is 6 already addressed by a federal or state law with regard 7 to criminal background history, that would be terrific. 8 Just a couple more comments and I will let 9 you move on. 10 Section 12178 regarding establishing that a 11 reasonable accommodation is necessary. I remain 12 troubled by self-verification. I -- I have to say this 13 is -- this is a little bit problematic. And I'm 14 concerned with Section T, as in -- maybe it's -- 15 unfortunately, I scanned these in so that I could 16 provide my comments in Word and as a result I think it 17 might not have -- anyway, the section that combines that 18 depending on the individual circumstances information 19 establishing that the individual has a disability can 20 usually be provided directly by the individual with the 21 disability through a variety of means, such as a 22 credible statement or documentation of receipt of 23 disability benefits. 24 A credible statement is one that a 25 reasonable person would believe is true based on the</p> <p style="text-align: right;">Page 24</p>
<p>1 members at some point may have a special assessment or 2 other financial implications against them. 3 So I just want to put in there that while 4 we -- we have a duty under Davis-Stirling to disclose 5 when a special assessment may be levied, we don't want 6 to be appearing retaliatory by publishing a disclosure 7 statement to the members, say, hey, we've got a Fair 8 Housing Complaint against us, but we will have a duty to 9 at least notify our members that there may be a 10 financial ramification to the filing of -- of that 11 Complaint. 12 So I'm concerned about that raising -- 13 raising a red flag in terms of retaliation. 14 On 12162, the specific practices related to 15 land use. In terms of that section, it also is covered 16 by the criminal history and background sections. 17 I previously discussed and I put it in my 18 written comments, too, that in California, under the 19 Corporations Code, associations have the ability to 20 remove a director who has been convicted of a felony. 21 And the difficulty that we have here is that 22 it will be helpful if you could add the same language 23 that you have in 12270, it would be great if you could 24 put it in 12162 that if the activity regarding criminal 25 background history is permitted by state or federal</p> <p style="text-align: right;">Page 23</p>	<p>1 available information. 2 I find that the language can usually be 3 provided is a little bit difficult to parse here because 4 I think what you're trying to say is that the individual 5 can or may be able to provide information themselves, in 6 other words, self-verify, as opposed to the information 7 coming from a third party. 8 But that's a little bit vague. So I'm not 9 sure if you're indicating that feasibly they can provide 10 it versus is it part of the reliable verification 11 process? 12 And while I understand the idea that a 13 credible statement is something that a reasonable person 14 would believe is true, are we talking about a written 15 statement that says the person is disabled and what the 16 nexus is? 17 What is the credible statement that 18 you're -- you're talking about here? 19 And, again, I remained concerned about 20 self-verification, because in my experience, many people 21 are able to produce a piece of paper that says I am 22 disabled and I require this particular disability (sic). 23 But it's not something that I think the association 24 would feel that it was reliable necessarily. 25 So that may continue to prove a little bit</p> <p style="text-align: right;">Page 25</p>

1 of a stalemate.
2 With regard to assistance animals in 12185,
3 I am also concerned with the two questions regarding the
4 service animal.
5 To put this in a practicable context for how
6 associations would deal with these matters, frankly,
7 we're really not concerned when we see the animals that
8 are clearly trained by Canine Companions For
9 Independence, Guide Dogs for the Blind. I mean, that's
10 a very obvious situation.
11 But what we're encountering is a person with
12 an obvious disability, a readily apparent disability is
13 proposing to have a service animal that doesn't bear any
14 resemblance to what the person with the disability is
15 requesting.
16 Here's an example from my desk.
17 A woman who had -- clearly was able to
18 provide very reliable self-verification that she was
19 disabled. She advised us she had diabetes; she advised
20 us that she met the definition of being disabled because
21 she was at least 150 to 200 pounds overweight. She was
22 obese. And she required an animal to accompany her not
23 only to the pool area, but to possibly jump into the
24 pool at the association and save her.
25 Now, the animal that she had identified as

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1 her service animal to accomplish this task of a woman
2 who had to weigh at least 380 to -90 pounds out of a
3 pool was a 25-pound dog.
4 So if we are limited to asking these two
5 questions regarding an animal that has been identified
6 as a service animal, we have absolutely no reason to
7 believe that the 25-pound animal can accomplish that
8 task.
9 So we don't want to -- we are not looking to
10 ask for a demonstration. We do not want a
11 demonstration. We are not looking for that. But
12 without the ability to ask a few more questions
13 concerning the animal's ability to perform the task that
14 has been identified as the reason it is a service
15 animal, we fear that there will be bad consequences to
16 that.
17 And I don't think that we're looking for
18 obvious situations. I think we just need a few more
19 questions that would put this under a reasonableness
20 category of if it is readily apparent that the animal
21 that's been identified with a task is not going to be
22 able to accomplish it, I -- I think there has to be a --
23 an amount of common sense and an approach to this that
24 is not going to put either the disabled person in a
25 position of -- of, frankly, potentially drowning if they

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1 are having an unrealistic expectation of the animal
2 themselves, and many people do, or the association will
3 have liability when the person drowns in the
4 association's common area swimming pool because the
5 animal is unable to accomplish that task.
6 COUNCIL MEMBER SCHUR: Ms. Powers, did you
7 propose language on this in your --
8 MS. POWERS: No. But I will get on my train
9 and do that. Yes. I will come up with some proposed
10 language.
11 Lastly, I -- I want to just comment quickly
12 that I am extremely thankful that the common interest
13 development community is now going to have some really
14 fine regulations to work with. I know how much hard
15 work you've put in and we're really excited about the
16 ability to have something that we could point to board
17 members and managers of associations to give them some
18 guidance and I think this is a wonderful tool, and thank
19 you all very much for your time.
20 CHAIRMAN MANDELBAUM: Thank you.
21 Further comments on the Fair Housing
22 regulations?
23 MS. DUMAS: Good morning. My name is Diane
24 Dumas and I am one of those volunteer homeowners on the
25 board of directors in my association. So I -- I did

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1 want to comment on a couple of these regulations. And
2 if you look at it from the perspective of the volunteer
3 board member trying to enforce these rules, if it comes
4 different. We have a number of people -- well, our
5 homeowner association currently allows a limitation of
6 one pet per unit. We also have people applying for
7 reasonable accommodation based on stress or PTSD.
8 The ones that require service animals, those
9 are easy, and we can approve those right away. It's the
10 ones where you can't quite tell how disabled they are
11 and what exactly they need these animals to do.
12 And I would like a little bit more latitude
13 to be able to ask questions without running afoul of the
14 regulations that limit us to -- for example, if a
15 podiatrist certifies this person with a psychiatric or
16 psychological disability. I'd like to be able to
17 question them a little bit while understanding that,
18 yeah, they have a right to privacy.
19 But I'm particularly concerned on
20 Section 12185, the No. 4 on page 33 that says an
21 individual may have more than one assistance animal.
22 And I'm looking at it from the standpoint of a number of
23 our homeowners. And in a one-bedroom apartment with two
24 people occupying the one bedroom, they're looking at it
25 possibly -- each person gets to have two assistance

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1 animals and -- plus the pet that's allowed. That means
2 five animals could be -- five dogs can be in a
3 one-bedroom unit.
4 So you have to kind of look at it from the
5 standpoint, oh, boy, what can we get away with?
6 And we're trying to be fair, but some of
7 these people are really pushing it. We want -- we want
8 to allow people to have their accommodations, but then
9 there are the people who just push the limits.
10 So that's what I'm really troubled by that
11 more -- more than one assistance animal.
12 I'm also curious. I don't understand why
13 there's the additional -- I guess, in Section 12005, the
14 additional term of assistance animal, because it's
15 already been enough to try to have people think in terms
16 of a service versus a support animal. But now that
17 we've got this additional term of assistance animal,
18 it's -- it's confusing.
19 On the one hand, it seems as though it -- if
20 you're lumping everything for the sake of complying with
21 the rules, I can understand you'd rather not say
22 "support" and "service" and it's easier to say
23 "assistance," that's the reason. I don't know.
24 But on the other hand, it kind of seems like
25 it bundles the people with the greatest need with the

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1 people with the least need all in the one lump-sum
2 column, assistance animal. And really would like to go
3 back to having the two terms so that we can pass these
4 terms down because they will -- they will try to push
5 it.
6 Let's see. What else?
7 Again, in Section 12179, it provides the
8 reason for denial of reasonable accommodation. There's
9 no disability-related need for the requested
10 accommodation.
11 Is one visit to a health practitioner
12 sufficient to warrant a professional diagnosis of
13 disability for the purposes of getting a reasonable
14 accommodation for a stress condition? And the reason
15 why I ask that is because they are going online and
16 getting these things online. There is an additional
17 fee, I guess you pay to have an actual letter from a
18 psychologist or somebody on this online program that
19 they may -- I don't know if they do or not -- talk to
20 that person one time just to get a certification so they
21 can have their two large Poodles or St. Bernards and
22 whatever it is that exceeds our 30-pound limit on
23 animals.
24 So I guess what I'm saying is if there could
25 be a way that we could question -- go back and question

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1 is this person actually treating? I mean, is the doctor
2 actually treating this patient who is asking for an
3 accommodation or was this a one-time thing just to go in
4 and get my pet Dachshund.
5 I have written my comments and submitted
6 them, but I do hope that while it's not as professional
7 as Ms. Powers or some of the others, that from a
8 homeowner standpoint and volunteer, we take these
9 seriously and we're trying to do the right thing.
10 Thank you.
11 COUNCIL MEMBER SCHUR: Ms. Dumas. Thank you
12 very much for your service both to the homeowner
13 association and to take the time to come talk to us.
14 I want to clarify one thing for you. The
15 reason we use the term "assistant animal" is that there
16 are some things that apply to both service animals and
17 support animals such as the fact that the homeowner's
18 association and the owner can set reasonable rules.
19 Think of it as a Lab dog, they can't create
20 a disturbance, they have to be well trained, they can't
21 create problems in the complex.
22 But there are other provisions where we
23 still do retain the differences in terms of the amount
24 of verification.
25 So for emotional support animals, you can

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1 get additional information. So I just want to make sure
2 you understood that there are some things that apply to
3 both kinds of dogs and other things that are separate
4 for animals. And that's why we use three different
5 terms. Assistance animals for the rules that homeowners
6 can set for all the animals and then different rules
7 that apply to service animals because of the various
8 laws and support animals. I just thought that would be
9 helpful for you to know that.
10 THE WITNESS: So you're keeping three,
11 you're not having that one replace the other two?
12 COUNCIL MEMBER SCHUR: Correct. The
13 regulations distinguish the different points.
14 THE WITNESS: Okay. Thank you. Thanks for
15 your work, too.
16 CHAIRMAN MANDELBAUM: Other Fair Housing
17 regulation comments?
18 MS. PANCHALAM: Good morning, how are you?
19 My name is Sri and I will totally spell that for you.
20 First name Sri, S-r-i. Last name Panchalam, P-a-n as in
21 pan, c-h-a as in cha-cha, and l-a-m, as in lamb without
22 a B.
23 CHAIRMAN MANDELBAUM: As you can imagine,
24 with the last name Mandelbaum I've come up with similar
25 descriptions.

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1 MS. PANCHALAM: And I always introduce
2 myself as Sri. So good morning.
3 So my comments focus, as many have today, on
4 the assistance animal provisions of the Council proposed
5 regulation. And I just wanted to start out by saying
6 thank you. I know that this has been such a long
7 process and you have processed so many comments thus far
8 from the entire community on many sides of the aisle and
9 via legal services providers and as individual residents
10 of California, we really appreciate the work and thought
11 that has gone into it to create the regulation in the
12 forms that they are today.
13 Regarding assistance animals, we appreciate
14 very much the Council's recognition of a person's unique
15 right in housing to use the service animal. This is
16 greatly needed especially because of a lot of the
17 confusion with housing providers and tenants alike that
18 we've experienced in the course of -- some of which we
19 actually heard today.
20 And we feel that the Council's regulations
21 are reasonable and entirely consistent with federal and
22 state law in allowing service animals by right and
23 emotional support animals as a reasonable accommodation.
24 And I believe there was a comment earlier
25 about it being an incorrect extension of the law to

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1 include the two inquiry analysis, and this is something
2 that we addressed in our comment and I just wanted to
3 highlight this here.
4 As the Council's aware, the service animals
5 are permitted as a right in all businesses, including
6 housing, such as rental properties, and do not require
7 going through the reasonable accommodations process.
8 And to highlight the Unruh Act, also prohibits the
9 restriction or denial of a tenant and their guest access
10 to facilities and services in an apartment complex.
11 And so for the purposes of the analysis, the
12 two-question analysis is entirely appropriate here for
13 the service animals and the reasonable accommodation
14 analysis for what we think of as emotional support
15 animals.
16 And also to point out that the two
17 inquiry -- the two-question analysis for service animals
18 is consistent with Unruh issue, the FEH issue and the
19 service.
20 With the two inquiry analysis, I was saying
21 it's consistent with the guidance in that it asks the
22 two questions, is the dog a service animal required
23 because of a disability, and what work or task has the
24 dog been trained to perform?
25 Now, what the Council has presented here is

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1 entirely -- is entirely consistent with that.
2 And with some of the concerns that housing
3 providers have presented today, I just wanted to point
4 out that there are already distinct provisions in the
5 law that requires for a number of limitations, you know,
6 on animals that already protect some of the concerns
7 that have been presented, such as that you have to have
8 control over the animal, that you have to be able to
9 take care of the animal and related items like that.
10 And then there was also a comment about
11 service animals being a greater need than an emotional
12 support animal. And I wanted to highlight for that
13 that, you know, in our experience, an emotional support
14 animal can be just as valuable as how people or service
15 animals would be. And for us, there are many clients,
16 for example, they cannot even leave their homes or
17 access the community without the support that an
18 emotional support animal provides, which can be
19 incredibly meaningful.
20 And I also want to address some issues
21 related -- we understand, for example, the Council's
22 been asked to address in these regulations issues
23 related to fraud and, you know, online verification
24 processes and things like that.
25 And that we adjust as we have in our

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1 comments the requirement for the person verifying the
2 need for a support animal, track the options already
3 outlined in 12178. And -- and we appreciate the
4 provision require that whoever is conducting an
5 assessment of the person have a personal knowledge of
6 the person's disability and for questions -- and if
7 there is additional information that is required, it is
8 in the circumstance that the person doesn't have
9 personal knowledge of the disability and that the person
10 with the disability is allowed the opportunity to
11 provide additional information in that circumstance.
12 Those kinds of things I think do protect and
13 are consistent with federal and state law in how the
14 Council can shape these regulations in making sure that
15 people with disabilities have access but are not faced
16 with unreasonable barriers in trying to be able to be
17 supported in the community and in their housing.
18 That's all I have.
19 Thanks.
20 CHAIRMAN MANDELBAUM: Thank you.
21 MR. CHANG: Good morning. I'm Scott Chang,
22 director of litigation for the Housing Rights Center in
23 Los Angeles where Fair Housing organization here in
24 Los Angeles.
25 I'm here on behalf of a number of legal

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1 services and Fair Housing organizations, including
2 Western Center on Law and Poverty, National Housing Law
3 Project that have been providing comments to the Council
4 on Council's proposed regulations, which the Council
5 first proposed them in 2015.
6 We submitted written comments yesterday.
7 I would just note that the Fair Housing
8 regulations are particularly timely this year. Today we
9 observed the 50th anniversary of the death of
10 Martin Luther King whose assassination led to the
11 passage of the Fair Housing Act, federal Fair Housing
12 Act a few years ago.
13 The housing provisions of the Fair
14 Employment and Housing Act is one of our state's most
15 important and vital civil rights law. Housing, as you
16 know, is a linchpin for quality schools, safe
17 neighborhoods, good jobs and accessible transportation.
18 Like the Fair Housing Act, the Fair
19 Employment and Housing Act plays a continuing and
20 central role in moving our state towards a more
21 integrated and fair society.
22 We appreciate the Council's dedicated work
23 over the past three years to draft these regulations
24 that accurately and faithfully implement the housing
25 provisions of Fair Employment and Housing Act.

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1 We generally expressed our strong support
2 for the draft regulations.
3 Given the relative lack of case law
4 interpreting FEHA, the housing regulation will provide
5 critical and meaningful guidance to define the rights
6 and obligations for the term "FEHA."
7 I just wanted to address one comment that
8 was made previously regarding the burden of proof on
9 less discriminatory alternatives under discriminatory
10 effects standard. We believe that the Council
11 appropriately assigned that burden of proof to the
12 defendant.
13 As a practical matter, much of the
14 information that determines whether or not there is a
15 less discriminatory alternative is in exclusive
16 knowledge of the defendants, particularly in land use
17 cases. And there is also a federal case law that
18 supports this burden of proof to the defendants.
19 We'd be happy to submit additional comments
20 on that particular provision.
21 COUNCIL MEMBER SCHUR: I think it would be
22 helpful.
23 MR. CHANG: Thank you very much.
24 CHAIRMAN MANDELBAUM: Thank you.
25 MS. McGRANAHAN: Good morning. My name is

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1 Denise McGranahan, M-c-G-r-a-n-a-h-a-n.
2 THE REPORTER: Thank you.
3 MS. McGRANAHAN: I'm from the Legal Aid
4 Foundation of Los Angeles.
5 LAFLA is one of the largest law firms that
6 represent indigent persons in the country and many of
7 our clients -- many, many of our clients are disabled
8 and facing homelessness, which is a ballooning problem
9 in the state and country.
10 Every day our -- our advocates go to court
11 and they face unlawful detainer judges who do not
12 understand Fair Housing law, do not understand why
13 reasonable accommodations can be used as defenses in
14 unlawful detainer cases.
15 This is why we especially commend the
16 Council for adopting -- for considering the adoption of
17 12176(c)(7) and other regulations relating to unlawful
18 detainer cases, specifically, the timing of making a
19 unlawful detainer request and the use of it in defense
20 are issues that judges are just unfamiliar with.
21 So I'll give you an example of a recent
22 case.
23 I assisted one of the younger advocates with
24 an unlawful detainer where a man with -- he suffered
25 schizophrenia, lived with his mother for his entire

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1 life. She had been providing him with medication. She
2 went into the hospital and he didn't take his
3 medication. So he acted inappropriately according to
4 the landlord and was being evicted for nuisance.
5 He had been there for his entire life.
6 The advocate in my office was unable to
7 convince the judge that he can ask for reasonable
8 accommodation after the service of the three-day notice
9 and that the fact -- the fact that he allegedly
10 committed a nuisance wouldn't trump the fact that he
11 could be entitled to an accommodation.
12 He ended up proposing a motion in limine. A
13 lot of work went into this motion to convince the judge,
14 No. 1, that it was a defense; No. 2, that the timing
15 could be to the proverbial last minute.
16 Ultimately, the judge did allow the defense.
17 But there were a lot -- this would have been
18 way easier -- way, way easier if the person -- our
19 advocate had been able to cite to these regulations or
20 regulations had said you can make the accommodation
21 request at any time.
22 The fact that they didn't respond to the
23 reasonable accommodation letter, which often occurs,
24 could be considered a denial. That would be
25 discrimination.

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1 So I think that having these regulations
2 just would be so wonderful for the work that we do. It
3 would help us every day to prevent disabled individuals
4 from becoming evicted -- becoming homeless, which is
5 what our goal is.
6 I also want to say that -- that -- that,
7 sure, we needed education of unlawful detainer judges,
8 but I think if we have these regulations that it will
9 help them understand that FEHA is the law that we cite
10 as advocates. To interpret FEHA includes federal
11 authority. Many judges do not -- particular judges do
12 not want to see that. They don't want to recognize that
13 they need to look at federal law and that would be very
14 helpful as well to be able -- we have to go through it
15 with them, cite to the Government Code and say where it
16 says that, and it would be easy to have something --
17 easier to have something in there that satisfies that.
18 I thought we put it in our letter, because I
19 helped write the letter that was written and provided
20 yesterday and all the other letters we worked on have
21 been -- we've been very happy that the Council is
22 hearing our comments. Mainly I wanted to mention that.
23 One other issue is what is necessary.
24 I've -- I have a personal interest in financial
25 accommodations. Worked very hard on Section 8

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1 discrimination cases and the idea of, for example,
2 getting a -- being able to use Section 8 as a reasonable
3 accommodation, but co-signers and having a roommate
4 because you lost your -- you're unable to work any
5 longer. There are a lot of ways that you could -- a
6 financial accommodation could help save people from
7 eviction, which is really what we're most concerned
8 about in the work that we do.
9 So I appreciate what the Council has done
10 and I'm so looking forward to the adoption of this
11 regulation and hopefully the best form possible.
12 Thank you very much.
13 COUNCIL MEMBER SCHUR: Thank you.
14 Can the recommendation that you just made
15 about the cross-referencing between the state and
16 federal law, if that's not in your letter, can you get
17 it to us already?
18 MS. McGRANAHAN: I absolutely will. I think
19 we were trying to consolidate and not make the Council
20 crazy with too much information, but I will provide
21 that.
22 COUNCIL MEMBER ORTIZ: Would you provide a
23 little more information on the financial accommodations
24 you were discussing?
25 MS. McGRANAHAN: So let me reference it in

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1 our letter -- so one second. So in our letter, we say
2 that -- okay. In the case law, Giebeler,
3 G-i-e-b-e-l-e-r, versus M & B Associates, it's
4 referenced in our letter, the 9th Circuit held that --
5 that a reasonable accommodation -- reasonable
6 accommodations are not limited to the immediate
7 manifestations of a disability but may also address
8 practical needs caused by disability which can be
9 financial. In that case, it had to do with -- with
10 allowing a co-signer.
11 And there have been cases that have extended
12 that and addressed that. And we proposed language and
13 the language is "an individual with a disability may
14 request a reasonable accommodation in financial policies
15 when a modification or change of such policies is
16 necessary to accommodate a disability." Such economic
17 accommodations may include waiving guest fees, making an
18 exception to a policy of not accepting Section 8
19 vouchers, waiving a rule requiring that rent be paid on
20 the 1st of the month, allowing it to then to relocate to
21 a different unit without an otherwise applicable rent
22 increase and allowing a prospective tenant to use a
23 co-signer when the limited income -- when their limited
24 income -- when their income is limited because of a
25 disability and it would not otherwise qualify for the

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1 apartment.
2 We have case cites for each of those.
3 They're all federal cites. We just don't have a lot of
4 case authority in California for a lot of these to
5 convince a court that the landlord's denial of a
6 roommate or a co-signer or whatever, it's tough.
7 Tough to file cases in California under FEHA
8 and not be able to cite -- not be able to get the Court
9 to agree with the fact that federal authority is
10 relevant.
11 This issue, this economic accommodation
12 issue is so helpful for people when you can show the
13 nexus between their disability and their need for the
14 accommodation.
15 For example -- as I gave a really great
16 example, my client became disabled through a car
17 accident, had a two-bedroom apartment, could no longer
18 afford the rent. I requested on her behalf the
19 reasonable accommodation that she be able to have a
20 roommate, which was not allowed in her lease, a waive
21 the no roommate policy. Thinking out of the box, which
22 we must all do in these cases, and they granted it and
23 she was able to stay in her apartment.
24 Those types of accommodations where you
25 could really tie it to the disability. You have to tie

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<p>1 it to the disability, of course, are really, really 2 helpful to maintaining how they -- in keeping people 3 with disabilities from becoming homeless. 4 I think we explained this pretty well. If 5 you need additional legal authority, I'm happy to 6 provide it. 7 COUNCIL MEMBER ORTIZ: Thank you. 8 COUNCIL MEMBER SCHUR: I didn't see the cite 9 to Keebler. If you have additional citations on this, 10 that will be helpful. You mentioned other cases. 11 MS. McGRANAHAN: I will. Thank you very 12 much. 13 MS. PRADO: Good morning. My name is Diana 14 Prado, P-r-a-d-o. I'm a housing rights attorney with 15 the Eviction Defense Network. 16 And just picking up on my colleague's 17 comments, I want to first thank the Council for the time 18 to draft these regulations. I'm a housing rights 19 attorney and particularly for the first part of my 20 career, an eviction defense attorney, these are very 21 crucial in order to be able to help the judges and the 22 courts understand the need for reasonable accommodation, 23 particularly in an unlawful detainer context. 24 I know that our comments have provided 25 examples and I know that those are actually very key</p> <p style="text-align: right;">Page 46</p>	<p>1 fact that we may come up against a judge that doesn't 2 want to understand that a reasonable accommodation is a 3 defense in a unlawful detainer action. 4 So again, thank you for these regulations. 5 We can't state it enough. 6 No. 2, being in the process of an 7 unlawful detainer, we shouldn't even be here. There 8 shouldn't even be an unlawful detainer action. There 9 should be no -- what a waste of judicial economy, what a 10 waste of the resources we have on the very limited 11 amount of attorneys that we already have in the housing. 12 Again, public defenders in the housing role. 13 There is a limited amount of access for tenants to even 14 have attorneys, let alone then be faced with having to 15 miss jobs to go to court, jobs to just get their answer 16 done, to meet with the attorneys, all because a housing 17 provider failed to grant a reasonable accommodation 18 request that should have been granted. 19 And so these regulations are so important to 20 be made clear to the courts that we shouldn't even be 21 here today. 22 We shouldn't be here in an 23 unlawful detainer, somebody facing homelessness because 24 a housing provider refused a reasonable accommodation 25 that was necessary and should have been done.</p> <p style="text-align: right;">Page 48</p>
<p>1 here under regulations in providing those examples in 2 unlawful detainers. Particularly going to the -- to 3 income and financial. If I can just -- there's a lot, 4 particularly with the funds that are coming in for 5 homelessness prevention in L.A. County. There's a lot 6 of third-party service providers, for example, veteran's 7 groups that are providing funding for those vets or 8 those facing homelessness to pay for their rent. And 9 we're having a lot of issues that housing providers are 10 not making or are not responding to our requests to 11 allow for third parties to pay for that portion of the 12 rent or the back rent. 13 So having these regulations in an example, 14 citing to that, is very crucial. And so again, we thank 15 you for being able to highlight those types of things. 16 Particularly also with emotional support 17 animals. Again, in the unlawful detainer context, just 18 today, we have a case where there was a reasonable 19 accommodation requested. There was a letter provided 20 from the doctor, from the therapist, tying -- stating 21 the disability, tying the disability and the need for 22 having an emotional support animal. And then 23 nonetheless, here we are today with an unlawful detainer 24 action on our hands and having to go through the entire 25 process of an unlawful detainer. One having to face the</p> <p style="text-align: right;">Page 47</p>	<p>1 And then lastly, just to bring up the point 2 of more than one animal. 3 Again, we appreciate the Council 4 understanding that there could be a need for more than 5 one animal. That one animal could provide help with 6 guidance to the door and another animal can just very 7 much provide emotional support. The analysis that's 8 required is case based and so we -- I will just applaud 9 that there could be a need for more than one animal and 10 that the Council has recognized that and provided an 11 analysis as such that we'd be able to go through. 12 Thank you. 13 CHAIRMAN MANDELBAUM: Thank you. 14 Any other public comments on the Fair 15 Housing regulations? 16 MS. WONG: Good morning. Adrienna Wong, 17 A-d-r-i-e-n-n-a, W-o-n-g, for ACLU of 18 Southern California. 19 I'm here today to express my organization's 20 strong support for the draft regulation. The ACLU 21 Southern California position is that housing is 22 foundational to the exercise of other civil rights and 23 civil liberties. And we think that the regulations are 24 a great step towards ensuring fair and equal access to 25 housing.</p> <p style="text-align: right;">Page 49</p>

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<p>1 I also want to express our support for the 2 written comments that were submitted to the Council by 3 Legal Service Providers, on housing rights organizations 4 by Western Center. We have the opportunity to review 5 those comments after they were submitted to the Council 6 and we'd like to endorse them in full. 7 In particular, I want to emphasize our 8 support for the portion of the draft regulations that 9 address specifically, we think, the kind of overwrought 10 nuisance enforcement actions that are typified by the 11 crime-free housing program. 12 In our experience those programs are 13 generally somewhat uniform and not only violate Fair 14 Housing law but also due process, right to privacy, 15 equality protection, the First Amendment. So we have 16 successfully brought legal challenges in court against 17 the crime-free housing program, both here in 18 Southern California and across the country. 19 I think it's fair to say that the guidance 20 that the regulations give regarding those programs will 21 help localities avoid litigation rather than generating 22 more. So we support the inclusion of -- I think it's 23 12162(b) if I'm not wrong. The section of the 24 regulation that addresses those programs. 25 And we also support the additions</p> <p style="text-align: right;">Page 50</p>	<p>1 nuisance that's not included in the memo, I'd appreciate 2 it. 3 MS. WONG: Yes. I'll take another look at 4 the memo and if there's anything to add, we will submit 5 that separately. 6 CHAIRMAN MANDELBAUM: Any other Fair Housing 7 public regulations comments people wish to provide? 8 Any via e-mail? 9 Okay. Well, I want to thank everyone for 10 taking the time to provide public comments at today's 11 hearing regarding issuance of the proposed Fair Housing 12 regulations. 13 Again, we will accept written comments until 14 5 p.m. today. So if you haven't already done so, please 15 make sure to submit comments. 16 And with that, the first of our hearings is 17 concluded. 18 But I think this would be a good time for a 19 break for our court reporter. 20 And this part is off the record. 21 (Off record at 11:26 a.m.) 22 23 24 25</p> <p style="text-align: right;">Page 52</p>
<p>1 recommended in the written comments by the Legal Service 2 Providers and housing rights organizations to that 3 section, we think will clarify and further strengthen 4 those. 5 I also want to emphasize our support for the 6 portion of the regulations that address consideration of 7 criminal history information, although I also want to 8 echo the request made by other provisions that the 9 Council consider a criminal look back period that is 10 shorter than seven years. We understand that in -- in 11 the consumer context seven years has been recognized, 12 but based on our experiences, we have serious fairness 13 and accuracy concerns about consideration of stale 14 criminal records and so we have -- in the interest and 15 well-being of our community versus alongside our 16 community partners to pressure local public housing 17 authorities for shorter look back periods successfully. 18 So we know that it's doable, it's practicable, that it's 19 legally supportable, and for the reasons stated in the 20 written comments and is the relevant HUD guide, and we'd 21 encourage the Council to also consider a shorter look 22 back period. 23 Thank you. 24 COUNCIL MEMBER IGLESIAS: If you have 25 additional legal authority with regard to the overboard</p> <p style="text-align: right;">Page 51</p>	<p>1 2 REPORTER'S CERTIFICATION 3 4 I, Marceline F. Noble, a Certified Shorthand 5 Reporter in and for the State of California, do hereby 6 certify: 7 8 That the foregoing meeting was then taken before me 9 at the time and place herein set forth; that the meeting 10 was reported stenographically by me and later 11 transcribed into typewriting under my direction; that 12 the foregoing is a true record of the meeting taken at 13 that time. 14 15 IN WITNESS WHEREOF, I have subscribed my name this 16 12th day of April, 2018. 17 18 19 _____ 20 Marceline F. Noble, CSR No. 3024 21 22 23 24 25</p> <p style="text-align: right;">Page 53</p>

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