

January 4, 2021  
*via email*

Mayor Kate Colin  
Members, San Rafael City Council  
Members, Marin County Board of Supervisors

Re: Open Letter re Canal Policy Working Group and Pandemic Relief

Esteemed Marin County Officials:

In August we, the leaders of Canal Alliance, Community Action Marin, and Legal Aid of Marin, joined together with local nonprofit and business leaders to call for action to protect Marin County residents hardest hit by the Covid-19 pandemic, with the aim to best position the community and county for recovery. We called to place the voices and interests of hardest hit Latinos at center.

Since that time, the City of San Rafael and County of Marin have passed a resolution to act. Meanwhile, the crisis in the Canal community and countywide has worsened, primarily for low-wage workers and people of color. Debt has accumulated. The health status of our county has worsened.

While recognizing that early action is most protective of our county's vital workforce, officials have pointed to the need to come to consensus in order to act.

**We ask that you enact immediate and preventive measures so that the county can get back to normal when the pandemic is eradicated, specifically to:**

- 1. Extend and expand eviction protections through 2021, including preventing evictions except for health and safety reasons; and**
- 2. Freeze rents countywide; hold rents and eliminate late charges and other surcharges through 2021.**

Federal and state officials may act; or, they may not. Meanwhile, the Canal Policy Working Group (through the diligent efforts of city and county staff, as well as our organizations' staff members), has compiled extensive research in support of these policies. Some of the most relevant data is included as an appendix here, expressly for the benefit of decision makers and elected officials who are not part of the working group.

Millions of dollars in rent help have supported local property owners countywide, with more forthcoming. The policies we recommend be enacted now jointly serve to balance out relief to prevent evictions and establish a stable landscape until recovery may truly begin.

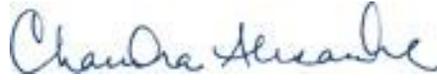
We call on the City of San Rafael to lead by resolving to support these policies. We call on the County of Marin to lead by supporting and enacting these policies, in concert with local cities.

Thank you for your tenacity, your leadership, and your example.

Very truly yours,



Omar Carrera  
CEO, Canal Alliance



Chandra Alexandre  
CEO, Community Action Marin



Stephanie Haffner  
ED, Legal Aid of Marin

## Background

Latinos make up 16% of Marin County’s population, but account for almost 80% of coronavirus cases the largest racial disparity of any Bay Area County. Over half of Marin County’s cases are concentrated in the Canal. The Canal has a positivity rate of 20% — roughly three times higher than Marin County’s average.

The socioeconomic factors that put Latinos at greater risk include lack of access to healthcare, low income, the inability to stop working, preexisting health conditions, and the dense living conditions. The local community support network is overextended: Over the past few weeks, all of the Canal food pantries have seen an increase of at least three times the usual number of participants.

An estimated 14,000 to 15,000 undocumented people live in Marin meaning that thousands of people are not eligible for federal financial programs. Even when eligible, many are too afraid to risk seeking help, fearing deportation or the risk of losing the opportunity for immigration status in the future.

Meanwhile, approximately 36% of Marin households are renters.<sup>1</sup> But fully 71.2% of Marin Latinx households rent, despite only representing 16% of Marin’s population. Similarly, 70.6% of Black households in Marin rent, while representing just 2.2% of Marin’s total population.<sup>2</sup> Furthermore, these communities already suffer the majority of overcrowded housing<sup>3</sup>, hold (or lost) the majority of low-income and essential jobs<sup>4</sup>, are already rent burdened<sup>5</sup>, and are disproportionately testing positive at higher rates than the rest of Marin.<sup>6</sup>

According to the Marin Economic Forum, “[T]he nation has moved from ‘recession’ to ‘recovery.’ ... But a drill-down in the data shows differing circumstances across the resident population, suggesting that our recovery will need to be targeted, rather than one size fits all.”<sup>7</sup> “There are two ... groups of residents who remain critical to our recovery. The first group are Marin’s lower-income residents.”<sup>8</sup> The Marin Economic Forum draws attention to a Public Policy Institute of California report which “showed that rates of unemployment from coronavirus in California range from 25 to 30 percent for families with incomes under \$30,000, compared to 5 to 10 percent for families with incomes above \$150,000.”<sup>9</sup> The Forum goes on to report, “Mean income data for Marin County will always be skewed by a large concentration of high-income earners, but according to the most recent [Census data](#), **almost 23% of households in Marin have incomes of \$50,000 or less**. What is more concerning about the findings of the PPIC report was that **based on the last recession (2008), low-income families in the Bay Area**

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<sup>1</sup> <https://www.census.gov/quickfacts/fact/table/marincountycalifornia/PST045219>.

<sup>2</sup> 2018 American Community Survey.

<sup>3</sup> 2018 American Community Survey 5-year estimates, Tables B25014 (data universe: occupied housing units).

<sup>4</sup> [2020 Urban Institute, Where to Prioritize Emergency Rental Assistance to Keep Renters in Their Homes](#).

<sup>5</sup> 2018 American Community Survey 5-year estimates, Table B25070 (data universe: renter-occupied housing units).

<sup>6</sup> [Marin County Coronavirus Surveillance Update](#).

<sup>7</sup> Marin Economic Forum December 2020 Blog, December 16, 2020.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*; Public Policy Institute of California, [Income Inequality and Economic Opportunity in California](#).

**took on average 11 years to recover versus just 5 years for high-income families.** The [Institute] report also confirms that income inequality widened following the last 4 recessions in California, suggesting the same phenomena could occur this time as well.”<sup>10</sup>

### **Preventing evictions protects the community’s health**

Marin is experiencing a disturbing spike in COVID cases and, as of December 16, there were no ICU beds available. According to Dr. Matt Willis, Marin County’s Public Health Officer, “policies that limit mobility” are necessary to control the pandemic.<sup>11</sup> Evictions – whether effectuated by our legal system or by tenants themselves weighed down by accumulating debt – force tenants to violate shelter-in-place.

A recent study published in the Journal of Urban Health found a direct correlation between eviction moratoria and preventing the spread of COVID, stating, “In light of the undisputed connection between eviction and health outcomes, eviction prevention, through moratoria and other supportive measures, is a key component of a pandemic control strategies to mitigate COVID-19 spread and death.”<sup>12</sup> It is no surprise then that Marin’s low-income, geographically isolated communities are faring far worse during this pandemic in terms of both health and economics.<sup>13</sup>

In Spring and Summer 2020, Marin County enacted a series of eviction moratoria in response to our current pandemic and resulting economic changes. These allowed residents to remain at home instead of on the streets, shelter in place and preserving their opportunities that come with being housed, such as a stable place for children to learn.

Now, it is estimated that 10,700 households are at risk of eviction, including 8,270 households with children.<sup>14</sup> Too many renters face the end of the eviction moratorium with no means to pay full rent February 1st, no way to pay the thousands of dollars in back rent by March 5<sup>th</sup> to avoid a money judgement against them (often including late fees and recent rent increases), and no place to go if forced to leave their homes.

Earlier action is most protective for members of our community facing an uncertain future. Scholarly research establishes that it is often not the actual act of eviction that sways outcomes for families, but the expectations families and landlords have around it, and setting expectations will help address this harm. Eviction scholar Eva Rosen work documents how landlords may try to keep tenants in non-payment so that they can consistently on the threat of eviction to ensure that tenants don’t have legal recourse.<sup>15</sup> This then creates scenarios where low-income tenants face “substantial negative impacts for their sense of safety, home, and community.”<sup>16</sup> Matthew

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<sup>10</sup> *Id.*

<sup>11</sup> Public Health Update, Marin Board of Supervisors Meeting, December 15, 2020.

<sup>12</sup> Benifer, Emily, [Pandemic Housing Policy: Examining the Relationship Among Eviction, Housing Instability, Health Inequity, and COVID-19 Transmission](#) (2020).

<sup>13</sup> [2020 Urban Institute, Where to Prioritize Emergency Rental Assistance to Keep Renters in Their Homes.](#)

<sup>14</sup> City of San Rafael data analysis.

<sup>15</sup> [Philip ME Garboden & Eva Rosen, “Serial Filing: How Landlords Use the Threat of Eviction,” City & Community 189\(2\): 638-661.](#)

<sup>16</sup> *Id.*

Desmond document similar effects in his Pulitzer Prize-winning book, *Evicted*.<sup>17</sup> The further in advance the possibility of eviction is ruled out, these harms are greatly reduced; the longer we wait to see what others do, the greater the risk families will receive or perceive pressure and move while they are in limbo.

The County and Cities can act to **limit mobility and there by protect public health**, to give **certainty to Marin's hardest hit residents**, and to **support Marin's economic recovery**.

### **Temporarily Freeze Rents**

With the monthly fair market rent for a two-bedroom apartment in Marin County at \$3,339<sup>18</sup>, too many poor tenants are facing seemingly insurmountable debt and almost certain eviction, causing many already to start self-evicting. Absent local change, under state law<sup>19</sup> property owners may raise rent 6.1%, or \$203 per month, based on the average cost of a two-bedroom apartment. For the thousands of renters who are already behind in rent any rent increase adds to economic pressure on poor families disproportionately impacted by the pandemic economy, and risks jeopardizing Marin's best opportunity for recovery.

Marin renters already were struggling with month-to-month rent payments before the Covid-19 Emergency. The National Low Income Housing Coalition reports that the average Marin renter can afford rent of \$1,169 per month – far below the median rent.<sup>20</sup> Now they are facing large amounts of accrued rental debt before the recovery has begun in earnest for them – risking long-term displacement particularly in the Canal community - that threatens Marin's economic health as a whole.

Legal Aid of Marin has received at least 20 calls regarding rent increases just since August 31. Callers are daily leaving urgent messages and phoning multiple times to get relief through administering nonprofit agencies. Each day, more than 100 calls come into nonprofits working to alleviate the crisis and keep people housed. Many of these callers are already thousands of dollars behind in rent. For them, a rent increase just adds pressure to move. Unable to find alternative housing or even pay first month's rent and security deposit if they do manage to find an alternative rental, renters are forced to overcrowd already overcrowded homes of friends and family, or move into cars and homeless encampments – all of which threatens our county's ability to control the pandemic and begin economic recovery. Some are moving out of the county, serving to exacerbate the racial inequalities Marin has unfortunately become known for.<sup>21</sup>

Also important is that a rent freeze is self-enforcing. Unlike the complex and difficult to explain Assembly Bill 3088, a rent freeze is straightforward – for the time that it is in effect, any rent increase is invalid.

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<sup>17</sup>Matthew Desmond, *Evicted* (Broadway Books, 2016).

<sup>18</sup>[Out of Reach 2020, National Low-Income Housing Coalition.](#)

<sup>19</sup> Assembly Bill 1492, Stats. 2019, ch. 597 (filed Oct. 8, 2019).

<sup>20</sup>[Out of Reach](#)

<sup>21</sup>[Menendian, S., Gambhir, S., Racial Segregation in the Bay Area \(2018-2020\).](#)

The pandemic has further widened the information gap experienced by low-income, immigrant communities. State law currently in effect – Assembly Bill 3088 – is complicated. Recognizing this, since its enactment on September 1<sup>st</sup>, Legal Aid staff members have spent at least 477 hours on outreach alone. A temporary freeze on rent increases, in contrast, is easy to convey and enforce.

### **Extend the current eviction moratorium and only allow evictions to protect health and safety through 2021**

Along with expanding eviction protections, *communicating early* that current protections remain in place for the duration of 2021 is an integral element to securing Marin’s economic recovery for all. AB 3088 expires January 31, 2021. Absent change, full rent again will be due February 1, 2021 or face eviction for the inability to pay – but the recovery will not be here yet. Moreover, on March 5, 2021, landlords will be able to seek back rent in court.

Not only would an extended and expanded eviction moratorium protect public health, but it would also provide certainty for renters and property owners alike. For tenants, they would feel less susceptible to threats of eviction and anticipatory moves in fear of eviction.<sup>22</sup> By eliminating the possibility of eviction, these harms are greatly reduced and provides the time low-income families need to regain employment, and for economic solutions to be put in place.

AB 3088, expiring January 31, is a *non-payment* protection. While managing the extraordinary amount of unpaid rent that threatens both residences of tenants and the solvency of landlords is crucial during this time, preventing evictions is a separate issue not met by AB 3088. Evictions themselves are a public health and economic risk. Absent local action, evictions that can still go forward under AB 3088 (and after it expires) include when an owner wants to move into the residence, alleged minor lease violations, and allegedly withdrawing the unit from the rental market.<sup>23</sup>

An 82-year-old Legal Aid of Marin client has lived in Sausalito, in the same apartment, for 31 years. Her only income is \$1600 a month from social security. She does not have a car. On February 1, the property owner will begin eviction proceedings against her if she is unable to move claiming that a family member will move in. The client has made hundreds of calls throughout Northern California to find affordable senior housing. Most do not pick up their phones and don’t allow her to leave a message. She managed to get on a waitlist in Petaluma, but the property manager cannot confirm a time frame for an available unit. She’s hoping that someone might temporarily rent her a room in their home, but she is terrified of being exposed to COVID during this process. Forcing this senior tenant to search for alternative accommodations and move from her home of 31 years during a pandemic not only threatens her health, but the health of all those she will now have to come in contact with.

Similarly, a recent commenter on Canal Alliance’s Facebook page reported they are current on rent, but have been given a 60-day notice to move – again because the owner has stated they

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<sup>22</sup> See generally, Desmond, Matthew, *Evicted: Poverty and Profit in the American City*, (Broadway Books, New York 2016).

<sup>23</sup> COVID-19 Tenant Relief Act of 2020, California Code of Civil Procedure § 1179.03.5 (a), et seq.

wish to move in. This individual states they simply cannot find any available place to rent in the Canal area.

In both cases, whether the property owner really intends to have a family member occupy the unit is unknown and can only be challenged *after* the person moves or is evicted.

### Affirmatively Further Fair Housing

California law requires local governments to take “meaningful actions” to “address significant disparities in housing needs and in access to opportunity.”<sup>24</sup> Not only is local government thus required to take action, but it is also prohibited from “tak[ing]...action that is materially inconsistent with its obligation to affirmatively further fair housing.” Born out of the Civil Rights-era Fair Housing Act of 1968 and strengthened by the Department of Housing and Urban Development in 2015, the Affirmatively Further Fair Housing requirement in California was codified in 2018 through Assembly Bill 686.

“Opportunity” is broadly defined because it recognizes that a family’s housing situation has substantial impacts on many other aspects of their lives. The U.S. Department of Housing and Urban Development (“HUD”) defines “significant disparities in access to opportunity” as “substantial and measurable differences in access to educational, transportation, economic, and other important opportunities in a community.” 24 C.F.R. § 5.152, emphasis added. Because education and economics are inextricably linked to housing, “opportunity” includes educational and economic opportunities.

Eviction moratoria affirmatively further fair housing by protecting members of protected classes – Black and Latinx families that disproportionately rent – from eviction during a public health crisis. Preventing an eviction cliff is consistent with the obligation to affirmatively further fair housing.<sup>25</sup>

Thank you for considering the certainty that renters need by passing an emergency resolution that temporarily freezes rent increases, extends the current moratorium, and prohibits all evictions unless required to protect health and safety. While the state is considering new legislation, its form and timeline is not known. Elected officials have the opportunity to provide certainty and hope to Marin’s renters, to give low-income families the time needed to regain employment, and to afford social services providers, lenders, and state and federal policymakers the time needed to address the solvency for both landlords and tenants and quicken the recovery from the pandemic.

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<sup>24</sup> Cal. Gov. Code § 8899.50(a)(1).

<sup>25</sup> [2020 Urban Institute, \*Where to Prioritize Emergency Rental Assistance to Keep Renters in Their Homes\*](#)