

1 XAVIER BECERRA
Attorney General of California
2 THOMAS S. PATTERSON
Senior Assistant Attorney General
3 MARK R. BECKINGTON
Supervisory Deputy Attorney General
4 LARA HADDAD
Deputy Attorney General
5 JONATHAN M. EISENBERG
Deputy Attorney General
6 State Bar No. 184162
7 300 South Spring Street, Suite 1702
8 Los Angeles, CA 90013
Telephone: (213) 269-6246
9 Fax: (916) 731-2124
E-mail: Jonathan.Eisenberg@doj.ca.gov
10 *Attorneys for Governor of California Gavin Newsom*

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF LOS ANGELES

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16 **COUNTY OF LOS ANGELES,**
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Petitioner and Plaintiff,

v.

**CITY OF NORWALK, CITY OF BELL
GARDENS, CITY OF LYNWOOD,**

Respondents and
Defendants.

Case No. 20STCP01480

**CALIFORNIA GOVERNOR GAVIN
NEWSOM'S AMICUS CURIAE BRIEF
IN SUPPORT OF COUNTY OF LOS
ANGELES'S MOTIONS FOR
PRELIMINARY INJUNCTIONS**

Date: July 2, 2020
Time: 8:30 a.m.
Dept: 85
Judge: Hon. James C. Chalfant
Trial Date: None Set
Action Filed: April 19, 2020

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3 **CASES**

4 *Abiding Place Ministries v. Newsom*
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6 *Altman v. County of Santa Clara*
7 (N.D. Cal. June 2, 2020) Case No. 20-CV-02180-JST, 2020 WL 285029113

8 *Benson v. Walker*
9 (4th Cir. 1921) 274 F. 622.....12

10 *Best Supplement Guide, LLC v. Newsom*
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12 2615022.....12

13 *Compagnie Francaise de Navigation a Vapeur v. Bd. of Health of State of La.*
14 (1902) 186 U.S. 380.....12

15 *Gish v. Newsom*
16 (C.D. Cal. Apr. 23, 2020) Case No. EDCV 20-755 JGB (KKx), 2020 WL
17 1979970.....11, 12

18 *Givens v. Newsom*
19 (E.D. Cal. May 8, 2020) __ F.Supp.3d __, __, 2020 WL 230722411

20 *Hickox v. Christie*
21 (D.N.J. 2016) 205 F. Supp. 3d 57912

22 *Interstate Marina Development Co. v. County of Los Angeles*
23 (1984) 155 Cal.App.3d 435.....14

24 *Jacobson v. Massachusetts*
25 (1905) 197 U.S. 1111

26 *Marshall v. United States*
27 (1974) 414 U.S. 41711

28 *Professional Beauty Federal of California v. Newsom*
(C.D. Cal. Jun. 8, 2020) Case No. 2:20-cv-04275-RGK-AS, 2020 WL 3056126.....12

Rasmussen v. Idaho
(1901) 181 U.S. 198.....12

Socialist Workers 1974 California Campaign Committee v. Brown
(1975) 53 Cal.App.3d 879.....15

TABLE OF AUTHORITIES
(continued)

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South Bay United Pentecostal Church v. Newsom
 (U.S. May 29, 2020) Case No. 19A1044, 2020 WL 2813056.....11, 12

White v. Davis
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STATUTES

Code Civ. Proc., § 52710

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OTHER AUTHORITIES

Governor’s Executive Order N-25-20.....7

62 Ops.Cal.Atty.Gen. 701 (1979)14

Jared Igerman, *California Counties: Second-Rate Localities or Ready-Made
 Regional Governments?*, 26 Hastings Const. L.Q. 621 (Spring 1999)14

1 **INTRODUCTION**

2 California, like the rest of the world, has been facing a public health emergency of a
3 magnitude unseen for at least a century. COVID-19 is an infectious and frequently deadly
4 disease that has killed over 120,000 Americans, including over 5,000 Californians, as of June 22,
5 2020. This extraordinary pandemic has demanded swift and decisive action using the limited
6 tools available to curb the disease’s spread. The spread of COVID-19 will be halted only if its
7 transmission is curbed, and only if people who have been diagnosed with or exposed to the
8 disease are isolated or quarantined from other people and given proper medical treatment. Even
9 as the State begins to reopen partially and slowly, the number of victims will continue to climb,
10 unless all levels of government work collaboratively to limit transmissions of COVID-19.

11 California faces a particularly difficult challenge in fighting the pandemic, because of the
12 State’s large number of homeless people, present in every one of the State’s 58 counties. For
13 various reasons, homeless people are at great risk of contracting and spreading COVID-19; yet,
14 by definition, homeless people do not have homes in which to self-isolate or self-quarantine.
15 That situation leaves homeless people vulnerable to the disease, and increases the risk of the
16 disease spreading. Therefore, addressing the spread of COVID-19 among and by homeless
17 people is a critical element of California’s strategy to stop the spread of the disease.

18 California has a demonstrated need for “non-congregate” (individual) shelter options for
19 homeless people who are COVID-19 positive or otherwise vulnerable to the disease. Providing
20 that shelter will lead to better health outcomes for people without alternatives. Otherwise, those
21 people are more likely to become ill with COVID-19, and to spread the disease to other people,
22 and in both ways to put immense pressure on the limited number of hospital emergency rooms.
23 Through the California Emergency Services Act, the Governor has broad authority to respond to
24 state emergencies like the COVID-19 pandemic. (See Gov. Code, § 8627.) With that authority,
25 in March 2020, just days after declaring a state of emergency in California caused by COVID-19,
26 Governor Gavin Newsom launched Project Roomkey to address the particular risks to public
27 health caused by the vulnerability of homeless people to COVID-19. Project Roomkey provides
28 temporary non-congregate shelter options, such as single-occupant rooms in hotels and motels,

1 and self-contained trailers, for homeless people with the above-described characteristics, with the
2 goals of protecting human life and minimizing strains on health-care system capacity during the
3 pandemic. While the Governor “is authorized to commandeer or utilize any private property or
4 personnel deemed by him necessary in carrying out the responsibilities [...] vested in him,” (*id.*, §
5 8572), the Governor is not using his commandeering power here. Instead, he is relying on
6 voluntary contractual relationships at the county level, under Project Roomkey’s strict guidelines.
7 And the counties have taken the lead in identifying, contracting for uses of, and administering
8 more than 15,000 hotel and motel rooms, many of which would otherwise sit empty during the
9 COVID-19 crisis, as temporary housing for at-risk homeless people.

10 As part of Project Roomkey, Los Angeles County has contracted with the owners of many
11 hotels and motels to provide this special temporary housing for local homeless people who have
12 been diagnosed with or are at high risk of contracting COVID-19. As is relevant to this case, Los
13 Angeles County contracted to use a hotel in the City of Norwalk, and another hotel in the City of
14 Bell Gardens, for Project Roomkey.

15 Both Norwalk and Bell Gardens took official actions aimed at interfering with the Project
16 Roomkey contracts, effectively attempting to veto Project Roomkey within those cities’ borders.
17 However, cities may not pass laws that subvert steps taken squarely within the emergency
18 authority of the Governor and Los Angeles County. Likewise, in this state of emergency, cities
19 may not use other means, such as invoking lease or permit restrictions and pursuing lawsuits
20 against the participating hotels, in order to prevent the use of hotels to house homeless people
21 temporarily. None of those actions can supersede emergency powers exercised by the Governor,
22 in cooperation with the counties, to address the unprecedented pandemic at hand.

23 Furthermore, if preliminary-injunctive relief is not granted, then the general public,
24 including people in Norwalk and Bell Gardens, will suffer. Without Project Roomkey, state and
25 local officials will lose an important tool to combat the virus, and more Californians will suffer
26 and die.

1 **BACKGROUND**

2 From the beginning, the State, under the Emergency Services Act, has played an integral
3 role in developing, implementing, and supporting Project Roomkey. That role is seen in a
4 recitation of the project’s milestones, as follows:

5 On March 12, 2020, the Governor issued Executive Order N-25-20, which noted the
6 particular vulnerability of homeless people to COVID-19, as well as the strains on existing
7 homeless shelters and related resources, and which then announced an immediate need to secure
8 thousands of “isolation” housing units for individual homeless people vulnerable to, exposed to,
9 carrying, or suffering from COVID-19.¹ The Governor ordered the California Health and Human
10 Services Agency and the California Office of Emergency Services to identify and take steps
11 toward making available rooms at hotels and motels to be used for those purposes.² Executive
12 Order N-25-20 provided that such facilities be made available “through the use of any contracts
13 or other necessary agreements, and, if necessary, through the State’s power to commandeer
14 property.”³

15 “Isolation units” for homeless people vulnerable to, exposed to, carrying, or suffering from
16 COVID-19 are needed for those people to heal as well as to prevent the spreading of the disease
17 to other people.⁴ The alternatives are for homeless people to stay in congregate shelter settings or
18 encampments—both of which would lead to further spread of COVID-19.⁵

19 On March 17, 2020, pursuant to Project Roomkey, the State executed hotel leases at two
20 real properties in Alameda County, putting 393 rooms into service as emergency protective

21 ¹ See Executive Order N-25-20, p. 1, available at <[https://www.gov.ca.gov/wp-](https://www.gov.ca.gov/wp-content/uploads/2020/03/3.12.20-EO-N-25-20-COVID-19.pdf)
22 [content/uploads/2020/03/3.12.20-EO-N-25-20-COVID-19.pdf](https://www.gov.ca.gov/wp-content/uploads/2020/03/3.12.20-EO-N-25-20-COVID-19.pdf)> (last accessed June 22, 2020), p.
23 1.

24 ² *Id.*, p. 3, ¶ 8.

25 ³ *Ibid.*

26 ⁴ Office of Governor Gavin Newsom, At Newly Converted Motel, Governor
27 Newsom Launches Project Roomkey: A First-in-the-Nation Initiative to Secure Hotel & Motel
28 Rooms to Protect Homeless Individuals from COVID-19 (Apr. 3, 2020) (“First in Nation”),
available online at <[https://www.gov.ca.gov/2020/04/03/at-newly-converted-motel-governor-](https://www.gov.ca.gov/2020/04/03/at-newly-converted-motel-governor-newsom-launches-project-roomkey-a-first-in-the-nation-initiative-to-secure-hotel-motel-rooms-to-protect-homeless-individuals-from-covid-19/)
[newsom-launches-project-roomkey-a-first-in-the-nation-initiative-to-secure-hotel-motel-rooms-](https://www.gov.ca.gov/2020/04/03/at-newly-converted-motel-governor-newsom-launches-project-roomkey-a-first-in-the-nation-initiative-to-secure-hotel-motel-rooms-to-protect-homeless-individuals-from-covid-19/)
[to-protect-homeless-individuals-from-covid-19/](https://www.gov.ca.gov/2020/04/03/at-newly-converted-motel-governor-newsom-launches-project-roomkey-a-first-in-the-nation-initiative-to-secure-hotel-motel-rooms-to-protect-homeless-individuals-from-covid-19/)> (last visited Jun. 22, 2020).

⁵ *Ibid.*

1 shelters for homeless people who were COVID-19-positive, symptomatic, or otherwise at risk.⁶
2 The leases were quickly transferred to Alameda County to operate.⁷

3 On March 18, 2020, the Governor directed \$50 million of newly appropriated State public
4 funds to Project Roomkey.⁸ The State articulated the plan for all the counties to make and
5 perform contracts similar to the Alameda County hotel leases.⁹ The California Department of
6 General Services and the California Department of Social Services stood (and stands) ready to
7 provide technical assistance in that endeavor.¹⁰

8 On March 23, 2020, the State directed another \$100 million of newly appropriated State
9 public funds to counties, large cities, and “continuums of care” to mitigate homelessness in the
10 wake of COVID-19; that money was expressly permitted to be used on Project Roomkey.¹¹

11 On April 3, 2020, the State secured from the Federal Emergency Management Agency
12 (FEMA) federal funds to cover approximately 75 percent of State and local outlays for Project
13 Roomkey through the end of May 2020.¹² Governor Newsom said:

14 Homeless Californians are incredibly vulnerable to COVID-19 and often have no
15 option to self-isolate or social distance. By helping the most vulnerable homeless
16 individuals off the street and into isolation, California can slow the spread of COVID-
17 19 through homeless populations, lower the number of people infected and protect
18 critical health care resources. We’re working hard with our county partners to get
19 these hotels up and running as rapidly as possible.¹³

19 ⁶ Office of Governor Gavin Newsom, Governor Newsom Takes Emergency Actions &
20 Authorizes \$150 Million in Funding to Protect Homeless Californians from COVID-19 (Mar. 18,
21 2020) (“Takes Emergency Actions”), available online at
22 <[https://www.gov.ca.gov/2020/03/18/governor-newsom-takes-emergency-actions-authorizes-
150-million-in-funding-to-protect-homeless-californians-from-covid-19/](https://www.gov.ca.gov/2020/03/18/governor-newsom-takes-emergency-actions-authorizes-150-million-in-funding-to-protect-homeless-californians-from-covid-19/)> (last visited Jun. 22,
2020).

23 ⁷ *Ibid.*

24 ⁸ *Ibid.*

25 ⁹ *Ibid.*

26 ¹⁰ *Ibid.*

27 ¹¹ State of California Business, Consumer Services, and Housing Agency, California
28 Awards \$100 Million to Cities, Counties and Continuums of Care to Help People Experiencing
Homelessness During COVID-19 Pandemic (Mar. 23, 2020), available online at
<https://www.bcsh.ca.gov/media/press_releases/bcsh_20200323.pdf> (last visited Jun. 22, 2020).

¹² First in Nation, *supra*.

¹³ *Ibid.*

1 Next, the Governor announced a partnership with Chef José Andrés’s World Central Kitchen to
2 provide three meals a day to select Project Roomkey hotels through a statewide contract in
3 support of local efforts.¹⁴ Meanwhile, the State purchased 584 trailers to serve the same functions
4 as the rooms at the hotels and the motels, complementing and supplementing Project Roomkey.¹⁵

5 By April 18, 2020, efforts taken under the banner of Project Roomkey had secured more
6 than 10,000 hotel or motel rooms statewide, of which more than 4,000 rooms were already
7 occupied by homeless people at risk from COVID-19.¹⁶ On that same date, the Governor
8 announced that the State had executed an agreement with Motel 6, the motel chain, to make all its
9 corporate-owned facilities in the State available to counties for Project Roomkey use, under a
10 template agreement.¹⁷ Also by that date, the State had delivered more than 1,000 trailers to
11 county partners.¹⁸

12 Project Roomkey has been a success: more than 15,800 hotel and motel rooms secured;
13 more than 10,600 of those rooms occupied; more than 1,300 trailers delivered. Notably, more
14 than 80 percent of the homeless people being sheltered remain asymptomatic.

15 This lawsuit was prompted because Norwalk and later Bell Gardens took official actions,
16 passing novel moratoriums on the use of hotels and motels for Project Roomkey (and, in the case
17 of Bell Gardens, suing the owner of the local participating hotel) that would effectively attempt to
18 veto Project Roomkey within those cities’ borders. This Court issued separate temporary
19 restraining orders against Norwalk and Bell Gardens.¹⁹ Presently, the Court is considering
20 converting the temporary restraining orders into permanent injunctions.

21
22 ¹⁴ *Ibid.*

¹⁵ *Ibid.*

23 ¹⁶ Office of Governor Gavin Newsom, Governor Newsom Visits Project Roomkey Site in
24 Santa Clara County to Highlight Progress on the State’s Initiative to Protect Homeless Individuals
25 from COVID-19, available online at <
https://www.bcsb.ca.gov/media/press_releases/bcsb_20200323.pdf /> (last visited Jun. 22, 2020).

¹⁷ *Ibid.*

¹⁸ *Ibid.*

26 ¹⁹ The Governor has learned that the Bell Gardens moratorium on using hotels or motels
27 for Project Roomkey may have expired. However, Bell Gardens remains a defendant in this
28 litigation, and is still subject to this Court’s temporary restraining order. Therefore, the Governor
will address the Bell Gardens controversy as if it is still live.

1 **SUMMARY OF ARGUMENT**

2 Both factors that courts weigh in determining whether to issue preliminary injunctions tip
3 sharply in favor of Los Angeles County and against Norwalk and Bell Gardens, in order to
4 prevent any further interference with Project Roomkey’s implementation. Los Angeles County is
5 likely to succeed on the merits on this case, because Project Roomkey is grounded in State
6 statutes and executive orders as well as county ordinances and resolutions that override local
7 objections like the ones raised by Norwalk and Bell Gardens. And the people of Los Angeles
8 County, including residents of Norwalk and Bell Gardens, will be greatly harmed by being
9 additionally exposed to COVID-19, absent continued interim relief in this case.

10 **ARGUMENT**

11 **I. LOS ANGELES COUNTY IS LIKELY TO SUCCEED ON THE MERITS IN THIS CASE**
12 **BECAUSE THE LAWS UNDERGIRDING PROJECT ROOMKEY OVERRIDE CONTRARY**
13 **CITY ORDINANCES AND LOCAL LEGAL ARRANGEMENTS**

14 In determining whether to issue a preliminary injunction, a court assesses the likelihood that
15 the moving party will ultimately prevail on the merits. (*White v. Davis* (2003) 30 Cal.4th 528,
16 554; Code Civ. Proc., § 527.)

17 **A. The Governor Has Broad Authority to Launch Project Roomkey as Part of**
18 **the Response to the Historic COVID-19 Pandemic**

19 California is in the midst of a major, once-in-a-century public health crisis that has already
20 killed over 5,000 people in California and over 120,000 people nationwide.²⁰ In response, the
21 Governor proclaimed a state of emergency,²¹ and, as detailed above, directed state agencies and
22 local governments to implement many actions, including Project Roomkey, to protect the health
23 and safety of Californians during this emergency.

24 ²⁰ California State Government, COVID.19.CA.GOV, available online at
25 <<https://covid19.ca.gov/>> (California figures; last visited Jun. 16, 2020); Centers for Disease
26 Control and Prevention, Coronavirus Disease 2019 (COVID-19), available online at
<<https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html>> (U.S. figures; last
visited Jun. 16, 2020).

27 ²¹ Office of Governor Gavin Newsom, Governor Newsom Declares State of Emergency to
28 Help Prepare for Broader Spread of COVID-19 (Mar. 4, 2020), available online at
<[https://www.gov.ca.gov/2020/03/04/governor-newsom-declares-state-of-emergency-to-help-
state-prepare-for-broader-spread-of-covid-19/](https://www.gov.ca.gov/2020/03/04/governor-newsom-declares-state-of-emergency-to-help-state-prepare-for-broader-spread-of-covid-19/)> (last visited Jun. 17, 2020).

1 For over 100 years, the U.S. Supreme Court has recognized that unique public health
2 emergencies, such as the outbreak of a deadly disease, temporarily bolster U.S. states’ inherent
3 police power, and give state authorities wide discretion to take actions in pursuit of public health
4 and safety. (See *Jacobson v. Massachusetts* (1905) 197 U.S. 11, 24-31 (“*Jacobson*”).) Within
5 the last month, the Chief Justice of the United States applied *Jacobson* to the current COVID-19
6 pandemic in California, and noted, “Our Constitution principally entrusts ‘[t]he safety and the
7 health of the people’ to the politically accountable officials of the States ‘to guard and protect.’”
8 (*South Bay United Pentecostal Church v. Newsom* (U.S. May 29, 2020) Case No. 19A1044, 2020
9 WL 2813056 at * 1 (“*South Bay*”) [Roberts, C.J., concurring], quoting *Jacobson, supra*, 197 U.S.
10 at p. 27.) Also, “[w]hen [state] officials undertake to act in areas fraught with medical and
11 scientific uncertainties, their latitude must be especially broad.” (*South Bay, supra*, 2020 WL
12 2813056 at * 1, quoting *Marshall v. United States* (1974) 414 U.S. 417, 427.)

13 In both state and federal courts, the emergency actions that California has taken to combat
14 the COVID-19 pandemic have been repeatedly upheld against challenge. For example, in *Givens*
15 *v. Newsom*, the U.S. District Court, Eastern District of California, rejected an application for a
16 temporary restraining order, based on a multi-pronged constitutional attack, against the
17 Governor’s stay-at-home order. ((E.D. Cal. May 8, 2020) __ F.Supp.3d __, __, 2020 WL
18 2307224, *10.) That court stated, “A state’s police power entails the authority to enact quarantine
19 laws and health laws of every description—even under normal circumstances.” (*Id.*, 2020 WL
20 2307224 at *4, quoting *Jacobson*, 197 U.S. at p. 25, internal punctuation omitted.)

21 But in abnormal circumstances, the authority to determine for all what ought to be
22 done in an emergency must be lodged somewhere or in some body. It is not
23 unusual nor unreasonable or arbitrary to invest that authority in the state.
24 Moreover, the court would usurp the function of another branch of government if
it adjudged, as a matter of law, that the mode adopted under the sanction of the
state, to protect the people at large was arbitrary, and not justified by the
necessities of the case.

25 (*Givens, supra*, 2020 WL 2307224 at *4, quoting *Jacobson*, 197 U.S. at pp. 27-29, internal
26 punctuation omitted.) To similar effect is *Gish v. Newsom* (C.D. Cal. Apr. 23, 2020) Case No.
27 EDCV 20-755 JGB (KKx), 2020 WL 1979970, which endorsed the broad authority of the
28 Governor to effectuate the stay-at-home order. “State Defendants argue that because the Orders

1 are temporary executive actions taken in response to a national emergency, they are entitled to
2 substantial judicial deference and not subject to traditional constitutional scrutiny. The Court
3 agrees: Defendants have a right to protect California residents from the spread of COVID-19—
4 even if those protections temporarily burden constitutional rights to a greater degree than
5 normally permissible.” (*Id.*, 2020 WL 1979970 at *4; see also *South Bay, supra*, 2020 WL
6 2813056 at *2 [upholding denial of preliminary-injunction motion regarding California’s
7 COVID-19-related restrictions on religious gatherings]; *Professional Beauty Federal of*
8 *California v. Newsom* (C.D. Cal. Jun. 8, 2020) Case No. 2:20-cv-04275-RGK-AS, 2020 WL
9 3056126 at *9 [denying motion for preliminary injunction challenging constitutionality of
10 California’s stay-at-home order]; *Abiding Place Ministries v. Newsom* (S.D. Cal. Jun. 4, 2020) __
11 F.Supp.3d __, __, 2020 WL 2991467 at *3 [similar]; *Best Supplement Guide, LLC v. Newsom*
12 (E.D. Cal. May 22, 2020) Case No. 2:20-cv-00965-JAM-CKD, 2020 WL 2615022 at *8 [similar];
13 cf. *Compagnie Francaise de Navigation a Vapeur v. Bd. of Health of State of La.* (1902) 186 U.S.
14 380 [upholding state quarantine law against constitutional challenges]; *Rasmussen v. Idaho*
15 (1901) 181 U.S. 198 [permitting ban on certain animal imports if evidence of disease found];
16 *Benson v. Walker* (4th Cir. 1921) 274 F. 622 [upholding county board of health resolution barring
17 circuses during 1918-1919 influenza epidemic]; *Hickox v. Christie* (D.N.J. 2016) 205 F. Supp. 3d
18 579 [upholding state quarantine of nurse who had treated Ebola patients in Sierra Leone].)

19 Through the California Emergency Services Act, the Governor has extraordinary authority
20 to respond to State emergencies, just as the Governor has done with COVID-19. (Gov. Code,
21 § 8627.) Indeed, in emergencies, the Governor has “all police power vested in the state.” (*Ibid.*)
22 The Governor has authority to “make, amend, and rescind orders and regulations necessary” to
23 respond to the emergency (*id.*, § 8567), as well as to “suspend any statute prescribing the
24 procedure for conduct of state business, or the orders, rules, or regulations of any state agency
25 [...] where the Governor determines and declares that strict compliance with any statute, order,
26 rule, or regulation would in any way prevent, hinder, or delay the mitigation of the effects of the
27 emergency” (*id.*, § 8571). The Governor may also approve a local emergency response plan.
28 (*Id.*, § 8570, subd. (d).)

1 Here, the Governor has relied on the voluntary making of contracts for use of private real
2 property. That exercise of the state police power cannot legitimately be questioned as a matter of
3 law. Likewise, the Governor has the authority, under Government Code section 8570,
4 subdivision (d), to enlist counties to carry out major parts of Project Roomkey, and temporarily
5 override local ordinances, resolutions, contracts, and other legal documents that local interests
6 might invoke against the humanitarian imperative of Project Roomkey.

7 As noted above, cities are obligated to assist in state efforts during emergencies like the
8 present one. City laws, and claims of lease or permit violations and the like, cannot supersede
9 emergency powers exercised by the Governor, in cooperation with the counties, to address the
10 unprecedented pandemic at hand.

11 **B. Los Angeles County Also Has Broad Authority to Implement Project**
12 **Roomkey**

13 Los Angeles County itself has the authority under the California Emergency Services Act
14 temporarily to override local city ordinances, as needed to combat an emergency health crisis.
15 (Gov. Code § 8634 [counties and cities “may promulgate orders and regulations necessary to
16 provide for the protection of life and property”]; see *Altman v. County of Santa Clara* (N.D. Cal.
17 Jun. 2, 2020) Case No. 20-CV-02180-JST, 2020 WL 2850291 at *10 [denying preliminary
18 injunction seeking to reopen firearm-related business during COVID-19 pandemic, and upholding
19 county shelter-in-place order temporarily closing non-essential businesses]; *Abiding Place*
20 *Ministries, supra*, 2020 WL 2991467 at *3 [upholding county order along with State order].)
21 Thereby, Los Angeles County has declared a local health emergency caused by COVID-19. (See
22 Los Angeles County’s TRO Applic. Adverse to Norwalk (Apr. 23, 2020), Exh. B.) The
23 declaration cites as its authority state law and county ordinances and resolutions. (*Ibid.*) In
24 responding to the COVID-19 pandemic, Los Angeles County has acted pursuant to the authority
25 of the Governor as well as pursuant to the county’s own claimed authority in a time of
26 emergency. And under Government Code section 8570, subdivision (d), the Governor has
27 approved and hereby reiterates approval for Los Angeles County’s local emergency response
28 plan’s use of Project Roomkey.

1 **C. Cities Do Not Have Authority to Overrule Project Roomkey**

2 In granting Los Angeles County’s separate applications for temporary restraining orders
3 against Norwalk and Bell, this Court necessarily acknowledged the Governor’s power, derived
4 from the Emergency Services Act, to launch Project Roomkey and to involve the counties, and
5 also Los Angeles County’s power to participate in Project Roomkey, and the concomitant
6 limitations on cities that might oppose or insist on having control over the project. Those powers
7 are well-grounded in existing state law. (Gov. Code, §§ 8568, 8570, 8572, 8634; cf. *Interstate*
8 *Marina Development Co. v. County of Los Angeles* (1984) 155 Cal.App.3d 435 [holding that
9 county rent-control ordinance did not unconstitutionally impair pre-existing real-estate
10 development contracts]; see also Jared Igerman, *California Counties: Second-Rate Localities or*
11 *Ready-Made Regional Governments?*, 26 Hastings Const. L.Q. 621, 670 (Spring 1999) [“In
12 principle, there is nothing to prevent the State from delegating to the counties any or all of its land
13 use regulation powers that preempt conflicting municipal laws”].) The counties are bound to
14 assist in Project Roomkey, and Los Angeles County is doing so voluntarily and admirably. Cities
15 must abide by county emergency rules and regulations. (See 62 Ops.Cal.Atty.Gen. 701 (1979)
16 [“Cities within a county are bound by county rules and regulations adopted by the county
17 pursuant to section 8634 of the Government Code during a county proclaimed local emergency
18 when the local emergency includes both incorporated and unincorporated territory of the
19 county”].) For now, countervailing municipal ordinances and use restrictions in leases and the
20 like must yield.

21 In this case, the actions of both Norwalk and Bell Gardens threaten to undermine the state-
22 county design of California’s response to COVID-19, in this moment of peril. The Governor has
23 established the plan of Project Roomkey, has delegated many of the logistics to the counties, and
24 has not permitted cities to veto or otherwise to interfere with the project. Norwalk and Bell
25 Gardens are contravening these lawful arrangements and must be enjoined from continuing to do
26 so.

1 For all the foregoing reasons, Plaintiff County of Los Angeles is likely to succeed on the
2 merits of its complaint.

3 **II. THE BALANCE OF HARMS WEIGHS STRONGLY IN FAVOR OF ISSUING THE**
4 **PRELIMINARY INJUNCTIONS**

5 In determining whether to grant a preliminary injunction, the court considers whether a
6 greater injury will result to the defendants, and to third parties, from granting the relief or to the
7 plaintiff from refusing the relief. (*Socialist Workers 1974 California Campaign Committee v.*
8 *Brown* (1975) 53 Cal.App.3d 879.)

9 **A. Any Alleged Harms to Norwalk and Bell Gardens from Use of Local Hotels**
10 **for Project Roomkey Do Not Outweigh the Countywide Harms of Blocking**
11 **that Humanitarian Endeavor**

12 The denial of the preliminary injunctions here would lead to far greater harm to the people
13 of Los Angeles County than any harm that Norwalk and Bell Gardens could conceivably suffer
14 from being enjoined from preventing homeless people in need from getting urgent humanitarian
15 relief.

16 The consensus of health and medical experts is that the only way to prevent the spread of
17 COVID-19 is to isolate those who are at risk or infected with the disease from other people, until
18 the risk subsides. Project Roomkey compels counties to help homeless people who are at-risk
19 from COVID-19 into isolation units for discrete times, to allow those people to improve their
20 health and to protect the rest of the community from the disease's spread. If Los Angeles County
21 is prevented from taking these important, common-sense measures, then their benefits will not
22 materialize, and COVID-19 will inflict more misery and suffering on more people.

23 Neither Norwalk nor Bell Gardens has demonstrated harms from the temporary injunctive
24 relief that outweigh these benefits. Norwalk has not provided any details of any harms that
25 undercutting Project Roomkey will bring. To the extent that Norwalk would appear to want to
26 force other communities to absorb more vulnerable homeless people, Norwalk is only transferring
27 any associated "harm," not reducing it. And Bell Gardens insinuates that people in or around the
28

1 Project Roomkey hotel will engage in mischief or petty crimes, but this is mere speculation, not
2 evidence in support of their position.

3 Furthermore, both Norwalk and Bell Gardens ignore Project Roomkey’s strict
4 requirements that the hotels and motels be operated so as to ensure the safety of the people in
5 isolation or quarantine and the residents of the community at large. (See Los Angeles County
6 TRO Applic. Adverse to Norwalk, Marston Decl., ¶¶ 10-44.) For instance, security guards,
7 which are on-site around the clock, are required to scan all persons entering the site for weapons
8 or other contraband by using metal-detecting wands.²² The guards are required to patrol the
9 exterior perimeter of the facility and its interior areas.²³ Guards are also required to respond to all
10 apparent matters of public safety, even as may affect the surrounding community.²⁴ Indeed,
11 because of the extensive security at the Bell Gardens hotel, an alleged “sex worker,” who had
12 “managed to enter the quarantine zone and wander the halls for nearly 10 minutes,” was
13 discovered and any potential (speculative) harm was prevented. (Bell Gardens’s Opp. to Los
14 Angeles Cnty. Ex Parte TRO Applic., pp 9-10).

15 Accordingly, neither city has shown real harm that they will suffer if the preliminary
16 injunctions are granted.

17 **B. Denial of the Preliminary Injunctions Would Immediately and Irreparably**
18 **Harm the Public Interest**

19 On the other hand, denying preliminary injunctions here would undermine a successful
20 statewide emergency initiative during a widespread pandemic, gravely harming the public
21 interest. Since Governor Newsom launched Project Roomkey less than three months ago, the
22 endeavor has secured approximately 15,000 rooms, and approximately 10,000 of these rooms are
23

24
25 ²² See Los Angeles Homeless Services Authority, Project Roomkey/ COVID-19 Shelters
26 Security Services Request for Information (May 13, 2020), available online at
<[https://www.lahsa.org/documents?id=4500-2020-project-roomkey-covid-19-shelters-security-](https://www.lahsa.org/documents?id=4500-2020-project-roomkey-covid-19-shelters-security-services-rfi)
27 [services-rfi](https://www.lahsa.org/documents?id=4500-2020-project-roomkey-covid-19-shelters-security-services-rfi)> (last accessed June 22, 2020).

28 ²³ *Ibid.*

²⁴ *Ibid.*

1 currently occupied.²⁵ There can be no real doubt that Project Roomkey is protecting not only the
2 thousands of homeless people in the isolation units, but numerous others as well, who would be in
3 danger of catching the disease if its spread were not limited. Without Project Roomkey,
4 transmission of the virus will certainly accelerate.

5 Los Angeles County should not be made to start from scratch to locate new temporary
6 housing for local homeless COVID-19 victims, whose very lives are in jeopardy, and who will be
7 much more likely to spread the disease by moving around instead of staying put.

8 In sum, the balance of harms as between Los Angeles County and the dissenting cities, as
9 well as the general public, resolve strongly in favor of granting the preliminary injunctive relief
10 sought here.

11 CONCLUSION

12 For the foregoing reasons, the Court should grant the preliminary injunctions that Los
13 Angeles County seeks against both Norwalk and Bell Gardens.

14 Dated: June 23, 2020

Respectfully Submitted,

15 XAVIER BECERRA
16 Attorney General of California
17 MARK R. BECKINGTON
18 Supervising Deputy Attorney General
19 LARA HADDAD
20 Deputy Attorney General

21 /s/ Jonathan M. Eisenberg
22 JONATHAN M. EISENBERG
23 Deputy Attorney General
24 *Attorneys for Governor of California Gavin*
25 *Newsom*

26 _____
27 ²⁵ Matt Tinoco, Project Roomkey Has Placed 9,400 Homeless People Into Temporary
28 Hotel Rooms. Now What?, *LAist* (Jun. 9, 2020), available online at
<https://laist.com/2020/06/09/project_roomkey_homeless_hotel_motel_coronavirus.php?utm_source=feedly&utm_medium=webfeeds> (last accessed June 22, 2020).

DECLARATION OF SERVICE BY E-MAIL and U.S. Mail

Case Name: **County of Los Angeles v. City of Norwalk**

Case No.: **20STCP01480**

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Case Name: **County of Los Angeles v. City of Norwalk**

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I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On **June 23, 2020**, I served the attached **NOTICE OF MOTION AND MOTION FOR LEAVE TO FILE CALIFORNIA GOVERNOR GAVIN NEWSOM'S AMICUS CURIAE BRIEF IN SUPPORT OF COUNTY OF LOS ANGELES'S MOTIONS FOR PRELIMINARY INJUNCTIONS** by transmitting a true copy via electronic mail. In addition, I placed a true copy thereof enclosed in a sealed envelope, in the internal mail system of the Office of the Attorney General, addressed as follows:

SEE ATTACHED SERVICE LIST

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on **June 23, 2020**, at Los Angeles, California.

Cecilia Apodaca

Declarant

Signature

DECLARATION OF SERVICE BY E-MAIL and U.S. Mail

Case Name: **County of Los Angeles v. City of Norwalk**

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Mary C. Wickham, County Counsel
Rodrigo A. Castro-Silva, Senior
Assistant County Counsel
Thomas J. Faughnan, Senior Assistant
County Counsel
Lauren M. Black, Principal Deputy
County Counsel
500 West Temple Street, Suite 468
Los Angeles, CA 90012

Arnold M. Alvarez-Glasman
CHRISTOPHER G. CARDINALE
John W. Lam
ALVAREZ-GLASMAN & COLVIN
Attorneys at Law
3181 Crossroads Pkwy North, Ste 400
City of Industry, CA 91746

Brandon D. Young
MANATT, PHELPS & PHILLIPS, LLP
2049 Century Park East, Suite 1700
Los Angeles, CA 90067

Todd Litfin
RUTAN & TUCKER LLP
611 Anton Blvd #1400
Costa Mesa , CA 92626-1931
(714) 641-5100

Louis R. Miller
Mira Hashmall
Emily A. Sanchirico
MILLER BARONDESS, LLP
1999 Avenue of the Stars, Suite 1000
Los Angeles, CA 90067

Thomas K. Bourke
LAW OFFICE OF
THOMAS K. BOURKE
333 South Grand Avenue, 42nd Floor
Los Angeles, CA 90071

Byron J. McLain
Kristina M. Fernandez Mabrie
FOLEY & LARDNER LLP
555 South Flower Street, Suite 3300
Los Angeles, CA 90071-2418

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500 West Temple Street, Suite 468
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Arnold M. Alvarez-Glasman
CHRISTOPHER G. CARDINALE
John W. Lam
ALVAREZ-GLASMAN & COLVIN
Attorneys at Law
3181 Crossroads Pkwy North, Ste 400
City of Industry, CA 91746

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2049 Century Park East, Suite 1700
Los Angeles, CA 90067

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1999 Avenue of the Stars, Suite 1000
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Thomas K. Bourke
LAW OFFICE OF
THOMAS K. BOURKE
333 South Grand Avenue, 42nd Floor
Los Angeles, CA 90071

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Kristina M. Fernandez Mabrie
FOLEY & LARDNER LLP
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