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VIA: ELECTRONIC MAIL ONLY (AB209@hcd.ca.gov)

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**RE: AB 209 Stakeholder Working Group's Scope of Work and Authority to Include Policy Recommendations Concerning Tools for Maintaining Safe Indoor Air Temperatures in Mobile Homes**

Dear Ms. Kline:

We appreciate the opportunity to comment on the March 5th meeting held by the Assembly Bill 209 ("AB 209") Stakeholder Working Group ("Working Group"). Leadership Counsel for Justice and Accountability ("Leadership Counsel"), the California Rural Legal Assistance Foundation (CRLAF) and the Greenlining Institute (GLI) submit these comments to convey its strong support for including, in the Working Group's report to the Legislature, policy

recommendations using a full range of legislative and regulatory tools that would help ensure that all residential dwelling units—including manufactured homes, mobilehomes, and multifamily manufactured homes (collectively, “MH units”)—**can maintain** a recommended maximum safe indoor air temperature. Indeed, including such recommendations, which would go well beyond the material presented in the Working Group thus far concerning creation of a maximum safe indoor air temperature, is the only way to fulfill the AB 209 mandate.

Our organizations represent a broad coalition of housing, environmental, and climate justice advocates who support vulnerable low-income Californians across the state. Leadership Counsel, CRLAF and GLI are stakeholders in consultation with the California Department of Housing and Community Development (“HCD”) under AB 209, Section 31 regarding these policy recommendations.<sup>1</sup> We would like to express our gratitude for the Working Group’s time and effort thus far in this endeavor. We write today to emphasize areas of work that we hope and expect will be reflected in the Working Group’s draft report in the coming months.

As we explain below, it is squarely within the California Legislature’s power to develop and enact policies that can affect the indoor air temperatures of MH units—and that are critically important to ensuring that MH units “can maintain” whatever maximum indoor safe air temperature may be adopted. These policies can be adopted and implemented without risking federal preemption. Thus, the Working Group has a clear mandate to recommend that the Legislature pursue policy avenues outside the scope of building codes and standards, such as specific changes to state law, funding and incentive programs, landscaping and shading standards in mobilehome parks, and community energy resilience initiatives to accomplish these goals. Especially in light of the disproportionate vulnerability of residents of MH units to extreme heat, the Working Group should consider and recommend an expansive suite of options to protect the health, safety, and general welfare of the 1.6 million Californians living in these homes.<sup>2</sup>

**I. HCD has a broad mandate under AB 209 to recommend policies to the Legislature to help ensure that residential dwelling units can maintain a maximum safe indoor air temperature.**

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<sup>1</sup> This letter builds upon the ideas expressed in a previous comment letter on the Working Group’s scope of work, originally sent by organizations representing a broad coalition of housing, environmental, climate, and health justice advocates, including Leadership Counsel. Leadership Counsel, Comment Letter on AB 209 Scope of Work (Oct. 30, 2023). Today’s letter was crafted together with members of the Frank G. Wells Environmental Law Clinic at UCLA School of Law, which provides legal assistance to organizations such as Leadership Counsel on a range of legal and policy matters. Special thanks to Clinic law student Cassandra Vo (UCLA Law Class of 2025) for her work on this project.

<sup>2</sup> Manuela Tobias, *Mobile home parks offer refuge from California’s housing squeeze. Who’s watching them?*, CalMatters, (Mar. 20, 2023), <https://calmatters.org/housing/2023/03/mobile-home-parks-california-housing/>.

AB 209’s language makes the Working Group’s statutory mandate clear. Section 31(b) of the bill requires HCD to consult with stakeholders “in developing the recommended maximum safe indoor air temperature *and* policy recommendations” . . . “designed to ensure that residential dwelling units *can maintain*” that temperature.<sup>3</sup> This language explicitly requires the Working Group to not only develop a recommendation for a maximum safe indoor air temperature, but also to design policy recommendations for steps the Legislature could take to ensure that dwelling units can maintain that temperature. Unless the Working Group affirmatively provides a broad range of policy recommendations to achieve this goal, HCD fails to meet its statutory requirements.

The call for “policy recommendations,” as used in AB 209, does not merely mean recommending what the maximum safe indoor air temperature should be. “Policy” is much more expansive in scope, especially when understood to include policies “designed to ensure” that dwelling units “can maintain” any chosen maximum temperature. The inclusion of this language in AB 209 necessarily requires HCD to recommend specific steps, interventions, and solutions that are within the Legislature’s authority to help dwelling units keep cool. Only by doing so can the Working Group fulfill both wings of its dual mandate.

There are many analyses and compilations of the sorts of policy measures available to help ensure that dwelling units “can maintain” a maximum safe indoor air temperature from which the Working Group may draw in its work. For example, UCLA’s Luskin Center for Innovation has published a policy brief that describes these kinds of specific policy recommendations;<sup>4</sup> notably, that brief helped give rise to AB 209’s mandate in the first place. Specific to the task of keeping MH units safe, Arizona State University has published a similar Heat Mitigation Solutions Guide for mobile homes that details 50 different solutions for diverse stakeholders.<sup>5</sup> We have attached these two documents to this comment letter, and we encourage the Working Group to review the interventions described within them as detailing the kinds of policies that we believe the Legislature envisioned the Working Group would consider and recommend, if appropriate, when

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<sup>3</sup> AB 209, Stats. 2022, Ch. 251, § 31 (emphases added).

<sup>4</sup> *See generally* Michelle Gallarza et al., Protecting Californians with Heat-Resilient Homes, UCLA Luskin Center for Innovation (Jul. 2022), <https://innovation.luskin.ucla.edu/wp-content/uploads/2022/07/Protecting-Californians-with-Heat-Resilient-Homes.pdf>.

<sup>5</sup> *See generally* Katsiaryna Varfalameyeva et al., Heat Mitigation Solutions Guide for Mobile Homes, Arizona State University (2021), [https://keep.lib.asu.edu/system/files/c160/KER%20Heat%20Mobile%20Homes%20Solutions%20Guide%20\\_0.pdf](https://keep.lib.asu.edu/system/files/c160/KER%20Heat%20Mobile%20Homes%20Solutions%20Guide%20_0.pdf) (“ASU Heat Recommendations”).

it first enacted AB 209. We have also included our own discussions of potential policy recommendations related to MH units in Section V below.

**II. The Working Group has not yet provided any clear draft policy recommendations to help ensure that dwelling units “can maintain” a maximum safe indoor air temperature, including those which may affect MH units.**

The Working Group’s three stakeholder meetings thus far have focused exclusively on, and provided valuable insight into, the complex factors relating to the development of a recommended maximum safe indoor air temperature. None of these meetings, however, has provided any discussion of specific draft policy recommendations or ideas relating to *how* residential dwelling units can maintain that temperature, or what changes to law and policy the Legislature should consider adopting in order to advance the ability of dwelling units to maintain that temperature. We have not seen, for example, the Working Group discuss recommendations to the Legislature related to updating state laws or regulations, creating funding or incentive programs, expanding resident access to technical or financial assistance initiatives through local organizations, or taking any other possible steps within the Legislature’s purview related to maintenance of a maximum safe temperature.

The extent to which HCD will include MH units in these specific policy recommendations is similarly unclear. The Working Group’s stakeholder meetings and communications thus far have sent mixed messages as to whether, and how much, the Working Group will consider MH units in developing its recommendations. The October and December 2023 stakeholder meeting presentations explicitly stated that AB 209’s scope pertained to “residential dwelling units in the State of California, except manufactured homes,” despite this exclusion not existing under any tenable reading of AB 209’s text. Yet the December 2023 and March 2024 presentations also acknowledged that this project will result in broad “policy” recommendations, *rather than* specific changes to building codes and standards. The Working Group stated that this broadly applicable scope of work is therefore “not limited by possible constraints on state codes and standards.” In any event, the purpose of the stakeholder meetings is to consult with stakeholders “[i]n developing . . . policy recommendations,” which the Working Group cannot achieve unless it shares concrete and transparent details about the policies it is (or is not) contemplating.

Our participation in the March 2024 stakeholder meeting provided little clarity on this issue. There, the Working Group’s responses to our intervention about the importance of MH units seemed tentatively open to the idea of including MH units within its policy recommendations, but raised concerns about the scope of federal preemption. As we discuss in Sections IV and V, federal law generally preempts California building codes and standards for MH units but does

not displace the State’s authority to codify other policies designed to maintain maximum indoor air temperatures in these dwellings. We strongly urge the Working Group to consider such policies.

**III. The Working Group can and should include policy recommendations that enable MH units to maintain the maximum safe indoor air temperature.**

The Working Group has the obligation and authority to include policies designed to promote heat resiliency in MH units in its recommendations to the Legislature. Similarly, the Legislature has the authority to enact a strong suite of policies designed to maintain a maximum indoor air temperature in MH units.

As we note above, we are concerned, *inter alia*, by the Working Group’s statements at its October and December 2023 presentations claiming that AB 209 does not require the Working Group to consider MH units in its recommendations. This statement is without support and is contrary to AB 209’s broad mandate, as well as to the State’s goals of promoting equity and protecting vulnerable groups.

**a. MH units are residential dwelling units under California law.**

The phrase “residential dwelling units” unambiguously includes MH units in its plain and ordinary meaning. Black’s Law Dictionary and Merriam-Webster, for example, have each defined a “residence” or “dwelling” as generally including any kind of enclosed structure, shelter, or other fixed abode—such as a house, tent, or mobile home—where one or more people live.<sup>6</sup> Six provisions of state law have also utilized similarly broad terms to define a “dwelling unit” in this way.<sup>7</sup> Furthermore, the State has explicitly or implicitly incorporated some form of MH units within the meaning of a “residential dwelling,”<sup>8</sup> a “building occupied for residential use,”<sup>9</sup> or a “dwelling unit”<sup>10</sup> in an additional 17 provisions of California law. And in another provision enacted in AB 209 itself, the Legislature explicitly defined a “residential dwelling

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<sup>6</sup> See *Residence, Dwelling-house*, Black’s Law Dictionary (11<sup>th</sup> ed. 2019); see also *Dwelling*, Merriam-Webster.com Dictionary.

<sup>7</sup> Cal. Health & Safety Code §§ 18003.3, 19970; Cal. Civ. Code § 1940(c); 2 C.C.R. § 12005(m); 18 C.C.R. § 1610.2(a)(1); 25 C.C.R. § 4070 Part 280.2(a)(7) (reproducing federal mobilehome construction and safety standards).

<sup>8</sup> Cal. Health & Safety Code §§ 13113.9(a)(2), 13114.2(c)(2), 13114.3(b)(3); Cal. Rev. & Tax. Code §§ 20508, 20583(a), 20640.2(b), 20808(a)(1); Cal. Gov’t Code §§ 25132(e)(3), 36900(d)(3), 65973(c).

<sup>9</sup> Cal. Pub. Res. Code §§ 4211(a), 4584(v)(2).

<sup>10</sup> Cal. Health & Safety Code § 50775(f); Cal. Civ. Code § 1632(b)(3); 14 C.C.R. § 1665.2; 22 C.C.R. § 100800(f); 25 C.C.R. § 4004(h).

unit” as including mobilehome units.<sup>11</sup> By contrast, in the rare instances where the State intends to exclude MH units from the definition of dwelling units, it does so explicitly.<sup>12</sup> All of this supports the common understanding that MH units are included within the scope of residential dwelling units. Accordingly, the Working Group is obligated to create policy recommendations that address how such units “can maintain” a maximum safe indoor temperature.

Just as the Working Group has acknowledged that its scope is not constrained by any limits on state building codes and standards, such as those that might exclude MH units, the legislative history of AB 209 affirms this as well. Section 31’s language originated in Assembly Bill 2597 (“AB 2597”), which merely required HCD to develop “mandatory building standards” for safe maximum indoor air temperatures in existing dwelling units.<sup>13</sup> When the Legislature enacted AB 209, however, it deliberately changed and broadened HCD’s role to instead create general “policy recommendations,” excluding any reference to building codes or standards. AB 209 therefore requires the Working Group to address not only building code policy options, but a broader sweep of Legislative policy recommendations that affect the ability of homes to *maintain* a safe indoor air temperature—including in MH units.

**b. Any possible exclusion of MH units from the Working Group’s recommendations may implicate equity and civil rights concerns.**

The Working Group should include policy recommendations that protect MH units’ indoor temperatures due to the equity and civil rights concerns that would arise otherwise. Under California’s general civil rights statute, Cal. Gov’t Code § 11135(a), no person in the state shall be unlawfully denied “full and equal access to the benefits of” any program or activity conducted, operated, or administered by the state or any state agency, based on characteristics such as race, ancestry, ethnic group identification, national origin, and age. The Working Group thus cannot exclude any housing type that will deprive access to the benefits of these policy recommendations for vast groups of people with these protected characteristics.

Climate change disasters like extreme heat are more likely to impact MH units than any other housing type.<sup>14</sup> Residents of MH units already experience substantially higher indoor heat risks than residents of traditional homes, and accordingly comprise a disproportionately high

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<sup>11</sup> Cal. Pub. Res. Code § 25665 (West 2022). The guidelines for the program established by this section later expanded upon this definition as including all MH units, rather than mobilehomes alone. *See* California Energy Commission, Guidelines for the Equitable Building Decarbonization Direct Install Program, No. 252682, p. 10 (adopted Oct. 18, 2023).

<sup>12</sup> Cal. Civ. Code §§ 51.3(b)(5), 51.11(b)(5); Cal. Health & Safety Code § 13113.7(b).

<sup>13</sup> AB 2597, Ward 2022.

<sup>14</sup> Tobias, *supra* note 2.

percentage of all indoor heat deaths.<sup>15</sup> In fact, these residents may be six to eight times more likely to die from heat-associated causes than those in other housing types.<sup>16</sup> Not only are MH units inherently more susceptible to overheating and less equipped to deal with extreme heat, but over 50 percent of California’s MH units were built before 1980—making them more likely to need repair or replacement.<sup>17</sup> This is especially concerning given that most of these units were not made to be used and maintained for over 20 years.<sup>18</sup> Nearly 90 percent of the mobilehome parks for which HCD has construction date data were likewise built before 1980.<sup>19</sup> In Los Angeles County alone, more than 56 percent of MH units are located in high heat exposure areas, compared to 38 percent of all County residents.<sup>20</sup> Ultimately, MH units provide their residents with little protection from—and can actively worsen—the consequences of extreme heat.

The characteristics of MH units and the demographics of their residents only exacerbate these preexisting vulnerabilities. As many as three in ten householders of MH units identify as Hispanic or Latino, and as many as six in ten identify as nonwhite.<sup>21</sup> These concentrations are much higher in certain areas, such as the 32 various “colonias” that are recognized by the federal Department of Housing and Urban Development (“HUD”), local governments, and sovereign tribes across Imperial, Riverside, and San Diego Counties.<sup>22</sup> Colonias are old towns and rural communities near the U.S.-Mexico border marked by a lack of decent housing and deficient and

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<sup>15</sup> Cory R. Bernard & Anthony Proano, *Too Hot to Handle: Curbing Mobile Home Heat Deaths in a Warming Climate*, 12 Wash. J. Soc. & Env’t. Justice 1, 1-2 (2022).

<sup>16</sup> Tony Barboza & Ruben Vives, *Poor neighborhoods bear the brunt of extreme heat, ‘legacies of racist decision-making,’* Los Angeles Times, (Oct. 28, 2021), <https://www.latimes.com/california/story/2021-10-28/extreme-heat-built-environment-equity>. ASU Heat Recommendations, *supra* note 5 at 4.

<sup>17</sup> See Los Angeles County, LA County Climate Vulnerability Assessment 8, 47 (Oct. 2021), <https://ceo.lacounty.gov/wp-content/uploads/2021/10/LA-County-Climate-Vulnerability-Assessment-1.pdf>. See Prosperity Now, *Manufactured Housing Metropolitan Opportunity Profile: Data Snapshot 4* (Dec. 2017), [https://prosperitynow.org/sites/default/files/resources/California\\_Metro%20Opportunity%20Data%20Snapshot\\_December2017\\_0.pdf](https://prosperitynow.org/sites/default/files/resources/California_Metro%20Opportunity%20Data%20Snapshot_December2017_0.pdf).

<sup>18</sup> Christian Mendez, *Housing Choice and Access in the Eastern Coachella Valley: an Ethnographic Study of Housing Among Low-wage workers*, UCLA Luskin School of Public Affairs 23 (July 2019), [https://www.lewis.ucla.edu/wp-content/uploads/sites/17/2019/07/2019-Capstone\\_Mendez\\_Housing-in-East-Coachella-Valley.pdf](https://www.lewis.ucla.edu/wp-content/uploads/sites/17/2019/07/2019-Capstone_Mendez_Housing-in-East-Coachella-Valley.pdf).

<sup>19</sup> Tobias, *supra* note 2.

<sup>20</sup> Los Angeles County, *supra* note 17 at 47.

<sup>21</sup> U.S. Census Bureau, 2022 American Communities Survey 5-Year Estimates Detailed Tables. “Nonwhite” here is used to refer to any group other than those who identified as “White alone, not Hispanic or Latino.” A “householder” refers to the person, or one of the people, in whose name the home is owned, being bought, or rented. U.S. Census Bureau Glossary, <https://www.census.gov/glossary/?term=Householder> (last visited Mar. 27, 2024).

<sup>22</sup> Vinit Mukhija & Paavo Monkkonen, *Federal Colonias Policy in California: Too Broad and Too Narrow*, *Housing Policy Debate* 17, no. 4, 757-58, [https://www.researchgate.net/publication/253768748\\_Federal\\_colonias\\_policy\\_in\\_California\\_Too\\_broad\\_and\\_too\\_narrow](https://www.researchgate.net/publication/253768748_Federal_colonias_policy_in_California_Too_broad_and_too_narrow).

decaying infrastructure.<sup>23</sup> Many Californian colonias are predominantly Hispanic or Latino, with numbers ranging as high as 90 to 98 percent of the population in some areas.<sup>24</sup> And in most colonias, MH units make up a major part—and in some cases nearly all—of the available housing landscape.<sup>25</sup>

Certain colonias in the Eastern Coachella Valley area of Riverside County are also characterized by Polanco parks, which are small, informal mobilehome park communities established under the Farm Labor Housing Protection Act that were initially created to serve groups of migrant farmworkers and their families.<sup>26</sup> Many undocumented residents in these communities access the parks for housing due to their affordability and lack of oversight. As a result, these areas are overwhelmingly Hispanic, with MH units representing the largest supply of housing in the Eastern Coachella Valley.<sup>27</sup>

In addition, age is one of the greatest indicators of susceptibility to heat-related illnesses and death.<sup>28</sup> MH units tend to house more elderly residents who may often choose to stay home despite dangerously high temperatures indoors.<sup>29</sup> As many as 40 percent of the householders in California’s MH units are seniors aged 65 years or older, representing a larger share of MH unit residents than all homeowners or all renters.<sup>30</sup>

Over 5,231 active mobilehome parks represent one of the last bastions of affordable housing in the state.<sup>31</sup> As California’s notorious housing costs continue to force half a million residents out of state, and tens of thousands of people into the streets,<sup>32</sup> it is critical that the Working Group fully satisfy its mandate under AB 209 by addressing temperatures in MH units. Any failure to do so may cause the Working Group to unlawfully deny access to the benefits of these policies based on residents’ race and ethnicity, national origin, and age, in violation of California law.

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<sup>23</sup> *Id.* at 775.

<sup>24</sup> *Id.* at 769-773.

<sup>25</sup> *Id.* at 767.

<sup>26</sup> Assembly Bill 3526 (Polanco, 1992), codified at Stats. 1992, ch. 1298, available at [https://digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article=1547&context=caldocs\\_assembly](https://digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article=1547&context=caldocs_assembly); Mendez, *supra* note 18 at 15.

<sup>27</sup> Mendez, *supra* note 18 at 18.

<sup>28</sup> Bernard & Proano, *supra* note 15 at 8.

<sup>29</sup> Barboza & Vives, *supra* note 16.

<sup>30</sup> U.S. Census Bureau, *supra* note 21.

<sup>31</sup> Mobile Home Park Home Owners Allegiance, California Mobile Home Park Statistics (2024), <https://mhphoa.com/ca/mhp/statistics>.

<sup>32</sup> Tobias, *supra* note 2.



**IV. The Legislature has many law and policy tools for affecting indoor temperatures in MH units without risking federal preemption—and, thus, the Working Group’s work is not overly constrained by preemption concerns.**

The Working Group has raised concerns that any potential policy recommendations that include MH units may inevitably be preempted by the federal National Manufactured Housing Construction and Safety Standards Act of 1974 (“1974 Act”), and the Manufactured Housing Construction and Safety Standards (“MHCSS”) that HUD has created under that act.<sup>33</sup>

We have reviewed the federal and state legal regimes related to MH units and conclude that while federal law preempts state building codes and standards for certain MH units, a broad swath of state authority remains that can influence the ability of MH units to maintain a safe indoor air temperature. Though building codes and standards for the actual design and construction of certain MH units are preempted, for example, other potential state programs—including those that incentivize, fund, or influence cooling equipment, shade structures, and mobilehome park landscaping—are not.

It is true that national standards preempt certain types of regulation of manufactured homes in a way that likely limits California’s ability to create a direct building code or standard controlling these homes’ indoor air temperatures. This preemption, however, is limited in two important ways. First, it relates only to the class of MH units built on or after June 15, 1976, not to older units. Second, it is limited to requirements concerning these MH units’ actual design and construction, transportation, fire safety, plumbing, heat-producing, and electrical systems.<sup>34</sup> Federal law thus does not govern state legislative policy enactments that can enable MH units to maintain safe indoor air temperatures in ways outside of these direct building standards.

Under these narrow constraints, there is a wide scope for both the Legislature and Working Group to consider other kinds of non-preempted policy avenues that can affect MH units’ indoor air temperatures. California already governs various features of MH units and mobilehome parks through laws such as the Manufactured Housing Act, Mobilehome Parks Act, Mobilehome Residency Law, and their respective regulations.

California’s Manufactured Housing Act, for example, serves as an expansive catch-all for the gaps left by the limits of the 1974 Act and MHCSS for the construction of mobilehomes (i.e., MH units built before June 15, 1976) or multifamily manufactured homes.<sup>35</sup> The state’s

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<sup>33</sup> 42 U.S.C. § 5401 et seq.; 24 C.F.R. §§ 3280-3280.1006, 3282-3282.611.

<sup>34</sup> 24 C.F.R. § 3280.1.

<sup>35</sup> Cal. Health & Safety Code § 18000 et seq.; 25 C.C.R. § 4000 et seq.

Mobilehome Parks Act creates direct standards and requirements for the construction, maintenance, occupancy, use, and design of mobilehome parks themselves.<sup>36</sup> Finally, the Mobilehome Residency Law acts as the landlord-tenant law for mobilehome park owners and residents, and includes state-created requirements that govern the implementation of park rules and regulations.<sup>37</sup>

The Working Group is empowered to recommend that the Legislature enact a variety of changes to these statutes, such as landscaping and shading requirements that would affect individual MH units by shading them directly, or by reducing the ambient temperatures across entire mobilehome parks. If the Working Group creates policy recommendations embracing these ideas, then these recommendations would additionally support the State’s mandate under the Mobilehome Parks Act to protect the health, safety, and general welfare of park residents, and to guarantee these residents “a decent living environment.”<sup>38</sup>

Federal law also does not restrain the Working Group’s ability to recommend policies that affect MH units’ indoor air temperatures through other means, such as via financial incentives. Federal law does not preempt the Legislature from expanding funding for grant or technical assistance programs that would assist with retrofits, provision of cooling equipment, maintenance, and structural repairs in MH units across the state. Along with helping residents of MH units obtain cooling technologies like fans or window air conditioning units, the Legislature could incentivize energy resilience programs that protect residents from electrical issues or power outages during heat waves. We detail some of the most promising available policy tools below.

**V. The Working Group should consider at least the following policies for maintaining maximum safe indoor air temperatures in MH units.**

Although HCD cannot develop building codes and standards for MH units, it should recommend policies to the Legislature designed to ensure that MH units can maintain a safe maximum indoor temperature.<sup>39</sup> As we have explained, HCD can only satisfy its legislative mandate if it considers and recommends policies to the Legislature that would help maintain safe temperatures in residential dwelling units for California’s most vulnerable residents, including those living in MH units.

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<sup>36</sup> Cal. Health & Safety Code § 18200 et seq.; 25 C.C.R. § 1000 et seq.

<sup>37</sup> Cal. Civ. Code § 798 et seq.

<sup>38</sup> Cal. Health & Safety Code § 18250.

<sup>39</sup> Notably, retrofits of manufactured homes must remain compliant with Manufactured Home Construction and Safety Standards. See 24 C.F.R. § 3280-3280.1006. The suggested retrofits are unlikely to result in a violation of these standards.

Here, we highlight several potential recommendations that the Working Group could make to the Legislature that, if enacted, would improve heat resilience in MH units to help ensure that those dwellings can maintain a safe indoor temperature. This list is non-exhaustive, and we encourage HCD and the Working Group to explore a robust suite of policies beyond those described below, including those in the attached reports from UCLA’s Luskin Center and Arizona State University’s Knowledge Exchange for Resilience. Moreover, we encourage the Working Group to explore policy solutions that ensure the continued affordability of MH units, which are a key component of California’s housing stock. Any policies that undercut the affordability of MH units will likely have the perverse effect of increasing heat vulnerability by undermining housing stability, particularly in arid regions like the Eastern Coachella Valley. This is especially true because MH unit residents are already subject to a greater degree of price instability for a variety of reasons, including higher mortgage rates, targeting by institutional investors, and the possibility of land redevelopment by park owners.<sup>40</sup>

**a. Grant and other financial assistance programs for MH unit retrofits, maintenance, and outreach.**

As we describe above, federal law does not preempt the Legislature from appropriating funding to grants and technical assistance programs for MH unit residents. These appropriations could fund programs to install retrofits or perform critical maintenance activities to help maintain a maximum indoor air temperature in MH units. For instance, the California Energy Commission (CEC) has set aside at least 5 percent of the funding available under its Statewide Direct Install Program—administered as part of California’s Equitable Building Decarbonization Program—specifically for manufactured homes. This set-aside can promote a safe maximum indoor air temperature by funding the installation of cooling technologies like heat pumps (particularly mini-split heat pumps),<sup>41</sup> insulation and air sealing, efficient lighting and appliances, and window films.<sup>42</sup> The Statewide Direct Install Program also allows CEC to authorize remediation, repairs, and other construction activities that can help achieve a safe maximum

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<sup>40</sup> Bernard & Proano, *supra* note 15, at 12-14.

<sup>41</sup> Mini-split heat pumps are smaller heat pump systems commonly used in dwellings without air ducts and in smaller spaces. They offer more design and installation flexibility than other cooling systems. Ductless Mini-Split Heat Pumps, U.S. Dept. of Energy (last visited Mar. 9, 2024), <https://www.energy.gov/energysaver/ductless-mini-split-heat-pumps>.

<sup>42</sup> *Id.* at 17.

indoor air temperature in MH units, including roof and envelope repairs, ventilation work, and construction activities to create physical space for decarbonization measures.<sup>43</sup>

HCD should consider recommending that the Legislature expand the funding set aside for MH units through the Statewide Direct Install Program, particularly for the installations mentioned above, which have a direct relationship to indoor air temperatures.<sup>44</sup> Additionally, HCD should consider recommendations designed to promote safe indoor air temperatures that the Statewide Direct Installation Program does not already authorize. These recommendations may include grants and low- or zero-interest loans to MH unit residents for fans and window-mounted air conditioning units, shade awnings, reflective coatings on roofs, or solar cells paired with battery storage to promote greater energy affordability and resilience.

Any grant, direct installation, or loan program that HCD recommends to the Legislature should also include robust outreach and technical assistance measures. These measures should draw upon community expertise by coordinating with local community-based organizations to improve awareness of existing and proposed resources and programs. Agencies responsible for administering these programs should formalize procedures to translate informational and application materials into a variety of languages. Further, formal outreach programs must be instituted for residents of Polanco parks, which consist of 12 or fewer mobilehomes for rural agricultural workers and are exempt from some local permitting and zoning requirements and registration fees.<sup>45</sup> Residents of Polanco parks are particularly vulnerable to extreme heat, as many are located in hot climates like the Eastern Coachella Valley, lack access to critical infrastructure, and are often geographically and linguistically isolated.<sup>46</sup> However, due in part to their isolation and small size, Polanco parks are often *de facto* excluded from assistance programs and investment.<sup>47</sup> As such, HCD should tailor its recommendations to ensure that residents of Polanco parks, as well as other isolated and disinvested communities, can access the benefits flowing from its suggestions.

**b. Landscaping, shading, and other regulatory or statutory requirements for mobilehome park management.**

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<sup>43</sup> See California Energy Commission, *supra* note 12 at 13-17. While each of these strategies are primarily designed to decarbonize buildings, they align significantly with Arizona State University's recommendations for heat protections in mobilehome parks. ASU Heat Recommendations, *supra* note 5 at 15-24.

<sup>44</sup> ASU Heat Recommendations, *supra* note 5 at 15-24.

<sup>45</sup> AB 3526, § 1 (Polanco, 1992), codified at Stats. 1992, ch. 1298, available at [https://digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article=1547&context=caldocs\\_assembly](https://digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article=1547&context=caldocs_assembly).

<sup>46</sup> Mendez, *supra* note 18 at 15-16, 23-24 (describing conditions and infrastructure in Polanco parks in the Eastern Coachella Valley).

<sup>47</sup> *Id.* at 15-16, 21.

HCD should also consider recommendations that relate to mobilehome park management under the Mobilehome Parks Act. Indeed, conditions at mobilehome parks are a key contributor to indoor temperatures in MH units, which “are often densely distributed across black asphalt lots with little to no shade.”<sup>48</sup> By lowering temperatures throughout mobilehome parks, these recommendations can also lower indoor air temperatures at dwelling units within the park. To the extent that these policies may overlap with traditional local authority, the Legislature can also require localities to enforce statewide zoning and siting requirements for mobilehome parks if the State reimburses localities for the cost of mandated programs and services.<sup>49</sup>

Mobilehome park owners and managers can reduce ambient temperatures in their parks in several ways. For instance, they can cool parks by installing shade sails, outdoor evaporative coolers and misters, and cool pavement technologies, or by planting trees and other vegetation. Moreover, a key factor in the low heat resilience of MH units is the very high density of mobilehome parks, which are often several times more dense than single-family neighborhoods.<sup>50</sup> As such, HCD should consider recommendations designed to reduce density in mobilehome parks through policies like mandatory green space or minimum lot sizes in new mobilehome parks above a certain number of units. Because MH unit residents often own their homes but not the land they are situated on, any policies that create new obligations for mobilehome park owners should be paired with strong tenant protections,<sup>51</sup> so that implementation costs aren’t passed on to their residents.

**c. Develop solar, storage, and energy resilience programs for mobilehome parks.**

HCD should consider recommendations to the Legislature designed to encourage community-scale solar and storage at mobilehome parks. The California Public Utilities Commission (CPUC) has already launched a variety of community-scale solar programs, including several targeted toward disadvantaged communities.<sup>52</sup> Community solar installed in

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<sup>48</sup> Bernard & Proano, *supra* note 15, at 14.

<sup>49</sup> See Cal. Const., art. XIII B, § 6; *see generally* Cal. State Controller’s Office, Frequently Asked Questions Related to State-Mandated Cost Programs (last revised Feb. 2021), [https://sco.ca.gov/Files-ARD-Local/mancost\\_faqsmandates.pdf](https://sco.ca.gov/Files-ARD-Local/mancost_faqsmandates.pdf).

<sup>50</sup> ASU Heat Recommendations, *supra* note 18 at 11; Elisha Charley et al., Mapping for Resilience: Extreme Heat Deaths and Mobile Homes in Arizona, Open Mapping Toward Sustainable Development Goals (Nov. 29, 2022), [https://link.springer.com/chapter/10.1007/978-3-031-05182-1\\_21](https://link.springer.com/chapter/10.1007/978-3-031-05182-1_21).

<sup>51</sup> Bernard & Proano, *supra* note 15, at 13-14.

<sup>52</sup> *See generally* California Public Utils. Comm’n, Community Solar in California, <https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/demand-side-management/community-solar-in-california> (last visited Mar. 9, 2024).

common areas can be especially appealing for MH unit residents, as rooftop solar is challenging to install on most types of MH unit rooftops and requires a special permit from the state.<sup>53</sup> Moreover, because MH unit residents served by master-metered mobilehome parks are usually not utility customers, they are often excluded from programs available to customers who receive direct service, including the California Solar Initiative and advanced metering infrastructure.<sup>54</sup> As such, MH unit residents generally do not receive key benefits flowing from these programs, including greater resilience during power outages, achieved by pairing solar with battery storage or establishing local microgrids.<sup>55</sup> Because power outages are most common during periods of extreme heat, robust resilience measures can help ensure that residents are protected when heat-related health risks are greatest.

CPUC has already taken some steps to address MH unit residents' lack of access to direct utility service; it currently administers the Mobilehome Park Utility Conversion Program, which aims to convert mobilehome park utility infrastructure until the end of 2030.<sup>56</sup> To build on this, HCD should consider recommending that the Legislature create programs establishing community-scale solar and battery infrastructure in mobilehome parks. It should also consider whether to recommend expanding CPUC's Mobilehome Park Utility Conversion Program to increase access to utility rebate and incentive programs. These steps can be critical to allowing MH units to maintain a maximum safe indoor air temperature.

**d. Add to or amend the Manufactured Housing Act, Mobilehome Parks Act, Mobilehome Residency Law, or relevant HCD regulations to support park residents' ability to improve their homes and lots.**

Finally, HCD should consider recommending that the Legislature amend existing law, or adopt new regulations, to encourage residents' own installations of climate mitigation improvements on their homes or lots. The Mobilehome Residency Law currently allows mobilehome park

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<sup>53</sup> Cal. Dept. of Housing & Community Dev., Advisory for Manufactured Home Roof Mounted Solar Photovoltaic Systems, <https://www.hcd.ca.gov/sites/default/files/docs/manufactured-and-mobilehomes/solar-pv-advisory.pdf> (last visited Mar. 10, 2024); Six Rivers Solar, Can I Install Solar on My Mobile or Prefab Home? (Nov. 30, 2022), <https://www.sixriverssolar.com/can-i-install-solar-on-my-mobile-or-prefab-home/>.

<sup>54</sup> Bernard & Proano, *supra* note 15, at 16-18; Cal. Pub. Utils. Comm'n, R.11-02-018, Decision on Issues Concerning Voluntary Conversion of Electric and Natural Gas Master-Metered Service at Mobile Home Parks 35 (2014), <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M089/K008/89008491.PDF>.

<sup>55</sup> Bernard & Proano, *supra* note 15, at 33-34.

<sup>56</sup> See generally, Cal. Pub. Utils. Comm'n, Mobilehome Park Utility Conversion Program, <https://www.cpuc.ca.gov/regulatory-services/safety/mhp/mobilehome-park-utility-upgrade-program> (last visited Mar. 9, 2024).

owners to unilaterally impose virtually any “reasonable” park rule and regulation,<sup>57</sup> including those that prohibit residents from using crucial heat-reducing tools like shade sails, reflective window coverings, or window air conditioning units.<sup>58</sup> Not only must residents also obtain written permission from park management just to plant any tree in the park under this law,<sup>59</sup> but current HCD regulations under the Mobilehome Parks Act similarly prevent residents from making any kind of improvement to their home or lot unless they comply with park rules and regulations. Any remodels or alterations of a mobilehome’s structural, fire safety, electrical, plumbing, or mechanical components also require a permit from HCD.<sup>60</sup>

The Working Group can and should explore recommending changes to these restrictions, thus empowering residents to maintain safe temperatures inside their MH units accordingly. Amendments to the Mobilehome Residency Law, for example, could ban mobilehome park rules and regulations that prevent the installation of important temperature-reducing climate mitigation improvements. These amendments could also restrict park owners’ ability to deny permission to plant trees or other forms of green space under certain circumstances, such as when the park’s average indoor temperatures frequently exceed the recommended maximum safe amount.

The Mobilehome Parks Act provides additional avenues for policy recommendations designed to uplift resident action in this space. Here, the Working Group should consider recommending that the Legislature authorize certain home or lot improvements that contribute toward MH units’ heat resiliency, even despite contradictory park rules or regulations. The Legislature could charge HCD with creating guidelines that define when these improvements must be allowed by park owners. Similarly, the Legislature could task HCD with streamlining permitting approvals for climate mitigating remodels and alterations to residents’ MH units or lots. HCD could accomplish this streamlining by proactively designating these kinds of sustainable materials, appliances, and installations as satisfactory alternatives pursuant to HCD’s authority under both the Manufactured Housing Act and Mobilehome Parks Act.<sup>61</sup>

The Working Group should also consider recommending that the Legislature encourage and expand opportunities for resident-owned cooperatives (“ROCs”) to purchase the mobilehome

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<sup>57</sup> Cal. Civ. Code § 798.25.

<sup>58</sup> Lora Phillips & Melissa Guardaro, *Mobile Homes Have a Major Climate Change Problem*, Slate (Nov. 2, 2022), <https://slate.com/technology/2022/11/mobile-homes-climate-change-heat-wave-deaths.html>. The likelihood of weather-related damage in MH units is much higher in communities where park rules prohibit residents from making these sorts of climate mitigation improvements. See *6 Ways by Which Mobile Home Communities Can Adapt to Climate Change*, Covertree (Jan. 16, 2023), <https://www.covertree.com/how-can-mobile-home-communities-adapt-to-climate-change/>.

<sup>59</sup> Cal. Civ. Code § 798.37.5(d).

<sup>60</sup> 25 C.C.R. § 1032.

<sup>61</sup> Cal. Health & Safety Code §§ 18016, 18305.

park they live in, thus providing them with greater control over park rules and regulations.<sup>62</sup> Through ROCs, residents are more quickly upgrading infrastructure with installations of renewable energy like community solar, which work “uniquely well” with ROCs.<sup>63</sup> Policy recommendations here could involve requiring advance notice from park owners to residents before a mobilehome park is put up for sale, which other states have already done.<sup>64</sup> Similar recommendations could include policies that provide informative workshops to residents about the ROC process, as well as policies that otherwise provide technical and financial assistance—such as low or interest-free loans and grants—to ROCs looking to purchase their park.<sup>65</sup>

## VI. Conclusion

We hope and expect that the Working Group will develop concrete policy recommendations to ensure that all residential dwelling units, including MH units, can maintain the recommended maximum safe indoor air temperature. Creating such policy recommendations would fully satisfy HCD’s mandate under AB 209 and protect many of California’s most disproportionately vulnerable residents. These kinds of interventions outside of building codes and standards, such as financial assistance programs, mobilehome park landscaping and shading requirements, community energy resilience programs, and changes to state law, are all squarely within the Legislature’s authority to act upon without risk of federal preemption.

We urge the Working Group to consider the benefit of including such policies within its draft report, which is set for circulation this spring. This will enable stakeholders and community members to provide feedback on these policy ideas. Leadership Counsel, CRLAF, GLI and coalition partners look forward to continuing to provide feedback on the Working Group’s

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<sup>62</sup> Claire Rush & the Associated Press, *Residents are buying their mobile home parks—and preserving one of the last affordable housing options for low-income Americans*, *Fortune*, (April 8, 2023), <https://fortune.com/2023/04/08/residents-buying-mobile-home-parks-preserving-affordable-housing-option-low-income-americans/>.

<sup>63</sup> See Siri Chilukuri, *How mobile home co-ops provide housing security—and climate resilience*, *Grist*, (Jan. 2, 2024), <https://grist.org/equity/how-mobile-home-co-ops-provide-housing-security-and-climate-resilience/>. See also Alison Stine, *How Mobile Home Owners Organize for Land Ownership and Climate Resiliency*, *Nonprofit Quarterly*, (Feb. 2, 2024), <https://nonprofitquarterly.org/how-mobile-home-owners-organize-for-land-ownership-and-climate-resiliency/>.

<sup>64</sup> See HUD Off. of Pol’y Dev. and Rsch., *Programs Support Energy-Efficient Modular and Manufactured Housing*, <https://www.huduser.gov/portal/periodicals/em/WinterSpring20/highlight3.html#title> (last visited Mar. 27, 2024).

<sup>65</sup> These policies could fund or supplement similar work being done in this space by nonprofit organizations such as ROC USA, which engages ROCs across the country in a vast network to share resources and knowledge. Along with a group of regional nonprofit affiliates and a lending subsidiary, ROC USA currently works with 321 resident-owned communities nationwide. ROC USA, <https://rocusa.org/> (last visited Mar. 27, 2024).



efforts, including with respect to these policy recommendations. Thank you again for your substantial work on this matter to bolster the heat resiliency of all Californian communities.

Sincerely,

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Encl.