



March 19, 2020

**Via Email**

L.A. County Board of Supervisors  
500 W. Temple Street,  
Los Angeles, California, 90012

**Re: County COVID-19 Response - Suspension of PACE Programs Needed to Prevent Homelessness and Further Fraud**

Dear Los Angeles County Supervisors Barger, Hahn, Kuehl, Ridley-Thomas and Solis:

We applaud the Board of Supervisors for taking a stand to protect tenants and put in place a moratorium on evictions in response to the Coronavirus pandemic. We write to highlight for you another impacted population in need of moratorium relief: low-income, fixed-income, and elderly homeowners at risk of tax and mortgage default and foreclosure because of loans from the County of Los Angeles's ("County") Property Assessed Clean Energy ("PACE") program. Given the unprecedented economic consequences of the Coronavirus, homeowners who were already struggling to make their PACE loan payments will be pushed into homelessness without relief. Even if it comes to fruition, the Federal Government's plan to deliver cash (\$1,000) to Americans will not help California homeowners whose property tax assessments have increased by tens of thousands of dollars or more.<sup>1</sup>

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<sup>1</sup> Our organizations have several clients whose PACE special assessment liens exceed \$25,000 per annum.

The next critical date by which the County has to act is April 10, 2020, after which unpaid taxes will be delinquent, leading to late fees, penalties, and intervention by third-party mortgage lenders. In recognition of the financial distress being suffered by taxpayers across the country, the federal government has delayed the April 15 federal income tax deadline by 90 days and is waiving interest and late fees.<sup>2</sup> The federal government has also declared a moratorium on most foreclosures.<sup>3</sup> Similarly, the California Franchise Tax Board has given a 60-day extension to file and pay state income taxes, and will waive any interest and late penalties.<sup>4</sup>

This body *must* offer property tax deferral options, fee and interest waivers *and more* for homeowners with PACE tax assessments due by April 10.<sup>5</sup> Between the undersigned organizations we currently represent hundreds of low-income homeowners across Los Angeles County who have been defrauded and left financially devastated by the PACE program. Even more of these homeowners will become homeless as a result of the pandemic, and we are concerned that countless other low-income homeowners will be defrauded by unscrupulous contractors while governmental attention is appropriately focused on combating the Coronavirus pandemic. The clients we serve, especially elderly homeowners, are becoming increasingly isolated and therefore even more vulnerable to fall prey to fraudulent schemes.

To complicate matters, on March 16, 2020, the County Treasurer and Tax Collector announced that it would no longer accept in-person payments for property taxes.<sup>6</sup> We understand the motivation to reduce person-to-person contact. However, many of our clients are elderly, unbanked or under-banked, or accustomed to making payments in person. Although the Treasurer and Tax Collector accepts e-Check payments at no additional cost, many of our clients do not have the required technology or knowledge to use the e-Check system. For those who pay by credit or debit card, there will be a 2.25% fee, which can amount to hundreds of dollars. Unless late fees and penalties are suspended, homeowners who are unable to pay their PACE assessment will immediately start accruing penalties and interest on their delinquent payment. The County is thereby compounding the harm of the PACE Program on the most vulnerable individuals who are least equipped to shoulder additional expenses.

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<sup>2</sup> <https://www.latimes.com/business/story/2020-03-17/april-15-tax-payment-deadline-irs-delayed-coronavirus>

<sup>3</sup> <https://thehill.com/homenews/administration/488227-trump-orders-hud-to-suspend-evictions-and-foreclosures>

<sup>4</sup> <https://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2020-2-more-time-to-file-pay-for-california-taxpayers-affected-by-the-covid-19-pandemic.html>

<sup>5</sup> Supervisor Solis's announcement that some homeowners may apply for cancellation of penalties if they can prove impact by Coronavirus does not address the acute distress that PACE victims face. There should be no requirement to demonstrate impact; the economic impact of the pandemic is already clear.

<sup>6</sup> [https://ttc.lacounty.gov/?utm\\_content&utm\\_medium=email&utm\\_name&utm\\_source=govdelivery&utm\\_term](https://ttc.lacounty.gov/?utm_content&utm_medium=email&utm_name&utm_source=govdelivery&utm_term)

For the reasons set forth, we implore you and your colleagues to:

- **Enact a moratorium deferring the collection of PACE liens;**
- **Accept partial payment of taxes for taxpayers with PACE assessments and suspend the collection of late fees and interest on unpaid assessments;**
- **Waive the 2.25% fee on payment of tax by credit card while in-person payments are prohibited;**
- **Suspend new lending under the L.A. County PACE program;**
- **Prohibit unsolicited door-to-door sales of PACE, to reduce the possibility of community spread, especially among vulnerable elders;**
- **Immediately establish a fund for financially distressed homeowners.**

We believe these steps are necessary to prevent an escalation in PACE-related foreclosures during the COVID-19 pandemic.

These steps are particularly critical because the PACE program is already rife with documented fraud. It incentivizes misrepresentations, forgeries, and other wrongdoing by self-interested home improvement contractors who both market the program and are paid directly through it. At a recent meeting at the Department of Business Oversight, Rebecca Lyke from the Contractor's State Licensing Board noted in speaking about their volume of PACE complaints that "in 100 years at the CSLB we have seen nothing like this."

Data collected by Public Counsel relating to 81 PACE assessment liens it has seen that *post-date* the introduction of new underwriting requirements in April 2018 illustrate why PACE requires special scrutiny during this crisis.<sup>7</sup>

- **Work not complete or done at all:** 41 (51%) of liens were for (non-energy efficient) accessory dwelling units (ADUs) or room additions. None of these have been completed. In 26 of these cases (64%), no work was done at all. These 26 assessments were facilitated by ten different contractors, demonstrating that this egregious fraud is not limited to one or two rogue contractors. Only 11 out of 67 homeowners (16%) had work completed satisfactorily; of those 11, five are in immediate threat of foreclosure or have

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<sup>7</sup> In recent weeks, Public Counsel has started to collect more granular data and has such data for 18 clients, again with PACE liens that post-date the 2018 legislative changes.

already lost possession of their home as a result of the increase in their property taxes due to PACE.<sup>8</sup>

- **No ability to pay:** Of the 18 homeowners for whom we have granular data, 12 reported they did not provide any form of income verification before the PACE administrator approved financing. As PACE Administrators are now required to verify ability to pay, this is a clear violation of existing state law. In addition, 13 of the 18 reported they could not afford to pay the increase in their property taxes. Of the 54 other clients for whom we have income data, 81% are low income per Public Counsel's income guidelines.<sup>9</sup>
- **Misrepresentations remain rife:** PACE is still being touted as a free program. In our granular data, 11 out of 18 clients were told they would get free work or tax credits to cover the cost of work, but only one received such. Half the 18 homeowners did not understand they would be paying for the home improvement work through their taxes, and six of the remaining nine homeowners said their property taxes went up more than they expected.
- **Overpriced work:** A staggering 93% of assessment contracts were over-priced, based on the 42 clients for whom we had enough data to compare the PACE-financed products with the County's May 2018 PACE Measure Cost Guideline.<sup>10</sup>

Based on our clients' experience of PACE programs operating in L.A County even prior to the global pandemic, we are incredibly concerned that this crisis will make matters worse.<sup>11</sup>

To protect L.A. County homeowners during this crisis, the Board of Supervisors must act, and act now. We are available to discuss any of the matters raised in this letter at your earliest convenience.

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<sup>8</sup> Homeowners with mortgages who become delinquent on their property taxes are often foreclosed upon by their mortgage servicer: because PACE liens have a super-priority position, mortgage servicers invariably step in to pay the tax deficiency and then demand payment from the homeowner.

<sup>9</sup> Public Counsel's income guidelines are equal to 75% of the Los Angeles County "low income" figure, as determined by the U.S. Department of Housing & Urban Development and published by California's Department of Housing and Community Development at: <https://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits/docs/Income-Limits-2019.pdf>.

<sup>10</sup> District Attorneys all over the state, including L.A. County, have already warned of COVID-19 related price gouging: <https://ktla.com/news/coronavirus/l-a-county-cracking-down-on-price-gouging-and-scammers-as-coronavirus-fears-trigger-panic-buying/>

<sup>11</sup> In addition to the burden on our clients, PACE programs have already created a crisis for legal services providers in Los Angeles County who are struggling to keep up with the demand. That demand is expected to increase dramatically as consumers and homeowners struggle to deal with the economic fallout from the pandemic.

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