



COMMUNITY DEVELOPMENT AGENCY
HOUSING AND FEDERAL GRANTS DIVISION

June 21, 2022

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Board of Supervisors
County of Marin
3501 Civic Center Drive, Suite 329
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SUBJECT: Resolution barring evictions due to impacts from the Public Health Emergency arising from the COVID-19 virus.

Dear Board Members:

RECOMMENDATION: Consider adopting Resolution barring evictions of residential tenants for nonpayment of rent due to the on-going impact of the Public Health Emergency arising from COVID-19.

SUMMARY: To prevent housing displacement due to the significant and on-going impact from the COVID-19 pandemic, the proposed Resolution (Attachment 1) would prevent evictions of residential tenants for nonpayment of rent that are related to loss of income from COVID-19. The State eviction protections are currently scheduled to expire on June 30, 2022. This Resolution would extend the moratorium on evictions for residential tenants in unincorporated Marin effective July 1 through September 30, 2022.

DISCUSSION: The proposed Resolution reestablishes the local eviction moratorium previously adopted by your Board that was superseded by the State Legislature adopting Assembly Bill 2179, Assembly Bill 3088 and Senate Bill 91, set to expire on June 30, 2022. The proposed Resolution would provide stability to the residential renter community in unincorporated Marin County who face on-going impacts from COVID-19, by preventing evictions and late fees for nonpayment of rent due to COVID-19 financial loss. Federal and state rental assistance funding is available through September 30, 2022 to help mitigate the pandemics' financial impacts on Marin County property owners and renters, many of whom have not completely recovered. Extending the eviction moratorium through September 2022 would allow the County and its partners to continue making funds available. The Resolution would apply to unincorporated areas of the County only. If Marin cities and towns choose to protect renters from eviction, separate action would need to be taken.

BACKGROUND: Your Board has taken actions to address the impacts on renters and rental property owners during the pandemic in three significant areas detailed below: eviction protections, legal assistance, and rental assistance.

Eviction Protections: Beginning on March 24, 2020, your Board barred evictions of residential tenants for nonpayment of rent due to the Public Health Emergency arising from COVID-19. Local eviction protections were preempted by similar statewide eviction protections effective through June 30, 2022.

Legal Assistance: On September 15, 2020, your Board authorized an additional \$310,000 to Legal Aid of Marin for legal services to low-income renters regarding rental modification agreements, rental repayment plans, and potential evictions, and \$90,000 in additional support to the District Attorney’s Consumer Protection Unit to provide mediation services to landlords and tenants to help facilitate rental repayment to modification agreements prior to the initiation of eviction proceedings.

Rental Assistance: The Marin County Emergency Rental Assistance program provides rent relief to Marin County landlords and renters who have faced financial hardships due to the COVID-19 pandemic. The program is funded through Federal funds administered through the U.S. Treasury and State Block Grant funds. The program was awarded a total of \$36,414,871 of which \$22,605,930 has been paid out to assist 1,141 households. The remaining balance is \$10,579,493, which will serve the remaining applicants and waiting list. It is anticipated that all of the funds will be spent by September 30, 2022.

CONCLUSION: The impact of the public health emergency arising from COVID-19 continues to have on-going impacts on renters. Staff and the Board Subcommittee, comprised of Supervisors Connolly and Rodoni, will continue to monitor the circumstances affecting the stability of renters and property owners in Marin and will report back to the whole Board as necessary.

EQUITY IMPACT: The 2020 Marin County Analysis of Impediments to fair housing choice illustrated racial disparities in housing, largely tied to the impacts of historic housing policies and practices that prevented equal opportunity in housing accessibility, quality, and financing. The County recognizes that those most in need of protection from eviction and pandemic related rental assistance are often also those for whom barriers to accessing such a program are the highest. While over two thirds of non-Hispanic white residents are homeowners, roughly three quarters of both Black/African American and Hispanic/Latinx communities in Marin are renters. The proposed Eviction Moratorium would protect renters, who are disproportionately people of color, against displacement.

FISCAL IMPACT: There would be no fiscal impact on the general fund from this action.

REVIEWED BY:

- | | |
|---|---|
| <input type="checkbox"/> Department of Finance | <input checked="" type="checkbox"/> N/A |
| <input checked="" type="checkbox"/> County Administrator’s Office | <input type="checkbox"/> N/A |
| <input checked="" type="checkbox"/> County Counsel | <input type="checkbox"/> N/A |
| <input type="checkbox"/> Human Resources | <input checked="" type="checkbox"/> N/A |

Respectfully submitted,



Aline Tanielian
Planner



Leelee Thomas
Deputy Director

Attachments:

1. Resolution barring evictions due to the Public Health Emergency arising from the COVID-19 virus effective July 1 through September 30, 2022

RESOLUTION NO. 2022 _____
RESOLUTION OF THE BOARD OF SUPERVISORS BARRING EVICTIONS IN MARIN COUNTY DUE TO THE LOCAL STATE OF EMERGENCY ARISING FROM COVID-19

WHEREAS, on March 24, 2020, the Marin County Board of Supervisors adopted Resolution No. 2020-27 Barring Evictions in Marin County Due to the Public Health Emergency Arising from COVID-19 ("the Eviction Ban Resolution", attached hereto as Exhibit A), and this Resolution hereby adopts and incorporates by reference all findings included with Resolution 2020-027; and

WHEREAS, Governor Newsom issued an executive order on March 27, 2020, banning the enforcement of eviction orders for renters affected by COVID-19 through May 31, 2020 by extending the deadline for a tenant to formally respond to an eviction complaint from 5 days to 60; and

WHEREAS, on April 6, 2020, the Judicial Council of California adopted temporary emergency rules, effectively suspending entry of default in eviction cases and suspending judicial foreclosures, except where necessary to protect public health and safety; and

WHEREAS, in April through July 2020, the Board adopted a series of resolutions amending and updating the Eviction Ban Resolution and extending its protections for residential tenants through September 30, 2020; and

WHEREAS, on September 1, 2020, the Governor signed Assembly Bill 3088, the COVID-19 Tenant Relief Act of 2020 (the Act), which prohibited residential tenants from being evicted for failure to pay rent because of a COVID-19-related hardship occurring between March 1 and August 31, 2020, as long as the tenant provides the landlord with a written declaration of hardship. Residential tenants who experience a new COVID-19-related hardship between September 1, 2020, and January 31, 2021, are also protected from eviction through this date as long as they pay 25 percent of the rent due by January 31, 2021; and

WHEREAS, in response to this late-2020 surge, the Legislature adopted Senate Bill 91 ("SB 91"), approved by the Governor on January 29, 2021, extending the protection of AB 3088 through June 30, 2021; and

WHEREAS, on June 28, 2021, Governor Newsom signed AB 832 into law, which further modified the eviction protections and the temporary preemption provisions of AB 3088, AB 81, and SB 91 (collectively, "AB 3088, as amended") and extended eviction protections through September 30, 2021, as well as the temporary preemption of a local jurisdiction's ability to enact new or amend existing eviction protections for nonpayment of rent due to financial distress related to COVID-19 through March 31, 2022; and

WHEREAS, on March 31, 2022, Governor Newsom signed AB 2179 into law, which extended eviction protections for those who applied for rent relief before March 31, 2022 as well as the temporary preemption of a local jurisdiction's ability to enact new or amend existing eviction protections for nonpayment of rent due to financial distress related to COVID-19, through July 1, 2022; and

WHEREAS, California Government Code sections 8630 and 8634, and Marin County Code Section 2.99.035 empowers the Board of Supervisors and the Director of Emergency

Services to make and issue rules and regulations on matters reasonably related to the protection of life, property and the environment as affected by a local emergency, as defined by Government Code section 8558, based on the Proclamation of Local Emergency; and

WHEREAS, the County of Marin, pursuant to its police powers, has broad authority to maintain public peace, health, and safety of its community and preserve quality of life for residents throughout the County; and

WHEREAS, as of June 9, 2022, Marin County has experienced a total of 35,432 cases of COVID-19, with almost 800 of those cases occurring in the prior ten days alone in this latest surge of COVID-19 cases; and

WHEREAS, many County residential tenants continue to experience sudden and substantial income loss due to business, layoffs or reductions in work hours and extraordinary medical expenses, making it challenging for them to pay rent on time and thus, more likely to face the prospect of eviction; and

WHEREAS, housing instability continues to threaten the public peace, health and safety as eviction can lead to homelessness; loss of community; stress and anxiety caused by the experience of displacement; increased incidence of families moving into overcrowded conditions creating greater risk for the spread of COVID-19; and

WHEREAS, without local protection, eviction notices for failure to pay rent due are likely to surge following expiration of State eviction protections on June 30, 2022; and

WHEREAS, it continues to be essential, to the maximum feasible extent, to prevent displacement and homelessness due to evictions for non-payment of rent related to the COVID-19 emergency; and

WHEREAS, given the severe consequences to public health and safety throughout unincorporated areas of the County that would result from evictions of residential tenants during the State of Emergency, the County finds and determines that a temporary moratorium on evictions based on non-payment of rent due to COVID-19 is necessary to allow tenants to seek complete applications for rental assistance and thereby minimize and thereby serve the public peace, health and safety; and

WHEREAS, the Marin County Emergency Rental Assistance program, which provided rent relief to Marin County landlords and renters who have faced financial hardships due to the COVID-19 pandemic, has a substantial number of applications remain to be processed and funds awarded; and

WHEREAS, the Marin County Emergency Rental Assistance program continues to process applications, and anticipates that the remaining funds will be administered by September 30, 2022; and

WHEREAS, if the current June 30, 2022 end to the statewide eviction moratorium stands and a local moratorium is not put in place, Marin County landlords and tenants eligible for rental assistance will lose the opportunity to receive these available funds to help mitigate their personal financial and business losses during the pandemic if the moratorium is not extended through September 30, 2022; and

WHEREAS, preventing displacement and homelessness due to evictions for non-payment of rent related to the COVID-19 emergency remains essential to protecting the health and safety of Marin County residents.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors finds that the foregoing recitals and true and correct; and

BE IT FURTHER RESOLVED that the Board of Supervisors of the County of Marin finds that conditions for a local emergency now exists in Marin County so that urgent measures to promote stability for residential tenancies are necessary to protect public health and to mitigate the impacts of COVID-19; and

BE IT FURTHER RESOLVED that:

(1) A temporary moratorium on eviction from residential units for non-payment of rent by tenants impacted by the COVID-19 crisis is imposed as follows:

- a. No landlord or owner of residential unit(s) shall endeavor to evict a residential tenant or otherwise require a tenant to vacate if the residential tenant has provided a Declaration of COVID-19-related financial distress to the landlord, owner, or landlord or owner's representative within 15 days after receiving notice demanding payment of rent from landlord, that the residential tenant is unable to pay rent due to COVID-19 financial distress, as further detailed below.

For purposes of this Resolution, the following definitions shall apply:

- i. "COVID-19 Financial Distress" means:

Loss of income caused by the COVID-19 pandemic; Increased out-of-pocket expenses directly related to performing essential work during the COVID-19 pandemic; Increased expenses directly related to health impacts of the COVID-19 pandemic; Childcare responsibilities or responsibilities to care for an elderly, disabled, or sick family member directly related to the COVID-19 pandemic that limit my ability to earn income; Increased costs for childcare or attending to an elderly, disabled, or sick family member directly related to the COVID-19 pandemic; Other circumstances related to the COVID-19 pandemic that have reduced my income or increased my expenses.

- ii. "Declaration of COVID-19-related financial distress" means the following written statement:

I am currently unable to pay my rent or other financial obligations under the lease in full because of one or more of the following:

1. Loss of income caused by the COVID-19 pandemic.
2. Increased out-of-pocket expenses directly related to performing essential work during the COVID-19 pandemic.
3. Increased expenses directly related to health impacts of the COVID-19 pandemic.
4. Childcare responsibilities or responsibilities to care for an elderly,

disabled, or sick family member directly related to the COVID-19 pandemic that limit my ability to earn income.

5. Increased costs for childcare or attending to an elderly, disabled, or sick family member directly related to the COVID-19 pandemic.
6. Other circumstances related to the COVID-19 pandemic that have reduced my income or increased my expenses.

Any public assistance, including unemployment insurance, pandemic unemployment assistance, state disability insurance (SDI), or paid family leave, that I have received since the start of the COVID-19 pandemic does not fully make up for my loss of income and/or increased expenses.

Signed under penalty of perjury:

Dated:

- iii. "Landlord" or "Owner" means any natural person, partnership, corporate or fictitious entity, acting as a lessor or sublessor, whether as a principal or through an agent, who receives or is entitled to receive rent in exchange for the use or occupancy of any residential unit for rent, and includes a predecessor in interest.
 - iv. "Notice demanding payment of rent" means any notice demanding payment of rent or any notice informing a tenant of the termination of their right to occupy the Residential Unit in accordance with applicable California law, including but not limited to a 3- or 30-day notice to pay or quit.
 - v. "Rent" means any financial obligation or monetary payment a tenant owes an owner for the occupancy or use of a residential unit whether by written or oral agreement.
 - vi. "Residential unit" means a structure or the part of a structure, including, but not limited to, houses, apartments, mobilehomes and recreational vehicles, that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.
 - vii. "Tenancy" means the occupancy of residential unit(s).
 - viii. "Tenant" means a residential tenant, subtenant, lessee, sublessee, or any other person entitled by written or oral rental agreement, or by sufferance, to use or occupancy of a Residential Unit.
- b. A landlord who has been provided with a Declaration of COVID-19-related financial distress under subsection (a), shall not serve, file, prosecute, or otherwise pursue an unlawful detainer action based on a notice of termination, or otherwise seek to evict for nonpayment of rent, for unpaid rents owed after April 1, 2022.
 - c. A landlord may not take any actions to evict or attempt to evict a residential tenant unless the landlord demonstrates that the landlord provided a copy of this

resolution and the following notice in at least 12-point font to tenants when serving tenants with a Notice demanding payment of rent:

“NOTICE: THE COUNTY OF MARIN HAS ADOPTED A TEMPORARY MORATORIUM ON EVICTIONS FOR RESIDENTIAL TENANTS FOR NONPAYMENT OF RENT DUE TO COVID-19. A COPY OF THE COUNTY RESOLUTION IS ATTACHED.

If you are unable to pay the amount demanded in this notice, and have decreased income or increased expenses due to COVID-19, your landlord will not be able to evict you for this missed payment if you sign and deliver the declaration form included with your notice to your landlord within 15 days, excluding Saturdays, Sundays, and other judicial holidays, but you will still owe this money to your landlord. If you do not sign and deliver the declaration within this time period, you may lose the eviction protections available to you. You must return this form to be protected. You should keep a copy or picture of the signed form for your records.

You will still owe this money to your landlord and can be sued for the money, but you cannot be evicted from your home if you comply with these requirements. You should keep careful track of what you have paid and any amount you still owe to protect your rights and avoid future disputes. Failure to respond to this notice may result in an unlawful detainer action (eviction) being filed against you.

UPDATED INFORMATION MAY BE AVAILABLE FROM THE COUNTY'S AFFORDABLE HOUSING DEPARTMENT BY CONTACTING affordablehousing@marincounty.org or (415) 473-7309, OR BY VISITING: WWW.MARINCOUNTY.ORG/DEPTS/CD/DIVISIONS/HOUSING/RENTE R-AND-LANDLORD-RESOURCES”

- d. For purposes of this Resolution, the declaration required under subsection (a) may be provided in writing, including through paper copy, email, or text communications to a landlord or the landlord's representative with whom the residential tenant has previously corresponded by email or text.
- e. Landlords and owners of residential unit(s), and those acting on their behalf, are prohibited from harassing or intimidating residential tenants for acts or omissions expressly permitted under this Resolution, as amended.
- f. A residential tenant who demonstrated financial distress due to COVID-19 as required and defined under this Resolution shall have up to 90 days after the expiration or termination date of this Resolution to tender the past-due rent, before the tenant shall be deemed to be in default of rent payment obligations. Nothing in this Resolution shall otherwise relieve the residential tenant of liability for the unpaid rent.
- g. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this Resolution.
- h. Landlords and tenants of residential units are encouraged to agree on a payment plan that would allow landlords to accept partial rent payments during the term of the eviction moratorium if tenants are able to make such payments.

- i. The Director of the Community Development Agency, or the Director's designee, is authorized to develop and publish guidelines and forms consistent with this Resolution, if needed.
- j. This Resolution shall be enforceable as set forth in Section 2.99.060 of the Marin County Code. In addition, this Resolution grants a defense in the event that an unlawful detainer action is commenced for nonpayment of rent that came due during the effective dates of this Resolution. This defense may be raised as a defense to any unlawful detainer action, and/or may be raised at any time, including after the expiration of this Resolution, provided the notice or complaint for the unlawful detainer action is based on rent that came due during the effective dates of this Resolution.
- k. The remedies available under this Resolution shall be in addition to any existing remedies which may be available to the residential tenant under local, state or federal law.
- l. This Resolution shall become effective on July 1, 2022 and will remain in effect until September 30, 2022, unless abrogated or superseded by local action, or state or federal law.

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin held on this 21st day of June 2022, by the following vote.

AYES: SUPERVISORS
NOES:
ABSENT:

PRESIDENT, BOARD OF SUPERVISORS

ATTEST:

DEPUTY CLERK