



COMMUNITY DEVELOPMENT AGENCY
HOUSING AND FEDERAL GRANTS DIVISION

September 22, 2020

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County of Marin
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SUBJECT: Informational update on eviction bans and other tenant protections.

Building and Safety
Environmental Health Services
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Dear Board Members:

RECOMMENDATION: Receive informational update on eviction bans and other tenant protections

SUMMARY:

In response to the public health crisis caused by COVID-19, your Board has taken actions, including instituting an eviction moratorium, to protect vulnerable renters impacted by the pandemic. Building on these actions, the Board Subcommittee, comprised of Supervisors Connolly and Sears, has requested that staff brief your Board on recent protections passed by the State and Federal government, and how those State and Federal actions may impact the County's eviction moratorium and options for implementing eviction protections moving forward.

DISCUSSION:

Your Board has taken actions to protect tenants during the pandemic, in three significant areas detailed below: eviction protections, rental assistance and legal assistance.

County Eviction Protections & 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. The current Resolution 2020-84 is set to expire on September 30, 2020. Earlier this month, both the State and the Federal Administration acted to bar residential evictions related to loss of income.

Rental Assistance: The County and the Marin Community Foundation established an Emergency Rental Assistance Program which has spent approximately \$2,577,000 and granted over 1,675 renters with funds to cover rent for some months between March and September. The Program received funds from County General funds, Marin Community Foundation and Federal CARES Act through the Community Development Block Grant Program. The current waitlist has over 835 open requests. Considering the average rental assistance request, this results in an additional \$1,600,000 of need.

Legal Assistance: On September 15, 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.

In July, when your Board adopted the most recent extension to the Resolution banning residential evictions, you requested that staff and the Board Subcommittee continue to monitor the situation and come back to your Board with recommended amendments based on COVID-19 related circumstances affecting the stability of renters in Marin. However, with changes in State law as discussed below, those options are now limited.

State Eviction Moratorium

On September 1, Governor Newsom signed AB 3088, the COVID-19 Tenant Relief Act of 2020. This law, effective August 31, 2020, provides protections against eviction for tenants who have been unable to pay rent due to financial hardship related to COVID-19, and operates in three phases:

- *Phase One:* Beginning September 2, 2020 through October 4, 2020, landlords will not be able to proceed with any evictions unless necessary due to urgent habitability problems with the premises.
- *Phase Two:* Beginning October 5, 2020 through January 31, 2021, landlords will be able to proceed with eviction cases based on nonpayment of rent following a notice period of 15 days, during which time the tenant may return a declaration to the landlord indicating that the tenant cannot pay rent due to COVID-19 related financial hardship. Tenants who demonstrate this financial hardship cannot be evicted for rental debt accrued between March 1, 2020 and August 31, 2020. The tenant also cannot be evicted for COVID-19 rental debt accrued between September 1, 2020 and January 31, 2021 under these same protections if the tenant pays 25% of the rent and other charges due during this period before this period ends.
- *Phase Three:* Beginning February 1, 2021, landlords will be able to proceed with eviction cases for tenants who failed to pay at least 25% of their rent which came due between September 1, 2020 and January 31, 2021, as well as any tenant who fails to pay timely rent going forward.

Landlords are prohibited from evicting a tenant for unpaid rent accrued between March 1, 2020 and August 31, 2020, if the tenant provides the landlord with a declaration stating their finances have been negatively impacted by COVID-19 (high income tenants may be required to submit documentation to verify their financial hardship). Any unpaid rent that is accrued during that time period is converted to consumer debt, which landlords may recover through small claims court.

The Tenant Relief Act includes several other notable provisions:

- Eviction judgments in non-payment of rent cases filed between March 4, 2020 – January 31, 2021, are subject to masking and are not publicly available, regardless of the outcome.
- It prevents local jurisdictions from extending, modifying, or establishing additional eviction protections in response to COVID-19 to protect tenants from

eviction not already in place as of August 19, 2020 until after the State protections expire on February 1, 2021.

Federal Eviction Moratorium

The Centers for Disease Control and Prevention (CDC) issued an order effective September 4, 2020, broadly barring evictions based on unpaid rent of tenants making less than \$99,000 (\$198,000 or less for couples filing jointly) through December 31, 2020.

The CDC Order specifies that it does not apply in any state or local jurisdiction "with a moratorium on residential evictions that provides the same or greater level of public-health protection than the requirements listed in this Order." In many respects, the protections under California's AB 3088 offer greater protections than the federal Order. For example, the eviction moratorium under AB 3088 lasts longer, applies regardless of the tenants' income level, and does not require the tenant to seek or use government assistance to pay rent. In certain situations, however, the federal Order may offer more protection.

The Tenant Relief Act limits the County's ability to establish additional eviction protections related to unpaid rent due to COVID 19, not already in place as of August 19, 2020. It specifies that any extension of a local eviction protections covering eviction protection for residential tenants economically harmed by COVID 19 shall have no effect before February 1, 2021. Under the Act, the County cannot extend its eviction protections for residential tenants beyond September 30, if this eviction protection is specially related to COVID 19. However, in addition to the rental assistance and additional legal protections already underway, the County could consider additional tenant protections.

CONCLUSION: The Board of Supervisors Housing Subcommittee will continue to work with staff and stakeholders to study options for additional protections and bring them back to your Board for further consideration.

REVIEWED BY:

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|---|---|
| <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,

Leelee Thomas

Leelee Thomas
Planning Manager

Attachments:

1. AB 3088 Flow Chart
2. Eviction Ban Rent Repayment Timelines