



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL **DATE:** MAY 26, 2020

FROM: COUNCILMEMBER RONALDO FIERRO **WARDS:** ALL
COUNCILMEMBER STEVE HEMENWAY
COUNCILWOMAN GABY PLASCENCIA

SUBJECT: RESOLUTION AMENDING RESOLUTION NO. 23558 EXTENDING THE EVICTION MORATORIUM FOR COMMERCIAL AND RESIDENTIAL TENANTS DUE TO NONPAYMENT OF RENT DUE TO COVID-19 UNTIL JUNE 30, 2020.

ISSUE:

Adopt a Resolution amending Resolution No. 23558 extending the temporary moratorium on evictions due to nonpayment of rent for tenants who suffer wage losses or revenue loss due to the economic impact of the COVID-19 pandemic until June 30, 2020 and extend the payback period until December 30, 2021.

RECOMMENDATION:

That the City Council adopt the attached Resolution amending Resolution No. 23558 extending the temporary moratorium on residential and commercial tenant evictions until June 30, 2020 and discuss possible relief measures for impacted landlords and renters.

BACKGROUND:

The City, pursuant to the police powers delegated to it by the Constitution of the State of California, has the authority to enact laws which promote the public health, safety and general welfare of its residents.

In the past two months, local, state and federal governments have mobilized in the face of an unprecedented and unrivaled pandemic, the Novel Coronavirus (COVID-19). The Governor's Stay at Home Order (N-33-20) supersedes all previous orders. On May 9th, the State entered Phase II of the Governor's Road to Recovery, allowing for the reopening of manufacturing and curbside pickup for some retail. There are additional businesses that may be able to re-open within the next several weeks following the Governor's orders. However, these orders, while vital for the protection of public health, have resulted in closures of businesses, small and large – and in mass layoffs and subsequent economic insecurity for millions of Californians.

According to the JP Morgan Institute, approximately 50% of Americans own or work for a small business. The average small business has 27 days of cash flow and for close to 50% of small businesses, they have a mere 15 days of cash buffer or less. According to a Federal Reserve Report, while black-owned businesses are the most likely to apply for bank financing, less than 47% of applications are fully funded. Even if funded, black business owners have the highest rate of failure of receiving full financing, more than 10% higher than other categories.

Over 15% of Riversiders live below the federal poverty line and over 28% of renters in the City of Riverside are characterized as “rent-burdened” meaning they spend over half of their income solely on rent. On that same note, local small businesses, many of whom were shuttered by government order, are facing massive revenue shortfalls and are unable to make payroll, let alone make rent payments.

On March 31, 2020, the Riverside City Council proactively responded to these economic factors by enacting an eviction moratorium on tenant evictions due to nonpayment of rent for 60 days with the option for extension. The moratorium protects small businesses with little to no revenue from losing their store fronts and keeps Riverside residents who are suffering from pay cuts, layoffs and other economic distress factors in their homes while they shelter in place.

Currently, over 55 cities across California have enacted some form of an eviction moratorium, including San Jose, Los Angeles, Sacramento, San Diego, San Bernardino, Redlands, Oakland and Santa Monica.

Related Federal Actions:

On Wednesday March 18, 2020; President Donald Trump ordered the US Department of Housing and Urban Development (HUD) to authorize the Federal Housing Administration (FHA) to suspend all evictions and foreclosures **for single-family homeowners with FHA-insured mortgages** for 60 days. This order does not apply to renters of single-family homes nor does it apply to apartment renters. It also does not apply to commercial tenants.

On May 14, 2020 the FHA extended this suspension until June 30th. In a press release the U.S. Department of Housing and Urban Development Secretary Ben Carson said:

“We made it clear at the beginning of this pandemic that no American should have to worry about losing their home amidst a crisis. Today’s announcement ensures that commitment. While we have made great strides in fighting this virus, the fact remains that many Americans are still struggling as we work diligently to get our economy back on sound footing, which I have full confidence we will do through the leadership of the President.”

Additionally, on March 17, 2020 the Federal Housing Finance Agency moved to offer mortgage forbearance for **multi-family property owners** with the condition that they suspend evictions for renters unable to pay rent due to the impacts of coronavirus. The suspension would be required to last for the entire duration of the forbearance.

Related State Actions:

On Monday, March 16, 2020, in response to calls from tenant advocacy groups, landlord groups and local officials for a statewide eviction moratorium, California Governor Gavin Newsom issued Executive Order N-28-20 which encouraged and authorized local governments to halt evictions for residential or commercial evictions. This executive order stopped short at mandating a

statewide eviction moratorium but **rather directed local governments to authorize and enforce them on their own.**

On March 25, 2020, Governor Newsom announced the commitment from 200 banking institutions for a 90-day forbearance on mortgage payments and no credit reporting.

On March 27, 2020, in follow up to Executive Order N-28-20, Governor Newsom enacted Executive Order N-37-20 banning the enforcement of eviction orders for renters affected by COVID-19 through May 31, 2020. The order prohibits landlords from evicting tenants for nonpayment of rent and prohibits enforcement of evictions by law enforcement or courts. It also requires tenants to declare in writing, no more than seven days after the rent comes due, that the tenant cannot pay all or part of their rent due to COVID-19.

In a statement, the Governor's Office said: "*The protections in the Governor's order immediately provide significant relief to millions of Californians who worry about making rent next week... and in the months to come - especially in jurisdictions around the state that didn't act locally to implement their own moratoriums. These protections provide a strong, statewide foundation that cities can build upon.*"

Additionally, on April 6, 2020 the Judicial Council of California suspended all unlawful detainer actions which effectively halted eviction proceedings statewide.

Pending State Legislation:

The California Legislative Session began on May 4th, various proposals to provide statewide relief and protect renters are currently being heard in both chambers. Legislators have until June 26th to pass bills before the summer recess and have until at the latest August 31, 2020 to pass bills during this legislative year. If passed, these bills will qualify under the urgency statute and go into effect immediately

AB 828: Moratorium on Residential Evictions: This bill, if passed, would prohibit foreclosures of residential real property and unlawful detainer (eviction) cases by a state court, county sheriff or party to the case for until 15 days after the end of both the state or local emergency, whichever comes first.

SB 939: Moratorium on Commercial Evictions: If passed in its current form, this bill would prohibit the evictions of tenants of commercial real property, including businesses and nonprofit organizations for the duration of Governor Newsom's State of Emergency and would further make any eviction violating these provisions void and would make retaliation against a tenant punishable by a maximum fine of \$2,000 for each violation.

(No bill designation yet): CA State Senate Leadership Proposal: This proposal would create a statewide program allowing renters, landlords and the state to enter agreements to resolve unpaid rents over a set time period. In essence, unpaid rent would become consumer debt and renters would repay the past rent to the State over a 10-year period. Landlords would commit to not evict and receive tax credits equal to the value of lost rents.

AB 2501: Homeowner, Tenant and Consumer Relief: Provides for temporary forbearance and affordable post-forbearance repayment options for borrowers facing financial hardship during the COVID-19 emergency and 180 days thereafter, related to mortgages, as well as automobile financing.

DISCUSSION:

In the May Revise of the California Budget, Governor Newsom projected 24.5% unemployment, a 21% decrease in new housing permits and a 9% drop in personal income for Californians for the fiscal year starting on July 1, 2020.

According to the UC Berkeley Terner Center for Housing Innovation, roughly 43 percent (or 7.1 million) renter households likely to be impacted by the economic impacts of this crisis were already struggling with rental cost burdens before the COVID-19 crisis took hold. The report contends that this percentage is likely to be much higher in high-cost, hard-hit areas such as California.

These numbers tell a story of deep economic insecurity that continue to threaten a multitude of residents and businesses in the City of Riverside. Without continued eviction protections, hefty rent burdens will further cripple small businesses struggling to keep their doors open and exacerbate the growing and ever-present homelessness and housing crisis.

Legislative proposals currently being deliberated by the State Legislature have the real possibility of providing statewide eviction protections and comprehensive rental assistance. Until then, it is incumbent upon our local government to provide stop-gap protections for both residential and commercial renters.

It is important to note that the proposed extension of the City's current moratorium under Resolution No. 23558 is contingent upon Governor Newsom extending Executive Order N-37-20. The proposed amendment to Resolution No. 23558 also extends the payment of back rent to December 31, 2020. Should Governor Newsom not extend Executive Order N-37-20, the City's local moratorium on evictions will expire on May 31, 2020.

The moratorium does not relieve the tenant from their obligation to pay rent nor does it restrict the landlord's ability to recover the rent that is due after the suspension of the moratorium. It simply suspends any evictions due to non-payment of rent incurred by the effects of the COVID-19 emergency.

REASONING FOR BYPASSING SUNSHINE ORDINANCE:

Resolution No. 23558 and Executive Order N-37-20 are both set to expire on May 31, 2020. There is an effort to have Governor Newsom extend his order. However, the next Council meeting, if not put on this May 26th meeting, will not be until June 2, 2020. The Council will have little time, if any, to act should the Governor extend the eviction moratorium past May 31, 2020. The adoption of this Resolution will ensure that the City's local requirements are in place should Governor Newsom extend the eviction moratorium.

FISCAL IMPACT:

There is no expected fiscal impact of this item.

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Attachment: Resolution