

Date: September 29, 2020

To: Mayor and Members of the City Council 

From: Thomas B. Modica, City Manager

Subject: **State Legislation and County Resolution: Tenant and Landlord Protections**

Protections for tenants and landlords financially impacted by the COVID-19 pandemic have been a top legislative priority in California, and in furtherance of this goal the State Legislature recently adopted legislation of Statewide application (AB 3088). The County of Los Angeles (County) also recently adopted a resolution that extended the application of its existing Eviction Moratorium (County Eviction Moratorium) to all Charter cities in the County, including the City of Long Beach (City). This memorandum provides information about AB 3088, the County Eviction Moratorium, and how each affects the existing City eviction moratorium codified as LBMC Section 8.100 (City Eviction Moratorium).

Background

A [memorandum](#) dated June 1, 2020, provides detailed information about tenant and property owner assistance programs during COVID-19. At the State level, on March 16, 2020, Governor Newsom signed Executive Order N-28-20 authorizing local governments to halt evictions for renters and homeowners, and to protect against utility shutoffs for residents impacted by COVID-19. Furthermore, on April 6, 2020, the Judicial Council, the policymaking body of the California courts, adopted Emergency Rules Related to COVID-19, which included a moratorium on judicial eviction proceedings. The Judicial Council order expired September 1, 2020. In anticipation of this deadline, Governor Newsom and State Legislative leaders negotiated an agreement to extend protections against evictions and foreclosure through AB 3088.

State Evictions and Forbearance Legislation

AB 3088 passed the Legislature on August 31, 2020, and was quickly signed into law by Governor Newsom. The bill includes an urgency clause and is effective immediately. The legislation provides both a residential eviction moratorium and anti-foreclosure procedural protections. AB 3088 does not provide protections for commercial tenants or commercial property owners, and no other legislative proposals relating to commercial evictions moratorium passed the State Legislature.

Evictions Moratorium

The legislation establishes a legal framework to prevent evictions for tenants who declare an inability to pay all or part of their rent due to COVID-19 through January 31, 2021. Landlords are prohibited from retaliating against a tenant if a tenant validly asserts a COVID-19 related financial hardship. Any unpaid rent validly deferred between March 1, 2020 and August 31, 2020 will be converted to consumer debt and cannot, at any point thereafter, serve as the basis for an eviction.

Further, unpaid rent validly deferred between September 1, 2020 and January 31, 2021 cannot serve as the basis for eviction, if tenants pay at least 25 percent of total rent due during this time period. The remaining unpaid balance will become consumer debt and cannot, at any point thereafter, serve as the basis for an eviction.

Like both the City Eviction Moratorium and the County Eviction Moratorium, the State law does not forgive rent payment obligations and tenants are still responsible for paying deferred rent. However, by turning rental debt into consumer debt, tenants are protected from eviction due to nonpayment related to adverse COVID-19 impacts. The existing July 31, 2021 deadline for repayment of deferred rent in the City, as established by the City Eviction Moratorium, is not affected by AB 3088. As consumer debt, landlords would have recourse to recoup these amounts through small claims court or any other standard legal method for collections, such as a levy or wage garnishment.

AB 3088 also addresses extrajudicial evictions and retaliation. The bill temporarily increases landlord liability for carrying out illegal evictions. Tenants are protected from landlord retaliation for nonpayment related to COVID-19 financial hardship, as described above. Further, AB 3088 masks eviction cases from the public record, to help preserve a tenant's ability to obtain housing in the event they are evicted.

Homeowner Protections

The second major provision in the legislation seeks to extend anti-foreclosure protections and mortgage forbearance for certain property owners, modeled after the Federal CARES Act. For small landlords who are delinquent on mortgage payments on properties with one to four residential units, borrowers may request forbearance from mortgage servicers. AB 3088 does not mandate that forbearance be granted, but rather requires mortgage servicers to provide borrowers with a written explanation should the request be denied. If the denial is due to an incomplete application, the mortgage servicer must provide 21 days to cure any defect.

The bill also establishes procedural protections against foreclosure by expanding the Homeowners Bill of Rights (HBOR) to small landlords until 2023. HBOR requires that mortgage servicers contact borrowers before initiating the foreclosure process, and property owners can ask for a loan modification.

County Eviction Moratorium

On March 19, 2020, the Los Angeles County Board of Supervisors (Board) adopted a resolution imposing a temporary moratorium on evictions for nonpayment of rent by residential and commercial tenants. The original moratorium adopted by the Board contained provisions similar to those in the City Eviction Moratorium, but the County moratorium did not apply to Long Beach. On September 1, 2020, the Board adopted a resolution extending its existing moratorium and making the County Eviction Moratorium applicable to Long Beach and all other incorporated cities in the County, effective as of September 1, 2020.

The County Eviction Moratorium provides protections to both residential and commercial tenants but exempts airports and commercial tenants that are multi-national companies, publicly-traded

companies, or have more than 100 employees. The County Eviction Moratorium allows tenants (with some exceptions) to repay validly deferred rent on or before the date that is one year after the expiration of the moratorium period. The County Eviction Moratorium is currently scheduled to expire October 31, 2020, but may be extended by further action of the Board.

Impacts on Local Ordinances

AB 3088 and the County Eviction Moratorium have important impacts on the City Eviction Moratorium. Currently, the City Eviction Moratorium prevents residential and certain commercial evictions based on nonpayment of rent due to COVID-19 financial hardship between March 4, 2020 and September 30, 2020.

The County Eviction Moratorium will apply to commercial tenants in Long Beach after the expiration of the City Eviction Moratorium, and will continue to apply through October 31, 2020, subject to further extension by the Board. Notwithstanding that, the County Eviction Moratorium does allow the City to impose greater local commercial tenant protections provided that such protections do not conflict with the County Eviction Moratorium. If the City Council finds the County Eviction Moratorium acceptable, there is no need for the City Council to take further action extending the City Eviction Moratorium with respect to commercial tenants at this time.

AB 3088 currently applies to residential tenants in Long Beach and will continue to apply after the expiration of the City Eviction Moratorium. AB 3088 specifically preempts actions adopted by local governments to protect residential tenants from eviction due to financial hardship related to COVID-19. Existing local ordinances dealing with residential protections (such as the City Eviction Moratorium and the County Eviction Moratorium) can remain in place but are essentially frozen until February 1, 2021, during which time Long Beach residential tenants will be covered by the protections provided in AB 3088. Any changes to local ordinances between August 19, 2020 and January 31, 2021, will not be effective until February 1, 2021. Therefore, there is no need for the City Council to take further action extending the City Eviction Moratorium with respect to residential tenants at this time, but could consider taking such action in the future.

Next Steps

Staff will continue to monitor State and County actions related to tenant and landlord protections and will inform the City Council of any potential impacts to the City. If you have any additional questions, please contact Tyler Bonanno-Curley, Manager of Government Affairs, at (562) 570-5715.

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