



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kim Walesh
Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: March 16, 2020

Approved

D. D. S. L.

Date

3/16/2020

SUBJECT: ACTIONS RELATED TO A MORATORIUM ON EVICTIONS AND INCOME LOSS DUE TO COVID-19

RECOMMENDATION

- (a) Approve an ordinance that establishes a moratorium on non-payment of rent evictions for tenants with incomes affected by the novel coronavirus (COVID-19). Specifically, the ordinance would:
1. Temporarily prohibit the eviction of a residential tenant for non-payment of rent, if that tenant meets the criteria listed in the ordinance regarding COVID-19; and
 2. Provide that the moratorium will commence upon the Council adoption of a resolution declaring the commencement and making findings regarding COVID-19 and that such moratorium would expire in thirty days unless extended.
- (b) Adopt an urgency ordinance that establishes a moratorium on non-payment of rent evictions for tenants with incomes affected by the COVID-19 virus. Specifically, the ordinance would:
1. Invoke the urgency provisions in the City Charter, as an emergency measure for immediate preservation of the public peace, health or safety, to temporarily prohibit the eviction of a tenant for nonpayment of rent, if that tenant meets the criteria listed in the ordinance regarding COVID-19; and
 2. Provide that the moratorium will commence upon the Council's adoption of a resolution declaring the commencement and making findings regarding COVID-19 and that such moratorium would expire in thirty days unless extended.
- Please note: Approval of this urgency ordinance requires 8 or more affirmative votes (2/3)**
- (c) Adopt a resolution declaring the commencement of a thirty-day temporary moratorium on evictions due to nonpayment of rent for residential tenants where the failure to pay

rent results from income loss resulting from COVID-19, and setting forth the facts constituting such urgency.

- (d) Discuss and direct the City Attorney to return with an ordinance and urgency ordinance that establishes a moratorium for non-payment of rent for small business tenants with incomes affected by the COVID-19 virus.
- (e) Discuss creating a funding pool and/or budget changes for San José residential tenants and small businesses for those impacted by the COVID-19 virus.

OUTCOME

Approval of the recommended actions will provide housing stability to San José tenants experiencing financial hardship due to the COVID-19 virus. According to guidance released from HUD on March 9, 2020, housing instability and frequent mobility increase the risk of exposure to infectious disease. Limited access to health care services and poor living conditions further compound this risk. Over the past weeks, hotel reservations and event bookings have been cancelled, leaving low-wage earners without work. As a result, the experience of homelessness may place individuals at greater risk of exposure to a variety of infectious diseases, including COVID-19.¹ The proposed ordinance will provide eviction protections for residents suddenly facing financial hardship. This measure provides housing stability during this volatile period of time, ensuring residents remain housed rather than suddenly facing homelessness.

BACKGROUND

On January 30, 2020, the World Health Organization declared COVID-19 a Public Health Emergency of International concern. On January 31, 2020, the United States Secretary of Health and Human Services declared a Public Health Emergency. On February 10, 2020, the Santa Clara County announced a local health emergency due to the spread of the novel coronavirus. On March 11, 2020, the World Health Organization declared the coronavirus outbreak a pandemic. As of March 15, there were 123 confirmed cases in Santa Clara County. The number of cases is expected to grow rapidly. On March 16, 2020, the County of Santa Clara issued a shelter in place order directing all individuals to shelter in their place of residence unless they must obtain or perform vital services. All businesses, except essential businesses, are required to cease all activities at facilities located within the County. The order is effective on March 17, 2020 and will remain in place until April 7, 2020.

¹ https://files.hudexchange.info/public/resources/documents/Specific-Considerations-for-Public-Health-Authorities-to-Limit-Infection-Risk-Among-People-Experiencing-Homelessness.pdf?utm_source=HUD+Exchange+Mailing+List&utm_campaign=8b1f3959f9-Infectious+Disease+Guidance+Homeless+3.9.20&utm_medium=email&utm_term=0_f32b935a5f-8b1f3959f9-19553749

On [March 10, 2020](#), the City Council approved a memorandum issued by Mayor Liccardo. Under direction of the Mayor's Memorandum, the City Attorney is to prepare a resolution, an ordinance, and a companion urgency ordinance authorizing a temporary moratorium on evictions in the City of San José for renters on the basis of nonpayment of rent ("affected renters") where that failure to pay rent results from wage loss resulting from the novel coronavirus (COVID-19) pandemic, under the following conditions:

1. Ordinance will become effective upon Council adoption of a resolution declaring that the moratorium is effective due to the declaration of the County Public Health Officer, or other State or Federal Authority, of an emergency related to COVID-19;
2. The temporary moratorium shall remain in effect for a period of thirty (30) days from the Council resolution, but the City Manager shall return to enable Council to consider an extension to a longer period as the circumstances dictate;
3. The temporary moratorium must not extend beyond the duration of the City's Resolution, but may be extended for a longer period by agreement of the Council;
4. Affected renters must demonstrate substantial loss of income, through documentation or other objectively verifiable means, resulting from the COVID-19 pandemic or the declaration of the County Public Health Officer, or other State or Federal Authority e.g., from (a) job loss, (b) a reduction of compensated hours of work, (c) store, restaurant, or office closure, (d) the need to miss work to care for a home-bound school-age child, or (e) other similarly-caused loss of income that resulted since the City's Resolution;
5. Affected renters must notify their landlords on or before the day that rent is due that they have substantial loss of income as a result of the declared emergency related to COVID19, resulting in business closure, substantial loss of compensable hours of work and wages, or layoffs.

The Mayor's memorandum also directed the City Attorney to evaluate the potential for including in the legislation a 120-day period for affected tenants to become current on past due rent.

The City Council also approved item one of Council Member Arenas' memorandum which directed the City Manager to mail out a notice of the eviction moratorium to every landlord in the Rent Registry and/or any other contact list available as soon as possible. Finally, staff was asked to consider Council Member Diep's memorandum when creating evidence of substantial loss of income.

ANALYSIS

During this rapidly changing environment caused by the COVID-19 pandemic, travelers are cancelling hotel reservations, large events are being cancelled, and hundreds of low-wage workers are suddenly without work due to the orders and directives of Federal, State and local authorities to maintain social distancing.

I. IMPACT ON REVENUE, SCHOOL CLOSURES, AND PROPOSED LEGISLATIVE ACTIONS

A. Loss of Income and Work Hours

Since the COVID-19 outbreak, at least 13 conferences and 28 theater performances have been cancelled in Team San José managed facilities. To date, the accumulated revenue lost due to San José Convention Center cancellations is approximately \$14.6 million. This loss of business supported 79,000 projected employee work hours. Due to the cancellation of local conferences and other large-attendance events, there has been a significant loss of business opportunity locally. To date, since the COVID-19 outbreak, an estimated \$18 million has been lost in projected direct spending in the business community around San José in addition to the loss of revenue in Team San José facilities. There is also a projected loss of an estimated additional \$8.6 million in indirect spending, the ripple effect of incremental spending within the local economy. These figures will continue to mount as this crisis continues in the upcoming weeks and perhaps months.

The effects of COVID-19 on the global economy and supply chains are impacting many Bay Area companies in both technology and non-technology sectors. Companies such as Apple and HP Inc. have indicated that quarterly earnings will take a hit due to overseas factories operating at two-thirds their capacity, thus leading to missing their growth targets, potentially leading to personnel and other expense reductions. Many companies and agencies are implementing broad remote work policies to prevent exposure in the workplace. With businesses moving towards working from home, less of the workforce will be patronizing restaurants and other retail establishments that employ hourly workers, which is expected to lead to hourly cutbacks and potentially layoffs.

According to the 2019 State Income Limits, the median income for Santa Clara County is \$103,900 for a four-person household. An “extremely low income” level for a family of four is \$43,900, a “very-low” income level is \$73,150.² The Office of Economic Development has provided the median wage of workers in the retail industry using, accommodation and food services, transportation, manufacturing, educational services and information technology. Of note, for the retail industry and accommodation and food services, the median wage (50th Percentile) for many of these service providers fell between \$12-\$17 per hour, with the supervisors within these service industries largely earning no more than \$24. The more technical

² <https://www.svvoice.com/state-updates-income-limits-for-affordable-housing/>

expertise required, the higher the salary for some of these service providers, between \$24 - \$27. **Table 1** is a sample of the median wage for service providers.

Table 1 – Sample Median Wage for Service Providers³

Industry Worker	Hourly Wage	Annual Wage or Salary
Combined Food Preparation and Serving Workers, Including Fast Food	\$12.57	\$26,153.15
Retail Salesperson	\$14.15	\$29,417.54
Baggage Porters and Bellhops	\$16.59	\$24,502.75
First-Line Supervisors of Retail Sales Workers	\$21.83	\$45,410.94
Chefs and Head Cooks	\$26.35	\$54,803.96

Within the transportation, manufacturing, and education services industries, the median wage increased in comparison to the groups in **Table 2**. For the majority of this group, the median wage is between \$13-\$36.

Table 2 – Sample Median Wage for Teachers and Information Technology Industry

Industry Worker	Hourly Wage	Annual Wage or Salary
Preschool Teachers, Except Special Education	\$18.13	\$37,705.25
Electrical and Electronics Engineering Technicians	\$31.37	\$65,236.40

As noted, the City of San José is home to a variety of sectors and industries. However, despite the health of the national economy, there is a growing percentage of people with little to no savings.⁴ In a recent national study, 45% of the respondents said they had \$0 in a savings accounts and overall, 69% had less than \$1,000 in a savings account.⁵ These staggering numbers occurred pre-COVID-19.

While displacement may occur for different reasons, the rising cost of housing is the most commonly expressed displacement concern that staff heard from San José residents. San José metro area housing market is one of the most expensive in the world, with San José's metro area median home prices close to 10 times the median income of San José residents. Renters must earn \$53/hour (\$110,360/year) to afford the average rent for a two-bedroom apartment (\$2,759/month) and homebuyers must earn \$102/hour (\$212,710/year) to afford a median-priced single family home, while minimum wage in San José is just \$15 per hour.

³ Employment Development Department (EDD), Occupational Employment Statistics and Wages 2019 Q1

⁴ <https://www.gobankingrates.com/saving-money/savings-advice/americans-have-less-than-1000-in-savings/>

⁵ Ibid

A 2019 poll conducted by the Silicon Valley Leadership Group revealed 83% of Silicon Valley residents believe “cost of housing is an extremely serious problem.”⁶

B. Countywide School Closures

On March 13, 2020, the Santa Clara Public Health Officer prohibited public or private gatherings of more than 100 people and announced the closure of Santa Clara County schools for three weeks until April 3, 2020. There are over 31,000 students in the San José Unified School District, and over 26,000 private school students. With the prohibition of public and private gatherings and school closures for at least three weeks, families are likely to start finding alternative child care options. The costs of child care in this region may be prohibitive for some renters and will likely place an additional strain on those renters who need to miss work to care for home-bound school-age child.

As residents face the financial impacts of the COVID-19 pandemic, there is an increased risk of homelessness. If tenants are unable to pay their rent, a landlord may serve a three-day notice to pay rent or quit, file an eviction in Superior court, and receive a judgement against the tenant and if the tenant has not already moved, the sheriff will remove the tenant from the premises. This entire process can take place within a matter of three to four weeks. In order to prevent displacement from their current homes, the City Council has directed the City Attorney to draft an Eviction Moratorium Ordinance (“ordinance”) providing temporary protection for tenants from being evicted because they are unable to pay their rent due to suffering a financial hardship caused by the impacts of the COVID-19 pandemic.

C. Proposed Legislative Actions

The Mayor provided direction for the City Attorney to prepare an urgency ordinance, an urgency resolution instituting a temporary moratorium on evictions in the City of San José for renters facing financial hardship due to COVID-19. Of these legislative actions, the urgency ordinance and companion ordinance contain the provisions of the eviction moratorium, including the purpose, scope and type of protection offered to affected tenants. The resolution contains provisions activating the urgency ordinance.

1. Urgency Moratorium Ordinance

The Urgency Ordinance provides the underlying authority for the City Council to act on the eviction moratorium resolution. The City Attorney has prepared the urgency ordinance for immediate consideration by the City Council, setting forth the facts that constitute the urgent action by the City Council. As stated in Section D of the urgency ordinance, the ordinance becomes effective immediately upon its adoption pursuant to Section 605 of the Charter of the City of San José. It requires a 2/3 majority for passage and will be in effect for 60 days. The 60-day timeframe is needed so that there is

⁶ Silicon Valley Poll: 83% of Bay Area Voters Say Cost of Housing is an Extremely Serious Problem, <https://www.svlg.org/silicon-valley-poll-83-of-bay-area-voters-say-cost-of-housing-is-an-extremely-serious-problem/>

sufficient time for the Moratorium Ordinance to take effect. To enact the Urgency Moratorium Ordinance, the City Council must pass a Resolution.

2. *Eviction Moratorium Resolution*

To enact the Moratorium, the City Attorney has also prepared a resolution which essentially activates the temporary moratorium on evictions. The eviction moratorium will be effective on the date the proposed resolution is approved by the City Council and will continue for a period of thirty days. This period may be extended by the City Council. To extend the term, the City Council will need to pass a new resolution.

3. *Moratorium Ordinance*

The City Attorney has prepared a companion Ordinance that mirrors the urgency ordinance in its substantive effect. It requires both a first and second reading as typical for non-emergency ordinances. If the proposed ordinance is passed, it will become effective 30 days after the second reading. It requires a simple majority for passage and it will be repealed automatically after six months. The ordinance provides the authority for the City Council to extend the moratorium past the original 60 days provided under the Urgency Ordinance. The City Council will need to pass a resolution to extend the moratorium.

Both Ordinances contain substantively the same provisions, including its purpose, the term of the moratorium, the scope of the Ordinance who it applies to, the type of protection provided, the defense to an eviction for affected tenants, as well as civil remedies for violations of the Ordinance. The following section provides details on these components.

II. EVICTION MORATORIUM FOR TENANTS

The purpose of this legislation is to provide housing stability in the San José community during the COVID-19 pandemic, preventing avoidable homelessness, and maintaining the public health. The temporary moratorium on evictions will protect the health, safety, and welfare of San José residents.

A. Residents Covered by the Legislation

The legislation will apply to all tenants renting in San José. Tenants living in duplexes condominiums, restricted affordable housing, single family homes, and rooms within single family homes will be provided just cause protections in addition to the protections related to non-payment due to financial hardship resulting from COVID-19.

While not explicitly mentioned in the Mayor's March 6, 2020 Memorandum, mobilehome owners and residents renting mobilehomes will also be challenged to pay their rent during this period of time and will be protected under the ordinances and moratorium. Mobilehome residents are included as tenants who can claim the same protections as apartment and other residential tenants.

Tenants who owe back rent today that is unrelated to COVID-19, can still be evicted under the Ordinance. For example, a tenant who owes six months of back rent and then loses his job as a result of COVID, could be evicted for failure to pay rent for the six months due prior.

B. Eviction Protections

The ordinance will allow tenants to defend themselves against evictions for nonpayment of rent if they can demonstrate their income has been reduced due to the COVID-19 pandemic.

- **Landlord Responsibility** – Under the proposed legislation, a landlord is required to provide tenants with written notice of the identity and mailing address of the landlord (as is already required under state law), notice of the moratorium and the amount of rent due. If a tenant has failed to pay rent after it is due, the landlord may serve a notice to pay rent or quit setting forth the amount of rent and required to be paid within a period specified in the notice of not less than three days.
- **Tenant Responsibility** – Affected tenants must prove that they have suffered a substantial loss of income due to COVID-19 in order to receive eviction protections under the moratorium:
 - 1) **Income Impacted by COVID-19** – a tenant must present documentation that supports job loss, reduction of hours, missing work due to a minor child’s school closure or a state/local requirement to stay indoors for those over 65 years old.
 - 2) **Evidence of Loss of Income** – In order to show loss of income, a tenant must provide documentation or other objectively verifiable proof. Examples of that are providing copies of bank statements that illustrate a drop in income, employer pay stubs showing the same, a letter from an employer notifying tenant of reduction of compensable hours, or other documentation that proves that tenant has not been generating the same level of income due to COVID-19.
- **Timing of Notification and Documentation** –The tenant has an obligation to provide their landlord with notice that they are an Affected Tenant as a result of COVID-19 before the expiration of the Notice of Termination. The tenant may argue as an affirmative defense in an unlawful detainer action that they are an Affected Tenant by providing documentation to the Landlord that have lost substantial income. Examples of documentation may include, but are not limited to, a letter from employer citing COVID-19 as a reason for reduced work hours or termination, employer paycheck stubs, or bank statements.

The policy direction provided in the March 6, 2020 Mayor’s memorandum required that the tenant provide notice to the landlord prior to the date rent is due. Instead, the proposed legislation requires the tenant notify the landlord prior to the expiration of the Notice of Termination (typically three days) and, in the event that an unlawful detainer case is filed, the tenant must provide documentation or other objectively verifiable proof of loss of substantial income due to COVID-19. When staff reviewed the process in detail, there was concern that tenants with language barriers and other tenants could be challenged with gaining access to documentation as

a result of widespread shutdowns, and will likely need more than three days to gather documentation necessary to establish that they are an affected tenant entitled to protection against eviction.

It is critical to note that landlords are not precluded from negotiating with their tenants to resolve challenges related to a lack of income to pay rent. While the ordinance will protect tenants from eviction, rent will continue to be due under the rental contract.

D. Tenant Repayment Plans

The Mayor’s memorandum directed the City Attorney to evaluate the potential of including in the legislation a 120-day period for affected tenants to become current on past due rent. A repayment period for past due rent is not a requirement under the moratorium since the moratorium is narrowly constructed to prevent nonpayment of rent *evictions* during the moratorium period. There is not a moratorium on a tenant’s contractual obligation to pay rent. A landlord can still seek the rent from the tenant but they cannot terminate the tenancy and evict the tenant because of it while the moratorium is in effect. Once the eviction moratorium ends, a landlord will be allowed to exercise their right to demand the past due rent due and by serving a notice to pay rent or quit.

During the moratorium, landlords and tenants are encouraged to discuss with each other the impacts of COVID-19 on their income and to negotiate a reasonable plan to pay the rent. These efforts will save time, expense, anxiety and uncertainty for both parties. This is an opportunity for both sides to work together during this difficult time where no one is at fault for these circumstances resulting from COVID-19.

E. Community Outreach and Education Plan

Upon approval of this ordinance, landlords and tenants will be notified of the moratorium. The Housing Department developed a community notification plan to quickly share this critical information with potentially impacted members of our community. Materials will be translated into Spanish and Vietnamese. Notification will be conducted through various approaches including email, direct mail, and social media notifications. Due to concerns about the transmission of COVID-19, staff will not be conducting face-to-face meetings. **Table 3** outlines the proposed methods for education both landlords and tenants on the moratorium.

Table 3 – Proposed Methods for Education for Landlords and Tenants

Method	Target Audience
• Rent Registry Email	All landlords registered in the Rent Registry
• Email List Serve	Landlords and tenants registered with the Housing Department email list serve
• Direct Mailing	Landlords of all rental properties citywide
• Social Media	Landlords and tenants throughout the city
• Nonprofit Partners	Tenants and landlords facing financial hardship

• Schools	Coordination with school districts for both tenants and landlords
• Professional Associations	Coordination with the Apartment Association, BAHN, Property Management Associations that provide information to landlords

Finally, the Housing Department will create a web page on the City site that will provide simplified information on the moratorium to educate both tenants and landlords.

III. SMALL BUSINESSES RESOURCES

City Council direction on March 10, 2020 included a request to discuss and direct the City Attorney to draft an ordinance and resolution instituting a moratorium on commercial evictions for nonpayment of rent. Staff from the Office of Economic Development and City Attorney's Office have been in discussions on the possibility of enacting an ordinance establishing a moratorium on non-payment of rent evictions for small business tenants with incomes affected by the COVID-19 pandemic.

There a number of differences between residential and commercial leases that requires a separate analysis for each. The residential rental industry involves a tenant's home. The commercial industry, does not. Eviction effects residential and commercial tenants differently. While residential tenants involve individuals and families, commercial tenants encompass a wide range of businesses, from sole proprietorships and partnerships, to multi-national Fortune 500 companies. The monetary difference in rent is exponentially greater in the commercial rental space and the level of investment and sophistication of their contracts are not comparable. Also, the rental marketplace is different for commercial landlords and tenants than it is for residential. In general, the residential rental market demand is highly competitive and difficult to afford for many tenants and families.

By comparison, the commercial rental space is not nearly as competitive. Therefore, a residential landlord can more likely fill a rental property much easier than a commercial landlord can fill a commercial rental space, particularly when the leasing businesses are failing specifically due to social distancing and quarantining – there will not be any replacement businesses lined up to lease any newly-vacant spaces, unlike in residential evictions. As a consequence, commercial tenants are much better positioned to negotiate with their landlords when they are unable to pay their rent and landlords and are more likely to want to work with their commercial tenants.

Further, the urgency of the need for intervention is also a stark difference. In residential evictions, some of our most at-needs community members are in danger of being displaced from a safe, private home suitable for quarantining to having to live with extended family members in housing with more density and with more at risk age-groups or, even worse, to be forced to live on the streets. This creates a health risk to the individuals affected as well as the community at large, all at the sole benefit to a landlord's bottom line. Commercial evictions, in contrast, are not related to concern for public health but rather to individual and public economic wellbeing.

Lastly, besides these practical considerations, there are unique legal considerations distinguishing residential and commercial evictions and the interplay between the State and a

city's authority to regulate them. Due to these unique differences, so too are the methods to best effectively respond to the impacts to these industries and the role that the government at all levels should take to address them. In light of all these factors, it is staff's recommendation that the Council not impose a moratorium on commercial evictions at this time.

A. Resources by the State and Federal Government

The Federal Government recognizes that when an economic disaster has been declared impacted businesses that experience economic injury can apply to a fund to secure a Government loan administered by the Small Business Administration (SBA). Both the commercial landlord and the tenant can separately apply to the fund on proof of economic injury.

Staff can report that numerous resources are being made available to assist small businesses in the wake of the COVID-19 pandemic, both from the State of California and federal government.

Attachment A provides an overview of those resources available as of March 13, 2020. These are listed on the Office of Economic Development's website at:

<https://www.sjeconomy.com/covid19businessinfo>, with information translated into Spanish and Vietnamese. Additionally, as discussed below, if Item 3.9 is added to today's agenda under Orders of the Day, staff will present an update on federal, state, and philanthropic resources.

B. Fund for Residents and Small Businesses

The Administration has agendized Item 3.9, Local Assistance Framework, under Orders of the Day to provide Council with an update on the needs of our residents, small businesses, and community-based organizations that are impacted by the COVID-19 pandemic and available resources. This will include information about City efforts, federal and state resources, and private philanthropic efforts.

CONCLUSION

The COVID-19 virus pandemic has grown exponentially since the first case reported in Santa Clara County on January 31, 2020. The rapid transmission rate of COVID-19 has changed the very nature of how we work, live, and protect ourselves against the spread of this virus. With the increased the number of canceled conferences and events across San José, decreased the number of work hours for many residents, and caused County-wide school closures, these impacts are having a direct impact on many resident's ability to afford the basic and fundamental necessities of life. As a result, residents whose income is affected by COVID-19 are faced with the same costs of living without a commensurate increase of resources available to close the gaps. Residents are at much greater risk of facing homelessness and the eviction moratorium ordinance is a temporary measure to help stabilize housing for those impacted in the San José community. If approved, the urgency ordinance may mitigate the negative housing effects this public health crisis is causing residential renters.

The Urgency Ordinance will be effective upon its adoption for a period of 60 days and the moratorium will commence by resolution once adopted by City Council for a term of 30 days,

unless extended by the Council for longer. During that time, the City Council is urged to review the evolving local, state and national directives for virus containment and make a determination for whether or not the ordinance terms are to be extended for another 30-day term.

For all residential renters facing eviction due to the nonpayment of rent, the ordinance creates an affirmative defense if they can demonstrate a substantial loss of income from job loss, a reduction of compensated hours of work, store, restaurant, or office closure, the need to miss work to care for a home-bound school-age child, or other similarly-caused loss of income that resulted since the City's Resolution. Upon approval of the ordinance, the Housing Department will enact their community outreach and education plan to disseminate the critical information with potentially impacted members of our community as quickly and widely as possible.

Outreach efforts include leveraging existing email lists, including notifying all landlords on the Housing Department's rent registry database. Housing Department staff will also mail notices to all landlords of rental properties citywide and utilize the full complement of city department social media accounts to spread the message to landlords and tenants throughout the city. In addition, throughout the term of the ordinance, City staff will connect affected tenants with resources provided by nonprofit partners.

While evictions unrelated to nonpayment of rent due to COVID-19 may occur during this time, with the urgency ordinance and companion ordinance, the City of San José is demonstrating its commitment to protect existing renters and prevent an increase in homelessness.

EVALUATION AND FOLLOW-UP

The City Manager will track the effectiveness of the ordinance and the continued impact of COVID-19 on the San José community over the 30-day period. If deemed necessary, the ordinance will be brought back to the City Council for consideration of extension.

CLIMATE SMART SAN JOSE

The recommendation in this memo aligns with one or more of Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

A meeting was held on March 13, 2020 with representatives from the California Apartment Association, small landlord representatives, Law Foundation, Destination Home, and Sacred Heart to review the draft ordinance. Feedback from this review are reflected in the proposed ordinance. Concerns raised by the landlord representatives included the potential duration of the moratorium and the potential financial impacts to landlords resulting from the moratorium.

Tenant representatives indicated due to the current stress faced by tenants, additional time to gather evidence to be presented in court is necessary.

Staff reviewed the public comments submitted by both tenants and landlords regarding the impact of the Eviction Moratorium. Tenants shared hardships as a result of COVID-19, including:

- Full time Uber driver, aged 60, has seen a decline in trips. His income has decreased from \$1,700-\$2,100 weekly to \$800. He is now falling behind in rent.
- Therapist received a letter from the Licensing Board to encourage therapists to not work. He has seen a reduction in clients.
- Restaurant staff member, with a family of four, had hours reduced to six-hour shifts, 3 days a week. He is concerned about making April rent.

Landlords also shared concerns as a result of the Eviction Moratorium, and COVID-19 would impact landlords the same way as it impacts tenants:

- Retired landlord depends on one rental house to provide income for mortgage payments and taxes.
- Mom and pop landlord living mortgage by mortgage with a full time job, is concerned about property tax due April 10 and state and federal tax due April 15. Any missing rents could put her in financial hardships to pay mortgage and taxes.

Written public comments were submitted to the City and are included as **Attachment B**.

COORDINATION

Preparation of this report has been coordinated with the City Attorney's Office, and the City Manager's Office of Emergency Services.

COMMISSION RECOMMENDATION

This item was reported to the Housing and Community Development Commission as a part of the Director's Report held on March 12, 2020.

FISCAL/POLICY ALIGNMENT

This action is consistent with the City's *Consolidated Plan 2015-2020*, adopted by City Council on May 5, 2015, to provide homes for very low- and extremely low-income households, and with Goal H-2 of the City's *Housing Element 2014-2023*, adopted by City Council on January 27, 2015, to "increase, preserve, and improve San José's affordable housing stock."

HONORABLE MAYOR AND CITY COUNCIL

March 16, 2020

Subject: Actions Related to a Moratorium on Evictions and Income Loss Due to COVID-19

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CEQA

Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment.

/s/

KIM WALESH
Deputy City Manager

/s/

JACKY MORALES-FERRAND
Director, Housing Department

For questions, please contact Deputy Director, Rachel VanderVeen at (408) 535-8231.

ATTACHMENTS:

Attachment A – State and Federal Resources for Small Businesses

Attachment B – Public Comments

COVID-19 GUIDANCE FOR EMPLOYERS, WORKERS AND BUSINESSES

The novel coronavirus (COVID-19) outbreak is creating a challenging business climate in San Jose and across the country. We are providing this page to serve as a centralized resource for employers, employees and small businesses to secure critical resource information.

We will be updating this page as new information, guidance and resources become available. Please find PDF translations available here: [Español](#) / [Tiếng Việt](#)

SAN JOSE ALERTS AND UPDATES

The City of San Jose has announced a local emergency, meaning there is a high risk of illness to the local population. Your business can help slow the spread of COVID-19 and lessen the number of people infected. As new information, guidance and resources become available, we will post them here.

Updates:

Monday, March 16, 2020: SBA Small Business Assistance Frequently Asked Questions:

There's a lot of interest in Small Business Administration loans to help small companies and nonprofits weather the storm of COVID-19. OED's [Vic Farlie](#) put together a handy [FAQ](#) on the subject.

Saturday, March 14, 2020: COVID-19: New Paid Leave Policies in Coronavirus Legislation Being Considered by U.S. Senate

Congress is responding to the Coronavirus outbreak with new legislation that will have several implications for businesses and employees related to paid leave.

The Senate must still pass the bill, titled “Families First Coronavirus Response Act,” but President Trump has announced his support. It could be approved and signed the week of March 16, though the text of the final legislation could still change.

The bill aims to provide paid sick time for workers who may be ill or under quarantine, as well as emergency paid leave for employees to take care of family members. As always, you should rely on a professional for guidance on how the proposal could affect you or your business.

You can read the full text of the legislation [here](#). A more concise executive summary is [here](#).

To help businesses pay for the programs, the legislation would provide payroll tax credits to employers. (For self-employed workers, a similar tax credit would be available to credit against self-employment tax.)

It's understandable that businesses and workers will have questions. We'll add an update with additional information and links as the news develops.

Saturday, March 14, 2020: COVID-19: What Worker Benefits Are Already Available?

While the U.S. Congress works on a new Coronavirus legislative package, workers already have benefits that they may be entitled to if they are impacted.

California's Labor & Workforce Development Agency has developed a helpful [matrix of benefits](#) to reduce some of the confusion for both workers and employers.

California Gov. Newsom is tweaking some of the rules in response to the pandemic. On March 12, he **waived the usual one-week waiting period** to claim short-term disability for people unemployed or disabled as a result of COVID-19.

"If a medical professional says you're unable to work, if your hours have been reduced, or your employer has shut down -- you can file a claim," Gov. Newsom tweeted.

The matrix on the Labor & Workforce website explains how the benefits work, and how to file a claim.

OTHER NEWS RESOURCES

Information is changing quickly. You can find out about the latest local information from the following links:

- The Santa Clara County Health Department [COVID-19 website](#) is frequently updated with guidance for workplaces, travel, schools, at-risk populations, and mass gatherings. Health Department updates are also available through social media through [Facebook](#), [Instagram](#), and [Twitter](#).
- Sign up for [news alerts from the City](#) for updates on City events, resources and announcements. This information is also collected on the City's [Emergency Notifications](#) page.

ADDITIONAL RESOURCES

A growing list of partners and government agencies are posting information to assist businesses during the pandemic. Here are some we recommend.

[BusinessOwnerSpace.com](#) is a City of San Jose-led team of more than 30 programs which help small businesses. Partners offer free or low-cost mentoring, classes, and other support on many topics including access to capital, business planning, marketing, and legal issues.

- The Small Business Administration is now preparing to offer Disaster Assistance Loans to businesses in designated states and territories affected by the Coronavirus. The City of San Jose is assisting the County of Santa Clara in unlocking this funding source for our region. Interested businesses should begin preparing financial statements now. [Businessownerspace.com](#) partners MBDA, SBDC, and SCORE will be available to help prepare loan paperwork. Additional information about the loans is available from the [SBA](#).
- The State of California's [Employment Development Department](#) has programs to help both employers and employees deal with the costs of illness, caring for ill family members, shorter hours and closures. Local workforce development boards like [work2future](#) can guide employers and employees and facilitate their access to EDD services. Extensions on payroll reports and payroll taxes are also available.

- The California Governor’s Office of Business and Economic Development (GoBiz) compiled additional resources and FAQs for businesses.
- Remote work is being aided by several technology companies that are offering free or expanded services for small businesses. See OpenForBusiness for more information. Many enterprises are using Zoom, a San Jose-based business.
- The Santa Clara County Health Department offers a flyer for businesses.
- The Centers for Disease Control has a dedicated page for businesses on COVID-19-related information.
- Not all businesses are the same, and some workers may face different levels of risk within the same business. The Occupational Safety and Health Administration maintains detailed guidance in its publication, Guidelines on Preparing Workplaces for COVID-19.

Here are some ways employers can lower the risk of disease transmission:

- Ensure sick employees stay home.
- Separate employees who become sick at work until they can return home.
- Allow employees to telecommute if possible.
- Give people physical space, such as allowing six feet between employees.
- Don't shake hands; cover coughs and sneezes; and wash hands frequently for at least 20 seconds with soap and water.
- Wipe down surfaces touched by employees and customers with disinfecting products.
- Ask employees not to share phones, desks, or other work equipment, if possible.
- Change employee start and end times to avoid large numbers of employees coming in together.
- Cancel unnecessary meetings or events if attendees can’t keep their distance.
- If holding events, take precautions by asking those who are ill not to attend, and remind attendees to take actions to protect themselves and other attendees.
- Suspend nonessential employee travel.
- Provide additional accommodations to at-risk employees – such as those with existing medical conditions or who are more than 50 years old.
- Hang informative posters around your workplace.

KEEP YOUR BUSINESS STRONG

Here are some ways to keep your business running and minimize problems:

- Workforce-related:
 - Plan for absences by cross training employees and ensuring they understand how to step into new roles if required.
 - Implement policies and practices to increase the physical distance between employees and between employees and the public (e.g., telecommuting and teleconferencing).
 - Establish lines of communication among employees, clients, and business partners.
 - Allow employees to call in sick without a doctor's note. This avoids burdening the health-care system.
 - Research ways to further protect your employees based on your industry or operations.
 - Consider the impacts on your workforce if local schools close and parents are away from the office.
 - Recognize that employees who are well may need to be away to care for ill family.

- Business operations-related
 - Identify your most important business functions and adjust staffing to maintain them.
 - Keep track of and respond to changes in customer behavior and prepare to change how you do things to maintain your most important operations.
 - Identify key business functions, jobs/roles, and elements in your supply chain. Think about how to operate if these are hit by the pandemic.
 - For businesses with multiple locations, allow local managers to act on what is happening locally.

If you have questions or suggestions, contact:

nathan.donato-weinstein@sanjoseca.gov

BLOG

Update on SBA Disaster Assistance Loans

City offering loan info, help

Post Date: 03/13/2020 9:02 AM

The Small Business Administration has announced it will provide Disaster Assistance Loans to businesses and not-for-profit organizations affected by COVID-19.

Business owners still have many questions about how the loans will work. Vic Farlie, business development officer at the Office of Economic Development, put together a FAQ for our local business community to explain things as understand it today, which we are sharing with you here. For more detailed information, see the [SBA's COVID-19 website](#).

The City of San Jose will be assisting small businesses in learning more about and applying for the loans, through the technical assistance our [BusinessOwnerSpace partners](#), see below.

What is an SBA-approved Economic Injury Disaster Loan?

If your business or not-for-profit has suffered substantial economic injury in a declared disaster area, you may be eligible to apply for an SBA Economic Injury Disaster Loan. These loans generally offer up to \$2 million in assistance to businesses experiencing temporary loss of revenue. The key terms of these loans are:

--A 3.75% interest rate for small businesses without credit available elsewhere. (Businesses able to get credit elsewhere are not eligible.)

--A 2.75% interest rate for nonprofits.

--A maximum 30-year term, determined on a case-by-case basis, based upon each borrower's ability to repay.

How does a business apply for an Economic Injury Disaster Loan?

First, the federal government still needs to take some steps before these funds can flow to businesses. San Jose is working with Santa Clara County to help expedite the process, and we'll post an update when it's complete.

Once the funds are made available, a business should be able to apply to the SBA [either online or by mail](#). The applicant must provide substantial financial detail to analyze the applicant's creditworthiness. You can use the services of a CPA or a technical expert, but the SBA will not pay for these services.

Free advice can be sourced from local Technical Assistance providers. San Jose works with a network of these partners called [businessownerspace.com](#) that provide low- or no-cost services. Partners available to help prepare loan paperwork are MBDA, SBDC, and SCORE.

Additional information on the process is available [through the SBA](#).

What is the maximum loan amount limit?

Disaster loans generally max out at \$2 million, but if a business is a major source of employment the SBA has the authority to waive that limit.

What can the loan be used for?

These loans may be used to pay fixed debts, payroll, accounts payable and other bills that can't be paid because of the disaster's impact. The loans are not approved to refinance the long-term debts of a business.

What credit requirements does the SBA use to determine the application?

The SBA typically use the following criteria when considering an application:

- An acceptable credit history.
- An ability to repay.
- Collateral is required for all loans over \$25,000.

Does the SBA take into account any insurance policy that may be applicable?

Yes. If a business has business interruption insurance, or other relevant claims, then the SBA may reduce the amount of the loan.

What evidence demonstrates economic injury?

Examples can include:

- Financial statements from the bank and cash flow statements demonstrating the impact on the business prior to and since the onset of the disaster.
- Written evidence of cancelled orders that have a material impact on the cash flow or profitability of the business since the onset of the disaster.
- Proof of layoffs or reduced hours for staff as a consequence of a decline in income or cancelled orders.

How long does it take for an Economic Injury Disaster Loan to be approved?

The SBA's goal is to arrive at a decision on applications within 2-3 weeks.

If you have questions, contact Vic Farlie, victor.farlie@sanjoseca.gov or 408 535- 8230.

[Return to full list >>](#)

RENT STABILIZATION PROGRAM, HOUSING DEPARTMENT
Public Comments Received 3/16/2020

Resident (Who Requested to Remain Anonymous)

Resident is a 60 year old full time Uber driver, and he rents a car on a weekly basis from a rental company, as part of his job. Beginning in January, Resident began to experience car issues and fell behind on his rent. In addition to vehicle issues, as the pandemic began to pick up speed, Resident began to see a decline in trips. As part of a reimbursement program that Uber has, if a driver completes a certain number of rides per week, they receive a reimbursement. Earlier this month, Resident stopped receiving that rebate. Because of the pandemic, the number of rides Resident is completed has gone down substantially. He could usually make \$1,700 - \$2,100 in a week, but now is only making roughly \$800. With the cost of the car rental and his age and existing conditions, he had to make the decision to return the vehicle and is now a month and half late in rent.

Dylan Rogers

Mr. Rogers is a therapist who has seen a decline in his number of clients. He received a letter from the Licensing Board encouraging therapists to not work. Mr. Rogers sent an email with his story.

Edgar Torres Contreras

The restaurant where he is employed has cut back his hours substantially. He has been reduced to working 3 days a week, 6 hours at a time. He has a wife, a 4 year-old child. His father also lives with him, and works at the same restaurant but due to an injury cannot work at the restaurant right now. Mr. Contreras fears he will not be able to pay his April rent.

LeAnn Petrucci [REDACTED]
To: RSP <rsp.sanjoseca.gov>
Mon 3/16/2020 8:15 AM

My husband and I have been living in our apartment for over 7years. We have 2 children, and our jobs have both been greatly affected by this novel virus. We cannot work our normal hours, and have also had the businesses close.

LeAnn Petrucci
[REDACTED]

Cynthial Williams [REDACTED]

To: RSP <rsp.sanjoseca.gov>

Sun 3/15/2020 6:16 PM

Subject: Covid19

Please issue a moratorium on evictions my job is severely impacted and travel related! I am a gig economy driver...:TSA agents at SJC infected hundreds if not thousands! A failure if not announced which terminal only Two A or B! Panic...business practically gone all over the city for travel and related industries! Please ban evictions in a pandemic the city is trying to control! Workers, seniors, and more will work and spread the virus to avoid eviction! Do the right thing! And yes, you got my vote hands down!

Best regards,

Cynthial Willams

Lisa Pour [REDACTED]
Sun 3/15/2020 11:03 PM
To: RSP <rsp.sanjoseca.gov>
Subject: moratorium on evictions (City of San Jose Housing Dept.)

Hello,

I am writing because we need help.

My husband owns his own limo business (Owner Operated), which has been severely impacted with the Covid-19 virus. The majority of work is to/from airports. All appointments have been canceled as no one is traveling at this point and we have no work as of now. If we can't work, we can't afford to pay rent (\$3200.00)(or anything else) so we would definitely wish to have temporary moratorium on evictions as we will be unable to pay rent due to lack of work. I am at significant risk to this virus as I have a lung disease and am being reviewed at regular intervals for lung transplant, so it's imperative that neither one work as we need to be self quarantined until this virus gets better.

Please consider instituting this temporary moratorium so we don't lose our housing.

I will be awaiting your reply.

Please let me know if you have any questions

Thank you
Lisa

Alicia Marie Brown [REDACTED]

Sat 3/14/2020 11:15 PM

To: RSP <rsp.sanjoseca.gov>

Subject: Quarantined renters and isolated the household And rental unit in San Jose

I am in is Alicia Brown please give me a call back at [REDACTED] regarding this my family which includes four children 21 seven 14 , 15 and 7 have been in a quarantine with my caregiver myself .I m isolated from the other members try to remain isolated because of my chronic conditions heart failure and kidney I'm only 40 years old and if you can respond it would be highly appreciated . I have a few concerns such as lack of resources as our toiletries not been able to go anywhere or get anything milk necessities made it impossible for us to get anything. We have been relocated the district attorney helped us 7 years ago due to domestic violence and don't have help from family members really tried meals on wheels can't find any emergency food deliveries for us I'm on a fixed income on been surviving all these years off one child's child support and food stamps the county even stopped playing my caregiver few years back because IHSS is not a diagnosed based program since I have a bow 7 year old I can care for they said I can care for myself NOW look we were all Quarantined and I am isolated from the rest of the house numbers everyone 6 feet apart me and I said it is a bedroom bathroom because of my conditions which makes it literally impossible to get up and cook and clean and be with my baby anything on my caregiver is to be stuck here and also what Quarantined well I am isolated for a whole another week at least. Now I really have no one to help me get what needed for house Any emergency plans suggestions help at such a time

Veronica Vijil [REDACTED]

Sat 3/14/2020 2:38 PM

To: RSP <rsp.sanjoseca.gov>

Subject: Questions from landlord

Hi there,

I am retired and my one rental house provides me income I heavily rely on it to live. I use it to help me with my mortgage payments and taxes, etc. Are you also thinking of helping people like me with providing us with a tax break in the event that our tenant stops paying us rent due to the Corina virus? Or would the city help us with the banks who we owe money to?

If you are not the appropriate person to answer, can you help me by sending this to the mayor's office?

Thanks,

Verónica Vijil.

From: Lesly Ta [REDACTED]
Sent: Saturday, March 14, 2020 10:06 AM
Subject: Eviction Moratorium

Attached is the letter from my husband's employer regarding no overtime due to the Coronavirus and a photo of our family.

My husband is a production manager for an events company that provides audio visual and production services for conferences, shows, festivals, meetings and special events. He usually works 120-140 hours a pay period (every 2 weeks) in this busier season. More than half our income has been lost due to the cut in overtime. We use this extra income in the high seasons to float through slower seasons starting mid June. Not only does this have an immediate affect on our finances but most likely will have a residual affect going into the next slow season. We will go into our slow season most likely not caught up on bills. We already know that we won't be able to make rent next month as we struggled to make rent this month because my husband's industry was already being affected starting in February. Without an eviction moratorium we do not know how we will make it through this tough period our community is enduring.

Thank you for attention to this issue that is affecting many residents in San Jose at this time.

Sincerely,
Lesly and Randy Ta

From: Lesly Ta [REDACTED]
Sent: Sunday, March 15, 2020 6:50 AM
Subject: Re: Eviction Moratorium

I just want to let you know my husband was notified by his boss that his hours are being reduced to 32 hours a week instead of 40. That means we have lost over \$3,000 a month in net income. Just wanted to give you the most updated information.

Thanks,
Lesly

Mike Alvarado [REDACTED]
Sun 3/15/2020 8:19 AM
To: RSP <rsp.sanjoseca.gov>
Subject: I need housing

Please help

MIKE ALVARADO

Nguyen, Viviane

From: Nguyen, Viviane
Sent: Monday, March 16, 2020 11:18 AM
To: Nguyen, Viviane
Subject: FW: San Jose Eviction Moretorium
Attachments: CAMTC.CeaseActionLetter.pdf

From: Dylan Rogers
Sent: Monday, March 16, 2020 10:34 AM
To: RSP <RSP@sanjoseca.gov>
Subject: San Jose Eviction Moretorium

I have been impacted as a result of the coronavirus pandemic. As per our conversation this morning I am creating a letter for you to take with you to San Jose city council in hopes that they may be able to assist me with this financial burden that this pandemic is causing me and the people of San Jose, CA. As you may be aware we are one of the most impacted communities in all of the bay area and in the country as well. Nevertheless I have been advised as of today by the State licensing board for the massage therapy profession that I should cease and desist my occupation until further notice. I am including this correspondence with this email for your review and consideration. I am no longer able to meet my obligation owed to my landlord as a result of this situation and I am looking at being unable to pay rent for the months of March and April in the year of 2020. My income has fallen from roughly \$2000 per week to what has now amounted to nearly \$250 for the past week. Therefore I have no choice but to shift this burden back onto your organization since you are attempting to assist with matters that are consistent to this one I am facing with regards to this current pandemic. I will be happy to provide bank statements and a letter from my employer which will solidify these assertions and make it apparent that I am struggling with this issue personally that is impacting our community. I appreciate your attention to this matter and hope that we are able to persevere through this unexpected change in circumstances.

Thank You
Dylan Rogers

Urgent Message From CAMTC About COVID-19

California Massage Therapy Council [REDACTED]

Mon 3/16/2020 11:34 AM

To: [REDACTED]

The health crisis presented by the Coronavirus is unprecedented. The crisis is public and personal and our response needs to be equal to the challenges. In order to protect the public and the therapists, CAMTC is strongly recommending that certificate holders and schools immediately stop providing hands-on services until further notice from the Governor and or health authorities. At <https://www.cdph.ca.gov> you will find more information about COVID-19.



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You are receiving this email because you opted in CAMTC's website.

Our mailing address is:

California Massage Therapy Council

[REDACTED]
[REDACTED]

Want to change how you receive these emails?
You can [update your preferences](#) or [unsubscribe from this list](#).



Hi Rachel,

More feedback...

1) As already noted: Bottom of page 8: item B isn't a sentence and appears to say 30 days.

2) The article in the Merc said tenants would have to apply for the protection before the rent is due. Now it looks like the landlord has to serve a three day notice and the tenant has until the last day to claim the moratorium. The language could be a lot cleaner.

3) What happens if the tenant fails to provide the documentation within the three days? Too late?

4) What happens to accumulated overdue rent and late fees when the moratorium expires?

5) Is the 3-day pay-or-quit still in effect at the end of the moratorium, or does the landlord need to serve another 3-day in order to receive the back-pay of rent?

One other thing:

part b (below) doesn't make sense to me. Is there something missing from the sentence? "shall within 30 days" what?

Section 3 Term, Expiration

a. This Ordinance is effective immediately and shall expire within sixty (60) days after its adoption.

b. The moratorium will commence upon adoption by Resolution setting forth the facts and circumstances for activation and shall within 30 days, unless otherwise extended by approval of the City Council.

Thanks for the draft.

I don't see anything noted about how long the tenants would have to pay back-rent once the ordinance is lifted.

There was mention of 120 days in the Council memos.

Will the ordinance have a time designated, or did I miss that in the draft?

Also, Section 2 mentions:

"reduce the risk that these events will lead to anxiety, stress and potential homelessness".

If the tenants are meant to pay the back-rent at some point, it seems that they will suffer a lot of anxiety and stress if they don't know how they'll get the funds at a later point. It seems that the City offering to either pay the unpaid rent or provide interest-free loans would alleviate that stress.

Or, is the intent that the tenants will not have to pay the back-rent because this is an emergency police ordinance?

In anticipation of the call today, here is some feedback from the Law Foundation of Silicon Valley:

- As we have stated in our letter to Council, we think this ordinance puts a heavy burden on tenants, and will lead to tenants being evicted despite having income loss related to Coronavirus. We suggest the Housing Department draft a broader, alternative ordinance for Council to consider that would lower this burden on tenants, such as providing a right to cure up until the date of the eviction.
- As to what is specifically drafted, we suggest the following:
 - As currently drafted, tenants have until the date that the termination notice expires to provide documentation. This language should be expanded to include anytime before an eviction writ is executed, or at minimum, anytime before an eviction complaint is served.
 - Nowhere in the memorandums does it say that this needs to be raised as an affirmative defense, and that really puts too much of the burden and risk on tenants. Landlords should have to prove, as an element of any eviction for nonpayment of rent during this period, compliance with this Ordinance by attaching appropriate documentation (i.e., copies of the notice of the Ordinance they initially served on the tenant, evidence of any payments made and a declaration saying the Landlord did not receive any notification that the tenant was an Affected Tenant) to their 3-day notice. Obviously, noncompliance with the ordinance should still be a complete defense to eviction for an Affected Tenant, but the main burden of proof should be on the Landlord, as it is throughout the UD context.
 - The definition of "Affected Tenant" should include a category 5), which is in B.4. of the Mayor's memorandum: income loss from "other similarly-caused loss of income that resulted since the City's Resolution." The current definition lists only four specific causes of income loss, and does not include the "other" category from the Mayor's memo.
 - The motion included in Councilmember Diep's memo, which specifies a lot of alternative sources of documentation that tenants, but this draft only lists 3 of them (at the top of page 17 of the pdf). It says the list is not exhaustive, but the additional sources in CM Diep's memo should be listed. Those include a doctor's note, a comparison of this month's earnings to the immediate prior month or a 3-month average. And in keeping with my comment on this being an affirmative defense above, these sources of documentation should be identified as acceptable forms of documentation for Affected Tenants to provide their Landlords proof of substantial loss of income, *not* as documentation required to assert an affirmative defense.

- The Mayor's memo directs staff to include findings of particular industries affected, and Councilmember Diep's memo has a provision that says those findings and others noticed by Council such that "individuals in industries recognized as impacted will *automatically satisfy the causation requirement for relief* under this urgency ordinance." This was a separate item entirely from the point on documentation, and we don't see it anywhere in the Draft ordinance. Since it was separate from the point on documentation and says "automatic... relief," this means tenants in industries specifically noted as impacted by Council cannot be evicted even if they do not provide notification to their Landlord before their rent is due. The ordinance should include some industry-specific findings in the recitals, such as hotels, airlines, entertainment, and other service industries.

From: The Jacksons
Sent: Monday, March 9, 2020 2:13 PM
Subject: Corona Virus/Landlords

Dear Mayor Licardo - et al,

Why does Government appear to dislike Property Owners (landlords) so much?

I sacrificed very much to buy (and keep) my rental property(ies), hoping to have it supplement my retirement savings (*and retain some financial independence*) in my twilight years. I ate a lot of beans and oatmeal for the first few years - while future 'tenants' bought cars and clothes and vacations and had expensive parties. And now, after not having had as much fun in my youth as did my future 'tenants', the government tells me (over and over again) that I MUST share what I worked so hard for with those who made other choices in their early years.

Whatever happened to personal accountability?

And now landlords are being dictated to not evict * our tenant IF THEY CLAIM they got laid off from work due to absences caused by the Corona Virus.

Why did you make that the landlord's financial responsibility?

WHY DID YOU NOT, instead, PASS A BILL THAT PROHIBITS EMPLOYERS FROM LAYING OFF EMPLOYEES SHOULD THEIR EXTENDED ABSENCES BE DUE TO THE CORONA VIRUS?

That (to me) would seem to be the most logical approach to protecting tenants/employees since it would stretch BEYOND only protecting their housing costs and allow them to continue to afford food and utilities and medical and auto and.....expenses; items for which their landlord bears NO responsibility (*not yet anyway...??????*).

Or
ARE YOU SUGGESTING THE LANDLORD MUST 'CARRY' THEIR TENANTS UNTIL THEY FIND A NEW JOB?

Hmmm.... The proverbial straw....causing landlords to lose their property to foreclosure (*or sell it to a foreign conglomerate who will pay top dollar for it and then NOT care about American tenants*). And after their rental income is taken from landlords then they, too, will need to lean on the government for financial help - just like many current tenants do.

Can the government afford to support us all forever?

Thanks for hearing me.

Regards

Susan

* *The eviction process is an extremely lengthy and expensive one. It is not a financially sound decision to start an eviction process at the first late payment anyway. Most sensible land owners know this - without government mandates and controls.*

From: kathryn hedges

Sent: Monday, March 09, 2020 2:03 PM

To: The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>; Housing - CSJ <housing.csj@sanjoseca.gov>; City Clerk <city.clerk@sanjoseca.gov>; cityattorney@sanjoseca.gov; citymanager@sanjoseca.gov

Cc: PACT Core Housing Team ; N Aziz

Subject: Agenda Item 8.3

Dear Mayor Liccardo:

I agree with the letter from the Law Foundation of Silicon Valley that supports and extends your memorandum proposing a moratorium on evictions for overdue rent during the public health emergency for COVID-19.

I understand that mom-n-pop landlords may be personally affected by tenants not being able to pay rent on time. However, if they filed eviction, the process could last as long as the pandemic, and it may be difficult to turn units and fill vacancies in the middle of a pandemic anyway. The tenants don't need a "Scarlet E" on their records because they couldn't get work during the pandemic. We know this often leads to homelessness when they can't rent again due to the eviction. If they move to avoid it, they'll never be able to move back.

San Jose doesn't need to suffer more displacement of working people. San Jose will need these workers after the pandemic, and expecting people to commute from the Central Valley is why California's primary contribution to greenhouse gases is auto exhaust. If we are in a climate emergency, we need to reduce commutes, not increase them.

Regarding the expansion of the terms suggested by the Law Foundation, I agree that these are necessary. The tenants who will need this the most will be the hardest to reach by the deadline for April. They're also likelier to have difficulty documenting loss of income and proving it's related to the pandemic.

As you may recall, I'm a small business owner. I have exactly one order since the announcement of COVID-19 in the Bay Area, and it's a retail order for \$15. My wholesale customers' sales are down so they don't need to reorder. My retail events are being cancelled and so is a regional trade show. I'm sure this is true for other artisans too, and the hundreds of food vendors.

I understand some of the fears of small landlords, however. I believe we should expand the eviction prevention program to tenants affected by COVID-19 renting from small landlords.

However, I disagree that tenants will abuse the program or that landlords will be unable to evict tenants for other reasons such as destruction of property or assaulting neighbors.

Thank you for proposing this relief for tenants. I won't be attending the meeting due to social distancing, as I have health risks and have many elderly neighbors.

Kind regards,

Kathryn Hedges

From: Maria Yang

Sent: Monday, March 09, 2020 4:28 PM

To: The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>

Cc: District2 <District2@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; Davis, Dev <dev.davis@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; City Clerk <city.clerk@sanjoseca.gov>; Morales-Ferrand, Jacky <Jacky.Morales-Ferrand@sanjoseca.gov>; Ho, Nathan <Nathan.Ho@sanjoseca.gov>

Subject: Re: BAHN comments on 03/10/20 Council Agenda --- "Temporary Moratorium on Eviction"

Dear Mayor and Council-members,

We learned that the City is going to discuss an urgent moratorium to ban eviction due to Covid-19 on 03/10/20 council meeting, here are our comments and suggestions from the standpoint of mom and pop property owners, we hope you would take into consideration.

First of all, we as community members, are all deeply concerned and worried about the virus. This covid-19 pandemic is not only putting everybody's health in danger but also putting our jobs and businesses under huge risks.

While we fully feel for our tenants and we will try our best to help them during this difficult time, we would like to point out that, this Moratorium is UNFAIR by adding all the burdens on the shoulders of rental property owners.

As you may already know, many mom and pops are living mortgage by mortgage, many of us have full time jobs and young children, many of us are seniors who rely on the rents for living. The virus could impact us the same way as it impacts to our tenants. Furthermore, our property tax is due on Apr 10, we also have state and federal tax due by Apr 15. Any missing rents could put us in financial hardship to pay mortgage and tax, not to mention our own living costs. We are going to face foreclosure if we miss any mortgage or tax payments!

Therefore, we urge the City of San Jose to follow the model of the City of New York, to provide zero-interest loans or grants to business owners who are affected by income loss due to Covid-19 pandemic, to help us survive.

<https://www.cnn.com/2020/03/08/coronavirus-live-updates-grand-princess-to-disembark-passengers.html>

NYC to provide relief for small businesses

New York City will provide no-interest loans and grants for some small businesses impacted by COVID-19, New York City Mayor Bill de Blasio said. The city will provide no-interest loans of up to \$75,000 to small businesses that qualify, he said, adding that the city will offer \$6,000 grants for "mom and pop" businesses with five or fewer employees to retain staff.

We, homeowners, renters, property owners, small business owners, are all in this together. We rely on your leadership to win this battle without letting anyone down! Please don't foreclose rental property owners, let's learn from New York!

Thank you for your consideration!

Maria Yang
San Jose Rental Owner

From: BAHN Org

Sent: Monday, March 09, 2020 3:59 PM

To: The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; Davis, Dev <dev.davis@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>; District5 <District5@sanjoseca.gov>

Cc: City Clerk <city.clerk@sanjoseca.gov>; Morales-Ferrand, Jacky <Jacky.Morales-Ferrand@sanjoseca.gov>; Ho, Nathan <Nathan.Ho@sanjoseca.gov>; [bahn-bay-area-homeowners-network](#); [bahn-san-jose-chapter](#); BAHN SJ ; Bay Area Homeowner network

Subject: BAHN comments on 03/10/20 Council Agenda --- "Temporary Moratorium on Eviction"

Dear Mayor and Council-members,

We learned that the City is going to discuss an urgent moratorium to ban eviction due to Covid-19 on 03/10/20 council meeting, here are our comments and suggestions from the standpoint of mom and pop property owners, we hope you would take into consideration.

First of all, we as community members, are all deeply concerned and worried about the virus. This covid-19 pandemic is not only putting everybody's health in danger but also putting our jobs and businesses under huge risks.

While we fully feel for our tenants and we will try our best to help them during this difficult time, we would like to point out that, this Moratorium is UNFAIR by adding all the burdens on the shoulders of rental property owners.

As you may already know, many mom and pops are living mortgage by mortgage, many of us have full time jobs and young children, many of us are seniors who rely on the rents for living. The virus could impact us the same way as it impacts to our tenants. Furthermore, our property tax is due on Apr 10, we also have state and federal tax due by Apr 15. Any missing rents could put us in financial hardship to pay mortgage and tax, not to mention our own living costs. We are going to face foreclosure if we miss any mortgage or tax payments!

Therefore, we urge the City of San Jose to follow the model of the City of New York, to provide zero-interest loans or grants to business owners who are affected by income loss due to Covid-19 pandemic, to help us survive.

<https://www.cnn.com/2020/03/08/coronavirus-live-updates-grand-princess-to-disembark-passengers.html>
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Thank you for your consideration!

Jenny Zhao

BAHN Representative

The Bay Area Homeowners Network (BAHN) is a non-profit, grassroots organization representing mom and pop rental property owners in the Bay Area. BAHN advocates property rights and housing friendly policies. It promotes education and professional development among members for their daily property management needs. It provides a platform for homeowners to connect and help each other. Its mission is to help members achieve greater success in their rental housing business.

From: Mary Helen Doherty

Sent: Monday, March 09, 2020 3:39 PM

To: City Clerk <city.clerk@sanjoseca.gov>; The Office of Mayor Sam Liccardo
<TheOfficeofMayorSamLiccardo@sanjoseca.gov>; Peralez, Raul <Raul.Peralez@sanjoseca.gov>

Subject: San Jose City Council Mtg. 3.10.20 Agenda Item 8.3-Eviction Moratorium

Dear Mayor and City Councilmembers,

I'm writing in strong support of Mayor Liccardo's moratorium on evictions during the health risks we are experiencing related to the coronavirus.

In addition I request that the additional provisions requested in the attached letter from the Law Foundation of Silicon Valley be added as amendments to the Mayor's proposal.

Please vote in support of the hard working people of San Jose and support this Eviction Moratorium with the requested amendments.

Thank you,
Mary Helen Doherty

From: Martin Bell

Sent: Monday, March 09, 2020 4:29 PM

To: Morales-Ferrand, Jacky <Jacky.Morales-Ferrand@sanjoseca.gov>; City Clerk <city.clerk@sanjoseca.gov>; The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>

Subject: proposed eviction moratorium

Dear San Jose Housing Department and City Council,

I'm the pop half of a mom and pop landlord team. At the end of 2000, my wife - Charlene - and I risked everything we had to buy a scary 4-plex in south San Jose. It was the best we could afford. Since then, we have invested many thousands of dollars and thousands of hours of labor, sweat and sometimes blood to make it a fit place for families to call home and keep it that way. We would never rent a unit that we would not be comfortable in ourselves.

Now we find ourselves facing a health crisis and San Jose wants to impose a 30-day eviction moratorium. I'm sympathetic to the plight of working people who are victims of this crisis. So fine, let's slap a band-aid on the problem. But let's also acknowledge a few things:

- 1) Let's call this what it is: a mandatory unsecured zero-interest loan demanded of the San Jose housing providers.
- 2) The burden of this solution falls ONLY on the San Jose housing providers. The city of San Jose appears to contribute nothing, except their ability to force someone else to solve it.
- 3) The city should back these loans and make housing providers whole in cases where the tenant is ultimately unable to pay.
- 4) The city should provide assistance to help landlords reclaim their property, as needed, when the moratorium expires. It's fair to expect a speedy resolution when our ability to provide free housing runs out.
- 5) What about late fees? Will San Jose provide assistance in paying those?

I hope the San Jose Housing Department and City Council will impose this 30-day eviction moratorium and use that time to garner feedback from all parties to come up with more effective and equitable solutions.

Sincerely,

Martin Bell

From: murcal120

Date: Sunday, March 8, 2020 at 8:49 PM

To: The Office of Mayor Sam Liccardo

Subject: Don't Stop Evictions in San Jose

I own rental properties in San Jose. If my tenants don't pay the rent I can't pay the bills for the properties. It ruins my credit, I pay late fees, the water bill and property taxes, insurance, maintenance fall behind. Then code enforcement shows up at the properties. I could lose my properties. Then my tenants would be out on the street and homeless. My tenants that I have had for many, many years always find a job and it usually turns out to be a better job then they had before.

You are trying to run my property that I own. I have the right to evict a tenant for none payment of rent. I am thinking of selling my properties to stop the City of San Jose from controlling them. I have below market rents and the new owners will raise the rents out of range for my present tenants.

Do you think before you open your mouth?

Your get gun insurance idea does make any since either. I have a hard enough time keeping insurance without adding insurance these days.

On 3/6/20, 8:44 PM, "cka000" wrote:

I understand that the Mayor is considering a moratorium to stop evictions due to non payment

Mayor, please let me know who is going to help me when I have to make my mortgage to the bank

I worked two jobs to purchase a small property I am now disabled who is going to help me

Please let me know

Thanks

Chris

From: "j.gal7"

Date: Friday, March 6, 2020 at 8:06 PM

To: The Office of Mayor Sam Liccardo

Subject: Evictions San José

Dear Mr. Mayor,

I just saw your announcement about the eviction moratorium because of Covid virus. I have some questions, concerns, and comments:

What will landlords do when they can't pay the mortgage? Will landlords get assistance? An extension? What of the landlord's costs/bills? Why must landlords be disregarded in your consideration when deciding what to do when the city is confronted with a crisis? Landlords are not the villains they are stereotyped to be. Landlords help people and sacrifice so much but yet are disregarded when these decisions are made. Even the landlords without mortgages have costs and would be unfairly penalized.

How are the tenants to be verified? How will people know if they are truly affected by the Covid virus or if they just chose not to pay the rent? Who will verify this? Who will enforce it? How long will this be allowed?

Your decision will have so many consequences and repercussions to so many! Instead of having ONE family displaced from their home you will cause TWO families to be displaced because the landlords and their families will not be able to pay their bills and then they themselves will be displaced! Tenants need help, but not at the expense of others.

Aren't you the main proponent for ADU's? Build ADU's at such a humungous cost to San José property owners/landlords to start? How are they to pay the cost of the mortgages on said ADU's when they can't collect the rent? Default on those loans when a tenant "cant" pay?

The decision to do this appears to be a knee jerk reaction to the panic the Covid virus has caused. It does not make sense to cause an even bigger problem for even a greater number of families! Please rethink your decision to do this! For the love of not digging a deeper hole of which we cannot return and recover - please think this through!

I know the collective powers that be in the city can come up with a better more equitable solution for all. I believe in you!

Respectfully.

A Lifelong San Jose Resident - 6 generations deep and here to stay!

Picture: My Family - 5th generation San Joseans. She is one of many of your San Jose constituents who are counting on you to make equitable fair thoroughly thought out decisions.

From: PAUL ROSATI

Reply-To: PAUL ROSATI

Date: Friday, March 6, 2020 at 7:05 PM

To: The Office of Mayor Sam Liccardo

Subject: Sam's Proposal to City Council to Prevent Eviction

Dear Task Force for Mayor,

Please pass note to Sam that I do not support his proposal to prevent eviction of tenant who has lost job or hours due to Coronavirus. My 98 year old mom relies on rental income to pay expenses (property tax, gardener, property manager, curbs, gutter and cement repairs and tree trimming the City makes us do as well as her home health caregiver and other living expenses). If Sam is adamant to do this, I ask if he would consider an exemption for elderly retiree rental property owners that rely on rental income.

Thank you,
Paul Rosati

From: Bay Property Investments LLC

Sent: Monday, March 09, 2020 4:46 PM

To: BAHN Org ; The Office of Mayor Sam Liccardo ; District2 <District2@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; Davis, Dev <dev.davis@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>; District5 <District5@sanjoseca.gov>

Cc: City Clerk ; Morales-Ferrand, Jacky <Jacky.Morales-Ferrand@sanjoseca.gov>; Ho, Nathan <Nathan.Ho@sanjoseca.gov>; [bahn-bay-area-homeowners-network](#); [bahn-san-jose-chapter](#); BAHN SJ ; [p.sanders.tsc](#)

Subject: Re: [bahn] BAHN comments on 03/10/20 Council Agenda --- "Temporary Moratorium on Eviction"

I strongly agree with Jenny Zhao of BAHN.

The City Council needs not to place the financial burden upon landlords along with the already momentous new laws, ordinances, and restrictions that have already created undue hardship to landlords. When does this negativism, blame placing and oppression towards landlords stop?

It is time for the City to shoulder the burden and help out, show good faith and that they care about everyone, including landlords, rather than take the quick and easy (unethical way out) and just simply target landlords, again.

Follow New Yorks' way of addressing this COVID-19 issue with landlords.

Let's work together. Not cause a divide.

Brenton Graves
Bay Property Investments, LLC

From: [bahn-bay-area-homeowners-network](#) on behalf of BAHN Org

Sent: Monday, March 9, 2020 3:58 PM

To: The Office of Mayor Sam Liccardo <District2@sanjoseca.gov>; District1 <District1@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <district4@sanjoseca.gov>; Davis, Dev <dev.davis@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <district7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District10 San Jose <district10@sanjoseca.gov>; District5 <district5@sanjoseca.gov>

Cc: cityclerk@sanjoseca.gov <cityclerk@sanjoseca.gov>; Morales-Ferrand, Jacky <jacky.morales-ferrand@sanjoseca.gov>; Ho, Nathan <Nathan.Ho@sanjoseca.gov>; [bahn-bay-area-homeowners-network](#) <[bahn-bay-area-homeowners-network](#)>; [bahn-san-jose-chapter](#) <[bahn-san-jose-chapter](#)>; BAHN SJ ; Bay Area Homeowner network

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First of all, we as community members, are all deeply concerned and worried about the virus. This covid-19 pandemic is not only putting everybody's health in danger but also putting our jobs and businesses under huge risks.

While we fully feel for our tenants and we will try our best to help them during this difficult time, we would like to point out that, this Moratorium is UNFAIR by adding all the burdens on the shoulders of rental property owners.

As you may already know, many mom and pops are living mortgage by mortgage, many of us have full time jobs and young children, many of us are seniors who rely on the rents for living. The virus could impact us the same way as it impacts to our tenants. Furthermore, our property tax is due on Apr 10, we also have state and federal tax due by Apr 15. Any missing rents could put us in financial hardship to pay mortgage and tax, not to mention our own living costs. We are going to face foreclosure if we miss any mortgage or tax payments!

Therefore, we urge the City of San Jose to follow the model of the City of New York, to provide zero-interest loans or grants to business owners who are affected by income loss due to Covid-19 pandemic, to help us survive.

<https://www.cnn.com/2020/03/08/coronavirus-live-updates-grand-princess-to-disembark-passengers.html>

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New York City will provide no-interest loans and grants for some small businesses impacted by COVID-19, New York City Mayor Bill de Blasio said. The city will provide no-interest loans of up to \$75,000 to small businesses that qualify, he said, adding that the city will offer \$6,000 grants for "mom and pop" businesses with five or fewer employees to retain staff.

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Thank you for your consideration!

Jenny Zhao

From: Yong

Sent: Monday, March 09, 2020 4:46 PM

To: The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; Davis, Dev <dev.davis@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>; District5 <District5@sanjoseca.gov>

Cc: City Clerk

Subject: comments on 03/10/20 Council Agenda --- "Temporary Moratorium on Eviction"

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<https://gcc01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.cnn.com%2F2020%2F03%2F08%2Fcorona-virus-live-updates-grand-princess-to-disembark-passengers.html&data=01%7C01%7Ccity.clerk%40sanjoseca.gov%7C96c129989a3b40621d2e08d7c4841988%7C0fe33be061424f969b8d7817d5c26139%7C1&data=ukJNcRKp99jEk1lnVx4wCZkmZxmPaLfb5k80F6Q5HZQ%3D&reserved=0>

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Thank you for your consideration!

Catherine

From: Mahesh Kunjal
Sent: Monday, March 09, 2020 5:00 PM
To: District1 <district1@sanjoseca.gov>; The Office of Mayor Sam Liccardo
Cc: City Clerk
Subject: Moratorium on Eviction

Dear Mayor & Vice Mayor,

From the news I came to know that City is going to discuss an urgent moratorium to ban eviction due to Covid-19 on 03/10/20 council meeting, and am very worried.

I am deeply concerned and worried about the virus. This covid-19 pandemic is not only putting everybody's health in danger but also putting our jobs and businesses under huge risks.

While I fully feel for our tenants and will try my best to help them during this difficult time, I would like to point out that, this Moratorium is UNFAIR by adding all the burdens on the shoulders of rental property owners.

Here are my concerns from point as being a mom and pop property owner:
My properties have about 70% of purchase price as loan and am paying monthly mortgage.
I rely on rents to pay the mortgage, property tax, pay utilities(water, garbage) to the buildings.
Timing is very bad with Property tax and IRS dues for April.
Any missing rents could put me in financial hardship to pay mortgage and tax and also out own living costs.
I have a daughter pursuing here under graduate and have payments due to college are well.

I urge the City of San Jose to follow the model of the City of New York, to provide zero-interest loans or grants to business owners who are affected by income loss due to Covid-19 pandemic, to help us survive.

<https://www.cnn.com/2020/03/08/coronavirus-live-updates-grand-princess-to-disembark-passengers.html>

2:55 pm: NYC to provide relief for small businesses

New York City will provide no-interest loans and grants for some small businesses impacted by COVID-19, New York City Mayor Bill de Blasio said. The city will provide no-interest loans of up to \$75,000 to small businesses that qualify, he said, adding that the city will offer \$6,000 grants for "mom and pop" businesses with five or fewer employees to retain staff. "We're going into phase 2 now where the dominant reality is community spread," he said. —*Feuer*

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We rely on your leadership to win this battle without letting anyone down!

Please don't foreclose rental property owners, let's learn from New York!

Thank you for your consideration!

Regards,
Mahesh Kunjal



Advancing Justice
Housing | Health | Children & Youth

March 9, 2020

San José City Council
San José City Hall
200 East Santa Clara Street
San José, CA 95113

Re: Agenda Item 8.3, Eviction Moratorium

Dear Mayor and City Councilmembers:

The Law Foundation of Silicon Valley writes in strong support of Mayor Liccardo's efforts to enact a moratorium on evictions during the COVID-19 emergency. We are in unprecedented times and applaud the quick and decisive action taken by the Mayor and the City to protect its residents during this public health crisis. Additionally, we urge the Mayor and City Council to expand this eviction moratorium and enact an ***unconditional moratorium*** on non-payment of rent evictions until the emergency has passed.

At a minimum, the moratorium must include protections for tenants who do not learn of these emergency measures before their rent is due. These protections should include a requirement that landlords notify tenants of their rights during the emergency and a "right to cure" for tenants allowing them to notify their landlord of COVID-19-related financial impacts up until the date of the actual physical eviction in non-payment of rent cases.

I. The eviction moratorium should be unconditional to protect all impacted families.

As currently proposed, the moratorium would only apply to residents who can prove with written documentation that they have been affected by the COVID-19 *prior* to their rent being due. Many tenants will not be able to meet this requirement as tenants may not know they have such rights, especially given the fact that City services and public meetings are impacted by the emergency. Additionally, some tenants may not have access to this written documentation, including those who may be self-employed, or work in the "Gig" economy. Furthermore, some tenants may simply not be able to provide this written documentation to their landlord *prior* to their rent being due.

Given the severe consequence of evictions, including potential homelessness and potential for families moving into overcrowded conditions with the potential to spread the virus, we urge the City Council to consider an **unconditional moratorium** on evictions based on non-



payment of rent while the public health emergency remains. The City should declare that landlords may proceed with evictions or civil actions for non-payment of rent once the emergency has passed.

II. Alternatively, additional protections must be added so that eligible tenants are not denied protection for lack of knowledge or documentation.

Short of a full, unconditional moratorium on evictions, we encourage City Council to enact additional protections for tenants that would make it easier to access the moratorium's protection from eviction if they had financial consequences related to COVID-19. We suggest **requiring landlords to provide written notice of these emergency protections**, so that tenants are immediately made aware that they have rights during this emergency. This notification should also include information about emergency assistance resources so that tenants are aware of the protections and resources available to them.

Additionally, **the moratorium should include a "right to cure" for tenants** to allow them to notify their landlord their COVID-19-related financial difficulties at any time up until their physical eviction date. This will protect eligible tenant families who merely do not provide notification to their landlord on or before the day rent is due. This right to cure should allow tenants to remain housed if they can provide documentation and access emergency rent assistance or other assistance to cover the cost of rent. For example, if a tenant cannot provide written documentation that their failure to pay rent is related to a consequence of COVID-19 prior to rent being due, and the landlord does proceed with an eviction, the tenant should be given an opportunity to cure this breach and pay rent and prevent an eviction from happening.

To implement these protections, we propose adding the following language to the Mayor's memorandum:

- A. Landlords must provide tenants notification of the emergency ordinance, and provide tenants a copy of a notice of available emergency rental assistance resources prior to issuing a notice for non-payment of rent or proceeding with an eviction process related to non-payment of rent while the moratorium is in effect.
- B. Should a landlord proceed with an eviction while this moratorium is in effect, any affected tenants shall have a right to "cure" and remain in the property if the tenant provides adequate documentation, as described above, and payment of rent (either through emergency rent assistance or other services) any time **prior** to either their unlawful detainer trial date, or the date of the Sheriff's Writ of Execution.

III. The COVID-19 emergency requires Council to take strong action and offer long-term support to everyone in our community throughout this emergency.

Lastly, we acknowledge that an unconditional moratorium may have some immediate negative consequences for landlords. Nevertheless, we strongly encourage the City to proceed given the severe consequences of eviction while this public health crisis is ongoing. We

additionally support the City's efforts to work with the Apartment Association to support landlords during this moratorium, and hope that the City of San José will do all it can to minimize the long-run impacts of this crisis on the financial stability of our community.

We welcome an opportunity to discuss these comments with you. I can be reached at (408) 280-2453 or Nadia.aziz@lawfoundation.org.

Sincerely,

A black rectangular redaction box covering the signature of Nadia Aziz.

Nadia Aziz,
Directing Attorney

CC:
San José City Council
Rick Doyle, City Attorney
David Sykes, City Manager

From: John
Sent: Saturday, March 07, 2020 1:36 PM
To: District9 <district9@sanjoseca.gov>
Subject: Ordinance prohibiting eviction

Dear Councilmember Foley,

I am contacting you regarding 3.5, "Ratification and Extension of Proclamation of Local Emergency Due to Confirmation From the Santa Clara County Department of Public Health...

I have a single residential rental in San Jose consisting of one-half of my duplex which I live in. I was shocked and disturbed upon hearing the news last night that the San Jose City Council is considering mandating the landlord shouldering the entire financial burden of a tenant that can not or will not pay the rent because of some loose connection to Covid-19. This incredible responsibility incumbent on a single individual without notice or consent, having to shoulder the burden for one-third of the year before starting the lengthy and costly process for the possibility of future returns is too much to demand.

Housing providers do not want to evict, but at some point for different reasons it may become a necessity. Paying the bills, among other reasons, comes to mind. There are many programs that the various levels of government provide for people for various reasons, but the money for these programs comes from all of us, from the general fund, not from a single segment of society such as housing providers. Please reconsider this ordinance or at least spread around the burden to all members of our city.

Thank you,
John Fiebich

LAW OFFICES OF TODD B. ROTHBARD

TODD B. ROTHBARD
STEVE NAUMCHIK
RYAN MAYBERRY
SELVEN ANDERSON
ANDREW VANSLYKE

March 9, 2020
via mail and email

The Honorable Mayor Sam Liccardo
200 E. Santa Clara Street
18th Floor
San Jose, California 95113

email: mayoremail@sanjoseca.gov

Re: Eviction moratorium

Dear Mayor Liccardo,

I read in the San Jose Mercury this weekend that you will be proposing a moratorium on evictions for those impacted by the coronavirus.

Assuming that this news report was accurate (always a dubious assumption) I write to tell you that, in my view, this would be a terrible idea, for the reasons I will discuss below. In addition to outlining the shortcomings of such a proposal, I will respectfully suggest an alternative approach which would retain the benefits while eliminating the shortcomings.

The reason that a moratorium on evictions would be a bad idea are:

1. The proposal is based upon an assumption that the beneficiaries live paycheck to paycheck and, given a loss of income resulting from a cutback relating to the coronavirus, they cannot pay the current month's rent. The problem with this is that, when they become re-employed, there will then be an accumulated arrearage which they will not be able to pay. Thus, the eviction would be postponed rather than averted entirely as at some point they will have to come up with that accumulated arrearage and, given the paycheck to paycheck situation, it is highly unlikely that they will be able to do so.

2. An exemption from rental responsibility based upon drawing a nexus between the inability to pay and the coronavirus is an invitation to fraud. (A parallel can be seen in the requirement set forth in Code of Civil Procedure section 1161b that a foreclosing party must honor a lease entered into prior to foreclosure. In my practice of 45 years, I can count on the fingers of one hand the number of residential leases for a term over two years which I had seen prior to the enactment of this legislation - after it was implemented, however, I began to see a steady stream of five, ten, and twenty year leases which it was alleged were entered into pre-foreclosure - draw your own conclusions as to how many of these were valid). Most residential landlords are not set up to screen for and validate the claims of exemption based upon coronavirus impact.

3. Many residential landlords rely on rent to make their mortgage payments. Permitting delinquent tenants to remain in possession for the indeterminate amount of time that it may take to resolve the coronavirus situation puts these property owners at risk of losing their property.

None of the foregoing is to say that the economic disruption caused by the coronavirus isn't real or that those impacted by it won't need some financial assistance.

Let me, therefore, propose an alternative solution which would spread the cost of dealing with this situation to the taxpaying public at large rather than impose its impact upon a narrow group of property owners who are in no way at fault for the situation.

My proposal is this: Upon proof by an individual that he or she is unable to pay rent as a result of financial impact arising from the coronavirus, the City could make a low-interest loan to that individual (ideally by making the payment directly to the individual's landlord) which would enable the rent to remain current.

The advantages of this approach are:

1. Once the coronavirus situation has resolved and the need for financial assistance ends, the individual would not be facing an accumulated rental arrearage, but rather the need to begin paying rent as it accrues. Accordingly, there would be a greatly reduced likelihood of eviction for nonpayment after the crisis has passed.

2. A workable repayment schedule could be worked out with the City.

3. Assuming the loans are repaid, there would be no cost to the taxpayers. The low interest rate being charged should be sufficient to cover the cost of loan defaults.

4. The City is far better positioned to set up a mechanism to screen requests and filter out fraud than would be individual property owners. Further, the threat of prosecution for fraud would be far greater coming from the City than from a private entity and this would be a strong deterrent to fraud in the first instance.

5. Because the rent under this approach would be kept current, there would be no hardship imposed upon the property owners, no risk of mortgage payment default, and accordingly no risk of corollary damage to the local economy.

6. This approach puts the entire community to work resolving the problem rather than imposing its cost upon only residential landlords.

The Honorable Mayor Sam Liccardo
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7. This approach avoids legal uncertainties and the risk of costly litigation. Under the plan as described in the Mercury, property owners deprived of rental income to which they are entitled could allege an unconstitutional taking of their property without just compensation and a wrongful interference with contract. Were the coronavirus situation to extend over months or years, causing property owners to be unable to meet their financial obligations, this could become a major concern.

I'm hopeful that you will consider this alternate proposal as I believe it would be a much healthier and more equitable approach to the current coronavirus situation.

Respectfully,



Todd Rothbard

Evictions Moratorium

March 10, 2020

Dear members of the Council:

As an owner and manager of income property, I have been losing the struggle for fairness from this Council. The last four years have seen a steady reduction of property rights via the implementation of a terrible Rent Control, Tenant Protection and Ellis Act. It was interesting to hear the emergency person bemoan the packed apartments and others worrying about small business effected by the Covid-19 situation. There is nothing in my being that isn't moved by the dilemma of those tips dependent and low-wage persons struggling with the closing of many public gatherings in answer to the threatening pandemic. Yes, a landlord agrees that something should be done. My consternation comes from a societal dilemma a, the solving of which is placed only on the shoulders of housing providers.

I know you think you have no funds in the City coffers, yet you have collateral in the Measure E fortune coming within a few months. Why then can you not get a low interest loan and fill in the gaps of partial or complete loss of rents. You would be in a better position than I to insure their paying you back. Rather than tell us you'll intercede with the Feds to pay taxes, utilities, mortgage payments, knowing full well that those ongoing liabilities will not disappear. You were quite succinct in pointing out that rents are not forgiven. If there is no room for rent when a person's labor is disrupted, what makes you think that that tenant will have the capacity to pay back the rent owed.

I don't know why I expected anything else. This Council has never viewed income property owners as small businesses, even though they pay for Business License and support the burgeoning Housing Department. The Council has never seen the value in owners hiring painters, gardeners, carpenters, roofers, plumbers and masons. We are held to 5% ignoring CPI; You've taken away an owner's right to decide the right number of tenants in their apartment; the City has denied owners seeking utility sharing with those increased numbers, especially Water, which the City has not protected its citizens from the wild rises of San Jose Water Company.

Just Cause codified the usual practice of landlords, if the resident doesn't pay the rent, he has to go. That's not to say that owners don't try to work with the resident. They want to keep the resident, because evictions cost about \$1,500; the apartment needs cleaning painting possibly flooring and is vacant for a time. The Statistics of illegal evictions were always rare, but now 96% are for non-payment. One thing is clear, if a tenant has paid nothing down on rents by the next month's pay period, there is a definite probability that they won't. The Council, is prepared to extend the moratorium for the duration. So, the one program that City and Owners agreed on is now brought into the spotlight. I fear that this Council hasn't a clue as to why builders aren't building, why owners are suspicious and angered at being the least served.

David Eisbach, owner, manager [REDACTED]

Nguyen, Viviane

From: Nguyen, Viviane
Sent: Monday, March 16, 2020 12:10 PM
To: Nguyen, Viviane
Subject: FW: Renters request

From: Yuri Galeev
Sent: Monday, March 16, 2020 9:40 AM
To: RSP <RSP@sanjoseca.gov>
Subject: Renters request

Hello,

We have been experiencing difficulties with paying our rent due to the problems with income during outbreak. I found the information regarding the new eviction protection plan on SJ website, please advise on application process. Thanks!

Yuri Galeev
