



Memorandum

TO: THE HONORABLE MAYOR &
CITY COUNCIL

FROM: Councilmember Lan Diep

SUBJECT: ACTIONS RELATED TO
INCOME LOSS AND EVICTIONS
DUE TO NOVEL CORONAVIRUS

DATE: March 9, 2020

Approved

Lan Diep

Date

3/9/20

RECOMMENDATION

Adopt Mayor Liccardo's memo with these additional directions:

1. The following shall be deemed as adequate proof to qualify for relief under this urgency ordinance when presented with evidence of substantial loss-of-income:
 - a. Letters from employers citing Coronavirus as a reason for reduced work hours;
 - b. Letters from clients or customers citing Coronavirus as a reason for reducing or canceling purchase orders, requests of services-for-hire, or other profit-generating contracts;
 - c. Letters from schools citing Coronavirus as a reason to keep students at home, thus creating a need for childcare; and
 - d. Letters from a doctor recommending rest at home for school-aged children or seniors due to Coronavirus;
2. The City shall make findings of fact and take notice of objective news reports regarding the detrimental impacts of Coronavirus upon San José's economy so that individuals in industries recognized as impacted will automatically satisfy the causation requirement for relief under this urgency ordinance;
3. While paystubs are the best proof of income, time cards shall be acceptable if paystubs are not yet available at the time relief is sought;
4. In measuring substantial loss-of-income, claimants will have the choice of comparing earnings of the month when losses are claimed against the earnings of the previous month **or** the median average of earnings for the three months immediately prior. If this urgency ordinance is extended and relief is sought for additional consecutive months, future losses shall be measured against the same baseline of expected income chosen initially;
5. Renters must make a good faith effort to pay any portion of rent that they are able with their reduced income, after accounting for recurring personal expenses and without having to dip into personal savings; and

6. For the purposes of this urgency ordinance, only earned monthly income will be considered in assessing an individual's ability to pay rent – personal savings, investments, or the value of property in their possession will not be relevant.

BACKGROUND

As of this writing, there are at least 37 known cases of COVID-19 in Santa Clara County. It should be expected that the virus will continue to spread throughout our community. The Centers for Disease Control and Prevention recommends that people who are mildly ill with COVID-19 or other illnesses self-isolate at home and avoid interacting in public during their illness except to receive medical care. Fear of a widening public health crisis has already impacted consumer behavior, with many festivals and conventions being canceled.

As fewer people venture out for dining and entertainment, service workers – especially tipped workers – will see their incomes reduced. As more individuals get sick – especially children and the elderly – members of our workforce will require time off work to care for family members or their own health. Many residents in San José live paycheck-to-paycheck and may be unable to pay rent due to reduced income. Mayor Liccardo has proposed a moratorium on evictions for renters unable to pay rent due to reasons related to Coronavirus.

ARGUMENT

The memo authored by Mayor Liccardo presents persuasive reasons to support a temporary moratorium on evictions. Community transmission of the COVID-19 virus cannot spread if people isolate themselves at home and individuals cannot self-isolate if they are evicted from their homes. This memo seeks to simplify the application of protections created by this urgency ordinance by defining the standard of proof necessary to qualify for relief in the clearest and broadest terms possible.

The proposed urgency ordinance seeks to protect individuals with loss-of-income from eviction if their loss-of-income is a result of the Coronavirus. In practice, the connection between loss-of-income and the Coronavirus will not always be apparent without making inferences. Supporting documentation is not always easy to compile in a timely manner and working families needing relief should not be overly burdened with high standards of proof when confronted with the stress of possible eviction and worry over the health of a loved one resulting from a virus we know so little about. Relief should come easy for those who need it. At the same time, landlords should not be expected to lose all rental income completely when the adverse impacts of the Coronavirus still allow tenants to pay some portion of their rent.

CONCLUSION

This Council should adopt a temporary moratorium on evictions in cases of loss-of-income due to Coronavirus as proposed by Mayor Liccardo, with the additions outlined in this memo.