



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: June 23, 2022

Approved

Date

06/23/22

**SUBJECT: CITYWIDE RESIDENTIAL ANTI-DISPLACEMENT STRATEGY
QUARTERLY STATUS REPORT**

SUPPLEMENTAL

REASON FOR SUPPLEMENTAL

In its June 9, 2022 meeting, the Neighborhood Services & Education Committee moved to cross-reference the Citywide Residential Anti-Displacement Strategy Quarterly Status Report to a City Council agenda in June. This supplemental memorandum provides the City Council with an update on the expiration of AB 2179 (Grayson) COVID-19 Relief: Tenancy which expires on June 30, 2022. It also provides an update on State rental assistance and the Department's programs to prevent evictions.

BACKGROUND

On March 22, 2022, the Housing Department provided the City Council with an update on the State's eviction protections under AB 832 California's COVID-19 Recovery Act. The limited tenant protections in place under AB 832 expired on March 31, 2022. The City Council directed the Housing Department to return on April 5, 2022 with a local eviction moratorium ordinance. In late March, AB 2179 was introduced in the State Legislature. AB 2179 included language that preempted jurisdictions from enacting a local moratorium through June 30, 2022. At the March 29, 2022 City Council meeting, the Intergovernmental Relations team provided an update to Council on the potential new law as part of the 2022 Spring Intergovernmental Relations Report¹. Per Council's direction in response to that March 29, 2022 legislative update, because the State enacted AB 2179 with both the preemption and the extension of the protections, the

¹ Staff supplemental memorandum March 29, 2022:

<https://sanjose.legistar.com/View.ashx?M=F&ID=10676573&GUID=D7AB094C-0E87-42FD-97A6-52E14EB3BE2F>

Housing Department did not return with recommendation for a local eviction moratorium ordinance.

ANALYSIS

Assembly Bill 2179

On March 31, 2022, Lieutenant Governor Eleni Kounalakis, serving at the time as Acting Governor, signed AB 2179 into law. AB 2179, representing a compromise crafted by Legislative Leadership, passed out of the Legislature with bipartisan support. AB 2179 did the following:

- Extended, through June 30, 2022, legal protections against eviction based on nonpayment of rent or other financial obligations under the lease that accumulated between March 1, 2020 and March 31, 2022, provided that, as of March 31, 2022, there is an application pending for emergency rental assistance;
- Updated the content of notices that landlords must provide to tenants after March 31, 2022, and before July 1, 2022, prior to seeking a court order for eviction based on nonpayment of rent;
- Extended, through June 30, 2022, a statewide preemption of local laws. Local jurisdictions are preempted from applying new or additional local protections against eviction for nonpayment of rent if that rent accrued on or before June 30, 2022; and
- Closed the State COVID-19 Rent Relief Program to new applications March 31, 2022.

The existing protections for tenants with unpaid rent between March 2020 and September 2021 due to COVID-19-related financial impacts² remain in place. Thus, the end of the limited eviction protections primarily impact tenants who submitted rent relief applications for rent accrued between October 1, 2021, and March 31, 2022.

There is no pending legislation to extend protections for tenants with pending State COVID-19 Rent Relief applications any further. Thus, those protections are expected to expire June 30, 2022.

Progress of State COVID-19 Rent Relief Program Applications

The processing of rent relief applications by the State has stepped up considerably during the last quarter. The Housing Department receives weekly reports from the State showing the progress of processing State COVID-19 Rent Relief applications from City of San José residents. The most recent report dated June 18, 2022 shows that out of 10,970 completed applications so far, \$114,836,677 has been paid out on behalf 9,836 San José households. Over 4,000 of those applications were processed since April 1, 2022. During the Housing Department staff's weekly

² Staff report March 22, 2022: <https://sanjose.legistar.com/View.ashx?M=F&ID=10663969&GUID=E64505D6-86C1-45B9-AE85-41431AFB6976>

meetings with the State COVID-19 Rent Relief Program managers, State staff reported that they were confident the remaining 1,134 applications would be processed by June 30, 2022.

Eviction Diversion and Settlement Program

As previously reported to Council³, the Housing Department and the County's Office of Supportive Housing, in coordination with Sacred Heart Community Services, Destination: Home, and the Project Sentinel Court Mediation Program, developed the Eviction Diversion and Settlement Program (EDSP) to mitigate the delays in rent relief application processing that have put some tenants at imminent risk of eviction. The program uses the City's and County's remaining federal Emergency Rental Assistance funds from U.S. Treasury to stop a pending unlawful detainer (eviction) action, based in whole or in part, on nonpayment of rent, by quickly paying directly to the landlord unpaid amounts on behalf of tenants with pending state rent relief applications and any eligible rent amounts that came due after April 1, 2022. The EDSP began processing cases May 18, 2022, and as of June 16, 2022 has intervened in at least eight pending unlawful detainer cases, helping to avoid forced evictions and alleviating COVID-19 rental debt.

The effort to identify potential EDSP cases is a collaborative one comprised of many unlawful detainer court stakeholders. Housing Department staff and EDSP partners are on-site during unlawful detainer court calendars and work with parties, mediators, and landlord and tenant attorneys to identify potential cases. The EDSP also receives referrals from landlord attorneys, tenant attorneys, the Court Self-Help Center and other people who interact with unlawful detainer litigants. In addition to expediting rent relief payments and avoiding forced evictions, the EDSP provides additional benefits to the community. Some examples include:

- The State COVID-19 Rent Relief Program only covers rent through March 31, 2022. When eligible, the EDSP can cover some unpaid rent due after April 1, 2022.
- Some State Rent Relief applications were denied or put in inactive status, but not for reasons based on tenant eligibility. The EDSP reviews the State application, determines the tenant is eligible and works with the tenant and landlord to obtain the missing information.
- Upon evaluation, if the EDSP cannot cover some or all of rent amounts, as part of the process Sacred Heart screens the applicant for the Homelessness Prevention System. Even if the tenant is not eligible for funding through the Homeless Prevention System, Sacred Heart works with partners to identify other sources of assistance.

It is important to note that the Emergency Rental Assistance federal funds the EDSP is using must be obligated by September 30, 2022 and the program is expected to end later this summer.

³ Staff report March 22, 2022: <https://sanjose.legistar.com/View.ashx?M=F&ID=10663969&GUID=E64505D6-86C1-45B9-AE85-41431AFB6976>

Weekly Unlawful Detainer Courthouse Clinic Launched

In an exciting development, in early May, the Court committed to providing Housing Department staff and its partners use of a courtroom space in the Downtown Superior Court on Wednesday mornings to hold a weekly unlawful detainer clinic. This holistic weekly clinic offers a spectrum of resources to parties involved in unlawful detainer actions and was established by a collaboration of Housing Department staff, court administration, Superior Court Self-Help Center staff, the County, Sacred Heart Community Services, Project Sentinel Court Mediation Program and Destination: Home.

The weekly clinic is the culmination of years' long effort by the aforementioned partners, is open to all parties and strives to provide as many opportunities as possible to help parties resolve their disputes and, ideally, avoid forced evictions.⁴ The clinic soft-launched on June 1, 2022, and is currently staffed as follows:

- Housing Department staff is available to assist with tasks and questions related to pending state rent relief applications and to screen for eligibility for EDSP.
- Sacred Heart Community Services is available to screen tenants for the Homelessness Prevention Program and other resources that could help them avoid eviction or transition to more stable housing.
- Superior Court Self-Help staff assists tenants with preparing and filing answers to unlawful detainer actions and other emergency filings related to eviction.
- Project Sentinel's Court Mediation program is available to provide tenants and landlords dispute resolution options that could avoid parties going to trial or assist landlords in resolving their issues with a tenant without filing an unlawful detainer action.

As the clinic becomes more established, the goal is to have different organizations and programs staff the clinic on a rotating basis. Legal aid attorneys could provide tenants legal counseling and possibly representation in certain circumstances. The Housing Department already has a referral process in place with the Law Foundation of Silicon Valley and Bay Area Legal Aid and can make the referral for tenants who visit the clinic. Resources for unrepresented landlords will be available and they will be able to schedule appointments with Self Help Center staff if further assistance is needed.

The clinic is not intended to be a temporary program, and it is the goal of the partners to make the weekly clinic a fixture at the court that will lead to a significant decrease in eviction judgments and tenant displacement. As the EDSP winds down, the weekly clinic will continue and will be an essential tool in catching tenants who are in the final stages of the eviction process, get them connected to financial and other resources and avoid a forced eviction.

⁴ Note that a Housing Collaborative Court was included in Recommendation 1 of the Citywide Residential Anti-Displacement Strategy.

CONCLUSION

With the end of limited eviction protections under AB 2179 on June 30, 2022, Housing Department staff does not recommend City Council consider any urgency legislative action. The protections under AB 2179 apply to tenants with pending State rent relief applications and the State is confident the remaining applications will receive final determinations by the end of June 2022. The EDSP is intended to “catch” any tenant at risk of eviction based on non-payment of rent where their rent relief application may still be pending, was denied based on a curable deficiency, or stalled out for other reasons and the program will continue past June 30, 2022. Furthermore, the preemption provisions of AB 2179 prohibit local jurisdictions from enacting a local moratorium based on non-payment of rent through June 30, 2022.

COORDINATION

This memorandum has been coordinated with the City Attorney and the City Manager’s Office of Administration, Policy and Intergovernmental Relations.

/s/
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Director of Housing

The principal author of this memorandum is Emily Hislop, Division Manager. For questions, please contact her at Emily.Hislop@sanjoseca.gov, (408) 535-3860.