



Memorandum

TO: CITY COUNCIL

FROM: Mayor Sam Liccardo

SUBJECT: SEE BELOW

DATE: January 23, 2019

Approved

Date

1/23/19

SUBJECT: FEDERAL SHUTDOWN: TENANT EVICTION MORATORIUM

RECOMMENDATION

1. Adopt an urgency ordinance that establishes a 90-day moratorium for non-payment of rent for tenants with incomes affected by the federal government. Specifically, the ordinance would:
 - a. Invoke the urgency provisions in the City Charter, as an emergency measure for immediate preservation of the public peace, health or safety, to adopt an ordinance to temporarily prohibit eviction of a tenant for nonpayment of rent, if that tenant:
 - i. Is a holder of a federal housing voucher, such as Section 8 (including Veteran's Administration Supportive Housing (VASH) vouchers), or the beneficiary of another federal rent subsidy, and the responsible federal agency has failed to make its standard, routine payment of such subsidies due to the federal shutdown; or
 - ii. Is an employee of a federal agency or a federal contractor who is not being paid as a direct result of the federal shutdown.
 - b. Provide that the moratorium will expire ninety days (90) days from adoption or thirty (30) days after the end of the federal shutdown, whichever is sooner.
2. Direct staff to evaluate temporary relief of fees and taxes paid by landlords affected by nonpaying tenants, such as deferral of collection of occupancy fees, business license taxes, and apartment rent ordinance fees (to the extent they haven't already been paid). Return to Council in approximately three weeks should the shutdown continue, so that Council can consider a deferral of these fees until landlords have restored their receivables from nonpaying tenants.

BACKGROUND

For tenants relying on federal programs or federal jobs to pay their rent, anxieties are understandably running high. Depending on a tenant's circumstances, there is some some solace to address tenants' fears:

- Federal law prohibits landlords from holding tenants with Section 8 vouchers liable for a local housing authority's nonpayment of rent.
- Our local Housing Authority informs us that they should have sufficient funding for another six weeks to make payments on its portion of Section 8 rent.
- The Tri-County Division of the California Apartment Association (CAA) is actively educating landlords about their obligation to forebear on evicting Section 8 voucher households, and is encouraging its members to voluntarily decline to evict nonpaying federal employees. I am grateful to the CAA for their enlightened efforts, and to the many local landlords willing to support their tenants during this difficult time.

Unfortunately, these facts do not protect all our residents whose dependence on federal payments make them vulnerable. First, it's not clear that all of the recipients of the various types of federal rent subsidies have the same eviction protections possessed by Section 8 tenants. Second, we know—both from local legal aid organizations as well as national news reports, such as a January 21, 2019, New York Times article—that some landlords are demanding tenants to make up the difference resulting from the federal nonpayment of rent subsidies. With 95% of HUD employees furloughed at this time, HUD cannot inform and educate tenants of their rights and landlords of their obligations. We hope that media accounts of the Council's action will do so. Third, employees of federal contractors or agencies do not have any eviction protections. I appreciate CAA and many of its members stepping up to support community members through this difficult time, but not all landlords are CAA members, and not all will participate.

Every tenant deserves some reasonable level of assurance that the dysfunction of Washington, D.C., will not leave their families sleeping on the street. This temporary urgency measure seeks immediate preservation of the public peace, health, and safety due to the risk of eviction and homelessness of hundreds of affected pensions in an extremely expensive housing market. Many tenants will obtain back-pay after the federal shutdown resolves, enabling them to pay the unpaid rent. This ordinance will not prevent landlords from taking legal action to recoup unpaid rent.

We all hope that by the time that Council considers this action, we'll see a resolution of the federal shutdown. Frankly, I lack confidence in the White House's ability to negotiate such a compromise, however, and I'm not willing to bet the safety or well-being of my residents on it. The lack of demonstrable progress in negotiations these past month should provide ample basis for justifying this urgency action, before the situation becomes any worse.