



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Councilmember Carrasco

SUBJECT: Extension of Residential Moratorium **DATE:** April 10, 2020

Approved Magdalena Carrasco

Date

Recommendations:

I. Modify eviction moratorium to include the following additional protections for tenants:

(1) prevent landlords from serving an eviction notice on a tenant if they have reason to know that the tenant is currently impacted by COVID-19;

(2) prevent a landlord from evicting a tenant because the tenant has been infected or is suffering from COVID-19, under the pretext of another viable reason for eviction such as owner move-in, breach off agreement, or a COVID-19 related nuisance;

(3) after a tenant has been served notice from a landlord, allow tenant up to 7 days to provide a notice informing the landlord that they have been impacted by COVID 19; and

(4) protect tenants unable to provide COVID-19-related documentation to landlords from harassment and retaliation under section 17.23.1270 Anti Retaliation Protections of our City's moratorium.

II. Direct staff to craft a template affidavit that tenants can submit in cases where tenants are unable to provide any other verifiable evidence of their COVID-19-related impacts, as is often the case with undocumented individuals working in the informal economy.

Background:

The Governor's Executive Order issued on March 16, 2020, suspended the state legislature's power to preempt statewide laws governing evictions but outlined the spirit of the policy to be one in favor of tenants, for the safety and welfare of the public, and to keep people housed during this health crisis. Because as the Governor states, "homelessness can exacerbate vulnerability to COVID-19..." With this underlying intent, the Governor later issued a second executive order providing baseline protections for tenants in local municipalities that had not passed tenant eviction moratoriums.

Most recently on April 6, 2020, the California Rules of Court regarding unlawful detainer actions i.e., evictions were amended and in effect created a moratorium on evictions throughout the state

of California until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the Judicial Council.¹

While the amendment of the court rules protects tenants from being legally evicted during this crisis, they do not protect tenants from unnecessary coercion or harassment. Despite issuance of the court's orders this week, some residents have received a threat of eviction from property managers for nonpayment of rent. This is likely taking place as a result of a lack of information and a rapidly evolving legal landscape. Still, it has the potential to occur as a way to coerce tenants into vacating the property or to harass, which is what some of our residents have reported.

Moreover, undocumented residents who rely on the informal economy and work as street vendors or day laborers often do not have proof of income, a bank account, or an employer to write a letter as verifiable documentation. As such, we should either eliminate the evidentiary requirement, as it is not required per the Governor's order or allow for self-attested documentation by a tenant such as in the form of a letter or affidavit to meet the evidentiary requirement for protection under the moratorium.

Local municipalities across the state have made good use of their emergency police powers by enacting tenant protection laws that comport with the spirit of the Governor's order. We urge our city council to pass the most expansive tenant protection moratorium on evictions, in the state of California to hold to the orders of the Governor and keep all residents safe, which in this context means housed.

¹ The amendment to the court rules, mandate the deferral of the issuance of a summons in an unlawful detainer action, except where necessary to protect public health and safety. The court rule amendments further state that as of April 6, 2020, a court may not enter a default or default judgment for restitution in an unlawful detainer action for failure of a defendant to appear in court, unless the court finds that the action is both necessary to protect public health and safety and that the defendant has not appeared in the action within the time provided by law. The Court Rule amendments further state that a court may not set a trial date earlier than 60 days after a request for trial is made unless if it is to protect public health and safety.