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news

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The **Rental Property News Magazine** is published monthly by the Santa Barbara Rental Property Association, Inc. Editorial/advertising offices are located at 123 West Padre Street, Suite D, Santa Barbara, CA 93105. Phone (805) 687-7007, Fax (805) 687-9708. Subscription is included in the annual membership dues.

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SBRPA Executive Director Laura Bode Letter to Members – Current State of Affairs



March 20, 2020

Dear Members,

It's been a surreal month hasn't it? New legislation seems to be spreading even faster than Covid-19. Here are some highlights. For more detail, read this month's PRESIDENT'S REPORT by Betty Jeppesen.

MORTGAGE FORBEARANCE

SBRPA current President Betty Jeppesen and immediate Past President Jim Carrillo and I had a discussion with the Chair of the California Assembly's Banking and Finance committee - our own local Assembly Member Monique Limón.

Monique was very distressed to hear that some of you have been refused mortgage forbearance. She and her committee had been working closely with state charter banks and had an agreement from them for 3 months forbearance. Monique asked those of you having difficulties to contact her directly with the name of your bank as she would like to help.

Assembly Member Monique Limón assemblymember.limon@asm.ca.gov

We also discussed with Limón AB 828, (Ting's bill proposing that there be a 25% reduction on rent for tenants against whom you are eventually forced to file an unlawful detainer for non-payment of rent.) Monique gave us a lot of good advice and suggested that this bill may no longer go through because of the new judicial order that was put in place the previous week.

A copy of the notes Betty made of our discussion are included in the magazine.
(see page 20)

ABA 828

Also included in the magazine are pages 8 and 9 of the Amendments to Assembly Bill No. 828.
(see page 25). Full bill on www.sbrpa.org website.

JUDICIAL COUNCIL

At an April 6, 2020 emergency meeting, California's Judicial Council's approved Emergency Rule 1 – Unlawful Detainers, which provides for a 25% reduction in rent during unlawful detainer actions. In the magazine you will find a letter written by SBRPA Board President and CalRHA's Legal Affairs committee asking for modification of the Rule.

CITY OF SANTA BARBARA JUST CAUSE EVICTION ORDINANCE

The April 21st hearing on the Just Cause Eviction Ordinance has been postponed, giving you until May 15th to send your comments to City Attorney Ariel Calonne on the draft ordinance. In this magazine you will find the first 7 pages of the Draft Ordinance. The full draft is on the sbrpa.org website. It includes the results of the "Relocation Assistance Study" commissioned by the City which recommends tenant relocation assistance of the following amounts:

Proposed Relocation Assistance Amounts				
Within the City	Studio	1-Bedroom	2-Bedroom	3+ Bedroom
General Population	\$2,365	\$2,700	\$4,583	\$7,125
Special Needs	\$2,571	\$2,921	\$5,468	\$8,460

SBRPA.ORG WEBSITE

Please refer to the sbrpa.org website for further information. For example, you will find a report by the Wall Street Journal on April rent payments. In this report, you will learn:

- Changes in rent payment behavior for the month of April
- Notable shifts towards partial payment behavior
- Adoption of COVID-19 resident relief programs, including payment plans
- Comparisons and trends across major metro areas
- Behavior and impact by asset class

Also on the website, use the "Voter Voice" link to contact your Member of Congress and demand Congress protect apartment communities!

Currently, I am your only staff member at SBRPA. Much of my time is being absorbed by tracking new legislative initiatives and lobbying on your behalf. In addition, we are in the process of setting up a new financial software system at SBRPA. So, if I don't respond to your email immediately, please know I am working as hard as I can to get back to all of you quickly. It's a challenging time. What keeps me going? All the positive feedback and encouragement you have been sending me!

Thank you so much. I am proud to be part of SBRPA.

Yours,

Laura G. Bode
Executive Director, SBRPA

President's Message



Betty L. Jeppesen Esq. • Attorney at Law and Real Estate Broker

What a month April has been! I hope that you are all safe and healthy and observing the recommendations to halt the COVID-19 pandemic. Rest assured that your Board of Directors has been working diligently on your behalf during this crisis.

In the landlord and tenant field, we ended March with the City Council unanimously adopting on March 24th, Ordinance No. 5941, an "AN UNCODIFIED EMERGENCY ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA ENACTING A TEMPORARY MORATORIUM ON EVICTIONS FOR NON-PAYMENT OF RENT BY RESIDENTIAL AND COMMERCIAL TENANTS WHO HAVE BEEN HARMED FINANCIALLY AS A RESULT OF COVID-19." This meant that tenants who sent their landlords written notice with documentation by April 21, 2020, that they had been financially affected as a result of the COVID-19 pandemic would not have to pay rent through May 31st. The rent was not forgiven but deferred. Santa Barbara City Attorney, Ariel Calonne, was gracious to send the draft to me for review and took into consideration many of the suggestions. He also stated several times during the City Council meeting that SBRPA had made many helpful suggestions.

Friday, April 17, I received this message from City Attorney Colonne: "On February 11, 2020, the Santa Barbara City Council directed preparation of a Just Cause Eviction Ordinance which would be more protective than the state's Tenant Protection Act of 2019 (AB 1482). The City Council also directed preparation of a Relocation Assistance Nexus Study for further consideration of possible relocation assistance payments for no-fault just cause evictions. The City retained Keyser Marston Associates, Inc. (KMA) to prepare the study."

On April 17, 2020, the City Attorney's Office released a Public Comment Draft package including four documents: 1) Staff report to the City Council's Ordinance Committee, 2) draft Just Cause Eviction Ordinance, 3) draft Relocation Assistance Payment Amount Resolution, and 4) the KMA Relocation Assistance Study. The package is available for download from the City Attorney's Office Rental Housing Information webpage (<https://www.santabarbaraca.gov/documents/Public%20Comment%20Draft%20SB%20Just%20Cause%20Eviction%20Ordinance%20042120.pdf>).

This matter was originally scheduled to be heard by the City Council Ordinance Committee on April 21, 2020. Due to COVID-19, this meeting is being delayed to accommodate and encourage increased written public participation. You are invited to deliver written comments to City Attorney Ariel Calonne at acalonne@SantaBarbaraCA.gov no later than May 15, 2020. Your comments will be summarized and presented to the Ordinance Committee during its deliberations.

Please call City Attorney Ariel Calonne at (805) 564-5326 should you have questions.

I will be reviewing this draft ordinance and make comments to me or directly to Mr. Calonne by May 15th. See page 33 for the draft Just Cause Eviction Ordinance.

The City of Goleta, on the same day as Santa Barbara, March 24th, adopted Resolution No. 20-18 specifically section B which placed a temporary moratorium on evictions for non-payment of rent by residential tenants impacted by the COVID-19 crisis.

April 6, 2020, the California Judicial Council chaired by California Supreme Court Chief Justice Tani G. Cantil-Sakauye enacted emergency Rules 1 through 11 effective immediately. These are now part of the California Rules of Court, Rules 1 – 11. Rule 1 concerns Unlawful Detainer actions in California. The Courts are directed not to issue Summons in Unlawful Detainer cases unless the case is "necessary to protect public health and safety" and the court must so find. This means that you can FILE an unlawful detainer case but you cannot serve it on the tenant; so, your case does not move forward. This supersedes the local rules because this is state-wide. And, this is for all reasons for eviction not just non-payment of rent UNLESS you can prove that the action is necessary to protect public health and safety. It is possible, I have one case out for service by the Sheriff's Civil Bureau right now. But, my understanding is that it is the only one in the Court right now. The worst part is that the "sunset" of this Rule of Court is: "This rule will remain in effect 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.**"



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As a member of the CalRHA Legislative Committee, I attend, on your behalf, weekly meetings about upcoming legislation. CalRHA formed an Emergency Judicial Council Task Force which I co-chair to write to the California Judicial Council asking them to meet again and to amend Rule 1. Please see page 22 for a copy of the letter that went to the Judicial Council on April 15, 2020. Landlords cannot wait until 90 days after the Governor declares the state of emergency ended to receive rent. Landlords have their mortgages to pay and maintenance and utilities to pay for along with many other expenses. Not all banks are deferring mortgage payments. It is only Freddie Mac and Fannie Mae loans that have been given specific directions and we understand that banks are not granting relief. Executive Director Laura Bode will be giving you information about the difficulties that most of our members have encountered when trying to reach their lending institutions. Also, landlords have property taxes to pay. The Governor and the Legislature have left it up to the individual counties what to do in this regard. Santa Barbara County is taking applications for waiver of penalties following the property tax due date of April 10th on an individual basis but there is no guarantee that any penalty waiver will be granted.

On April 15th, as arranged by Board Member and former President, Jim Carrillo, he, your Executive Director Laura Bode and I had a telephone conference call with Assemblymember Monique Limón. Please see page 20 for my notes from that conversation. I learned a lot. She is asking us all to give her information about what is working and what is definitely not working. For example, she thought that the mortgage payments were definitely being deferred by all banks. Not so. She has asked for specific examples of your situations. So, please give them to Laura so that we can pass them on to Ms. Limón

We are still watching Assembly Bill 828, which is to be considered when the Legislature meets again. It is currently in the Senate and will then go to the Assembly for discussion and vote. That is so because AB 828

started out as a Bill against human trafficking but in order to get a new Bill before the Legislature, it was gutted and is now known as Amended AB 828 as you may discover when you try to Google it. Please see page 25 for a copy of AB828. Assemblymember Phil Ting is the author of this Bill. Please write to your representatives with your thoughts. If this Bill passes, if an owner files an unlawful detainer action against a tenant and that tenant successfully demonstrates that he or she did not pay rent because he or she was financially affected by the COVID-19 pandemic, the owner must reduce the rent for the unit by 25% for the next 12 months; there will be no late fees or attorney fees owed; and, this section would be in effect until January 1, 2022.

It is important that you join us in the fight against this Assembly Bill's enactment. We are working for you but we need your voices to be heard about why this will significantly impact you. You will be receiving an email with bullet points plus contact information for the members of the California Judicial Council. It is important to be respectful but they must hear from you about your difficulties.

Whew. We have been working hard. Please help us by helping to fund the PAC so that we can cover expenses and by giving us your input.

Finally, ending on a happy note, subject to certain requirements, if you filed an income tax statement for 2018 or 2019, you should find an automatic deposit in your bank account for \$1,200 for each filing adult and \$500 each per child. Check the IRS website to see if you qualify.

Stay safe and healthy!

Betty L. Jeppesen
President, SBRPA



WELCOME NEW SBRPA MEMBERS

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If you have difficulty completing the form, call the office for assistance at 805-687-7007 or admin@sbrpa.org.

We look forward to having you join the SBRPA community!

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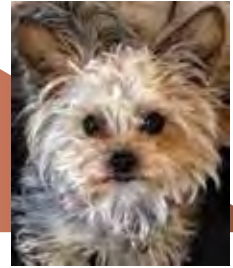
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Meet the Office Support



Office Support, Miss Coco

Meet SBRPA's new Office Support, Miss Coco Loco.

Coco is doing her best to act as Executive Director Laura Bode's office assistant and helping her hold down the fort during the COVID-19 pandemic. While many people are not working, our Board of Directors and Officers (and assistants) have been busy keeping track of the new ordinances and laws that affect our industry.



Coco ready to help with the daily mail

Coco enjoys her current job tasks, and hopes she can continue to lend her personality and skills to the SBRPA office staff.

When working from home, Coco is a great calming influence. When at the office, Coco is the visitor early warning system, a handy tool for proper social distancing.



Acting as a Good Will Ambassador at 2019's Santa Ynez Day



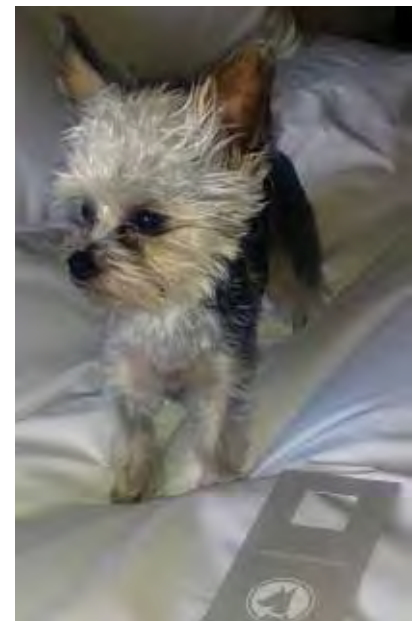
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Chris Zraggen, Capitol Advocacy

April 16, 2020

Legislative business was turned on its head in mid-March when the COVID-19 outbreak became a pandemic and Governor Newsom declared a State of Emergency in California.



Instead of policy and budget committee hearings, COVID-19 mitigation and response dominated state business. Lawmakers passed emergency COVID-19 funding legislation on March 16th before closing the Capitol and adjourning for an early, extended spring recess until May 4th (or later). On March 19th, Governor Newsom issued a statewide stay-at-home order, (<https://www.gov.ca.gov/2020/03/19/governor-gavin-newsom-issues-stay-at-home-order/>) directing all non-essential services to close and most Californians to stay at home.

Because the Legislature is on recess, the Governor has had near-total authority to lead the state. He has issued over two-dozen executive orders, including a state-on residential evictions through May 31st.



Governor Newsom

Prior to this order, Newsom released an **Executive Order** (<https://www.gov.ca.gov/2020/03/16/governor-newsom-issues-executive-order-to-protect-renters-and-homeowners-during-covid-19-pandemic/>) authorizing local governments to temporarily ban evictions. Although the more recent order applies to tenants across the state, it does not supersede more stringent local ordinances. Local governments that have implemented their own ordinances include Los Angeles, Oakland, Sacramento, San Francisco, San Diego, San Jose, and Santa Barbara – just to name a few.

In order for a tenant to qualify for the protection under the Governor's Executive Order, the tenant must have "paid the rent due" to the property owner prior to March 27th pursuant to an "agreement"; must notify the property owner within seven days of the rent due

date that they will be unable to pay some or all of the rent due to a COVID-19 related financial hardship; and must have "verifiable documentation" to support their claim that they cannot pay. Although the Executive Order is in effect through May 31st, 2020, it could be extended depending on the status of the outbreak.

The outbreak of COVID-19 has impacted everyone living and doing business in California. The economic impacts of the virus are far-reaching. Although the State Capitol is closed and non-essential workers are sheltering in place, CalRHA has been busy advocating for protections for rental property owners. CalRHA's advocacy since the COVID-19 State of Emergency was declared include:

Property Tax Delay

CalRHA called on Governor Newsom to implement a 90-day property tax payment delay throughout the state to provide more relief to Californians and businesses as they attempt to navigate their way through the public health crisis. Although the Governor did not institute a 90-day delay, he supported the actions of local jurisdictions that offered relief, including California counties that stated they would cancel penalties and other charges for homeowners, small businesses and other property owners with demonstrated economic hardship, on a case-by-case basis, due to COVID-19.

Opposed AB 828 (Ting)

AB 828 by Assemblyman Phil Ting (D–San Francisco) is a new bill that creates a duplicative statewide moratorium on evictions related to COVID-19 and establishes a court-ordered, blanket reduction of rent by twenty-five percent during, and after, the COVID-19 State of Emergency. It also creates an unlevel playing field for owners of ten or more properties, assuming that those owners would not suffer economic hardships under certain circumstances. Conversely, many larger rental properties



Assemblymember
Phil Ting

have additional expenses. Owners of rental properties large and small are negatively impacted by the COVID-19 outbreak and struggling to stay afloat. However, the proposed definition of "material economic hardship" in AB 828 denies the court the ability to assess the economic hardship to rental housing providers.

CalRHA continues to advocate against AB 828. The Legislature will not return to Sacramento until May 4th, so the bill will not move before then. (See letter to Assemblymember Ting, page xx).

Statewide Renter Assistance Program

CalRHA is urging the Governor and state leaders to implement statewide renter assistance to help tenants during the COVID-19 outbreak. Now is the time to focus on positive measures for providing relief to both renters and rental property owners. A statewide Renter Assistance Program will be an essential means to achieve this goal. Such a program will support ongoing voluntary efforts to reach housing provider/renter negotiated rent deferral and repayment plans, alleviate current and future economic distress, reduce the likelihood of a backlog of court cases following the emergency, and prevent future homelessness.

Key components of this program would include:

1. Providing up to three months rental assistance for renters who have demonstrated a documented loss of income arising out of COVID-19.
2. Funded by federal funds received by the state of California under the federal CARES Act and/or as part of California's current budget proposal and/or through available housing funds and state reserves;
3. Implemented through state funding to existing local or regional government agencies that currently administer rental assistance (such as housing authorities) or other state benefit programs. Using existing entities and their funds distribution infrastructure and/or assistance programs will quicken the distribution of these needed rental assistance funds.
4. Designed to stabilize the rental housing industry by providing rental housing providers the rent differential directly to rental housing providers.

CalRHA is also mobilizing allies to form a coalition in support of statewide renter assistance, including federal CARES Act protections for renters and property owners, and the Governor's proposed funding for emergency renter assistance in the 2020-21 State Budget. (See draft, page xx)



Shelter in Place Order

Californians were ordered by the Governor to shelter at home on March 19th. Governor Newsom's order (<https://www.gov.ca.gov/2020/03/19/governor-gavin-newsom-issues-stay-at-home-order/>) directs all non-essential services to close and restaurants to offer take-out or delivery only. Schools are closed for the remainder of the school-year and most Californians – except those working in "essential" industries – are staying home until further direction from the Governor.

Industries that are considered "essential critical infrastructure" include healthcare/public health, construction, emergency services, food and agriculture (e.g. grocery, restaurant take-out/delivery, pharmacy, farming), transportation, and communications.

The Shelter at Home Order is in place until further notice. Californians are still able to go to the grocery store, get gas, go to the bank, go to the doctor/pick up prescriptions, and access other essential services. But activities like dining out, going to the gym or the movies, going to the salon, and attending public gatherings are all prohibited.

On April 14th, Governor Newsom announced six "critical indicators" that the state will examine before considering ending the Shelter in Place order and reopening the economy. Among the criteria are the state's ability to track and trace the virus, adequate testing, the capacity of the healthcare system to meet COVID-19 demand, and the ability to protect California's most vulnerable residents. The Governor did not provide a specific date but did say that he may be able to offer a timeline in two weeks, if at that point there is a decline in ICU admissions and healthcare workforce and personal protective equipment needs are being met. So while the Governor's tone is more optimistic, it appears as though California will be sheltering in place for a while longer.

Newsom also entered into an agreement with the Governors of Oregon and Washington on a "shared vision" for reopening each state's economy. Although no specific date has been identified, the plan includes criteria that must be met before stay at home orders are modified - namely that there must be a decline in the spread of the virus. Each state will follow these principles while maintaining their own, state-specific plans.

There is currently some friction between the Governor and legislators. Because of the COVID-19 State of Emergency, Governor Newsom has near-total control of the state during this crisis. Legislators -who are not able to do much while not in session- are beginning to question some of Newsom's actions, including the purchase of hundreds of millions of masks without releasing much detail. This frustration, coupled with the June 15th constitutional deadline to pass a state budget, prompted legislative leaders to call for interim hearings over the next week to discuss COVID-19 response.

Senate pro Tem Toni Atkins established a Senate Special Budget Subcommittee on COVID-19 response, which will meet on April 16th. In the Assembly, a budget subcommittee will meet on April 20th. Both pro Tem Atkins and Assembly Speaker Anthony Rendon have stated that the committees will examine and oversee emergency COVID-19 spending by the Governor that was approved by the Legislature before adjourning in March.



Senate Pro Tem
Toni Atkins

Although May 4th is the Legislature's current return date, it is subject to change given the fluid nature of the crisis.

Contact your representatives and give them your opinion on AB 828 and other COVID-19 legislature
(See sample letters, pages 27-28).



*California State Senator
Hannah-Beth Jackson*

Hannah-Beth Jackson represents the 19th Senate District encompassing Santa Barbara County and most of Ventura County. She has been appointed her to serve on the newly established Senate Special Committee on Pandemic Emergency Response. The bipartisan committee of eleven senators is tasked with reviewing the state's response to the COVID-19 crisis.

Santa Barbara District Office
222 E. Carrillo, Ste 309, SB, CA 93101
Phone: (805) 965-0862

Oxnard District Office
300 E. Esplanade Dr., Ste 430,
Oxnard, CA 93036
Phone: (805) 988-1940



*California Assembly
Monique Limon*

Monique Limón is currently serving in the California State Assembly representing the 37th Assembly District, encompassing over half of Santa Barbara County, as well as nearly a quarter of Ventura County.

Santa Barbara County Office
101 W. Anapamu St., Ste A,
Santa Barbara, CA 93101
Phone:: (805) 564-1649

Ventura County Office
89 S. California St., Ste F,
Ventura, CA 93001
Phone: (805) 641-3700



*U.S. Congressperson
Salud Carbajal*

Salud Ortiz Carbajal represents California's 24th district, which includes San Luis Obispo and Santa Barbara, counties, as well as western Ventura County.

Santa Barbara Office
360 S. Hope Ave., Ste C-301
Santa Barbara, CA 93105
Phone: (805)-730-1710

San Luis Obispo Office
1411 Marsh St., Ste 205
San Luis Obispo, CA 93401
Phone: (805) 546-8348

Santa Maria Office
1619 S. Thornburg St.
Santa Maria, CA 93458
Phone: (805) 730-1710

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SBRPA President Betty Jeppesen's Letter to Members AB 828 & Judicial Council Emergency Rules



Dear SBRPA Members,

I bring you good news about Assembly Bill 828. It has **not** passed yet. It is going to be considered in the next legislative session when the Legislature returns. So, unless and until it does, you do **not** need to comply with its provisions.

IF PASSED, WHAT WOULD AB 828 REQUIRE?

AB 828 would NOT require you provide a "blanket reduction" of 25% rent to **all** tenants. AB 828 proposes that after the Eviction Moratorium expires, if an owner files a UD (unlawful detainer eviction action) against a tenant, and that particular tenant successfully demonstrates he or she has not paid rent because of COVID-19, the owner must allow that tenant a 25% reduction in rent owed.

SBRPA has joined with other members of our state association, CalRHA, to help fight against AB 828's enactment. Please support this effort by writing in opposition to AB 828 to the sponsor of the bill, Congressman Ting. (assemblymember.ting@asm.ca.gov) As you are able, please continue to make donations to SBRPA so our Government Relations Committee can continue our fight against this unjust and ill-advised bill.

NEW: APRIL 6, 2020 EMERGENCY RULES BY CALIFORNIA'S JUDICIAL COUNCIL

In addition, I wanted to write you immediately to let you know that late yesterday afternoon, the Judicial Council of California adopted **11** emergency rules. Basically, the new rules state that effective immediately and until 90 days after the governor declares the pandemic to be lifted, no evictions -can be pursued in Court unless the Court determines that the eviction is necessary "to protect public health and safety". In legal verbiage:

No Summons may be issued for an Unlawful Detainer action unless that UD is necessary to protect the health and safety of the public (so the action cannot be served on the tenant). If an action was already filed, an entry of default may not be made unless the action is necessary to protect public health and safety; and the defendant has not appeared within the time prescribed. The time for trial if the defendant has appeared in the action may not be set until 60 days after the request unless the court determines that it is necessary to have an earlier trial to protect public health and safety. Sunset of these emergency rules is 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."

Please know that I am continually monitoring what is happening both on a state and local level. It is an extremely challenging fight, but I am using all aspects of my legal expertise in volunteering my time to continue to fight for you.

Your SBRPA Board President,

Betty L. Jeppesen

CONFERENCE CALL PARTICIPANTS



Assemblywoman
Monique Limón



SBRPA President
Betty L. Jeppesen



SBRPA Exec. Director
Laura Bode



The Towbes Group VP
Residential Real Estate
Jim Carrillo

SBRPA President Betty Jeppesen Notes from Telephone Conference Call with Assemblywoman Monique Limón

April 15, 2020 4:00 p.m.

The Santa Barbara Rental Property Association, at the suggestion of Jim Carrillo, set up a conference call with our local Assemblywoman Monique Limón. This is what we learned:

1. The Legislature is set to go back in session in Sacramento on May 4th. **BUT**, the Constitution says that if the Legislature is in session, then the public must be allowed to attend. Therefore, it is a huge question whether they will reconvene due to the practical aspects of the number of people who would come in.
2. Many Legislative policy deadlines have already been missed and no-one knows how many Bills will actually be heard this year. Assemblywoman Limón shared that she has personally cut 50% of her Bills.
3. When they do go back in session, the Speaker Pro Tem has dictated that the priority shall be: a) housing, b) wildfires and the electricity shut-downs and c) COVID-19. They have been directed not to focus on anything that is not essential.

Assemblywoman Limón has been watching AB 828 which her Legislative analyst Samantha stated had just been amended April 8th. *[Actually, it was amended in Assembly on March 27th. This is important because that was before the Judicial Council enactment of the emergency Rules, California Rules of Court, Rules 1 to 11, specifically Rule 1 which deals with Unlawful Detainers.]*

Assemblywoman Limón stated that AB 828 is currently in the Senate for review in June or July and will not come back to the Assembly until at the earliest August. She said that honestly, the Bill would have a better chance of getting through the Senate than the Assembly where the Housing Committee Chair is Senator Weiner. She believes that the 25% rent reduction may have been an initial negotiating point by Ting, the Proponent of the Bill, knowing that you never get more than you ask for so you always aim high.

I pointed out that with Rule 1 currently prohibiting the issuance of a *Summons in an Unlawful Detainer* action unless "**necessary to protect public health and safety**" for 90 days after the Governor has declared the COVID-19 state of emergency is lifted, this could take several months. Add to that a potential rent reduction of 25% for the subsequent 12 months (*p. 5 Amendments to Assembly Bill 828, Section 5, CCP1174.10(c)(2)*), the Mom and Pop landlords will not be able to pay their mortgages and are in real danger of losing the properties.

Jim Carrillo spoke to the landlord's expenses that do not go away such as the plumbing, electricity, water and other essentials that must still be prepared by vendors who must still be paid. I stated that as in San Jose just last week, any rent reduction faces a real Constitutional challenge as a "taking".

Limón said: "I don't disagree." She also said that her approach is a holistic one which does not focus on only one facet of the population bearing the brunt of the burden brought on by this unprecedented situation in which we all find ourselves. She stated that while she has only been in the Assembly for 4 years, Senator Hannah-Beth Jackson who has been in Sacramento for years, said that there has never been a year like this one in the Legislature.

5. We discussed a Renters' Assistance Program and she said that candidly this would be a much better solution but the funding would have to come from the Federal Government because California is simply out of funds. She stated that: "California had 21 billion dollars in reserves that have just been shot."
6. The non-functioning 90-day loan forbearance was floated by Laura Bode as a theory that in practice has not been found to hold up. She has received a number of phone calls and has talked to many people who have tried unsuccessfully to contact their mortgage lender. Only one of those who did get through to their bank, received a 30-day loan forbearance. We all know that Fannie Mae and Freddie Mac are working with their borrowers but these are for loans less than \$500,000. And, it does not include State banks.

Assemblywoman Limón found this to be very informative because she believed that this at least was working out. She said that she is the Chair of the Banking and Finance Committee and wants letters from people with specific details about their loans and the specific banks that are not working with them. There were 30 members of the Legislature who signed on to the letter regarding this assistance. She has promised to forward a copy of the letter which I will then provide.

7. Since no-one knows how many Bills will actually be addressed this year, Assemblywoman Limón stated that the place to watch are the Budget Bills.

Danielle Holzer

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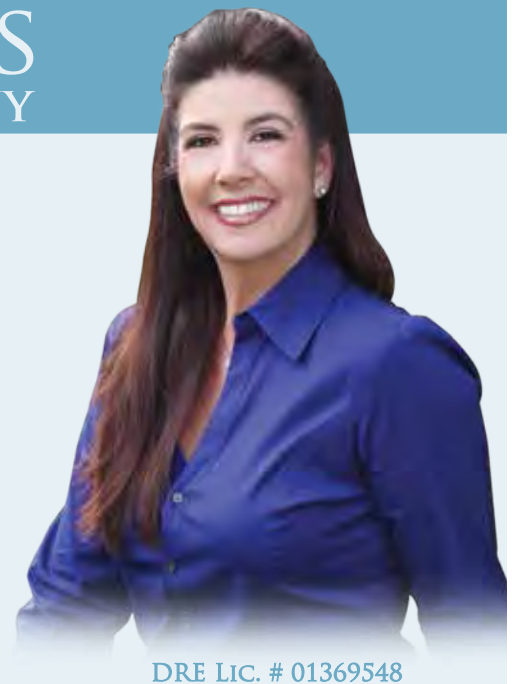
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DRE LIC. # 01369548



Judicial Council Emergency Rules

Letter from Task Force to California Judicial Council (page 1 of 3)



Judicial Council of California
455 Golden Gate Avenue
San Francisco, CA 94102

Re: Request for Amendment to Emergency Rule 1 adopted on April 6, 2020

To: The Honorable Chief Justice Tani G. Cantil-Sakauye and
Esteemed Members of the Judicial Council:

The California Rental Housing Association (CalRHA) represents 22,000+ rental housing providers and management companies with more than 514,000 rental units. CalRHA's members are made up of small, medium, and larger rental housing owners throughout the state. We support a holistic regulatory effort to maintain renters in place during the COVID-19 state of emergency. However, we are extremely concerned with the substance and scope of the Judicial Council's emergency court rules adopted at the Judicial Council's April 6, 2020 emergency meeting. Of particular concern is Emergency Rule 1 – Unlawful Detainers (“*Emergency Rule 1*”).

In the interest of comity, and without waiving the right of CalRHA, its Affiliates or Affiliates' members to later challenge the propriety of Emergency Rule 1, we ask that the Judicial Council amend Emergency Rule 1 to recognize and allow non-COVID-19 unlawful detainers to proceed, particularly because Emergency Rule 1 (A) encourages renters to “game the system” and (2) makes it nearly impossible for a rental housing provider to protect residents who depend on their provider to keep order when faced with renters who materially breach “behavior” covenants in rental agreements or flout laws such as creating a nuisance. Stated another way, Emergency Rule 1 has many unintended consequences unrelated to keeping renters adversely affected by the COVID-19 pandemic, sheltered in place.

In Emergency Rule 1(e) you reserve the right to amend this rule. We are asking you to do so now, due to the unintended consequences of the enactment of Emergency Rule 1. You have received many letters regarding requests for reconsideration. Ours will be different. We will cut to the chase.

We request your consideration of the following amendments to California Rules of Court, Rule 1.

Emergency rule 1. Unlawful detainers

(a) Application

Notwithstanding any other law, including Code of Civil Procedure sections 1166, 1167, 1169, and 1170.5, this rule applies to all actions for unlawful detainer.

(b) Issuance of summons

A court shall issue a summons on a complaint for unlawful detainer if the court finds, in its discretion and on the record, that the action is brought against a defendant who

CalRHA, 1121 I Street, Sacramento, CA
info@cal-rha.org | 916.594.7311

Judicial Council Emergency Rules

Letter from Task Force to California Judicial Council (page 2 of 3)

has not been significantly, financially affected by the COVID-19 pandemic or is necessary to allow the Plaintiff to fulfill his/her duties to other renters or neighboring properties. A Plaintiff's declaration provided under penalty of perjury that the Plaintiff has either (a) not received notice from the defendant(s) that the defendant(s) have been adversely affected by COVID-19 or (b) even if Plaintiff has received such notice, the action is necessary to enforce a rental agreement's provisions or a local jurisdiction's or court's order pertaining to the maintenance of the peace or health and safety of the occupants, other residents or neighboring properties. Nothing herein shall bar a defendant from raising the affirmative defense that the action is a violation of state or local COVID-19 restrictions to unlawful detainer actions.

(c) Entry of default

A court may not enter a default or a default judgment for restitution of possession of property in an unlawful detainer action for failure of defendant to appear unless the court finds:

- (1) The action was brought pursuant to Rule 1(b), above; and
- (2) The defendant has not appeared in the action within the time provided by law, including by any applicable executive order.

In such case, the court shall deem the defendant(s) to have filed a general denial and set the matter for trial pursuant to rule 1(d).

(d) Time for trial

If a defendant has appeared in the action, the court shall set a trial date pursuant to existing non-emergency rules unless the court finds that the defendant(s) has been, and continues to be, significantly and financially adversely affected by the COVID-19 pandemic. Even if the defendant(s) has been adversely affected by the COVID-19 pandemic, regular statutory times for trial will remain in force if the court finds that the action is necessary to protect against a threat to public health and safety. Any trial set in an unlawful detainer proceeding as of April 6, 2020 must be continued at least 60 days from the initial date of trial unless the court finds that an earlier trial is necessary as set forth herein.

(e) Sunset of rule

This rule will remain in effect until 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.

The Judicial Council is charged with the administration of justice within the court system in California. The Judicial Council is not charged with promulgating social policy. That is the province of the Governor and legislature. While the Governor, in Executive Order N-38-20, substantially increased the power of the Judicial Council, that expansion was limited as follows: "This paragraph is intended to remove any impediment that would otherwise prevent the Chairperson from authorizing, by emergency order or statewide rule, any court to take any action she deems necessary to maintain the safe and orderly operation of that court. [Emphasis added.] Executive Order N-38-20 was not a blank check allowing the Judicial Council to deny one class of litigants its meaningful access to the courts.

Judicial Council Emergency Rules

Letter from Task Force to California Judicial Council (page 3 of 3)

CalRHA, together with other rental housing providers are the means by which California's renters are able to shelter in place. Our concern is that Emergency Rule 1 goes significantly beyond the restrictions already enacted by both the Governor and many local jurisdictions with respect to keeping renters that are adversely affected by COVID-19 housed in place during the pendency of the pandemic.

We are asking that rental housing providers:

- 1) be allowed to have his/her day in court;
- 2) HAVE a level playing field; AND
- 3) be allowed to proceed unless the court finds the circumstances provided in our proposed amendments to Emergency Rule 1.

These unprecedented times require widespread sacrifice. However, by passing Emergency Rule 1, the Judicial Council has placed the burden exclusively on rental housing providers in a way that will have lasting and severe consequences going forward. We respectfully ask the Council to consider these amendments that will bring the processing of unlawful detainer cases during this pandemic in line with the Governor's Executive Order N-37-20.

We appreciate your time and attention to this letter with its proposal for amendment of California Rules of Court, Rule 1 and stand ready to supply any further information or clarification that you may request.

Sincerely yours,

Betty L. Jeppesen

Betty L. Jeppesen (Apr 14, 2020)

Betty L. Jeppesen, Chair
CalRHA Legal Affairs Subcommittee

Jack Schwartz Jr.

Jack Schwartz Jr. (Apr 15, 2020)

Jack Schwartz Jr.
CalRHA Legislative Chair

cc: Governor Newsom

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Substantive

LEGISLATIVE COUNSEL'S DIGEST

AB 828, as amended, relating to human trafficking caseworker victim privilege. Temporary moratorium on foreclosures and unlawful detainer actions: coronavirus (COVID-19).

Existing law confers a power of sale upon a mortgagee, trustee, or any other person to be exercised after a breach of the obligation for which the mortgage or transfer is a security. Existing law requires a trustee, mortgagee, or beneficiary to first file a record in the office of the recorder a notice of default, and establishes other requirements and procedures for completion of a foreclosure sale.

This bill would prohibit a person from taking any action to foreclose on a residential real property while a state or locally declared state of emergency related to the COVID-19 virus is in effect and until 15 days after the state of emergency has ended, including, but not limited to, causing or conducting the sale of the real property or causing recordation of a notice of default.

Existing property tax law attaches taxes that are owed on that property as a lien against that property. Existing law generally requires the tax collector to attempt to sell residential property that has become tax defaulted 5 years or more after that property has become tax defaulted.

This bill would require a tax collector to suspend the sale, and not attempt to sell, tax-defaulted properties while a state or locally declared state of emergency related to the COVID-19 virus is in effect and until 15 days after the state of emergency has ended.

Existing law requires a county recorder to record any instrument, paper, or notice that is authorized or required to be recorded upon payment of proper fees and taxes.

This bill would prohibit a county recorder from recording any instrument, paper or notice that constitutes a notice of default, a notice of sale, or a trustee's deed upon sale during the above-specified declared state of emergency relating to the COVID-19 virus. The bill would also prohibit a court from accepting a complaint in an action to foreclose.

Existing law establishes a procedure, known as an unlawful detainer action, that a landlord must follow in order to evict a tenant. Existing law provides that a tenant is subject to such an action if the tenant continues to possess the property without permission of the landlord in specified circumstances, including when the tenant has violated the lease by defaulting on rent or failing to perform a duty under the lease.

This bill would prohibit a state court, county sheriff, or party to a residential unlawful detainer case from accepting for filing, or taking any further action including executing a writ of possession or otherwise proceeding with an unlawful detainer action during the timeframe in which a state of emergency related to the COVID-19 virus is in effect and 15 days thereafter except as specified.

The bill would also authorize a defendant, for any residential unlawful detainer action that includes a cause of action for a person continuing in possession without permission of their landlord, to notify the court of the defendant's desire to stipulate to the entry of an order. The bill would require the court, upon receiving that notice



Assembly Bill 828 – Stop Evictions & Foreclosures for those Affected by COVID-19
Excerpt of Proposed Changes (page 2 of 2, full document on www.sbrpa.org)

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Substantive

from a defendant, to notify the plaintiff and convene a hearing to determine whether to issue an order as specified. The bill would require the court, if it determines that the tenant's inability to stay current on the rent is the result of increased costs in household necessities or decreased household earnings attributable to the COVID-19 virus, to make an order for the tenant to remain in possession, to reduce the rent for the property by 25% for the next year and to require the tenant to make monthly payments to the landlord beginning in the next calendar month in accordance with certain terms. The bill would require declarations under these procedures to be filed under penalty of perjury.

The bill would make these provisions effective in a jurisdiction in which a state or locally declared state of emergency is in effect until 15 days after the state of emergency ends and would repeal these provisions on January 1, 2022.

By imposing new duties on county officials and also expanding the crime of perjury, the bill would impose a state-mandated local program.

The bill would contain related findings regarding the economic hardships imposed by the COVID-19 virus.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This bill would declare that it is to take effect immediately as an urgency statute.

Existing law governs the admissibility of evidence in court proceedings and permits a trafficking victim to claim an evidentiary privilege for confidential communications between the victim and a human trafficking case worker. Existing law defines "human trafficking caseworker" as, among other things, a person who is employed by an organization that provides domestic violence shelter-based programs and who has specified training or experience. Existing law requires domestic violence shelter-based programs to provide certain basic services to victims of domestic violence and their children, including shelter on a 24 hours a day 7 days a week basis, and a drop-in center that operates during normal business hours to assist victims of domestic violence who have a need for support services.

This bill would expand the definition of a human trafficking caseworker to include a person who is employed by a human trafficking victim services program, as defined, and who has the training and experience described above. The bill would expand the scope of the privilege by making each of these changes to the definition of a human trafficking caseworker.

The California Constitution requires that a statute that would exclude relevant evidence in any criminal proceeding be enacted by a 2/3 vote of each house of the Legislature.



RN2010824

Assembly Bill 828 – Stop Evictions & Foreclosures for those Affected by COVID-19 Sample Letter to Legislators

From: Jim Carbone

Date: April 8, 2020

To: Assemblymember Ting (assemblymember.ting@asm.ca.gov);
Assemblymember Limon (assemblymember.limon@asm.ca.gov);
Assemblymember Rendon (assemblymember.rendon@asm.ca.gov)

Subject: Proposed Amendment to AB 828

This pandemic has created a terrible crisis and our hearts goes out to all of those affected. However it is unjust and unfair to single out property owners to fund the financial burden this has created for all of us. Our fundamental concern with this proposal being considered is, "**why are landlords being singled out in the proposed AB 828 amendment to bear the responsibility for those impacted financially by this pandemic?**" This is where government needs to step in to provide direct assistance so the burden is shared by everyone.

My wife and I are retired and derive the majority of the income we need to survive from a small number residential rental units that we own. We cannot apply for unemployment insurance or any other financial assistance available to many. This is true for many elderly landlords who derive a modest income from rental units we worked and saved for our entire working life.

The proposed amendment to AB 828 would put undue hardship on us by being singled out as land owners, **while no other business is being forced by the government to reduce prices by 25% for 1 year!!** As proposed, almost anyone in the state would qualify under the criteria of increased cost or decreased household earnings. We need this income to provide the basic necessities for us to live on. **It would be impossible for us to recover from this hit at our age.**

We are not looking to evict tenants. The reality of this situation is that even if we did, it would be very difficult, if not impossible to find new tenants in this current situation. However, landlords do not have limitless funds and in fact many are no different than other small businesses in that landlords also rely on continuous income to survive.

I would also like to point out that deferring property tax or mortgage payments may provide temporary relief for some, but does not help people in our situation. As these bills will still come due and payable at some point and we need the rental income to pay these bills and have enough left over to live on.

In closing, this proposed amendment is unfair, would seriously impact many hard working elderly individuals who rely on this income to live. I respectfully request you consider the impact to people like my wife and I as you take up this issue. People need help now, but the answer should not single out and hurt one demographic in the process. **We urge you not to pass this proposed amendment.**

James and Michele Carbone

Assembly Bill 828 – Stop Evictions & Foreclosures for those Affected by COVID-19
Sample Letter to Assemblymember Ting



Assemblymember Phil Ting
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0019

Dear Assemblymember Ting,

I am the CEO of a small property management company. Most of my clients are mom and pop owners. Most of my clients are retired and rely on the net income of their rental property to make ends meet. Most of my clients have mortgages, taxes, insurance, utilities and maintenance upkeep expenses that are essential in order to provide their rental property to the tenants.

What income that may remain after paying the expenses helps pay for their own living expenses; such as medical, food, vehicle maintenance and repairs, and other costs. The 25% rent reduction as proposed in AB 828 **without a reciprocal reduction** from mortgage lenders, insurance carriers, utility companies, state and local taxing authorities, as well as property maintenance and repair companies could very well put many of my clients underwater.

Deferring the expected rent is one thing, and hard enough, but to reduce the amount of the contracted rent owed, and expect owners to underwrite the underlying amount owed to them is simply unfair, and not right.

I ask that you take AB 828 off your agenda until amended in a manner that carries the basic element of fairness.

Thank you for your time and consideration.

Charles V. Eckert, IV

Principal & CEO
EIPM, Inc.
Excellence In Property Management, Inc. ®



SBRPA President Betty Jeppesen
Letter to S.B. City Council – Temporary Moratorium on Evictions



DATE: March 24, 2020

TO: Santa Barbara City Council

RE: TODAY'S AGENDA ITEM #4: An uncodified emergency ordinance of the council of the city of Santa Barbara enacting a temporary moratorium on evictions for non-payment of rent by residential and commercial tenants who have been harmed financially as a result of COVID-19

Dear Santa Barbara City Council Member:

We have all been financially affected by COVID-19. I know that I have and I'm certain that you have, too.

Who should bear the burden of this financial hardship for the tenants of our community? Should it be the landlords?

TENANT EXPENSES

1. Rent
2. Utilities (some)
3. Income tax
4. Food
5. Clothing
6. Entertainment

LANDLORD EXPENSES

1. Mortgages (first, second, third)
2. Tenant's utilities (some or all)
3. Income tax
4. Property tax
5. Real Property insurance
6. Real Property maintenance
7. Gardener's salary
8. Laundry room maintenance
9. Tenant's requested repairs to plumbing, electrical, rain leaks, etc.
10. Tenant's requested replacement of stoves, refrigerators, etc.
11. Property Manager's salary
12. Food
13. Clothing
14. Entertainment

It is important to consider that many if not most of the Santa Barbara landlords are "Mom and Pop" who have only the one unit or one building to either build income for retirement and/or supplement their social security check each month.

Santa Barbara City Council Letter, page 2

These private landlords have the expenses listed in items 1 through 14 to live with. Now, you will be considering adding the burden of not receiving any rent from the tenants for a period of time with a longer time for repayment. How is this "deferred rent" supposed to be paid? If it is within 6 months, then can the tenant wait the entire time of 6 months and then tender the rent? What if the tenant at that time tenders only a portion of the rent? What if the tenant doesn't tender any rent at all? How is the landlord going to collect his/her money owed?

We have heard that Fanny Mae and Freddie Mac, the government-sponsored enterprises that back millions of mortgages, have this week said that loan servicers "COULD" suspend payments for a time. But, will they? What about landlords who have mortgages not government-sponsored? Their mortgage payments will continue. Will we then have another run of foreclosures as we did a decade ago? Will the landlords lose their properties? Quite possibly. It is not just the tenants who are in danger of losing properties contrary to what many believe. It is easy to say that tenants shouldn't have to pay their rent when there is this pandemic. But, the landlords are also facing the financial burden of this pandemic.

We have heard that California property tax is still due April 10. That is less than a month away. California county tax collectors cannot extend the April 10 deadline for making the second half of the 2019-2020 property tax payments. So what is the landlord to do? Where will the money come from if not the rent?

Income tax payments have been declared delayed until July 15 instead of April 15 for the landlords but it is the SAME for the tenants. Their income tax payments have also been delayed.

Most landlords pay some if not all of the tenants' utilities. All that I am aware of pay at least for water and garbage. Those payments will continue for the landlord despite the lack of rent if that is to be approved. According to California law, landlords are not allowed to cut off utilities nor do they want to. But, where will the money come from when there is no rent payment?

Landlords pay for tenants' requested repairs such as plumbing stoppage, garbage disposal malfunction, leaks, electrical, etc. Can the landlord ignore a tenant's request for repairs? Presumably not. The current penalty is that if the landlord does not make the repairs, the tenant can repair and deduct from the rent payment for such repair after notice and reasonable time to take action. Since the rent may now be deferred, may the landlord defer repairs?

If a landlord owns a property consisting of 16 units, there must be a property manager according to California Regulations. Oh, I know, it can be a gardener but there must be someone on the premises. That means an apartment for that person that is not generating any rent for the landlord. This is in addition to that person's salary. Onemight think that if a landlord owns a property containing that many units that landlord must be rich. Think again, please. Now, ALL 16 units will not be paying rent. There will be zero dollars coming in to pay for the more expensive mortgage for that building. There will be zero dollars coming in to pay for the more expensive property tax for that building. There will be zero dollars coming in to pay for the property manager, etc.

Santa Barbara City Council Letter, page 3

"California Awards \$100 Million to Cities, Counties and Continuums of Care to Help People Experiencing Homelessness During COVID-19 Pandemic"

This was the press headline from Governor Gavin Newsom yesterday for immediate release.

So, if the cities and counties are getting money, why shouldn't the cities and counties set up a fund for the tenants for their payment of rent?

Why should the landlords who are not being offered money during this pandemic bear the burden?

Please consider your options very carefully today as you consider what is best for your entire community of constituents. It is kind and considerate to think only of the "most vulnerable members of our society" but take care that the landlords do not by your actions themselves become a part of that group. There are unintended consequences which must not be ignored.

Thank you for your consideration.

Yours sincerely,

Betty L. Jeppesen

President

Santa Barbara Rental Property Association

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We encourage everyone to comply with state and local ordinances regarding the COVID-19 pandemic. Call now to schedule maintenance on your existing system.



COVID-19 and Your HVAC System

The American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) has developed proactive guidance to help address coronavirus disease 2019 (COVID-19) concerns with respect to the operation and maintenance of heating, ventilating and air-conditioning systems. ASHRAE guidance can be found at <https://www.ashrae.org/technical-resources/resources>

According to the CDC and ASHRAE, HVAC systems can play a vital role in mitigating the spread of diseases like COVID-19. While an air filter can help trap dirt and germs, it will NOT kill germs or viruses. If you are changing your own air filter and you suspect or know someone in your home has been diagnosed with COVID-19, please take precautions: wear gloves and a face mask, have a plastic bag ready to dispose of the used filter, turn off the system, carefully remove the used filter, place it in the plastic bag, tape it shut and place it in an outside trash bin.

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email: donsheatingsb@gmail.com

FOR COMMENT

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CITY OF SANTA BARBARA
ORDINANCE COMMITTEE AGENDA REPORT

AGENDA DATE: April 21, 2020
TO: Ordinance Committee
FROM: City Attorney's Office
SUBJECT: Proposed Ordinance Requiring Just Cause For Residential Evictions And Resolution Establishing Relocation Assistance Payments For No-Fault Just Cause Evictions

RECOMMENDATION: That the Ordinance Committee consider and make recommendations to Council on the following matters:

- A. An Ordinance of the Council of the City of Santa Barbara Amending the Santa Barbara Municipal Code by the Addition of Chapter 26.50 Pertaining to Just Cause for Residential Evictions;
- B. A Resolution of the Council of the City of Santa Barbara Establishing Relocation Assistance Payment Amounts for No-Fault Just Cause Evictions Pursuant to Santa Barbara Municipal Code Chapter 26.50.

EXECUTIVE SUMMARY:

The proposed Just Cause for Residential Evictions Ordinance tracks AB 1482, but adds "more protective" measures for tenants as directed by Council on February 11, 2020. The Relocation Assistance Nexus Study prepared by Keyser Marston Associates, Inc. determined that relocation assistance payments could range between \$2,328 and \$8,460, depending upon the size of the rental unit, the distance of the move, and whether the tenant has special needs.

DISCUSSION:

Background

Just cause eviction ordinances work in combination with state landlord/tenant laws to limit the reasons a property owner can use to evict a tenant who is otherwise in good standing. Last year, the state enacted the Tenant Protection Act of 2019, which

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established statewide rent control and just cause eviction requirements. (Stats. 2019, ch. 597; “AB 1482.”) AB 1482 allows local just cause eviction and relocation assistance ordinances, but requires newly enacted local ordinances to be “more protective” of tenants than state law.¹

On February 11, 2020, Council directed preparation of a Just Cause for Eviction Ordinance mirroring the provisions of AB 1482 to the greatest extent possible. (Stats. 2019, ch. 597; “AB 1482.”) Council directed that the ordinance be “more protective” in two ways. First, by removing the AB 1482 sunset date of January 1, 2030, the local ordinance creates permanent protection which is “more protective” of tenants than state law.

Second, a local ordinance that provides more than the one-month’s rent of relocation assistance provided by AB 1482 is by definition “more protective” than state law. (Civ. Code, §1946.2(g)(1)(B)(ii).) We advised that Council should obtain technical assistance to determine the appropriate amount of relocation assistance. As a result, Council also directed preparation of a Relocation Assistance Nexus Study to help determine the amount of relocation assistance to be paid to residential tenants in good standing who experience a no-fault eviction. We retained Keyser Marston Associates, Inc. to prepare the study in mid-February. They completed the study on April 8, 2020. (Attachment “1.”)

The Proposed Ordinance

The proposed ordinance mirrors the just cause eviction requirements of AB 1482 by establishing two categories of just cause evictions: At-fault and No-fault. At-fault evictions are defined to mean evictions justified by the following tenant behavior:

!!

¹ AB 1482 creates a three-part test to determine whether a local ordinance is “more protective.”

“For purposes of this subparagraph, an ordinance is “more protective” if it meets all of the following criteria:

- (i) The just cause for termination of a residential tenancy under the local ordinance is consistent with this section.
- (ii) The ordinance further limits the reasons for termination of a residential tenancy, provides for higher relocation assistance amounts, or provides additional tenant protections that are not prohibited by any other provision of law.
- (iii) The local government has made a binding finding within their local ordinance that the ordinance is more protective than the provisions of this section.”

(Civ. Code, §1946.2(g)(1)(B)(i)-(iii).)

Santa Barbara Ordinance – Just Cause Eviction

Excerpt of Public Comment Draft (page 3 of 7, full document on www.sbrpa.org)

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- Default in the payment of rent;
- Breach of a material term of a lease;
- Maintaining a nuisance;
- Committing waste (destruction of property);
- Tenant refusal to accept a lease extension on the same terms;
- Criminal activity;
- Unlawful assignment or sublease;
- Refusal to allow the owner to enter lawfully;
- Using the unit for unlawful purposes;
- Failure to vacate employee housing after termination; and,
- Tenant holdover after notice or surrender to owner.

Under both AB 1482 and the proposed ordinance, tenants who are evicted on an at-fault basis are not entitled to a relocation assistance payment.

No-fault evictions entitle the tenant to a relocation assistance payment. Under AB 1482, that payment is limited to one-month's rent. In order to meet the requirement that the City ordinance be "more protective," proposed Section 26.50.020 establishes a minimum relocation assistance payment of one-month's rent plus one dollar or an amount established by Council resolution, whichever is greater. By establishing a "default" base relocation assistance of one dollar more than what AB 1482 requires, the Council can be assured that the ordinance will remain effective even if future Councils do not adopt a relocation assistance resolution or if a future relocation assistance resolution is challenged legally.

Under AB 1482, no-fault just cause evictions are defined to mean:

- Intent to occupy the residential real property by the owner or their spouse, domestic partner, children, grandchildren, parents, or grandparents;
- Withdrawal of the rental unit from the rental market;
- The owner complying with court or government agency order, or local ordinance, that necessitates vacating the rental unit; and,
- Intent to demolish or to substantially remodel the unit.

If an owner wishes to evict a "qualified tenant" for one or more of the no-fault just cause reasons, the owner must pay relocation assistance. Under AB 1482, only tenants who have continuously and lawfully occupied a rental unit for 12 months would meet the proposed definition of "qualified tenant." The Council may wish to substitute a more protective standard that would reduce the number of months a tenant must reside in a rental unit before relocation assistance protection becomes available. This can be accomplished by changing the definition of "qualified tenant."

Under AB 1482 and the proposed ordinance, relocation assistance payments must be made to the qualified tenant within 15 calendar days after service of a no-fault

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termination notice. While this timing is beneficial to a tenant trying to find alternate housing, it leaves the owner out-of-pocket if the tenant fails to surrender the rental unit on time. AB 1482 and the proposed ordinance address this by enabling owners to recover the relocation assistance payment in litigation if the tenant fails to vacate. Another approach that is more protective of property owners would be to allow the owner to delay the relocation assistance until as late as the date the tenant actually surrenders occupancy of the rental unit. This “cash for keys” approach can be accomplished by modifying Section 26.50.050 A. of the proposed ordinance.

Relocation Assistance Nexus Study

We retained Keyser Marston Associates, Inc. (KMA) to prepare a Relocation Assistance Nexus Study. KMA prepared a conservative analysis of typical relocation expenses incurred by residential tenants of no-fault evictions. These expenses include moving costs, short-term storage costs, increased security deposit costs, apartment application fees and utility initiation fees. Typically, tenants will have to pay a portion of these expenses in advance of their actual move date. The findings of the KMA analysis were intended to be used to establish relocation assistance payment requirements that are proportionate to costs experienced by tenants displaced in a no-fault just cause eviction. As this area of the law is somewhat undeveloped, the factors and costs KMA considered represent our best effort at developing a clearly defensible relocation assistance payment. It is very possible that other factors and costs could also be considered when determining the amount of relocation assistance that would be reasonably related to the impacts otherwise absorbed by the tenant who is forced to move through no fault of their own.

The financial burden associated with relocating from one rental unit to another varies greatly. Factors that may impact the financial cost include:

- The size of the residential unit;
- The distance that the household will move; and,
- The amount of physical assistance required by the tenant to pack and load belongings.

In order to account for a range in unit sizes, KMA estimated the costs of moving for various unit sizes – studios at 500sf, one-bedroom units at 600sf, two-bedroom units at 1,000sf, and three-bedroom units at 1,500sf. KMA relied upon the average unit sizes for each bedroom type within the City as published in the Dyer Sheehan Group, Inc. March 2019 South Coast Apartment Market Survey (DSG Market Survey).

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Santa Barbara Ordinance – Just Cause Eviction

Excerpt of Public Comment Draft (page 5 of 7, full document on www.sbrpa.org)

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KMA analyzed relocation costs under three scenarios regarding where displaced tenants relocate:

- To another rental unit within the City;
- Within the “South Coast” region, defined as the area from Goleta to Carpinteria; and,
- Outside of the South Coast region, defined as the area from Santa Maria to Lompoc to Oxnard/Ventura.

In addition to the factors outlined above, there are many expenses that may be incurred by a tenant as a result of an involuntary relocation. The following is a list of the relocation expenses included in this analysis:

- Moving expenses, including:
 - Packing; and
 - Loading / unloading;
- Payment of new security deposits;
- Apartment application fees; and
- Utility fees for initiation of service.

Some households will experience greater relocation costs due to age, disabilities, or presence of young children. Accordingly, KMA provided separate estimates of moving costs for the general population and households with special needs that require additional assistance with the packing and moving process.

Special needs tenants including disabled, elderly, and families with children often face an increased burden when facing eviction. While an unexpected eviction presents financial challenges for any tenant, it is especially burdensome for tenants with reduced mobility due to age or disability. This increased burden is due to a greater need for moving assistance, particularly among elderly and disabled tenants, and a greater likelihood of household disruption and increased financial pressure that these households will experience because of forced relocation. Additionally, these households do not always have adequate savings or financial capacity to absorb the costs of an unplanned move. Families with children may face added challenges, including securing affordable two or three-bedroom housing units, as well as changing schools and/or school districts.

The increased impacts of displacement experienced by these tenant populations can justify higher relocation assistance payments. KMA used the average of the high end of each moving company’s hourly range to ensure sufficient relocation assistance to provide the higher service levels required by special needs households. That is, the moving companies provided ranges for the length of time it typically takes to move the unit sizes provided by KMA. If a moving company provided KMA a range of four to eight hours to move a studio apartment. KMA utilized the 8-hour estimate to arrive at the average moving time necessary for special needs households.

Santa Barbara Ordinance – Just Cause Eviction

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KMA’s overall relocation expense conclusions are as follows:

Estimated Relocation Expenses					
		Studio	1-Bedroom	2-Bedroom	3-Bedroom
Within the City					
	General Population	\$2,365	\$2,700	\$4,583	\$7,125
	Special Needs	\$2,571	\$2,921	\$5,468	\$8,460
Within the South Coast					
	General Population	\$2,328	\$2,866	\$4,564	\$6,430
	Special Needs	\$2,534	\$3,087	\$5,449	\$7,765
Outside the South Coast					
	General Population	\$2,698	\$3,236	\$5,007	\$7,023
	Special Needs	\$2,904	\$3,457	\$5,892	\$8,358

We believe any of the relocation expense estimates to be justifiable, but focusing upon moves within the City seems most consistent with the City’s Housing Element and the desires of local rental residents. Accordingly, the accompanying resolution proposes relocation assistance, with automatic Consumer Price Index adjustments, as follows:

Proposed Relocation Assistance Amounts					
		Studio	1-Bedroom	2-Bedroom	3-Bedroom or larger
Within the City					
	General Population	\$2,365	\$2,700	\$4,583	\$7,125
	Special Needs	\$2,571	\$2,921	\$5,468	\$8,460

Santa Barbara Median Rents July 2019					
		Studio	1-Bedroom	2-Bedroom	3-Bedroom or larger
		\$1,540	\$1,875	\$2,685	\$3,925

Santa Barbara Ordinance – Just Cause Eviction

Excerpt of Public Comment Draft (page 7 of 7, full document on www.sbrpa.org)

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The table below expresses KMA's findings as the number of months' rent the assistance represents, using the City's July 2019 median rent survey:

KMA Findings				
KMA General Population Findings	\$2,365	\$2,700	\$4,583	\$7,125
General Population in Months' Rent	1.54	1.44	1.70	1.82
KMA Special Needs Findings	\$2,571	\$2,921	\$5,468	\$8,460
Special Needs in Months' Rent	1.67	1.56	2.03	2.16

This means that KMA's approach found a range of relocation assistance for general population tenants of between 1.54 months' rent for a studio and 1.82 months' rent for a 3-bedroom. For special needs tenants, KMA found the range to be between 1.67 months' rent for a studio and 2.16 months' rent for a 3-bedroom.

KMA notes that these relocation assistance costs are lower than in rent-controlled jurisdictions because there is no rent differential between the rents paid by a tenant in their original rental unit and market rents. KMA recognizes, as did the City Council in its deliberations, that the effects of statewide rent control established by AB 1482 should be monitored for impacts to the Santa Barbara rental market. The results of ongoing monitoring can be presented to the Council annually with presentation of the budget fee resolution.

BUDGET/FINANCIAL INFORMATION:

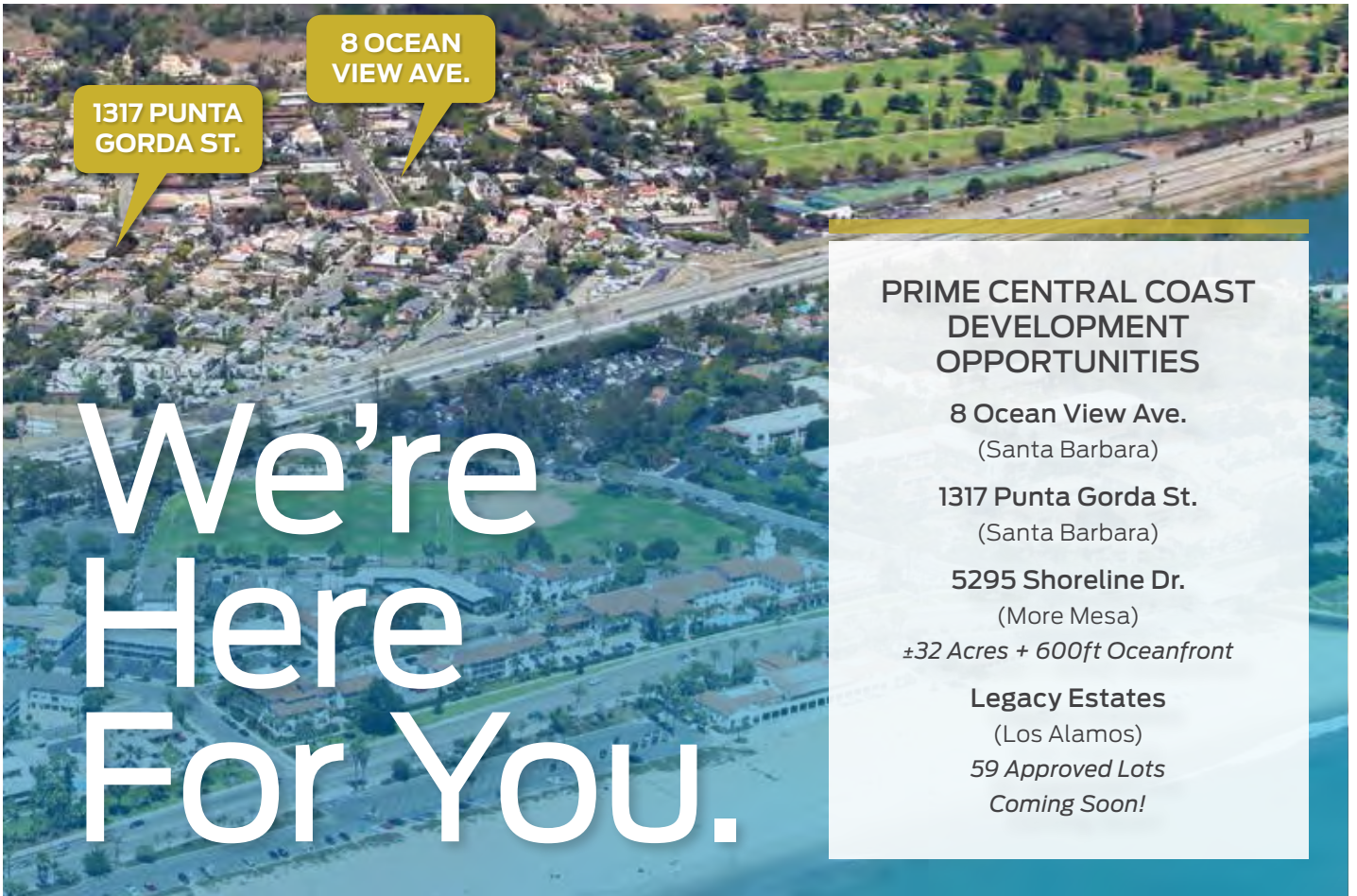
The Keyser Marston Associates contract cost is \$12,500.

ATTACHMENT(S): 1. City of Santa Barbara Relocation Assistance Study, Keyser Marston Associates, Inc., April 8, 2020.

PREPARED BY: Ariel Calonne, City Attorney

SUBMITTED BY: Ariel Calonne, City Attorney

APPROVED BY:



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The Attorney's Corner



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Impacts of the COVID-19 Pandemic on Landlord-Tenant Relationships

In response to the COVID-19 pandemic, the City of Santa Barbara and the Judicial Council of California have issued new laws impacting landlord-tenant relationships and unlawful detainers. The City's Ordinance No. 5941, which addresses rent deferrals, and the Judicial Council's April 6, 2020 Emergency Order as it relates to unlawful detainers, will be discussed in this month's article.

The City of Santa Barbara Ordinance No. 5941 (the "Ordinance") was enacted to protect tenants who have suffered economically as a result of the COVID-19 pandemic and related business and social restrictions. Enacted in March, the Ordinance does not apply to eviction notices served on or before March 17, 2020. In general, the Ordinance allows both residential and commercial tenants to defer rent obligations through the end of the local emergency.

With regard to residential tenancies, the Ordinance provides that landlords shall grant a rent or lease payment deferral to a tenant who has notified the owner of a "Significant Negative Change to Their Household Financial Condition". A "Significant Negative Change to Their Household Financial Condition" is a substantial decrease in household income, and includes: (1) being sick with COVID-19 or caring for a household member who is sick with it; (2) income reduction resulting from economic or employer impacts of COVID-19; (3) compliance with an order or recommendation from a government authority to stay home or avoid congregating with others; (4) extraordinary out-of-pocket medical expenses as a result of COVID-19; or (5) child care needs arising from school closures related to COVID-19. To qualify for the protections of the Ordinance, a tenant must notify the owner of the reasons why a deferral is needed within 20 days after the rent or lease payment is due. This notice must describe the "Significant Negative Change to Their Household Financial Condition", including documentation if necessary, and must set forth the amount of rent the tenant wants deferred and the amount they believe they can make on a current monthly basis. Landlords must keep the medical or financial information in these notices confidential, unless disclosure is necessary under the Ordinance and otherwise lawful.

In addition, the Ordinance provides that upon the tenant's request, any residential tenancy which

would by its terms expire before May 31, 2020, shall be extended on the same terms until May 31, 2020, or such a later date as specified by action of the City Council. After May 31, 2020, or such later date the City Council enacts, the lease terminates (unless it specifically provides that it goes to month-to-month), but the landlord must offer the tenant a one-year lease extension per Santa Barbara Municipal Code ("SBMC") section 26.40. The one-year extension term can be backdated to the date when the original lease would have expired, and so if a lease that would have terminated May 1, 2020 is extended to May 31, 2020 due to this Ordinance, then on May 31, 2020 the landlord must offer the tenant a lease that runs through April 30, 2021.

Like residential tenants, commercial tenants can request a rent deferral, which shall be granted by the landlord if the commercial tenant has suffered "Unforeseeable Emergency Commercial Conditions." These conditions are defined in the Ordinance as "[a] substantial decrease in business income or substantial out-of-pocket medical expenses, or reduced hours of operation or modes of operation." As is the case with residential tenants, commercial tenants must provide notice to the owner within 20 days of the rent being due, and must state how much rent they need to defer and how much they can pay on a current monthly basis. Commercial tenants must describe the "Unforeseeable Emergency Commercial Conditions" in the notice, and must provide documentation that establishes such conditions. Landlords must keep all medical and financial information contained in the notice confidential, unless disclosure is necessary under the Ordinance and otherwise lawful.

Similar to residential tenancies, upon the tenant's request commercial tenancies that are to expire by their terms before May 31, 2020, shall be extended to May 31, 2020 or such later time as the City Council may decide. The lease terminates unless it specifically provides that it converts to month-to-month. The one-year extension offer and other provisions of SBMC 26.40 do not apply here, as they are only for residential tenancies.

The Ordinance also establishes enforcement mechanisms to prevent landlords from evicting tenants who qualify for and properly request rent deferrals. In particular, tenants can assert noncompliance

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with the Ordinance as an affirmative defense to an unlawful detainer action based upon nonpayment of rent. To exercise the defense, the tenant has the burden of proving they qualify for a rent deferral as set forth in the Ordinance. This defense does not excuse other breaches of the lease or failure to pay rent that is not subject to deferral.

For both residential and commercial tenancies, it is important to remember this is a rent deferral, and all rent deferred under this Ordinance are still the lawful obligation of the tenant. The Ordinance specifically provides the owner with a cause of action for repayment of any deferred rent if such rent is not paid at the time the local emergency is terminated. Furthermore, the Ordinance states that the rent deferral provisions are to expire on May 31, 2020 unless extended by the City Council.

On April 6, 2020, the Judicial Council of California issued an Emergency Order ("Order") which affects unlawful detainer proceedings. The Order prohibits a court from issuing a summons after a landlord files an unlawful detainer, unless necessary to protect public health and safety. This means that, even if a landlord files an unlawful detainer, the tenant will not be under the normal five-day deadline to respond. The time for the tenant to respond to a new unlawful detainer will not begin until the rule is lifted, giving them time to seek out legal assistance and assuring that no tenant is denied their day in court is due to the emergency.

Moreover, the Order prohibits a court from entering an automatic default judgment against the tenant because the tenant failed to file a response, unless the court finds: (1) the eviction is necessary to protect public health and safety; and (2) the tenant failed to respond in the time required by law, including any extension that may apply due to the Governor's Executive Order regarding evictions during the COVID-19 emergency.

For unlawful detainers where the tenant has responded or appeared, the Order prohibits a court from setting the case for trial earlier than 60 days after a trial is requested, unless necessary to protect public health and safety. In addition, the Order requires any trial in an unlawful detainer that was already scheduled as of April to be postponed until at least 60 days after the initial trial date.

The Order will be in effect until 90 days after the state of emergency is lifted, or if the Order is amended by the Judicial Council. As always, it is important to seek independent legal counsel as to your specific objectives and circumstances. If you have questions on these topics and/or need legal advice on these subjects, please call (805) 963-9721 or email David Grokenberger at David@rogerssheffield.com; Michael Brelje at Mike@rogerssheffield.com, or Scott Soulages at ssoulages@rogerssheffield.com.

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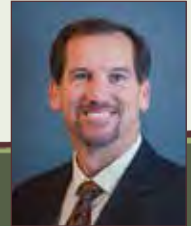
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State and Local Emergency Moratoriums on Evictions Issued

On March 16, 2020, California Governor Gavin Newsom issued Executive Order N-28-20 imposing statewide substantive limitations on residential and commercial evictions. These limitations apply when the basis for eviction is nonpayment of rent or foreclosure due to a substantial loss in household or business income caused by COVID-19 or by the government's response to COVID-19. This order does not relieve tenants of the obligation to pay rent. On March 27, Newsom issued Executive order N-37-20, adding that tenants must have paid the rent due to their landlord prior to this order. Tenants must also notify their landlord in writing of their inability to pay rent no more than 7 days after rent is due and provide documentation demonstrating inability to pay full rent due to reasons related to COVID-19. Reasons include but are not limited to (i) tenant was sick or caring for a household or family member with a suspected case of COVID-19, (ii) tenant experienced a layoff or loss of hours, (iii) tenant needed to miss work to care for a child whose school was closed in response to COVID-19. These protections will be in effect through May 31, 2020, unless extended. In response to Newsom's orders, many local governments have passed similar eviction moratoriums.

On March 25, the Santa Barbara City Council unanimously voted to pass Ordinance No. 5941, an emergency moratorium on evictions of residential and commercial tenants who demonstrate inability to pay rent due to a significant negative change to their household financial condition related to COVID-19. Tenants have 20 days after rent is due to notify and provide documentation to their landlord. While tenants are not relieved of the liability for deferred rent, property owners may not charge late fees for rent that is deferred then repaid in a timely manner. The City Council will revisit a timeline for repayment on May 12.

Goleta also issued an emergency moratorium which follows the above-mentioned guidelines, but gives tenants 30 days after rent is due

to notify and show documentation of inability to pay rent due to financial impacts related to COVID-19. This order also specifies that deferred rent must be repaid within six months of the local emergency's expiration.

With millions not paying rent, COVID-19 may spark a housing crisis in the next several months. Landlords are currently without the ability to evict certain tenants, yet the mortgage payments from the months landlords couldn't collect rent, to pay the mortgage, will still be there. Some landlords will likely end up losing their properties. There is also not enough government provided housing to shelter people who will eventually be evicted, and the emptying of rental units could lead to mass bankruptcies for property owners as they attempt to hold onto their assets.

The Court gets in the Act: California Judicial Council Places Significant Procedural Restrictions On Unlawful Detainer Actions

Effective April 6, 2020, the Judicial Council amended the California Rules of Court with 11 new emergency rules. Emergency rule 1 provides several procedural restrictions that temporarily make pursuing unlawful detainer actions impossible except for matters effecting public health and safety.

First, the rule requires that a court may not issue a summons on a complaint for unlawful detainers unless the court finds the action necessary to protect public health and safety. Effectively, a landlord must show good cause, relating to protecting health and safety, before the court will allow an unlawful detainer action to be served on the defendants.

Second, a court may not enter a default or default judgement for failure to appear in an unlawful detainer action unless the court finds (i) the action is necessary to protect public health and safety, and

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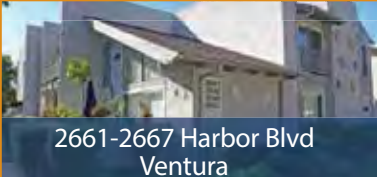
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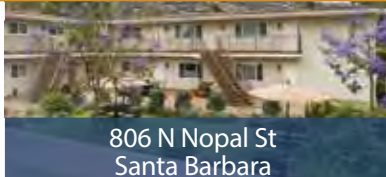
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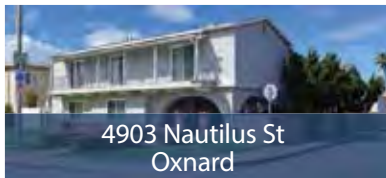
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(ii) the defendant has not appeared in the action within the time provided by the law, including by any applicable executive order.

Third, if the defendant has appeared, the court may not set a trial date earlier than 60 days after a request for trial is made (unless the court finds that an earlier trial date is needed to protect public health and safety). Any trial set in an unlawful detainer proceeding (as of April 6) must be continued at least 60 days from the initial start date set for trial.

Notably, and unfortunately, none of these restrictions are specifically tied to COVID-19. So it appears that even if a tenant's breach of lease is not connected to COVID-19 these rules would still apply.

These rules remain in effect until either they are amended or repealed by the Judicial Council or 90 days after the Governor declares an end to the state of emergency caused by the COVID-19 pandemic. A text of all the emergency rules adopted by the Judicial Council can be found at <https://www.courts.ca.gov/documents/appendix-i.pdf>.

California Schools and Universities Shift to Remote Education

On March 13, the Santa Barbara County Education Office closed schools due to the spread of COVID-19. This closure applies to all 20 school districts in the Santa Barbara County. The closure of K-12 schools alone means that more than 67,000 students must stay at home, causing their parents to stay home from work. All public schools, colleges, and universities will remain closed until next fall.

Rather than stopping, or pausing the school year, schools throughout California have been advised to transition to remote online learning.

Both UCSB and SBCC have closed their campuses and have shifted to online learning. UC President and the university system's regents will also be suspending the standardized test requirement for students applying for fall 2021 freshman admission.

The future of education, at least for the foreseeable future, has changed. Students, teachers, and parents must adapt to this uncertain time and learn to communicate differently. Although there are no final plans yet, the Santa Barbara Unified School District has been working to come up with a long-term remote education plan for each grade level.

Goleta City Council Adopts Two Additional Emergency Ordinances

Goleta City Council unanimously voted to adopt a resolution in order to provide tax relief to hotels and motels. The resolution will allow hotels and motels to defer transient occupancy tax payments (TOT payments) for the months of March and April, as long as payments are made on or before June 30. The resolution also allows City Manager Michelle Green to defer TOT payments, upon written request, for months following April in two-month increments.

Hotels and motels, according to Councilman Roger Aceves, are the biggest contributor to the budget. Without the usual tourism, hotels and motels will not be able to contribute what they normally do. Historically, TOT payments have accounted for nearly 40% of the city's general fund. This year, city staff is anticipating a decrease of \$2.1 million from the city's initially adopted budget of \$10.4 million. Although Goleta relies on these taxes, councilmembers are hopeful that a two-month deferment may help local hotels stay in business.

Goleta City Council also unanimously passed an urgency ordinance adding a penalty section to Goleta's municipal code so that city orders can be enforced during an emergency. Enforcement mechanisms include an administrative citation or prosecution for a misdemeanor. These efforts will hopefully slow the spread of COVID-19 so businesses can reopen.

Looking Toward the Future (Beyond the Stay-at-Home Order)

The devastating effects of the COVID-19 pandemic go far beyond the stay at home order and are likely to remain into the foreseeable future. Research indicates that the economic damage resulting from COVID-19 has already surpassed that of the Great Recession (2008-09). As small businesses struggle to stay open, the surge in personal and business bankruptcies is expected to continue through the year and exceed the numbers filed during the Great Recession. In addition, more than 17 million workers have claimed unemployment benefits (as of mid-April), compared the 8.7 million jobs lost during the Great Recession.

With a vaccine still months away, it is crucial to evaluate how the economy will look in the next several months and years to come.



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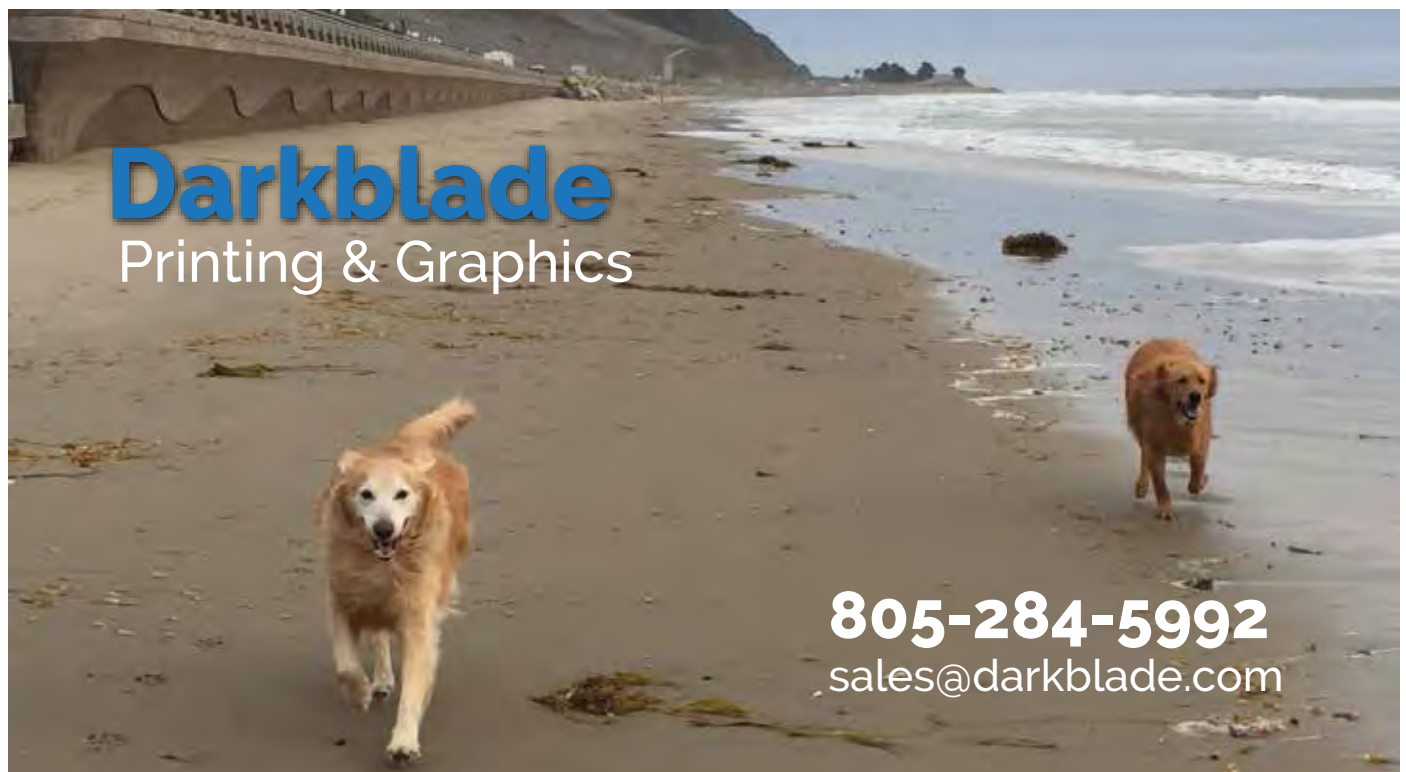
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