



County of San Mateo

Inter-Departmental Correspondence

Department: BOARD OF SUPERVISORS
DISTRICT 3
File #: 20-348

Board Meeting Date: 5/26/2020

Special Notice/Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: Supervisor Don Horsley, District 3
Supervisor Warren Slocum, District 4

Subject: Extension of Temporary, Countywide Moratorium on Eviction for Non-Payment of Rent by Residential Tenants Directly Impacted by the COVID-19 Pandemic as Established Under Emergency Regulation 2020-001

RECOMMENDATION:

Approve an Emergency Regulation of the County of San Mateo extending for 30 days, through June 30, 2020, temporary, Countywide moratorium on eviction for non-payment of rent by residential tenants directly impacted by the Covid-19 pandemic.

BACKGROUND:

As of May 20, 2020, the number of reported confirmed COVID-19 cases in California is 81,795, with 1687 in San Mateo County. The number of actual cases is almost certainly much higher, and will continue to increase.

Meanwhile, the economic impacts of the COVID-19 pandemic have been historically devastating. In the past eight weeks, more than 4 million workers in California, and 36 million workers nationwide, have filed first time claims for unemployment benefits, resulting in unemployment rates not seen since the depths of the Great Depression.

The County has not been spared these impacts, which are compounded by a residential rental market that ranks as one of the most expensive in the nation. Indeed, many of the County's renters are rent-burdened, paying over 30% of their income on rent, and some paying over 50% of their income on rent. This leaves less money available for other necessities, such as healthcare and food.

A. County and State Emergencies and Shelter-in-Place Orders

On March 3, 2020, pursuant to Section 101080 of the California Health and Safety Code, the San Mateo County Health Officer (the "Health Officer") declared a local health emergency throughout the

County related to COVID-19. The Board of Supervisors (the “Board”) ratified and extended this declaration of local health emergency, which remains in effect.

In addition, on March 3, 2020, pursuant to Section 8630 of the California Government Code and Chapter 2.46 of the San Mateo County Ordinance Code, the San Mateo County Director of Emergency Services proclaimed a local emergency throughout San Mateo County related to COVID-19. The Board ratified and extended the proclamation of local emergency, and this local emergency (“Local Emergency”) remains in effect.

On March 4, 2020, Governor Newsom issued a Proclamation of State of Emergency related to COVID-19 effective throughout California (“State Emergency”).

On March 16, 2020, the Health Officer issued an order that, among other things, directs all individuals currently living within San Mateo County to shelter in their place of residence (“County Shelter-in-Place Order”), and authorizes individuals to leave their residences only for certain “Essential Activities,” Essential Governmental Functions,” or to operate “Essential Businesses,” all as defined in the Shelter-in-Place Order.

On March 19, 2020, Governor Newsom issued Executive Order N-33-20, which imposed a statewide shelter-in-place order requiring individuals to remain in their places of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors or to access necessities such as food, prescriptions, and health care or other authorized activities (“Statewide Shelter-in-Place Order”).

On March 31, 2020, April 29, 2020, and May 15, 2020, the Health Officer issued revised County Shelter-in-Place Orders, extending the expiration date of the County Shelter-in-Place Order due to evidence of continued significant community transmission of COVID-19 within the County and throughout the Bay Area.

B. County and State Protections of Residential Tenants

In conjunction with the Local and State Emergencies and County and Statewide Shelter-in-Place Orders, both the County and State have taken steps to protect residential tenants during the COVID-19 pandemic.

On March 24, 2020, the Board adopted Emergency Regulation 2020-001, which places a temporary Countywide moratorium on evictions from residential units for (1) non-payment of rent by tenants directly impacted by the novel coronavirus (COVID-19) pandemic; and (2) certain no-fault causes unless the eviction is necessary for the health and safety of the tenant, other residents in the tenant’s building, the landlord, or the landlord’s family. Emergency Regulation 2020-001 took effect upon adoption by the Board on March 24, 2020 and remains in effect until May 31, 2020, unless extended by the Board.

On March 27, 2020, Governor Newsom issued Executive Order N-37-20, which extends the period of time within which a tenant must respond to an unlawful detainer summons under Code of Civil Procedure 1167 from five (5) days to 60 days, if certain criteria are met.

On April 6, 2020, the Judicial Council of California issued an emergency rule statewide that effectively halted court proceedings related to unlawful detainer actions until 90 days after Governor Newsom lifts the State Emergency, except where necessary to protect public health and safety.

On May 18, 2020, the Presiding Judge of San Mateo County Superior issued an emergency order related to unlawful detainer proceedings, which among other things, prohibits the entry of default in any pending unlawful detainer action during the period of May 14, 2020 through June 12, 2020.

C. Need for Extended Countywide Moratorium on Residential Evictions Established Under Emergency Regulation 2020-001

Although the revised County Shelter-in-Place Order issued on May 15, 2020 allows for the limited resumption of some businesses and activities within the County, it requires that most businesses and activities remain restricted until further order of the Health Officer.

The local economy will take time return to something approximating “normal.” Many County residents are still reeling from the severe financial impacts of COVID-19 and the measures that have been taken to combat it, losing income due to lay-offs and business closures or the reduction of work hours, as well as incurring extraordinary out-of-pocket medical expenses. Other County residents have been forced to reduce their work hours due to school closures.

Many County residents who have lost income due to lay-offs, reduced hours, illness or the need to care for a sick or otherwise dependent family member remain unable to stay current on rent payments. Moreover, given the shortage of affordable rental housing in the County, people who are evicted are at risk of homelessness and, as reflected in the Health Officer’s Shelter-in-Place Orders, homelessness increases the COVID-19-related risks to both the homeless individuals and to the community at large.

Displacing renters who are unable to pay rent due to COVID-19-related financial impacts will worsen the present crisis by making it difficult for them to follow the County and Statewide Shelter-in-Place Orders, which will put such tenants and many others at risk. Therefore, extending the temporary, countywide moratorium on residential evictions established under Emergency Regulation 2020-001 by 30 days will help ensure that people remain housed during this ongoing public health emergency and is a reasonable means of protecting human life and safety.

DISCUSSION:

A. Continuing Legal Authority for Emergency Regulation 2020-001

Section 8634 of the California Government Code provides that during a local emergency, the governing body of a political subdivision of the State, which includes the County of San Mateo, “may promulgate orders and regulations necessary to provide for the protection of life and property...” The law requires that such orders “shall be in writing and shall be given widespread publicity and notice.” (*Id.*) Chapter 2.46 of the County Ordinance Code tracks Section 8634 of the Government Code with respect to the adoption to emergency rules and regulations. Section 8558 of the Government Code defines “local emergency,” in part, to mean that “duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city...”

Construing the above and other relevant authorities, the California Attorney General has opined that when a county has declared a local emergency within its jurisdictional boundaries in an area that includes both the unincorporated area and incorporated territory, the county may adopt emergency rules and regulations pursuant to Section 8634 of the Government Code that will be effective in both

unincorporated and incorporated areas. 62 Ops. Cal. Atty. Gen. 701 (1979).

Thus, while the Local Emergency remains in place, the County has the authority to extend Emergency Regulation 2020-001, which applies throughout the entire geographic boundaries of the County, in both the unincorporated area and within incorporated cities.

B. Proposed Extension of Termination Date of Emergency Regulation 2020-001

Emergency Regulation 2020-001 is currently scheduled to expire on May 31, 2020. With the proposed 30-day extension, it would remain in effect **through June 30, 2020**, unless further extended by the Board. All other provisions of Emergency Regulation 2020-001, as originally adopted by the Board on March 24, 2020, would remain unchanged and continue to operate through the new termination date.

FISCAL IMPACT:

A 30-day extension of the original termination date of Emergency Regulation 2020-001, from May 31, 2020 through June 30, 2020, will result in a temporary increased workload for Department of Housing and Code Compliance staff, as it is expected that residential tenants and landlords will contact the County with questions as potential violations are reported during this extended time frame.