



County of San Mateo

Inter-Departmental Correspondence

Department: BOARD OF SUPERVISORS
DISTRICT 4
File #: 20-395

Board Meeting Date: 6/23/2020

Special Notice: None
Vote Required: Majority

To: Honorable Board of Supervisors

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

Subject: Second 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 through July 28, 2020, a temporary, Countywide moratorium on eviction for non-payment of rent by residential tenants directly impacted by the COVID-19 pandemic.

BACKGROUND:

As of June 18, 2020, there were 157,000 confirmed COVID-19 cases, and 5,208 COVID-19-related deaths, in the State, including 2,553 confirmed cases, and 99 deaths, in San Mateo County.

Meanwhile, the economic impacts of the COVID-19 pandemic have been historically devastating. In the last three months, 5.19 million California workers have filed initial unemployment claims, resulting in unemployment rates not seen in nearly a century.

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 Related 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, directed all individuals living within San Mateo County to shelter in their place of residence ("Original Shelter-in-Place Order"), and authorized individuals to leave their residences only for certain "Essential Activities," Essential Governmental Functions," or to operate "Essential Businesses," all as defined in the Original Shelter-in Place-Order.

Several times since March 16, 2020, and most recently, on June 4, 2020, the Health Officer issued revised Shelter-in-Place Orders extending the Original Shelter-in-Place Order due to evidence of continued significant community transmission of COVID-19 within the County and throughout the Bay Area.

On March 16, 2020, Governor Newsom issued Executive Order N-28-20, which granted cities and counties broad authority to enact temporary moratoria on residential and commercial evictions based on a non-payment of rent caused by the COVID-19 pandemic or the federal, state and/or local response to the COVID-19 pandemic, through May 31, 2020.

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 critical infrastructure, access necessities such as food, prescriptions and healthcare, or engage in other authorized activities.

On March 24, 2020, the Board adopted the Emergency Regulation, 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.

On March 27, 2020, Governor Newsom issued Executive Order N-37-20, which, until May 31, 2020, extended the period of time within which a tenant must respond to unlawful detainer summons under Code of Civil Procedure section 1167 from five (5) days to 60 days, if certain criteria are met.

On April 6, 2020, the Judicial Council of California issued a statewide emergency rule that effectively halts court proceedings related to unlawful detainer actions until 90 days after Governor Newsom lifts the COVID-19 State of Emergency, except where necessary to protect public health and safety.

On May 8, 2020, Governor Newsom announced a plan to allow the limited reopening of some businesses beyond those in the category of essential critical infrastructure, which is part of the "Resilience Roadmap" for California, the multiphase plan to modify the Statewide Shelter-In-Place Order.

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

On May 26, 2020, the Board extended the Emergency Regulation for 30 days through June 30, 2020.

On May 29, 2020, Governor Newsom issued Executive Order N-66-20, which among other things, extends the provision in Executive Order N-28-20, granting cities and counties broad authority to enact temporary moratoria on residential and commercial evictions based on a non-payment of rent caused by the COVID-19 pandemic or the federal, state and/or local response to the COVID-19 pandemic, by an additional 60 days from the date of the Executive Order (i.e. through July 28, 2020).

On June 12, 2020, the Presiding Judge of the San Mateo County Superior Court extended the emergency order prohibiting the entry of default in any pending unlawful detainer action for an additional 30 days through July 12, 2020.

On June 16, 2020, the State approved the County's request for a variance allowing the County to align with the Resilience Roadmap for California.

On June 17, 2020, the Health Officer rescinded the June 4, 2020 revised Shelter-in-Place Order and replaced it, effective immediately, with a new order aligning the County with the Statewide Shelter-in-Place Order/Resilience Roadmap, emphasizing individual behavior and the practices that businesses must follow as they resume operations, including limiting gatherings to no more than 50 people, outlining social distancing and face covering requirements, allowing for social bubbles, and requiring businesses to implement a social distancing protocol and written health and safety plans, based on evidence of continued significant community transmission of COVID-19 within the County and throughout the Bay Area.

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

Although the Health Officer recently issued a new order aligning the County with the Statewide Shelter-in-Place/Resilience Roadmap, the local economy remains significantly disrupted and will take time return to something approximating "normal." As the State and County begin to reopen, the number of identified COVID-19 cases continues to grow; in fact, in the one-week period ending June 17, 2020, California averaged 3,381 new cases and 61 new deaths each day.

Furthermore, many County residents continue to suffer 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 Health Officer's 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 28 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 June 30, 2020. With the proposed additional 28-day extension, it would remain in effect **through July 28, 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 28-day extension of the existing termination date of Emergency Regulation 2020-001, from June 30 2020 through July 28, 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.