



County of San Mateo

Inter-Departmental Correspondence

Department: BOARD OF SUPERVISORS
DISTRICT 4
File #: 20-583

Board Meeting Date: 8/4/2020

Special Notice: None
Vote Required: Majority

To: Honorable Board of Supervisors

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

Subject: Contribution to Emergency Financial Assistance Program for COVID-19 Rent Assistance Grants; Establishment of a Small Residential Rental Property Owner Assistance Program; and Development, Funding and Implementation of Additional Programs for Tenants and Property Owners Adversely Impacted by COVID-19

RECOMMENDATION:

Adopt a resolution:

- A) Authorizing the contribution of \$2,000,000 to the Emergency Financial Assistance Program, comprised of Community Development Block Grant (CDBG) funds received by the Department of Housing pursuant to the Coronavirus Aid, Relief and Economic Security (CARES) Act and additional CARES Act funds or other funds as determined by the County Manager, for the provision of emergency rent assistance grants to residential tenants who are unable to pay rent due to COVID-19 or the government response to COVID-19; and
- B) Authorizing the disbursement of \$300,000 in CARES Act funds or other funds as determined by the County Manager to Samaritan House for payment of administrative fees for administration of the Emergency Financial Assistance Program; and
- C) Authorizing and directing the County Manager and his designees to negotiate and execute appropriate agreements with the County's Core Service agencies for the administration of, and disbursing of grants from the Emergency Financial Assistance Program; and
- D) Authorizing and directing the County Manager and his designees to establish a Small Residential Rental Property Owner Assistance Program and to negotiate and execute appropriate agreements on behalf of the County for the implementation of the Small Residential Property Owner Assistance Program, and directing the County Manager or his designees to present on this program to the Board of Supervisors at its meeting of September

15, 2020 and authorizing and directing the allocation and distribution of up to \$2,000,000 in CARES Act funds for the program; and

- E) Authorizing and directing the County Manager and his designees to identify existing additional programs and develop and implement new programs for tenants and residential rental property owners adversely impacted by COVID-19 or the government response to COVID-19, including but not limited to incentive programs for landlords and tenants to compromise on back rent, legal services, information and referral services and educational programs and to negotiate and execute appropriate agreements on behalf of the County for the implementation and/or funding of such programs, and directing the County Manager or his designees to present on these programs to the Board of Supervisors at its meeting of September 15, 2020, and authorizing and directing the allocation and distribution of up to \$1,000,000 in CARES Act, **Measure K** or other funds as determined by the County Manager toward these programs.

BACKGROUND:

A. The County's Residential Eviction Moratorium

On March 24, 2020, the Board of Supervisors adopted Emergency Regulation 2020-001 (the "Emergency Regulation"), which placed a temporary Countywide moratorium on residential evictions for (1) non-payment of rent by tenants directly impacted by the COVID-19 pandemic; and (2) certain no-fault causes.

While the Emergency Regulation remains in place, a tenant cannot be evicted for failing to pay rent if the tenant proves an inability to pay as a direct result of COVID-19. Once the Emergency Regulation expires, however, the tenant must pay current rent as it comes due and has up to 180 days to repay all rent payments missed due to COVID-19 while the Emergency Regulation was in effect. (The Board will be considering an amendment to the Emergency Regulation that will modify the provisions regarding repayment of deferred rent.)

The Board most recently extended the term of the Emergency Regulation through August 31, 2020. Thus, some tenants may accrue up to five months of back rent by that date (i.e., rent payments due in April through August 2020). Residential rental property owners, especially smaller property owners that rent to one or more low-income households, have been economically impacted by these delayed rent payments.

B. The Need for Additional Funding for Tenant Rent Assistance

The disruption to the local economy caused by COVID-19 is undeniable. The number of confirmed COVID-19 cases continues to rise and many residents continue to suffer from the severe financial impacts of the pandemic, including loss of income due to lay-offs and business closures or the reduction of work hours and extraordinary out-of-pocket medical expenses. Furthermore, the State Department of Health is maintaining a watch list of counties that are being monitored for worsening COVID-19 trends, and if a county is on the monitoring list for three days or longer, the State will order them to further roll back reopening. As of July 29, 2020, San Mateo County has been placed on the monitoring list. If it remains on the monitoring list for three consecutive days, it will be required to roll back some of its re-opening steps.

Moreover, given the shortage of affordable rental housing in the County, residents who are evicted

are at risk of homelessness. This outcome in ordinary times is tragic, but it is particularly dangerous during the COVID-19 pandemic, as homeless residents face increased risks of exposure to COVID-19 and are more susceptible to its associated negative health consequences. This impacts the County's ability to limit the spread of COVID-19 and places an additional strain on the County's health care infrastructure.

At the same time, tenants who have deferred rent payments under the Emergency Regulation are continuing to accumulate deferred rent, which must eventually be repaid. The longer the eviction moratorium extends, the larger that deferred rent debt becomes. This problem is magnified in the County, where rents are well above the national average.

In written testimony before the U.S. House of Representatives, Committee on Financial Services Subcommittee on Housing, Community Development, and Insurance, on June 10, 2020, Jenny Schuetz, a Fellow at the Brookings Institution, explained that, “[w]hile allowing renters to suspend rent payments for a few months can help them in the short term, these [eviction] moratori[a] could increase households’ longer-term financial insecurity.”(See https://www.brookings.edu/wp-content/uploads/2020/06/BrookingsMetro_JSchuetz_testimony_Jun7.pdf, p. 5.) Indeed, “[a]llowing renters to defer current rent payments to some future date will most likely result in households accumulating debt that they cannot pay off. Families who cannot afford one month of rent now will face even greater difficulty paying several months of overdue rent when the moratorium comes to an end.” (*Id.*) At the same time, according to Ms. Schuetz, halting rent payments for an extended period of time could have “harmful ripple effects throughout local economies.” (*Id.*) Therefore, she recommends direct financial support to households and property owners. (*Id.* at p. 6.)

C. The Need for a Small Residential Rental Property Owner Assistance Program

Smaller, debt-burdened property owners are at particular risk of foreclosure as a result of COVID-19 and government response to the pandemic. While the County's residential eviction moratorium protects tenants from eviction due to non-payment of rent as a result of COVID-19, it does not protect small residential rental property owners who have experienced reduced revenues for the same reason. Additionally, unlike the forbearance that banks have provided to home mortgage holders, many commercial lenders have not provided loan payment deferrals for commercial (multi-family) mortgages.

The State Legislature considered, but failed to pass, Assembly Bill (AB) 2501, which would have protected residential rental property owners from foreclosure if they were unable to make mortgage payments due to non-payment of rent from tenants impacted by the pandemic. Specifically, AB 2501 would have provided forbearance to homeowners and multifamily borrowers for rent relief to any tenants, prohibiting borrowers from evicting or otherwise penalizing tenants for non-payment of rent. Debt-burdened residential rental property owners thus continue to face increased risk of foreclosure, which could result in tenant eviction and displacement.

Although AB 828, an active bill in the committee process, would provide a temporary moratorium on foreclosures and evictions until 15 days after the State of Emergency is lifted, it does not provide for any of the financial relief that would likely be required for some particularly hard-hit residential rental property owners to retain ownership of their properties.

D. The Need for Identifying or Developing and Funding Additional Programs for Tenants and Property Owners Adversely Impacted by COVID-19

In addition to providing emergency financial relief to tenants and small residential rental property owners, there are other pandemic-related needs that property owners and tenants are experiencing, which could be addressed through existing or new programs supported by the County, such as incentive programs for tenants and property owners to compromise on back rent, legal services for tenants facing imminent eviction, and information, education, and referral services and alternative dispute resolution services for tenants and property owners.

For instance, there is an increased demand for COVID-19 related legal services for tenants and a demonstrated need for COVID-19 related information and education and alternative dispute resolution services for tenants and property owners. Legal Aid of San Mateo County has reported a sizeable increase in requests for advice and assistance from tenants about eviction since the pandemic began. Project Sentinel has expanded its menu of services to provide tenants and property owners with information and education about COVID-19 related laws and regulations as well as COVID-19 related dispute resolution services in the form of counseling, mediation and arbitration. In addition, partnerships with community organizations, such as those developed through the Census program, would help get the word out about these kinds of programs to all communities in the County.

DISCUSSION:

The Emergency Regulation, which has remained in place since March 2020 will remain in effect through August 31, 2020. After that date, residential tenants Countywide tenants will be required to make payments for current rent as they become due and will have up to 180 days to repay the rent payments missed due to COVID-19 while the Emergency Regulation remained in place. (The Board will be considering an amendment to the Emergency Regulation that will modify the provisions regarding repayment of deferred rent.) Meanwhile, residential rental property owners, especially smaller ones, have experienced financial hardship while the Emergency Regulation has been in place, and some property owners may be on the brink of foreclosure.

Accordingly, we make the following recommendations to the Board:

A. Addition of \$2,000,000 to the Emergency Financial Assistance Program for Individuals and Families Impacted by COVID-19 for Rent Assistance

First, we recommend that this Board authorize the contribution of an additional \$2,000,000 to the Emergency Financial Assistance Program for the provision of emergency rent assistance grants, which are disbursed through the County's eight Core Service agencies on behalf of residential tenants throughout the County who are unable to pay rent due to COVID-19. These grants are generally paid to the qualifying tenant's landlord. The Board allocated \$2,000,000 in SMC Strong Funds to the Emergency Financial Assistance Program earlier this year. Cities have also contributed over \$3,000,000, and foundations have also provided additional funds, but the need is greater than the available funds.

To date, over 4,000 residents have applied for rental assistance through the Core Service Agencies and the average grant has been \$2,000. If all current requests are fully funded, the current need, through July, is over \$8,000,000. While cities and foundations have also contributed to the Emergency Financial Assistance Program, currently available funds may not meet the need of applicants to date. Until the local economy fully recovers, there will be significant on-going need for rent assistance among the County's lower income residents.

We further recommend that the County Manager and his designees be instructed and authorized to

work with the Core Service agencies to increase the available funding for the Emergency Financial Assistance Program by amending or negotiating and entering into, on behalf of the County, appropriate agreements and to provide the Board with regular updates regarding amounts disbursed.

Among the agreements, we recommend that the County Manager and his designees be authorized to negotiate and execute an agreement with Samaritan House, pursuant to which Samaritan House will administer the additional funds contributed to the Emergency Financial Assistance Program in exchange for an administrative fee an amount totaling \$300,000 (i.e., fifteen percent of the \$2,000,000 recommended additional contribution amount).

The County's contribution will consist of Community Development Block Grant (CDBG) funds received by the Department of Housing pursuant to federal Coronavirus Aid, Relief and Economic Security (CARES) Act and additional CARES Act funds or other funds as determined by the County Manager.

B. Establishment of a \$2,000,000 Small Residential Rental Property Owner Assistance Program

We also recommend (1) the establishment of a small residential rental property owner assistance program that would provide grants to property owners enduring particular hardship as a result of nonpayment of rent or reduced payment of rent due to COVID-19; and (2) an allocation of up to \$2,000,000 in CARES Act funds for the program.

The proposed program would be aimed at assisting smaller "mom and pop" property owners who meet certain requirements and who own a relatively small number of rental units (to be determined) within the jurisdictional boundaries of San Mateo County, and have been economically impacted due to COVID-19 or the governmental response to COVID-19.

At a minimum, the property owner must:

- Demonstrate material reliance on rent as a source income to cover property ownership expenses (such as mortgage payments, property tax and maintenance of property);
- Demonstrate a loss of rental income as of April 1, 2020;
- Provide proof of property ownership and non-payment or reduced payments of rent by tenants;
- Provide a current lease or general ledger with tenant transactions; and
- Be in good standing with the County (i.e. no code violations or liens)

If directed to establish the proposed program, staff would work with community partners to develop the program design, establish its requirements and guidelines, conduct targeted outreach to property owners more likely to benefit from the program, and determine how the program would be administered, including the application process and documentation requirements.

C. Allocation of \$1,000,000 to Additional Programs for Tenants and Property Owners Adversely Impacted by COVID-19

Finally, to address other pandemic-related needs that property owners and tenants are experiencing, we recommend that the County Manager or his designees be directed to identify existing additional programs or develop and implement new programs for tenants and property owners adversely

impacted by COVID-19, and that the County Manager or his designees be authorized and directed to negotiate and execute, on behalf of the County, appropriate agreements to implement and/or fund such programs. Further, we recommend that the Board allocate up to \$1,000,000 in CARES Act funds or other funds as determined by the County Manager to these programs.

FISCAL IMPACT:

Funding for the suite of housing preservation programs will come from CARES Act funds to the maximum extent possible. Should the County be unable to use CARES Act funds for all aspects of these programs, supplemental funding will come from **Measure K** and other County funds as determined by the County Manager. If CARES Act funds can be fully used, program funding would be approximately \$3,800,000 from CARES Act funds and approximately \$1,500,000 in CDBG funds. The Small Residential Rental Property Owner Assistance Program will be funded with up to \$2,000,000 in CARES Act funds. The \$2,000,000 contribution to the Emergency Financial Assistance Program for tenants will be comprised of approximately \$1,500,000 in CDBG funds and approximately \$500,000 in CARES Act funds plus an additional \$300,000 in CARES Act funds for program administration. Funding for the additional programs, including but not limited to legal services, outreach and incentive programs for compromise of back rent, in an amount up to \$1,000,000 will also come from CARES Act funds. Staff will report back on exactly how these programs will be funded at the September 15, 2020 Board meeting.