



Staff Report

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**Honorable Mayor and Members of the Hermosa Beach City Council
Regular Meeting of April 14, 2020**

**AMENDMENTS TO TEMPORARY MORATORIUM ON
FORECLOSURES AND RESIDENTIAL AND COMMERCIAL
EVICTIONS FOR NONPAYMENT OF RENT DURING
COVID-19 PANDEMIC**

(City Attorney Michael Jenkins)
(Assistant City Attorney Lauren Langer)

Recommended Action:

Staff recommends that the City Council adopt an Urgency Ordinance of the City of Hermosa Beach (**Attachment 1**) amending Ordinance No. 20-1406U (**Attachment 2**) to amend the temporary moratorium on foreclosures and evictions due to non-payment of rent by residential and commercial tenants impacted by the Novel Coronavirus (COVID-19), and setting forth the facts constituting such urgency.

The Urgency Ordinance requires four-fifths vote of the city council and if approved, will take effect immediately.

Background and Analysis

On March 4, 2020, Los Angeles County declared a local and public health state of emergency in response to the increased spread of COVID-19, the disease caused by the novel coronavirus. As of April 7, 2020, there are 6,910 confirmed cases of COVID-19, and 169 deaths in Los Angeles County, and this number is expected to continue to grow as the virus spreads throughout the community.

On March 12, 2020, California Governor Gavin Newsom declared a State of Emergency in response to the increased spread of COVID-19. The President of the United States has declared a federal emergency as a result of the spread of the COVID-19.

On March 16, 2020, the City Council of the City of Hermosa Beach declared a state of local emergency in response to the COVID-19 global pandemic and imposed certain orders in response to the pandemic.

On March 16, 2020, Governor Newsom promulgated Executive Order N-28-20 which authorized local governments to exercise their police power to impose substantive limitations on foreclosures and

residential and commercial evictions based on nonpayment of rent when the nonpayment of rent arose out of a substantial decrease in household or business income due to the effects of COVID-19.

On March 19, 2020, the Los Angeles County Public Health Officer issued a second countywide order - the Safer at Home for Control of COVID-19 Order, which was further clarified on March 21, 2020. This public health order prohibits all public and private group gatherings and events and requires people to stay in their homes with limited exceptions; and requires closure of all non-essential retail businesses, shopping centers, playgrounds for children, bars, nightclubs, movie theaters and all similar gathering places. The purpose of the order is to further restrict and limit gathering of persons and require closures of non-essential retail businesses in an effort to stem or slow the spread of the virus. More restrictions are being released daily to prevent the spread of COVID-19.

On March 19, 2020, the Governor of the State of California, also issued Executive Order N-33-20, an Order of the State Public Health Officer ordering all individuals living in California to stay home or at their place of residence except as needed to maintain continuity of operations of outlined federal critical infrastructure sectors.

On March 24, 2020, the City Council of the City of Hermosa Beach adopted Urgency Ordinance No. 20-1406U, effective immediately, which temporarily suspended residential and commercial evictions and foreclosures for the nonpayment of rent and mortgages resulting from demonstrable COVID-19-related financial impacts through May 31, 2020. The recitals and findings for that ordinance remain applicable here.

The day after Urgency Ordinance No. 20-1406U was adopted, Governor Gavin Newsom, on March 25, 2020, announced a financial relief package negotiated with participating financial institutions ("Financial Relief Package") (**Attachment 3**). By agreement with participating lenders, borrowers economically impacted by COVID-19 may apply for mortgage payment forbearances for up to 90 days.

Under the Financial Relief Package, for at least 60 days, participating financial institutions also will not initiate foreclosure sales or evictions, consistent with the institutions' applicable guidelines. As of March 25, 2020, participating financial institutions included Citigroup, JPMorgan Chase, U.S. Bank, Wells Fargo, and roughly 200 state-chartered banks, credit unions, and loan servicers. A searchable and more current list of participating institutions and their contact information can be viewed by going to the California Department of Business Oversight website (**Attachment 4**).

Foreclosure Moratorium

Pursuant to Executive Order N-28-20, the earlier-adopted Urgency Ordinance No. 20-1406U

temporarily suspended the judicial foreclosure of residential and commercial properties through May 31, 2020. The ordinance does not relieve protected mortgagors of liability for any unpaid mortgage payments after the emergency, encourages lenders and borrowers to create a payment plan in lieu of foreclosure after the emergency declaration is lifted, and acknowledges that respective rights and obligations of the parties in any judicial foreclosure proceeding shall be adjudicated in the appropriate court of law.

The Urgency Ordinance under consideration amends Urgency Ordinance No. 20-1406U by limiting its foreclosure protections to those residential and commercial mortgagors who are not covered by the Governor's Financial Relief Package - that is, those mortgagors whose lenders are not one of the participating financial institutions.

Eviction Moratoria Amendments

The proposed ordinance amends the original urgency ordinance with a few additional clarifications. These include:

1. Clarifying that interest cannot be charged on rent that is deferred under the ordinance.
2. Clarifying that to the extent the ordinance regulates a period after the local emergency, the residential portion is intended to be more restrictive than the 2019 Tenant Protections Act related to just cause evictions (as it may apply to certain tenancies in the city).
3. Payment plans can go beyond the six-month repayment period if the parties agree.
4. Tenants can draw down on security deposits to cover rent and those deposits should be replenished during the repayment period.

Lastly, the California Judicial Council, the rule-making arm of the California court system, adopted several important statewide rules at an emergency meeting on April 6th. Notably, the Council issued rules that effectively stopped all evictions other than those necessary to protect public health and safety, and suspended judicial foreclosures. The rules are designed to last throughout the COVID-19 pandemic. This information is provided for informational purposes only to show how relief is coming from multiple venues. The local ordinance still provides value and guidance on the landlords' and tenants' responsibilities after the period of local emergency, even if evictions and foreclosures are suspended in the courts for the time being.

Conclusion

If approved, the revised Urgency Ordinance will go into effect immediately upon adoption and as with the original ordinance, remains in effect until May 31, 2020, and may be extended during the period of local emergency. While the City Manager is authorized under the ordinance to suspend the ordinance to prevent inconsistencies in the law, staff proposes amending the ordinance to account for the later enacted financial relief package. Under this approach, any mortgagor who is not covered by the state's financial relief can still receive the benefits of the city's ordinance. Since the ordinance

was being revised, it was appropriate to bring forward additional clarifications to improve the ordinance.

These proposed measures are extraordinary and should be narrowly tailored and utilized to the minimum extent necessary to achieve the stated goals of preventing the spread of the virus and keeping people in their homes and without imminent fear of foreclosure or eviction during this unprecedented health crisis.

Attachments:

1. Urgency Ordinance
2. Interim Urgency Ordinance No. 20-1406U, adopted March 24, 2020
3. Link to the Financial Relief Package
4. Link to list of participating financial institutions on the California Department of Business Oversight website
5. SUPPLEMENTAL Urgency Ordinance - REDLINED

Respectfully Submitted by: Lauren Langer, Assistant City Attorney

Concur: Michael Jenkins, City Attorney

Approved: Suja Lowenthal, City Manager