



Staff Report

File #: REPORT 21-0350, Version: 1

Honorable Mayor and Members of the Hermosa Beach City Council
Meeting of June 8, 2021

Regular

UPDATE TO COMMERCIAL AND RESIDENTIAL EVICTION MORATORIUMS

(City Attorney Michael Jenkins)
(Assistant City Attorney Monica Castillo)

Recommended Action:

Staff recommends City Council:

1. Option 1:
 - a. Allow the Commercial Eviction Moratorium to sunset on June 30, 2021;
 - b. Take no action to readopt a Residential Eviction Moratorium;
 - c. Extend the requirement that residential landlords obtain building permits before evicting tenants to demolish or substantially remodel property; and
 - d. Aggressively promote the state rental assistance program on the City's website and other local media.
2. Option 2:
 - a. Allow the Commercial Eviction Moratorium to sunset on June 30, 2021;
 - b. Adopt a new Residential Eviction Moratorium, effective July 1, 2021, with amendments to reflect current economic, regulatory, and public health climate;
 - c. Extend the requirement that residential landlords obtain building permits before evicting tenants to demolish or substantially remodel property;
 - d. Consider extending the requirement that commercial landlords obtain building permits before evicting tenants to demolish or substantially remodel property; and
 - e. Aggressively promote the state rental assistance program on the City's website and other local media.
3. Option 3:
 - a. Provide other direction to staff.

Executive Summary:

The City of Hermosa Beach currently has eviction moratoriums in place protecting commercial and residential tenants through June 30, 2021. Staff recommends City Council receive an update and provide staff direction regarding the approaching expiration of the City's commercial and state's

residential eviction moratoriums and other expiring tenant protections.

Background:

Commercial Eviction Moratorium for Non-Payment of Rent Due to COVID-19

The City of Hermosa Beach has an eviction moratorium in place protecting commercial tenants from eviction for failure to pay rent due to financial impacts related to the COVID-19 pandemic through June 30, 2021, effectively deferring payment of rent during the current commercial eviction moratorium period. Those who suffer a partial loss of income during the moratorium must pay the pro-rated shared of their rent that corresponds to the income they generated during the period of loss.

The City's moratorium was adopted pursuant to Governor Newsom's Executive Order N-03-21, authorizing commercial eviction moratorium ordinances at the local level. The order will expire on June 30, 2021, the same day when the City's commercial eviction moratorium expires.

Repayment Period: July 1 - December 31, 2021

If the moratorium is not extended, tenants will have six months from when the moratorium expires to completely repay deferred rent. Starting July 1, 2021, commercial tenants must again pay their full monthly rent on time *and* begin paying portions of deferred rent remaining from the moratorium period. *They have until December 31, 2021 to pay off all remaining deferred rent.* Conceivably, a tenant could pay any amount above the tenants monthly rent during the repayment period and pay the remaining sum on December 31, 2021.

Residential Eviction Moratorium for Non-Payment of Rent Due to COVID-19

The City's existing residential eviction moratorium incorporates the state's procedures for eviction protection and also sets forth the repayment period for deferred rent as dictated by state law. It covers two different moratorium periods: the period when the City's local moratorium was in place and the period from when the state's moratorium took over up until when it will expire on June 30, 2021.

From March 16, 2020 through September 30, 2020, the City's local moratorium protected tenants from evictions based on the non-payment of rent due to financial impacts related to COVID-19. When California's residential eviction moratorium was enacted on August 31, 2020, it allowed the City's local moratorium to remain in effect until it expired September 30, 2020, but also set a local repayment period for deferred rent.

From October 1, 2020 through June 30, 2021, the period governed by the state moratorium, tenants were and are required to follow the state's preconditions for eviction protection. These include providing a declaration of financial hardship to the landlord within 15 days of its receipt and payment

of partial (25%) rent no later than June 30, 2021.

If the City Council wishes to enact a new residential moratorium it must do so with caution. New legislative findings will need to be made demonstrating how present-day conditions justify the moratorium, and the moratorium protections will need to be tailored to those conditions.

Repayment Period: October 1, 2020 - March 31, 2021

When the state eviction moratorium was enacted, it set a repayment period of October 1, 2020 through March 31, 2021. Despite the March 31 deadline having passed, state law prevents courts from ordering tenants protected under the state's eviction moratorium to pay rental debt until July 1, 2021 at the earliest.

With respect to commercial and residential repayment periods, nothing in state law or the City's moratorium prohibits landlords and tenants from negotiating payment amounts and periods suited to their circumstances. They are strongly encouraged to do so, as they are in the best position to balance their individual hardships to the extent they have received PPP loans or other financial assistance from the state or federal government.

Eviction Protections for Demolition and Substantial Remodeling of Property

To supplement its commercial eviction moratorium and the state's residential eviction moratorium, the City instituted protections that require residential and commercial landlords to obtain building permits before evicting tenants to demolish or substantially remodel their properties. These protections will expire on June 30, 2021.

Past Council Actions

Meeting Date	Description
March 16, 2020	Resolution No. 20-7230 Confirming the Proclamation of a Local Emergency and Initiating Commercial and Residential Eviction Moratoriums
March 24, 2020	Urgency Ordinance No. 20-1406U, Temporary Moratorium on Evictions for Nonpayment of Rent by Residential Tenants and Commercial Tenants and Temporary Suspension on Residential and Commercial Foreclosures
April 14, 2020	Urgency Ordinance No. 20-1407U, To Amend the Temporary Moratorium on Foreclosures and Evictions Due to Non-Payment of Rent by Residential and Commercial Tenants Impacted by COVID-19 to Extend the Eviction Moratorium in 20-1406U in its entirety in light of Newsom's Financial Relief Package announced on March 23, 2020
May 26, 2020	Urgency Ordinance No. 20-1409U, Extending the Temporary Moratorium on Evictions
July 28, 2020	Urgency Ordinance No. 2020-1414U, Extending the Temporary Moratorium on Evictions During the COVID-19 Pandemic
September 22, 2020	Urgency Ordinance No. 20-1417U, Clarifying the Temporary Moratorium on Evictions During the COVID-19 Pandemic
November 24, 2020	Urgency Ordinance No. 20-1420U, Temporary Moratorium on Commercial Evictions During the COVID-19 Pandemic
December 8, 2020	Urgency Ordinance No. 20-1422U, Amending the Temporary Moratorium on Residential Evictions During the COVID-19 Pandemic
January 26, 2021	Urgency Ordinance No. 21-1425U, Clarifying and Extending the Temporary Commercial and Residential Moratorium on Evictions During the COVID-19 Pandemic
February 9, 2021	Urgency Ordinance No. 21-1426U, Extending Portions of and Amending the Temporary Moratorium on Residential Evictions to Comply with Recent Changes in State Law
March 23, 2021	Urgency Ordinance No. 21-1428U, Extending the Temporary Moratorium on Commercial Evictions During the COVID-19 Pandemic, Extending Commercial Tenant Protections from Premature Eviction Based on Landlord Intent to Demolish or Substantially Remodel

Policy Setting

CA COVID-19 Rent Relief - Residential Tenants Only

When the Legislature extended the state residential eviction moratorium early this year, it established the CA COVID-19 Rental Relief program. Under this program, a landlord who rents to a lower income tenant (80 percent AMI or below) may apply to receive 80 percent of rental debt incurred by that tenant from April 2020 through March 2021 if the remaining 20 percent is forgiven. Tenants may also apply if the landlord declines to participate, but can only receive 25 percent. For assistance with rent

due in April 2021 and after, lower income tenants can receive 25 percent of their monthly rent. Governor Newsom is now considering covering 100 percent of rental debt and simplifying the application process to remedy the slow disbursement of funds.

There is no specified end date to this program. Funds administrated through the program come from the \$2.6 billion in federal assistance the state received. The state is expected to receive an additional \$2.2 billion from the American Rescue Plan. Therefore, the program should presumably continue until these funds are depleted.

AB 255 COVID-19 Emergency Small Business Eviction Relief Act

Small businesses may be seeing some help from the state soon as well. There is pending legislation, Senate Bill 255, that would apply to commercial tenants that employ 50 or less employees, operate an independently owned and operated business or nonprofit organization, and had an average annual gross revenue no greater than \$2,500,000 between January 1, 2018 and January 1, 2021. This bill would require landlords to conduct a good faith negotiation to form a plan to allow these commercial tenants a reasonable opportunity to repay COVID-19 lease debt if the tenants suffered a decrease of at least 50 percent in average monthly gross revenue during the COVID-19 pandemic. Failure of landlords to comply would be an affirmative defense to eviction.

Reopening California on June 15, 2021

On June 15, California will fully open its economy if vaccine supply remains sufficient, and if hospitalization rates are stable and low. The Los Angeles County Department of Public Health has confirmed that the Health Officer Orders restricting capacity and activity for businesses will also be lifted on June 15, following the State's guidance. Commercial tenants will be able to operate at full capacity with no restrictions on their operations.

Fiscal Impact:

There is no fiscal impact to the City associated with the recommended action.

Attachments:

1. Table of Covid-19 Related Items

Respectfully Submitted by: Michael Jenkins, City Attorney

Legal Review: Monica Castillo, Assistant City Attorney

Approved: Suja Lowenthal, City Manager