

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**ITEM: 3.38
(ID # 12510)**

**MEETING DATE:
Tuesday, May 05, 2020**

FROM : SUPERVISOR V. MANUEL PEREZ:

SUBJECT: SUPERVISOR V. MANUEL PEREZ: REPORT AND DIRECTION TO STAFF
REGARDING EVICTION MORATORIUM DURING COVID-19 PANDEMIC

RECOMMENDED MOTION: That the Board of Supervisors:


1. Discuss, provide direction to staff, and direct the Department of Housing, Homelessness Prevention, and Workforce Solutions and County Counsel to report back with recommendations at the May 19, 2020, Board of Supervisors meeting on options for the Board of Supervisors, including preparation of a possible resolution or urgency ordinance, for the Board's consideration regarding an eviction moratorium during the COVID-19 pandemic.

ACTION:

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Washington, seconded by Supervisor Perez and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as amended to remove the commercial provision from the report and to include possible funding sources available to landlords.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: May 5, 2020
xc: Supvr. Perez

Kecia R. Harper
Clerk of the Board
By: 
Deputy

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BACKGROUND:

On March 3, 2020, the Governor declared a State of Emergency in California due to the threat of Coronavirus Disease 19 ("COVID-19"). On March 8, 2020, the Riverside County Public Health Officer declared a public health emergency in Riverside County from COVID-19. Due to directives from federal, state and local health officials, events have been cancelled, schools have been closed, and residents have been advised to avoid public gatherings and stay and work at home to prevent the spread of disease.

The County of Riverside has seen the cancellation of the BNP- Paribas Tennis Tournament, the Coachella Valley Music and Arts Festival, the Stagecoach Festival, and scores of cancellations of conferences and events. Casinos, hotels and other major institutions have closed their doors, and workers were either furloughed or laid off. Restaurant and retail business have significantly declined, and parents have missed work to care for home-bound school-age children, resulting in workers being impacted by lost wages and layoffs. The loss of wages caused by the effects of COVID-19 impacts a tenant's ability to pay rent when due leaving tenants vulnerable to eviction and homelessness.

The COVID-19 outbreak is causing and is expected to continue to cause serious negative impacts on the local economy and financial impacts to residents, including the substantial loss of income due to loss of compensable work hours or wages, layoffs and business closures. Additionally, workers who experience a loss of income as a result of illness, layoffs, reduced hours, or the need to care for a sick or otherwise dependent family member are more likely to be unable to stay current on rent payments.

There is a severe shortage of affordable rental housing in the County of Riverside, people who are evicted are at risk of homelessness, and homeless individuals are less equipped to mitigate the risks related to COVID-19. Displacing renters who are unable to pay rent due to these types of financial impacts will worsen the present crisis by making it difficult for them to follow the health guidance of social distancing and isolation, which will put tenants and many others at great risk. The County of Riverside Housing Authority has more than 90,000 people on its waiting list, and more than 800 families currently have a voucher and are unable to find a landlord who will take it. More than 72% of Low-Income families in the County are currently cost burdened. These families are at the highest risk of falling behind on their rent and becoming homeless due to a loss of income.

It is in the public interest to take steps to ensure that people remain housed during this public health emergency. The loss of income as a result of the global COVID-19 pandemic may inhibit County of Riverside residents and businesses from fulfilling their financial obligations including rent payments.

TIMELINE AND OVERVIEW OF STATE AND JUDICIAL ORDERS RELATED TO EVICTIONS

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The subject of evictions during the COVID-19 pandemic is a subject that continues to evolve. As background, the following are the orders issued by the Governor and the Courts related to the eviction process. Each is summarized further below in an effort to communicate to tenants and landlords in the County a comprehensive picture of the protections and obligations currently in place.

- March 16, 2020, Governor Newsom issues Executive Order N-28-20
- March 16, 2020, Riverside County Superior Court Issues Administrative Order
- March 27, 2020, Governor Newsom issues Executive Order N-37-20
- April 6, 2020, Judicial Council Adopts Emergency Rules for Evictions and Foreclosures

Executive Order N-28-20. Executive Order N-28-20 recognized that many Californians are struggling to pay their rents or mortgages during the COVID-19 pandemic, however, the Executive Order did not impose any statewide restrictions on evictions. Instead, the Order states that issues regarding residential and commercial evictions should be addressed by "local jurisdictions, based on their particular needs." Therefore, the Governor left the matter to each local jurisdiction to decide.

Specifically, the Order allowed cities and counties to impose limitations on residential or commercial evictions by suspending any conflicting provisions of state law. However, the Order's suspension of state law is limited to evictions caused by the pandemic. Specifically, the suspension in Executive Order N-28-20 applies *only when both of the following conditions are met*:

1. The basis for the eviction is the tenant or owner's failure to pay their rent or mortgage payment due to a substantial decrease in household or business income, or substantial out-of-pocket medical expenses; and
2. The decrease in household or business income or substantial out-of-pocket medical expenses were caused by the COVID-19 pandemic, including decreases resulting from any government response to the pandemic.

The Order specifies that the tenant or owner's financial difficulties (either decrease in household or business income or out-of-pocket medical expenses) must be documented in order to qualify for eviction relief. The Order also states that tenants will still have to pay any rent payments that are deferred during the COVID-19 pandemic, and that landlords will be able to recover past due rent after the state of emergency expires.

Executive Order N-28-20 is scheduled to remain in place until May 31, 2020, unless extended.

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Riverside County Superior Court Administrative Order. The State's judicial system was also struggling with how to best comply with the measures to curb the spread of COVID-19 at the courthouses but yet continue to be open for business. On March 16, 2020, the Presiding Judge of the Riverside Superior Court issued an administrative order that among other things, postponed unlawful detainer matter for 60 days.

Executive Order N-37-20. On March 27th, Governor Newsom issued another Executive Order N-37-20, addressing residential evictions more directly than his first order by mandating certain protections for those financially affected by COVID-19. While this new Executive Order was described as an order prohibiting "landlords from evicting tenants for nonpayment of rent and prohibits enforcement of evictions by law enforcement or courts," the order was less expansive. However, from a practical perspective given what was occurring with the court system and the detailed process required by law for the filing of unlawful detainers, this Executive Order did provide relief for those unable to pay their rent due to the impacts of COVID-19.

Executive Order N-37-20 has two basic provisions that will remain in effect through May 31, 2020, unless extended. The first concerns the response deadline for a residential tenant who is impacted by COVID-19 and is served with an eviction lawsuit for nonpayment of rent. Now, instead of the 5-day deadline imposed by statute for a tenant to respond to a complaint, this order gives such a tenant 65 days to respond to the eviction lawsuit if the following three requirements are satisfied:

Prior to March 27, 2020, the tenant had paid the landlord all rent that was due.

1. The tenant notifies the landlord in writing before rent is due, or within 7 days of the due date, that the tenant needs to delay all or some payment of rent due to reasons related to COVID-19. Those reasons can include, but are not limited to:
 - a. The tenant could not work because the tenant was sick with a suspected or confirmed case of COVID-19, or had to care for a household or family member who was sick with a suspected or confirmed case of COVID-19.
 - b. The tenant was laid-off, lost work hours, or had reduced income because of COVID-19, the state of emergency, or related government response.
 - c. The tenant missed work to care for a child whose school was closed in response to COVID-19.
2. The tenant retains verifiable documentation (termination notices, payroll checks, pay stubs, bank statements, medical bills, etc.) that supports the tenant's

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assertion of an inability to pay. This documentation must be provided to the landlord no later than the time when the back-due rent is paid.

Accordingly, Executive Order N-37-20, specifically addressed tenants whose rents were coming due in April and provided them a means to inform their landlords regarding their inability to pay April rent and provided such tenants relief due to the impacts of COVID-19 if the tenant notified the landlord within 7 days after their rent was due. To assist those in the community, County staff prepared a sample letter to be used as the notice to landlords required in the Executive Order.

While Executive Order N-37-20 did not stop a landlord from filing a summons and complaint to evict a tenant for failure to pay rent, the Executive Order did effectively delay the process for the tenant to respond until the end of May and provided tenants relief from the payment of rent.

Executive Order N-37-20 also had a second important provision that serves as a backstop in the process for evicting a tenant. If the landlord is successful in securing a court order to evict a tenant, the landlord must obtain a "writ of execution" to enforce the eviction. This is the document that is given to the Sheriff's Department who will then remove the tenant. Under existing law, the writ of execution must be served on the tenant and the tenant is given 5 days to move. Executive Order No. N-37-20 included a provision to prohibit the enforcement of a court order to evict a tenant from a residence or dwelling for nonpayment of rent. This prohibition only applies with respect to tenants who satisfy the three requirements listed above.

Executive Order N-37-20 does not address when rent is ultimately due after the COVID-19 pandemic is over or after expiration of the State of Emergency. Also, the Order is effective only through May 31st, unless extended. Accordingly, a tenant must have provided notice above for rent due in April. As the Governor's Stay-at-Home orders are unlikely to be lifted by May 1st, a tenant would be advised to give the same notice when May rent becomes due.

Executive Order No. N-37-020 says that it "supersedes Executive Order N-28-20 to the extent that there is any conflict with that Order." Executive Order No. N-37-20 further states that it does not "in any way restrict state or local governmental authority to order any quarantine, isolation, or other public health measure that may compel an individual to remain physically present in a particular residential property." Several jurisdictions have taken the position that a local eviction moratorium falls within the "other public health measure" category because such a ban compels a landlord to allow a tenant to remain housed in a particular residence during the emergency, even if the tenant is temporarily unable to pay rent.

While Executive Order N-37-20 does recognize the ability for local governments to adopt additional public health measures, the Executive Order does, on its own, provide relief to tenants statewide even in local jurisdictions that do not adopt an eviction moratorium as this was the point of the order--to provide some statewide consistency.

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April 6, 2020, Judicial Council Emergency Rules for Evictions and Foreclosures. Under the leadership of the Chief Justice of the California Supreme Court and in accordance with the California Constitution, the Judicial Council is responsible for ensuring the consistent, independent, impartial, and accessible administration of justice.

At their meeting, the Judicial Council adopted emergency rules addressing evictions and foreclosures during the statewide emergency caused by the COVID-19 pandemic. Emergency Rule 1 effectively suspends all residential and commercial evictions throughout California during the emergency. The rule allows landlords to file lawsuits to evict their tenants, but delays most eviction proceedings for at least sixty days. The rule applies to all courts and to all eviction cases, regardless of the grounds for the eviction. Emergency Rule 2 prohibits banks and other noteholders from filing lawsuits to foreclose on homeowners that fall behind on their mortgage payments during the emergency.

Summary of Emergency Rule 1. Emergency Rule 1 has three basic provisions that will remain in effect until 90 days after the Governor terminates the statewide emergency caused by the COVID-19 pandemic, unless the rule is amended or repealed earlier by the Judicial Council. As stated above, this rule applies to all eviction lawsuits (or "unlawful detainers") throughout the state regardless of whether it was related to the impacts from COVID-19.

First, the rule prohibits courts from issuing a summons to compel a tenant to appear in court to defend themselves from an eviction lawsuit (unlawful detainer), unless the court finds that the lawsuit is necessary to protect public health and safety. The summons is the document that is submitted by the landlord to the court for "filing" which is then served on the tenant and it starts the eviction process. Under this emergency rule, landlords are effectively blocked from even beginning the process to evict a tenant for non-payment of rent and together with the Governor's order, this effectively suspends all pending residential and commercial evictions throughout California for 60 days and prevents any new eviction actions for the duration of the emergency plus a period of 90 days thereafter.

Second, the rule bans default judgments for landlords who file an unlawful detainer. Ordinarily, a landlord would be able to win an eviction lawsuit by default-and get a court order for payment of past due rent if the tenant failed to appear in court. Because Emergency Rule 1 excuses most tenants from appearing in court during the COVID-19 pandemic, it also prevents landlords from obtaining these default judgments in most situations. A court may issue a default judgment if it finds that the lawsuit is necessary to protect public health and safety and the defendant has not appeared in court within the time provided by law. The time provided by law includes any extensions granted by the Governor's Executive Orders regarding evictions.

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Third, the rule prohibits courts from setting a trial date for an eviction lawsuit earlier than 60 days from the date on which a trial is requested. A court may only set an early trial date if it finds that an earlier trial is necessary to protect public health and safety.

Like the Governor's Executive Orders, Emergency Rule 1 does not relieve a tenant from liability for unpaid rent or forgive payment of any back rent, nor does it prevent a tenant from paying all or some of rent due if the tenant is able to do so in a timely manner.

Summary of Emergency Rule 2. Emergency Rule 2 contains similar protections to Emergency Rule 1, but for homeowners who may be at risk of foreclosure during the COVID-19 emergency. The rule stays all foreclosure lawsuits, and prohibits courts from making any decision or judgment in a foreclosure proceeding unless the court finds that the lawsuit is necessary to protect public health and safety. The time limitation for a bank or other mortgage holder to file a foreclosure action is extended until the COVID-19 emergency is over. A homeowner's rights to stop a foreclosure sale, including their right to redeem a mortgage, is also extended. Like Emergency Rule 1, the rule remains in effect until 90 days after the Governor terminates the statewide emergency caused by the COVID-19 pandemic, unless the rule is amended or repealed earlier by the Judicial Council.

CONCEPTS FOR DISCUSSION FOR AN EVICTION MORATORIUM IF DESIRED BY THE BOARD

As stated above, while the Governor's Executive Orders and the Judicial Council's Emergency Rules clearly provide protections for tenants by preventing landlords from being able to move forward with eviction lawsuits during this State of Emergency, there are some gaps that have been addressed by other local governments through the adoption of eviction moratorium orders or ordinances. Such as:

- Prohibiting the service of a 3-day pay or quit notice
- Provisions as to when partial rent should be paid
- Description of what is a "writing" for purposes of notice to the landlord
- Providing a date for when the documentation is due to the landlord
- Providing a date for when back-rent is due, including whether due all at once or over a period of time
- Indicating whether a landlord can seek interest or late fees on back-rent
- Provisions for commercial tenants or addressing no-fault evictions (when the tenant is current on the rent but the landlord decides at the end of the tenant's term not to rent to the tenant through no fault of the tenant)

The above bullet points are all items that the Board of Supervisors may consider and provide guidance to staff for development of an urgency ordinance or resolution for the Board's

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consideration. Any urgency ordinance would require a 4/5ths vote of the Board. Additionally, any ordinance would only be effective in the unincorporated areas of the County.

May 4th, 2020

Riverside County Board of Supervisors:
Supervisor Kevin Jeffries- District 1
Supervisor Karen Spiegel- District 2
Supervisor Chuck Washington- District 3
Supervisor V Manuel Perez- District 4
Supervisor Jeff Hewitt- District 5

Sent via Email

RE: COVID-19 Response

Dear Riverside County Board of Supervisors,

My name is Odalys Beltran, a resident of Riverside County. During this public health crisis, I urge the Riverside County Board of Supervisors to develop and approve an effective eviction moratorium. There is nothing set in place for when the moratorium is offer and individuals have to pay the hundreds or thousands of dollars in rent that have accumulated.

As the number of COVID-19 cases continue to rise in Riverside County, specifically in the ECV the urgency of ensuring that we can maintain our home despite the loss of income due to unemployment or decreased hours of employment is crucial to keep peace of mind as we fight this pandemic. We should not be rescinding public health orders so that the affluent can have their golf courses and the low-income individuals who work those golf courses risk the possibility of being exposed. I am in opposition of Riverside County's "Economic Recovery" actions. While, Riverside County has administered many COVID-19 exams, there is still more work to be done. Testing is not enough, an example of that would be what happened at the Sun Date packing plant in Coachella.. The facilities were closed for a day to deep clean, but by the time that happened many workers had already been exposed. Everyone wants to get back to normal, but normal is not enough. Normal is what allows low-income communities to continuously get the short end of the stick.

As a concerned resident who follows the recommendations provided by Riverside County health agencies, I ask that county officials take steps to further protect us during this time of uncertainty. Given the existing problem of lack of affordable housing in Riverside County, it is essential to prevent evictions that will create additional economic burdens if comprehensive tenant protections are not established.

Additionally, I am opposed to item 3.41 which would further criminalized already criminalized communities of color. Instead of looking for rehabilitation for individuals who suffer from drug addiction this would only serve to fill up jail cells and not fix the bigger issue at hand, which is drug addiction.

Thank you in advance for your time and consideration.

Sincerely,

Odalys Beltran

5/5/20 3.38

From: COB <COB@RIVCO.ORG>
Sent: Monday, May 4, 2020 4:47 PM
To: odalys beltran <odalys_beltran@hotmail.com>
Subject: RE: Public comment letters

The Clerk of the Board of Supervisors is in receipt of your email regarding the COVID-19 pandemic affecting Riverside County, which has been shared with the Board members and included in the public record for the May 5, 2020 Board Meeting.

*Respectfully,
Tammymae Goshay*

Board Assistant
Clerk of the Board of Supervisors
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Riverside, CA 92501
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From: odalys beltran <odalys_beltran@hotmail.com>

Sent: Monday, May 4, 2020 9:14 AM

To: COB <COB@RIVCO.ORG>; District2 <District2@Rivco.org>; District5 <District5@Rivco.org>; District 4 Supervisor V. Manuel Perez <District4@RIVCO.ORG>; District3 <District3@Rivco.org>; Supervisor Jeffries - 1st District <district1@RIVCO.ORG>

Subject: Public comment letters

Good Morning Supervisors,

Attached is my public comment letter.
Thank you.

Kindly,
Odalys Beltran

From: odalys beltran

Sent: Monday, April 6, 2020 11:18:27 AM

To: cob@rivco.org <cob@rivco.org>; district2@rivco.org <district2@rivco.org>; district5@rivco.org <district5@rivco.org>; District 4 Supervisor V. Manuel Perez <district4@rivco.org>; district3@rivco.org <district3@rivco.org>; district1@rivco.org <district1@rivco.org>

Subject: Public comment letters

Good Morning Supervisors,

Attached

Kindly,

Odalys Beltran