



CITY COUNCIL AGENDA STATEMENT



August 25, 2020

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TITLE

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA EXTENDING THE CITY'S EVICTION MORATORIUM ORDINANCE (EMERGENCY ORDINANCE NO. 3489-A) UNTIL SEPTEMBER 30, 2020 AND CONSIDERATION OF POSSIBLE MODIFICATIONS TO CITY'S EVICTION MORATORIUM RULES BASED UPON RECOMMENDATIONS FROM THE CITY'S AD HOC SUBCOMMITTEE OR STAFF

RECOMMENDED ACTION

Council adopt the resolution.

SUMMARY

The COVID-19 pandemic, along with the physical distancing and other public health measures undertaken in response to it, continue to affect individuals, businesses, schools, and governmental agencies alike. More, specifically, minimizing evictions and foreclosures during this period is critical to reducing the spread of COVID-19 in vulnerable populations by allowing those most vulnerable to COVID-19 to self-quarantine, self-isolate, or otherwise remain in their homes to reduce the transmission of COVID-19. On March 17, 2020, Chula Vista City Council adopted an Eviction Moratorium Ordinance (the "Eviction Moratorium") as a temporary measure during this state of emergency to help stabilize and avoid unnecessary displacement of financially impacted residential and commercial tenants in the interests of protecting the public health and preventing transmission of the coronavirus. San Diego County and Chula Vista continue to see a rise in positive COVID-19 cases. These health and economic impacts are anticipated to continue leaving tenants (both commercial and residential) and homeowners vulnerable to eviction and foreclosures. Council is requested to extend the Eviction Moratorium until September 30, 2020 and discuss, if any, possible modification and recommendations for implementation of the Ordinance.

ENVIRONMENTAL REVIEW

The activity is not a "Project" as defined under Section 15378 of the California Environmental Quality Act State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not applicable.

DISCUSSION

In January 2020, countries around the world began dealing with a historic global pandemic, known as COVID-19. On March 13, 2020, the United States declared a national emergency as a result of the COVID-19 virus.

Locally, on March 13, 2020, due to the escalating number of COVID-19 virus cases, the City of Chula Vista Director of Emergency Services issued a Proclamation declaring a Local Emergency, which was subsequently ratified and adopted by the City Council on March 17, 2020.

As of August 19, 2020, there were 638,831 confirmed cases in California, including 35,376 cases in San Diego County or 5.5 percent of the total cases with 638 deaths. San Diego County reported 1,055 cases per 100,000 on August 19, 2020. Chula Vista's rates of infection have been among the highest in San Diego County, with 4,515 positive COVID-19 cases, representing 12.9 percent of the County's cases, and reporting 1,663.5 cases per 100,000 well above the San Diego County rate.

Based upon significant scientific evidence regarding the most effective approaches to slow the transmission of communicable diseases in general and specifically, COVID-19, the State issued stay-at-home orders, with the exception of critical public safety and businesses beginning March 19, 2020, with the Public Health Officer of San Diego County issuing consistent Orders of the Health Officer and Emergency Regulations (the "Orders"). While both the State's and the County of San Diego's Orders have since been amended, many restrictions still apply with the State and San Diego County moving slowly towards economic re-opening. These volatile economic conditions have led many to financial hardships that jeopardize their ability to maintain housing and stay safe during an unprecedented public health crisis.

State Protections for Evictions and Foreclosures During COVID-19

In response to this public health crisis, on March 16, 2020, Governor Newsom issued [Executive Order N-28-20](#) allowing local jurisdictions to enact moratoriums to prevent evictions (including evictions from rental or leased residential or commercial property or as a result of judicial foreclosure) based on impacts related to the COVID-19 pandemic. The Governor's subsequent Executive Order N-71-20 (dated June 30, 2020) extended these protections through September 30, 2020. While the Governor issued [Executive Order N-37-20](#) banning the enforcement by law enforcement or courts of eviction orders against residential tenants affected by COVID-19, this Executive Order expired on May 31, 2020.

Consistent with the Governor's Executive Orders, the Judicial Council of California adopted California Rules of Court, Emergency Rules 1 and 2, effective April 6, 2020, suspending eviction of tenants for any cause, unless such action is needed to protect public health and safety and staying all actions for judicial foreclosures on mortgages and deeds of trust and extend all deadlines related to such actions. However, on August 13, 2020, the Judicial Council voted to amend Emergency Rules 1 and 2 to sunset on September 1, 2020.

Federal Protections

On a Federal level, legislative protections for tenants and homeowners are provided through the Coronavirus Aid, Relief, and Economic Security ("CARES") Act enacted by the United States Congress on March 27, 2020. In accordance with the CARES ACT, the U.S. Department of Housing and Urban Development (HUD) issued

guidance on April 1, 2020 and April 10, 2020, respectively, for both single family properties and multifamily properties insured by the FHA, Multifamily HUD loans, risk share, and HUD-held loans. Owner-occupied single-family mortgages may receive an initial forbearance period of up to 6 months for those mortgagees with up to a 90-day extension. If needed, an additional forbearance period of up to 6 months may be requested, for a total of 12 months with a 90-day extension.

For those multifamily borrowers experiencing a financial hardship during the COVID-19 emergency, they may request a forbearance for up to 30 days, with an additional two (2) extensions for a 30-day period but must provide for renter protections during the forbearance period as set forth in Section 4024(b) and (c) of the CARES ACT. These tenant protections related to evictions and late fees expired on July 25, 2020, unless the forbearance agreement is extended and then the protections are in effect during the agreement period.

Local Regulations

On March 17, 2020, the Chula Vista City Council adopted Ordinance 3483A (the “Ordinance”) to provide eviction protections during this volatile period of time for vulnerable residents and commercial enterprises. Amendments to this Ordinance were made on April 7, 2020 to remain consistent with [Executive Order N-37-20](#) and provide greater clarity to tenants and landlords in implementing the eviction moratorium and protections provided by the Ordinance. The Ordinance has been subsequently amended several times to extend the protections, currently set to expire on August 31, 2020. The City Manager, acting as the Director of Emergency Services, has additionally signed Order 03-2020 approving and adopting Eviction Moratorium Regulations (the “Regulations” to assist in implementing the Ordinance, effective April 1, 2020.

ANALYSIS

While both federal and state actions have been taken to alleviate concerns and financial burdens to tenants, borrowers, and mortgagees impacted by the COVID-19 pandemic, these protections have now since expired. Tenants and homeowners may now only rely on local regulations, such as Chula Vista’s Eviction Moratorium.

Chula Vista’s business community and residents are more particularly susceptible to the financial impacts of COVID-19. Forty-seven percent of Chula Vista’s total households are of lower income, earning 80 percent of the Area Median Income or less (\$68,000 annual income for a family of four). Prior to COVID-19, 37 percent of lower income homeowners were paying more than 50 percent of their income towards housing costs. A significant portion of renters (59 percent) are lower income, with 44 percent of them paying more than 50 percent of their income towards housing costs.

Chula Vista residents are harder hit as evidenced by its higher current unemployment rate (based on zip code) than the region’s at 14 percent. For zip codes 91910 and 91911, the unemployment rate varies between 16 and 19 percent. Given the financial impacts of COVID-19, many Chula Vista residents are economically vulnerable and at risk of homelessness.

With over 90 percent of Chula Vista’s businesses considered small businesses, with 10 employees or less, this community is also susceptible to the financial impacts of COVID-19. It is anticipated that another wave of layoffs may come as funding from Paycheck Protection Program loans and State and local assistance are exhausted.

Therefore, at this time, without an extension of Chula Vista's Eviction Moratorium, a significant number of vulnerable Chula Vista residents may face health risks at a critical time during the COVID-19 pandemic.

Eviction Moratorium Effects on Rental Properties

The intent of the various tenant and homeowner protections is to keep residents in place to slow the transmission of COVID-19 and to prevent those economically vulnerable from falling into homelessness and at greater risk for COVID-19. Statistics thus far, show that tenants are prioritizing rent payments.

Utilizing contact information provided through City business licenses, on July 31, 2020, City staff emailed 375 rental properties and mobile home communities. The purpose of this email was to outreach to property managers/owners with the following: 1) Survey properties to gauge the number of tenants having difficulty with paying rent to inform future policy decisions by the City; and 2) Provide information related to tenant rental assistance currently available. Additionally, staff worked with the Pacific Southwest Association of Realtors to provide this information to their membership and distribution lists.

As of August 11, 2020, only 30 responses to the survey related to Chula Vista properties were received covering a total of 1,358 housing units. Of which, 62 tenants (5% of the total units) are utilizing the Eviction Moratorium, with 30 tenants or 2% of the total simply not paying rent. The vast majority of the respondents' tenants (93 percent) appear to be making their rent payment.

Chula Vista Rental Assistance Program

To combat the economic effects on lower income residents, the City has allocated \$1,450,000 from its local housing funds and County of San Diego CARES funding to provide financially impacted residents with rental assistance for any back rent owed and to assist with future rent. South Bay Community Services (SBCS), in partnership with the City, is administering a Rental Assistance program. Information related to the rental assistance program can be found on SBCS' website at <https://southbaycommunityservices.org/rental-assistance-for-chula-vista-residents-affected-by-covid-19/>. In addition, SBCS continues to outreach and work with other community partners, such as local school districts, social service agencies, and Pacific Southwest Association of Realtors, posting to social media and interviews with media outlets.

As of July 31, 2020, SBCS has assisted 90 households with rental assistance, including back owed rent from March 1, 2020. Total expenditures to date are approximately \$300,000. As of August 30, 2020, an additional 96 applications have been received.

Conclusion

Further economic impacts resulting from COVID-19 are anticipated to continue beyond August 31, 2020, leaving tenants (both commercial and residential) and homeowners vulnerable to eviction and foreclosure. With the uncertainty of continuing State protections and Federal protections and assistance soon to expire, staff recommends that the City's Eviction Moratorium remain in place. While the available funds the City has allocated towards residential rental assistance and small business assistance is not likely to offset all financial burdens stemming from the COVID-19 pandemic, such funding will assist in mitigating the financial impact of missed rent payments. Therefore, staff recommends the approval of a resolution of the City Council

extending those protections afforded to tenants and homeowners against eviction or foreclosure as set forth in Ordinance No. 3489-A of the City of Chula Vista until September 30, 2020. If circumstances change, for better or for worse in this area, or if the legal landscape changes, the proposed Resolution allows the City's Director of Emergency Services (the City Manager) to modify, further extend, or earlier terminate the City's eviction moratorium protections. Any such action would come back to the City Council for Council ratification, modification or rejection.

DECISION-MAKER CONFLICT

Staff has reviewed the decision contemplated by this action and has determined that Councilmember McCann has a disqualifying conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.) due to his ownership of rental properties that may be foreseeably impacted by the proposed extension of the Eviction Moratorium. Accordingly, staff is recommending that Councilmember McCann recuse himself from deliberating or voting on this item

Staff is not independently aware and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

CURRENT-YEAR FISCAL IMPACT

All costs associated with preparing this staff report are included in the fiscal year 2020-21 operating budget.

ONGOING FISCAL IMPACT

There is no ongoing fiscal impact as a result of this action.

ATTACHMENTS

1. Summary of Eviction & Foreclosure Protections Enacted

Staff Contact: Leilani Hines, Housing Manager