

REPORT TO CITY COUNCIL

DATE: JULY 22, 2020

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: NATHAN HAMBURGER, CITY MANAGER

BY: LOUIS CELAYA, DEPUTY CITY MANAGER

SUBJECT: ADOPT RESOLUTION NO. 20-1954, REVISING THE DIRECTOR OF EMERGENCY SERVICES' EXECUTIVE ORDER 2020-01 IMPOSING EMERGENCY REGULATIONS RELATED TO RESIDENTIAL AND COMMERCIAL TENANT EVICTIONS TO EXTEND THE EXPIRATION OF THE TENANT EVICTION MORATORIUM PERIOD AND TO ENCOURAGE LANDLORDS AND TENANTS TO AGREE TO A RENT REPAYMENT PLAN

At the June 24, 2020, City Council meeting, the City Council adopted Resolution No. 20-1948 that extended the Director of Emergency Services' Executive Order No. 2020-01 imposing emergency regulations related to residential and commercial tenant evictions. Resolution No. 20-1948, extended the moratorium June 30, 2020, to July 31, 2020. The City Council also directed City staff to continue to monitor the landscape of the COVID-19 pandemic, and return with a proposed resolution to include rent repayment deadlines and possible distinctions between residential and commercial properties based on current actions being taken by other agencies.

Since the previous City Council meeting, the COVID-19 pandemic continues to be a major factor that is impacting agencies, and the state and national economy. Over the past several weeks, statistics continue to demonstrate substantial increases in confirmed cases and increased hospitalizations county and statewide. In response to the crisis, Governor Gavin Newsom, issued Order No. 71-20, which included extending the period in which local governments are allowed to have eviction moratoriums to September 30, 2020.

Based on the discussions from the City Council June 24th meeting, the Council expressed a desire to continue to be responsible for decisions related to evictions moratoriums for residential and commercial tenants and landlords within Agoura Hills. Additionally, a desire to try to maintain some consistency with respect to moratorium ending dates and rent payment timelines was also emphasized, along with trying to keep some consistent parallel with County of Los Angeles.

Currently, the trend continues to demonstrate that many eviction moratoria conclude at the termination of the local emergency versus the statewide emergency. This allows for

local agencies to maintain local control, as the agency is in a better position to determine how the emergency is impacting the community at large. Additionally, as presented to the City Council on June 24th, the trend for the term of repayment still shows a majority of agencies with the six month repayment timeframe. There are still ten agencies with a one-year repayment time, this includes the City of Westlake Village. While the County of Los Angeles is also one agency within this one-year timeframe group, for commercial properties the County reduced the one-year repayment period to six months for commercial tenants with ten or more, but fewer than 100 employees. The County of Los Angeles also requires repayment to begin at the conclusion of the moratorium period, and encourages landlords and tenants to agree to a payment plan during the moratorium period.

As the City Council expressed a desire to avoid confusion for landlords and tenants with respect to moratorium time frames and the associated rent repayment timeframes, staff is recommending to:

- Extend the current moratorium to August 31, 2020, in light of the recent increase in COVID-19 infection cases, and change the current conclusion of the eviction moratorium to conclude at the end of the moratorium period. This can be further extended or repealed by the City Council
- Keep the repayment timeframe to six months, and encourage landlords and tenants to agree to a payment plan during the moratorium period, and if no repayment plan is agreed to within seven days following the moratorium period, then unpaid rent shall be in six equal monthly payments
- Keep the same distinctions for both commercial and residential with respect to eviction moratorium timelines and repayment timeframes

This will provide the City's eviction moratorium to align with the majority of agencies currently with the County of Los Angeles, provide some similar consistency with the County's moratorium, while allowing the City Council to maintain local authority on when it believes the eviction moratorium should be concluded. It should be noted that the City Council may at any time rescind the eviction moratorium should changes in the COVID-19 pandemic landscape warrant it, prior to the August 31, 2020.

Resolution No. 20-1954 will extend the current moratorium to August 31, 2020, revise the conclusion of the eviction moratorium to conclude at the end of the moratorium, and direct landlords and tenant to agree to a payment plan.

RECOMMENDATION

City staff respectfully recommends the City Council adopt Resolution No. 20-1954, revising the Director of Emergency Services' Executive Order 2020-01 imposing emergency regulations related to residential and commercial tenant evictions to extend the expiration of the tenant eviction moratorium period and to encourage landlords and tenants to agree to a rent repayment plan.

Attachment: Resolution No. 20-1954

RESOLUTION NO. 20-1954

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, REVISING THE DIRECTOR OF EMERGENCY SERVICES' EXECUTIVE ORDER 2020-01 IMPOSING EMERGENCY REGULATIONS RELATED TO RESIDENTIAL AND COMMERCIAL TENANT EVICTIONS TO EXTEND THE EXPIRATION OF THE TENANT EVICTION MORATORIUM PERIOD AND TO ENCOURAGE LANDLORDS AND TENANTS TO AGREE TO A RENT REPAYMENT PLAN

WHEREAS, Section 3605 of the Agoura Hills Municipal Code empowers the Director of Emergency Services ("Director") to proclaim the existence of a local emergency, as defined by Government Code § 8558, Subdivision (c), when the City Council of the City of Agoura Hills is not in session, subject to ratification by the City Council within seven days; and

WHEREAS, in December 2019, an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19), was first identified in December 2019 and has spread globally, impacting more than 75 countries, including the United States; and

WHEREAS, since the federal Center for Disease Control and Prevention ("CDC") confirmed the first possible case of community spread of COVID-19 in the United States on February 26, 2020, there has been a significant escalation of United States domestic cases and deaths from COVID-19; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom, proclaimed a state of emergency to exist in California due to the spread of COVID-19; and

WHEREAS, as on March 16, 2020, the Director of Emergency Services proclaimed the existence of a local emergency; and

WHEREAS, on March 17, 2020, the City Council adopted Resolution No. 20-1926, ratifying the Director of Emergency Services' proclamation of the local emergency in the City of Agoura Hills; and

WHEREAS, on March 16, 2020, and March 19, 2020, the Los Angeles County Health Officer issued two orders for the control of COVID-19, imposing temporary prohibition of group events and gatherings, implementing social distancing requirements, closures of non-essential businesses; and

WHEREAS, pursuant to Agoura Hills Municipal Code Section 3605(a)(7)a, in the event of the proclamation of a local emergency the Director of Emergency Services is empowered to make and issue rules and regulations on matters, reasonably related to the protection of life and property affected by such an emergency; and

WHEREAS, pursuant to Agoura Hills Municipal Code Section 3605, on March 20, 2020, the Director ordered, adopted, and issued City of Agoura Hills Executive Order No. 2020-01, placing a temporary moratorium on evictions for non-payment of rent by residential or commercial tenants impacted by the COVID-19 crisis, and adopted by reference the March 16, 2020, Los Angeles Health County Order for the control of COVID-19, and the March 19, 2020, Los Angeles Health Officer Order for the Control of COVID-19; and

WHEREAS, on April 7, 2020, the City Council did hereby find that the Director's Executive Order was necessary for continued protection of life and property affected by the COVID-19 crisis, and adopted Resolution No. 20-1927, ratifying and confirming the Director's Executive Order No. 2020-01; and

WHEREAS, the City Council does hereby find that the COVID-19 pandemic still exists, thereby requiring additional measures be undertaken to ensure the protection of life and property affected by the crisis, and

WHEREAS, on May 13, 2020, the City Council directed that City staff prepare a resolution extending the temporary eviction moratorium to June 30, 2020, to continue to ensure the protection and life and property; and

WHEREAS, on May 27, 2020, the City Council adopted Resolution No. 20-1932, Extending the Director of Emergency Services' Executive Order No. 2020-01 Imposing Emergency Regulations Related to Residential and Commercial Tenant Evictions, Group Events, and Gatherings to June 30, 2020, and

WHEREAS on June 24, 2020, the City Council adopted Resolution No. 20-1948 Extending the Director of Emergency Services' Executive Order No. 2020-01 Imposing Emergency Regulations Related to Residential and Commercial Tenant Evictions to July 31, 2020; and

WHEREAS, the purpose of this Resolution is to amend Executive Order No. 2020-01 to extend the expiration date of Executive Order No. 2020-01's tenant eviction moratorium to August 31, 2020. This Resolution additionally encourages landlords and tenants to negotiate a repayment plan and provides a default repayment schedule for the total unpaid rent if no agreement for repayment is reached between the landlord and tenant.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AGOURA HILLS DOES HEREBY DOES RESOLVE AS FOLLOWS:

Section 1. Executive Order Amendment. Section 1 (Temporary Moratorium on Evictions) of the Director of Emergency Services' Executive Order No. 2020-01 is hereby amended to read as follows:

"Section 1. Temporary Moratorium on Evictions. From March 16, 2020 until August 31, 2020 ("Moratorium Period"), a temporary moratorium on eviction for non-

payment of rent by residential or commercial tenants impacted by the COVID-19 crisis is imposed in the City of Agoura Hills as follows:

A. No landlord shall evict or attempt to evict a residential or commercial tenant if both of the following criteria are satisfied:

1) The basis for the eviction is nonpayment of rent, or a foreclosure, arising out of a substantial decrease in household or business income (including, but not limited to, a substantial decrease in household income caused by layoffs or a reduction in the number of compensable hours of work, or a substantial decrease in business income caused by a reduction in opening hours or consumer demand), or substantial out-of-pocket medical expenses; and

2) The decrease in household or business income or the out-of-pocket medical expenses described in subparagraph 1) was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and is documented.

B. A landlord who knows that a tenant cannot pay some or all of the rent temporarily for the reasons set forth above shall not serve a notice pursuant to Code of Civil Procedure section 1161(2), file or prosecute an unlawful detainer action based on a 3-day pay or quit notice, or otherwise seek to evict for nonpayment of rent. A landlord knows of a tenant's inability to pay rent within the meaning of this Executive Order if the tenant, within 30 days after the date that rent is due, notifies the landlord in writing of lost income and inability to pay full rent due to substantial financial impacts related to COVID-19, and provides documentation to support the claim. For purposes of this Executive Order, "in writing" includes e-mail or text communications to a landlord or the landlord's representative with whom the tenant has previously corresponded by e-mail or text. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the tenant's claim.

C. Nothing in this Executive Order shall relieve the tenant of liability for the unpaid rent. Tenants shall have until February 27, 2021, which is 180 days following the end of the Moratorium Period to pay the Landlord any back rent. Tenants and landlords are encouraged to agree to a rent repayment plan during this 180 day period, but nothing in this Executive Order shall be construed to prevent a Landlord from requesting and accepting partial rent payments, or a tenant from making such payments during this 180-day period if the tenant is financially able to do so. The exact terms of the repayment plan are to be agreed upon by the landlord and tenant. If no agreement is reached between the landlord and tenant within seven days following the end of the Moratorium Period, then the unpaid rent shall be paid in six equal monthly installments beginning 14 days following the end of the Moratorium Period. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this Executive Order; nor may a landlord seek through the eviction process rent that is delayed for the reasons stated in this Executive Order.

D. For purposes of this Executive Order, a "substantial financial impact related to COVID-19" includes a substantial decrease in a tenant's household or business income as a result of any of the following: (i) being sick with COVID-19, or caring for a household or family member who is sick with COVID-19; (ii) lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19; (iii) compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency; (iv) extraordinary out-of-pocket medical expenses; or (v) child care needs arising from school closures related to COVID-19.

E. This Executive Order applies to evictions and unlawful detainer actions served or filed on or after the date on which a local emergency was proclaimed to exist within the City of Agoura Hills, March 16, 2020.

F. This Executive Order grants a defense in the event that an unlawful detainer action is commenced in violation of this Executive Order."

Section 2. Duration. Paragraph C of Section 1 (Temporary Moratorium on Evictions) of Executive Order No. 2020-01 (as amended by this Resolution) shall expire on February 28, 2021, which is 180 days following the end of the Moratorium Period, as defined in Section 1 of Executive Order No. 2020-01. The remainder of Section 1 of Executive Order No. 2020-01 (as amended by this Resolution) shall expire on August 31, 2020.

PASSED, APPROVED, AND ADOPTED, this 22nd day of July, 2020, by the following vote to wit:

AYES: ()
NOES: ()
ABSENT: ()
ABSTAIN: ()

Illece Buckley Weber, Mayor

ATTEST:

Kimberly M. Rodrigues, City Clerk