

REPORT TO CITY COUNCIL

DATE: SEPTEMBER 23, 2020

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: NATHAN HAMBURGER, CITY MANAGER

BY: LOUIS CELAYA, DEPUTY CITY MANAGER

SUBJECT: DISCUSSION TO CONSIDER TAKING NO ACTION AND ALLOWING THE CITY'S TENANT EVICTION MORATORIUM TO LAPSE OR CONSIDER THE ADOPTION OF RESOLUTION NO. 20-1959; REVISING THE DIRECTOR OF EMERGENCY SERVICES' EXECUTIVE ORDER 2020-01 TO EXTEND THE EXPIRATION OF THE TENANT EVICTION MORATORIUM PERIOD FOR COMMERCIAL TENANTS ONLY

At the July 22, 2020, City Council meeting, the City Council adopted Resolution No. 20-1954 that revised the Director of Emergency Services' Executive Order No. 2020-01 imposing emergency regulations related to residential and commercial tenant evictions thereby extending the moratorium until September 30, 2020. Resolution No. 20-1954 also encouraged landlords and tenants to agree to rent repayment plan.

On September 1, 2020, the County of Los Angeles Board of Supervisors adopted a resolution further amending and restating their executive order for eviction moratoriums, whereby establishing the County of Los Angeles's ("County") eviction protections as the baseline for unincorporated and incorporated cities in the County of Los Angeles. The County's moratorium was extended until October 31, 2020, and will be evaluated every thirty (30) days.

The County's tenant eviction protections establish the baseline for all incorporated cities with Los Angeles County to the extent that the cities' moratoria do not include the same tenant protections of the County's moratorium. While the County tenant eviction protections established a baseline, it did not preclude the City from imposing greater restrictions.

Subsequently, the State Legislature adopted Assembly Bill 3088 (COVID-19 Tenant Relief Act of 2020) establishing protections for tenants and property owners from evictions and foreclosures. City staff was advised by Supervisorial staff that County Counsel would review the legislation to determine how the new legislation impacts their revised eviction moratoria. While AB 3088 provides some protections for residential tenants, it also preempts the City from extending its tenant eviction moratorium as it relates to residential tenants. This means the City is preempted from extending any of its residential tenant eviction protections and the City's eviction protections for residential tenants will end on

March 29, 2021. AB 3088 affords some eviction protections for residential tenants only as summarized as follows:

- Phase One (September 1, 2020 - October 4, 2020): From September 1, 2020 until October 4, 2020, courts cannot proceed with unlawful detainer actions brought to evict a residential tenant if the eviction is based on the tenant's inability to pay rent. Tenants may be evicted for other lawful reasons during this time.
- Phase Two (October 5, 2020 - January 31, 2021): From October 5, 2020 until January 31, 2021, courts will resume processing unlawful detainer actions that are based on a tenant's inability to pay rent, including for missed rent payments during the COVID-19 emergency. However, if a tenant has complied with a series of procedures designed to demonstrate COVID-19 related financial distress, including submission of a declaration to the landlord and payment of 25% of that rent by January 31, 2021, then the tenant cannot be evicted for nonpayment of rent.
- Phase Three (Starting February 1, 2021): Starting February 1, 2021, the standard pre-COVID-19 eviction rules will apply to any additional missed payments. A tenant who does not pay rent on time may be given three days' notice of a landlord's demand for payment. If the tenant does not pay the missed rent or vacate the property within that time, then the tenant will be subject to eviction.

AB 3088 does not address commercial tenants.

Based on past direction by the City Council to further review this item, staff is sharing these new developments and the results from AB 3088. It is not necessary for the City to update its tenant eviction moratorium in response to AB 3088, unless the City Council desires to address commercial tenant evictions.

Some options available to the City Council are:

- 1) Allow the City's eviction moratorium to lapse. City staff believes that this will result in the County's commercial tenant eviction protections applying to commercial tenants in the City. Additionally, letting the City's moratorium lapse will be less confusing for commercial property owners with respect to the timelines for eviction and rent repayment, as only the County's protections will apply.
- 2) Extend the current eviction moratorium through approval of Resolution No. 20-1959 for only commercial tenant evictions for an additional thirty (30) or sixty (60) days to allow the City to monitor and review any potential future revisions to the County's commercial tenant eviction moratorium

Finally, it should be noted that City staff has received telephone communications from commercial property landlords expressing their concerns regarding the continued commercial tenant eviction moratorium extensions. Property owners of smaller commercial properties in the City have advised staff that if the COVID-19 pandemic

continues, and they are unable to collect or recover some rental repayments from their commercial tenants, the future financial viability of these commercial centers will be in question.

Although staff is recommending that the City Council allow the City's tenant eviction moratorium to lapse by taking no further action, City staff wanted to insure that the City Council had the most practical options presented to allow for a thorough discussion.

RECOMMENDATION

City staff respectfully recommends the City Council provide direction on the following options:

- 1) Take no action and allow the City's tenant eviction moratorium to lapse; or
- 2) Adopt Resolution No 20-1959, A Resolution of the City Council of the City of Agoura Hills, California, Revising the Director Of Emergency Services' Executive Order 2020-01 to Extend the Expiration of the Tenant Eviction Moratorium Period for Commercial Tenants Only

Attachment: Resolution No. 20-1959

RESOLUTION NO. 20-1959

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, REVISING THE DIRECTOR OF EMERGENCY SERVICES' EXECUTIVE ORDER 2020-01 TO EXTEND THE EXPIRATION OF THE TENANT EVICTION MORATORIUM PERIOD FOR COMMERCIAL TENANTS ONLY

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, 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 adopting 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, 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 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 to July 31, 2020; and

WHEREAS, on July 22, 2020, the City Council adopted Resolution No. 20-1954, revising the Director of Emergency Services' Executive Order 2020-01 to extend the expiration of the tenant eviction moratorium period to September 30, 2020 and to encourage landlords and tenants to agree to a rent repayment plan; and

WHEREAS, the COVID-19 Tenant Relief Act of 2020 (the "Act") was enacted as part of the AB 3088 urgency legislation signed by Governor Newsom on August 31, 2020.

WHEREAS, the Act preempts the City from extending its tenant eviction protections as it applies to residential tenants, which means the City's tenant eviction protections for residential tenants will expire on September 30, 2020 and the City's residential tenant repayment protections will end on March 29, 2021.

WHEREAS, the Act does not address commercial tenants, and therefore, the City may extend or revise its tenant eviction moratorium as it relates to commercial tenants.

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 period to _____, 2020 for commercial tenants only.

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

Section 1. Extension of Moratorium Period for Commercial Tenants Only.
The City Council of the City of Agoura Hills hereby amends and extends the Moratorium

Period referred in the first paragraph of Section 1 of Executive Order No. 2020-01, only as to commercial tenant evictions, to _____, 2020.

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 March 29, 2021. The remainder of Section 1 of Executive Order No. 2020-01 (as amended by this Resolution) shall expire on _____, 2020, only as to commercial tenant evictions.

Section 3. Consistency with State Law. Consistent with AB 3088, as set forth in California Code of Civil Procedure Section 1179.05(a)(1), nothing in this Resolution shall be construed as extending, expanding, renewing, reenacting, or newly adopting regulations providing eviction protections for residential tenants.

PASSED, APPROVED, AND ADOPTED, this 23rd day of September, 2020, by the following vote to wit:

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

Illece Buckley Weber, Mayor

ATTEST:

Kimberly M. Rodrigues, City Clerk