



**COMMUNITY
LEGAL SERVICES**
IN EAST PALO ALTO

May 14, 2020

San Mateo County Board of Supervisors
400 County Center, 1st Floor
Redwood City, CA 94063

Re: San Mateo County Emergency Regulation

Dear Honorable Members of the Board of Supervisors:

Community Legal Services in East Palo Alto (CLSEPA) sincerely thanks the Board of Supervisors for their efforts to protect working families from displacement and homelessness during this unprecedented public health emergency. We are writing to urge San Mateo County to extend and strengthen the current eviction moratorium to protect the public health and well-being of residents, in light of the tremendously difficult times ahead. Below we will detail a multi-pronged approach which we believe makes a concerted and fair effort to accommodate all stakeholder needs during this public health and economic crisis.

1. Extend the eviction moratorium to adequately protect families who are still out of work during this public health crisis.

As you know, the current eviction moratorium expires on May 31, 2020, which means that thousands of families who are still out of work and have little to no income will be vulnerable to being evicted from their homes for their inability to pay June rent. A considerable extension of the moratorium will be necessary to protect tenants who will continue to feel the economic reverberations of this crisis long after people are technically permitted to return to work.

As the trajectory of this pandemic unfolds, it is becoming increasingly clear that the expiration date of the eviction moratorium should be tied to a certain economic event or public health event, rather than a specific calendar date. We urge the Board of Supervisors to consider extending the eviction moratorium to an event that at least signals the normalization of economic and public health conditions. Solano County, for example, has enacted an emergency regulation that prohibits landlords from commencing an action for unlawful detainer for nonpayment of rent that became due during the State of Emergency declared by the Governor and for a period of 90 days afterward. Solano County Resolution No. 2020-67 (enacted April 28, 2020). We believe that an approach similar to that of Solano County would be more aligned with the economic realities arising out of the phased reopening of California's economy being undertaken by Governor Newsom and local jurisdictions.

The Board of Supervisors should extend the eviction moratorium despite the Judicial Council of California's adoption of an emergency court rule on April 6, 2020 (Item 20-141). While the Judicial Council rule puts eviction cases on hold for the duration of the COVID-19 emergency, it merely delays the eviction process for a few months. Even with the Judicial Council rule in place, without an extension of San Mateo County's eviction moratorium, residents who cannot pay June or future rent due to COVID-19 can still be evicted for nonpayment of June or future rent once the emergency Judicial Council court rule is lifted. Unlike the County's eviction moratorium, the Judicial Council rule does not establish any new tenant rights or defenses to an eviction action, address requirements for notifying landlords or providing documentation when tenants are unable to pay rent due to COVID-19 related reasons, or address how repayment will be handled. Therefore, it is altogether necessary that the County extends the eviction moratorium to ensure residents are not eventually evicted and displaced as a result of this public health crisis.

2. Extend the repayment period to grant impacted tenants an opportunity to regain their financial footing and meet their obligations.

Tenants who have been affected by the COVID-19 pandemic should be granted more time to get back on their feet and repay rent debt that has accrued during the effective period of the eviction moratorium. When the economy recovers, it will do so slowly. Normal economic activity cannot and will not resume immediately, and as a result, most workers will not be earning the same incomes they did prior to the pandemic. Tenants will be forced to pay their future rents on time or face eviction, to simultaneously make payments toward the balloon payments of rent debt that have been accruing, and to pay for other necessities like food, healthcare, and utilities. Such obligations will place extreme financial hardships on vulnerable families during a time where future job and income stability is all but certain.

In recognition of these realities, other counties such as Alameda County and Los Angeles County have instituted longer 12-month repayment periods to afford tenants more time and leeway to meet their other financial obligations. Given the acute economic impact this pandemic has had on San Mateo County in particular, such an extended payment period will grant tenants the time to repay their debts and sustain their households. Furthermore, the existing requirement of Emergency Regulation 2020-001 that tenants pay any portion of the rent that they are able to (which would not be considered a "delayed payment") ensures that tenants will pay what they can afford to pay as they begin to return to work in the coming months.

3. Strengthen the eviction moratorium by requiring landlords to collect any unpaid rent that became due during the effective period through consumer debt actions rather than through an unlawful detainer action.

San Mateo County must confront the reality that impacted families will have immense difficulty making balloon payments of rent debt that became due during the

pandemic in addition to paying future rent and for other household necessities. These harsh economic realities and competing financial obligations will inevitably result in thousands of families soon being evicted from their homes. It is incumbent upon the County to address this underlying threat to the health, safety, and stability of its residents.

The Board of Supervisors should take action to ensure that no one will be evicted from their homes due to their inability to pay rent that became due during the effective period of the eviction moratorium. Residents have suffered job loss and income loss at no fault of their own. While governmental orders to shelter-in-place and socially distance have been integral to preventing a surge of COVID-19 cases and hospitalizations thus far in our County, they have also had the devastating consequences of destabilizing already vulnerable low-income families with high rent burdens.

In order to protect residents from displacement and homelessness, the County ought to require that landlords pursue unpaid rent debts through means other than an action for unlawful detainer. Until more comprehensive relief can be provided, tenants should remain liable for unpaid rent, and landlords are entitled to pursue such unpaid rent debt. However, a landlord need not evict a tenant in order to seek the rent debt; they may seek repayment through small claims actions, civil actions, collections actions, or negotiated payment plans. Such an approach would still allow landlords to recover the rent payments to which they are entitled, while preventing the otherwise inevitable mass displacement of the most vulnerable residents of San Mateo County.

Tenants are becoming increasingly more desperate to pay their landlords rent for fear that they will be evicted for this debt in the near future. Our organization has heard from numerous families who have resorted to taking out payday loans with predatory interest rates in order to pay their rent, and others who travel great distances to do field work just to make some income in order to pay some portion of the rent. While “converting” rent debts to civil debts would still require tenants to pay the rents to which they agreed, it would eliminate the danger of losing their homes as a result of their inability to pay within 90-180 days after the expiration of the eviction moratorium.

Other Bay Area jurisdictions have already adopted this fair and sensible solution to address rent debt while still keeping families housed. Alameda County and Solano County, as well as the cities of Berkeley and Oakland, have passed emergency regulations that prohibit evictions for unpaid rent debt accrued during the pandemic, while safeguarding landlords’ rights to collect the debts through other mechanisms.

4. Allocate more resources to rental assistance for tenants and/or mortgage assistance for landlords.

We recognize that this pandemic is negatively impacting both tenants and landlords. Indeed, any improvements to the existing eviction moratorium ought to be coupled with financial assistance to tenants and landlords alike in order to defray economic burdens. The County must discuss, either independently or in conjunction with other jurisdictions, creative ways to allocate more funds to helping individuals who

are struggling to make payments toward their housing. While the San Mateo Strong Fund has provided much-needed assistance, the immense level of need is overwhelming. Since the shelter in place order went into effect nearly two months ago, the eight core service agencies in our County alone have collectively received over 2,000 applications for rental assistance. Other community-serving organizations such as CLSEPA and Legal Aid Society of San Mateo County have already helped hundreds of families with rental assistance and have exhausted our available resources. Numerous other mutual aid funds have been set up to help tenants with rental assistance, and yet we hear daily from community members who are struggling to get the help they need. The current financial need of families in this County far exceeds the rental assistance funding currently available for these and other agencies to distribute. A flood of additional requests for rental assistance and growing waitlists are a surety in the coming weeks and months, absent more funding for rental assistance.

Rental assistance for tenants and mortgage assistance for landlords are the only ways to ensure that thousands of residents in our community emerge from this crisis without crippling amounts of debt. Many landlords with federally-backed mortgages have already received mortgage forbearance, and broader efforts to enact mortgage forbearance legislation should be underway.

We ask that the honorable Board of Supervisors continue to exercise strong leadership and care for residents of San Mateo County, and take action to prepare for the immense collective challenges ahead. Our organization stands willing and prepared to work alongside the County and other partners to ensure that all residents are empowered to maintain safe and stable housing through and beyond this crisis.

Respectfully,

/s/ Community Legal Services in East Palo Alto

Community Legal Services in East Palo Alto

cc: San Mateo County Manager/Clerk of the Board Mike Callagy
San Mateo Chief Deputy County Counsel John Nibbelin
San Mateo Deputy County Counsel Monali Sheth