



Contra
Costa
County

To: Board of Supervisors
From: Mary Ann Mason, County Counsel
Date: September 21, 2021

Subject: Urgency ordinance continuing certain residential eviction prohibitions

RECOMMENDATION(S):

CONSIDER whether to adopt Ordinance No. 2021-32, an urgency ordinance continuing a temporary prohibition on certain evictions of residential tenants, and related matters.

FISCAL IMPACT:

None.

BACKGROUND:

The County's existing urgency ordinance, Ordinance No. 2021-20, which continued a temporary prohibition on certain evictions of residential tenants and small-business commercial tenants impacted by the COVID-19 pandemic, is set to expire on September 30, 2021. The Board may wish to consider allowing the current ordinance to expire on its own terms on September 30, or could adopt the attached urgency ordinance.

If adopted, the attached urgency ordinance would continue the County's existing residential eviction protections. This ordinance would continue a temporary prohibition on no-fault evictions of residential tenants, and would continue a temporary prohibition on evicting tenants for allowing an unauthorized tenant to live in the dwelling unit if the unauthorized

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **09/21/2021** ☐ APPROVED AS RECOMMENDED ☒ OTHER

Clerks Notes: See Addendum

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Federal D. Glover, District V Supervisor

NO: Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Karen Mitchoff, District IV Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: September 21, 2021

Monica Nino, County Administrator and Clerk of the Board of Supervisors

Contact: Mary Ann McNett Mason, County Counsel, (925) 655-2200

By: June McHuen, Deputy

tenant is an immediate family member living in the unit because of the pandemic.

BACKGROUND: (CONT'D)

The attached urgency ordinance specifies that these restrictions would last through a date to be determined by the Board.

Prohibition on Residential Evictions

The COVID-19 Tenant Relief Act of 2020 (the Act), is a state law (Assembly Bill 3088, Senate Bill 91, and Assembly Bill 832), that provides eviction protections for residential tenants, including mobilehome tenants, who are experiencing a financial hardship related to COVID-19. The Act prohibits residential tenants from being evicted for failure to pay rent because of a COVID-19-related hardship, as long as the tenant provides the landlord with a written declaration of hardship. Under the Act, residential tenants who experienced a new COVID-19-related hardship between September 1, 2020, and September 30, 2021, are also protected from eviction through this date as long as they pay 25 percent of the rent due by September 30, 2021.

As amended by AB 823, the Act also establishes requirements to ensure that before a court orders the eviction of a residential tenant on the basis of nonpayment of rent, an attempt is made to secure rental assistance funds to cover the unpaid amount. Under the Act, from October 1, 2021, through March 31, 2022, a court may not issue a summons in an unlawful detainer case based on nonpayment of rental debt that accumulated due to COVID hardship unless the landlord can show that they applied for rental assistance and the application was denied. This requirement does not apply to new tenancies created after October 1, 2021. If a landlord does not make this showing within 60 days, the court must dismiss the case. Also, starting October 1, 2021, a tenant in an unlawful detainer case who has an approved rental assistance application can ask the court to stop the eviction until the funding is received. The case will be dismissed if that payment resolves the unpaid rent that is the basis of the unlawful detainer.

The Act also authorizes local jurisdictions to amend existing urgency ordinances to continue prohibitions on certain types of residential evictions, including no-fault evictions. (Code of Civil Procedure, § 1179.05(b).) As authorized by the Act, the attached urgency ordinance continues the County's existing prohibition on certain residential evictions. These regulations were contained in Ordinance No. 2021-20. The attached ordinance would prohibit a landlord from terminating a residential tenancy for a "no-fault" reason; prohibit a landlord from terminating a residential tenancy on the basis that a tenant allowed an unauthorized occupant to live in the dwelling unit, if the occupant is the tenant's immediate family member living in the dwelling unit as a result of the COVID-19 pandemic; and prohibit a landlord from increasing rent on a residential real property. These restrictions would last through the date determined by the Board.

The attached ordinance would not continue the existing prohibition on small-business commercial evictions. The Governor's Executive Order N-08-21 authorized local jurisdictions to suspend, through September 30, 2021, the evictions of commercial

tenants for the nonpayment of rent if the nonpayment was a result of the COVID-19 pandemic. The County's existing prohibition expires September 30, 2021. As of the date of this Board Order, no Executive Order has been issued that would extend beyond September 30, 2021, the authority of local jurisdictions to suspend commercial evictions. If a new Executive Order is issued, the Board could then consider whether to adopt a new ordinance suspending the evictions of small-business commercial tenants for the nonpayment of rent, if the nonpayment was a result of the COVID-19 pandemic.

The attached ordinance would not continue the County's existing moratorium on residential rent increases past September 30, 2021. Under the state's "Housing Is Key" rent relief program, qualifying landlords and renters are eligible for 100% of rent and utilities owed. Additional information and application forms are available at: <https://housing.ca.gov>. At the Board's discretion, the Board could choose to extend the County's existing moratorium on residential rent increases.

Applicability

The regulations in the attached ordinance apply to cities within Contra Costa County and unincorporated Contra Costa County. Government Code section 8634 authorizes the Board of Supervisors to "promulgate countywide orders and regulations necessary to provide for the protection of life and property" during a local emergency. The California Attorney General has opined that when a county has declared a local emergency within its jurisdictional boundaries in an area that includes both unincorporated and incorporated territory, the county may adopt emergency rules and regulations pursuant to Government Code section 8634 that will be effective in both unincorporated and incorporated areas. (62 Ops.Cal.Atty.Gen. 701 (1979).) Under the ordinance, if the governing body enacts an ordinance or adopts a regulation that governs the subject matter of this ordinance, that city ordinance or regulation will supersede the attached ordinance within that jurisdiction.

At the Board's discretion, the Board could choose to have the ordinance apply only in the unincorporated areas of Contra Costa County.

CONSEQUENCE OF NEGATIVE ACTION:

None.

CLERK'S ADDENDUM

The ordinance was not adopted.

ATTACHMENTS

Ordinance No. 2021-32