

# COVID-19 Tenant Protections

## Rental Assistance Programs and Eviction Defense

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Study Session  
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# Rental Assistance -- Background

- COVID-19 pandemic resulted in Shelter-in-Place orders
  - March 17, 2020 Sonoma County Public Health Officer
  - March 19, 2020 California Public Health Officer
  
- CARES Act signed March 27, 2020
  - Provides additional funds to HUD grantees for response to COVID-19
  
- May 2020 Council Item - Santa Rosa allocated funding
  - \$859,608 CDBG-CV
  - \$65,180 HOPWA

# Rental Assistance

- Section 8 Housing Choice Vouchers
  - Over 2,000 households assisted
  
- City-wide COVID-19 Rental Assistance Program
  - Reprogrammed existing federal funds
  - Launched Summer 2020
  - Up to \$600,000 available to assist low-income households that has reduced or lost wages

# Rental Assistance

- CDBG-CV3 Funds
  - Provide additional tranche of funds to provide short term rental assistance
  
- Countywide Rental Assistance
  - Approximately \$31M
    - County administered program
    - Rental and Utility payment assistance

# Eviction Defense

## Current status:

- Federal CDC Order
- State Statute
- County Ordinance

# Federal Eviction Protections

- Order issued by the Center for Disease Control and Prevention
- Temporary halt to residential evictions to prevent the further spread of COVID-19
  - Avoid movement into congregate or shared living settings
  - Avoid movement into unsheltered homelessness
  - Avoid movement across state lines
- Order originally adopted September 4, 2020
- Extended twice, most recently to June 30, 2021

# Federal Eviction Protections

- ❑ Does not relieve tenant of obligation to pay rent
- ❑ Does not preclude the charging of late fees, penalties or interest
- ❑ Protections apply only for the duration of the CDC Order (currently through June 30, 2021)

# Eligibility

- Tenant must meet the following criteria:
  1. Income (any one of the following):
    - Earned no more than \$99,000 (\$198,000 if filing jointly) in 2020
    - Anticipate earning no more than \$99,000 (\$198,000 if filing jointly) in 2021
    - Not required to report income to IRS
    - Received stimulus check under CARES Act



## Eligibility (cont'd)

2. Used best efforts to obtain all available government assistance for rent or housing
3. Unable to pay the full rent due to:
  - Substantial loss of household income
  - Loss of compensable hours of work or wages
  - Lay-off
  - Extraordinary out-of-pocket medical expenses

## Eligibility (cont'd)

4. Using best efforts to make timely partial payments as close to the full payment as possible
5. No other housing options -- Eviction would likely render the individual homeless or into congregate or shared living setting

# Procedures for Federal Protection

- ❑ Tenant must sign declaration of eligibility under penalty of perjury
- ❑ Tenant must provide executed declaration to landlord
- ❑ Each adult listed on the lease or rental agreement must provide a declaration

# Exceptions

- ❑ Order does not preclude evictions based on:
  - Criminal activity
  - Threatening the health or safety of other residents
  - Damage or risk of damage to property
  - Violation of building or health and safety codes
  - Violation of contract obligation, other than payment of rent

# Exceptions

- ❑ Order does not apply in any state or local area with a moratorium on residential evictions that provides the same or greater level of public health protection

# State Protections -- AB 3088

- Tenant, Homeowner, and Small Landlord Relief and Stabilization Act of 2020, signed into law on August 31, 2020
- Prohibits residential evictions for nonpayment of rent due to financial hardship caused by the COVID pandemic
- Does not relieve the tenant of the obligation to pay rent, but provides additional time to pay

# AB 3088

- Phase 1: If unpaid rent accrued during the first six months of the pandemic, the unpaid rent is converted to consumer debt and cannot ever be used as a basis for eviction
  
- Phase 2: If unpaid rent accrued during second six months of the pandemic, that unpaid rent is converted to consumer debt ONLY IF:
  - Tenant submits declaration that failure to pay rent was due to financial hardship due to COVID-19
  
  - Tenant pays 25% of rent due by January 1, 2021

# AB 3088

- ❑ Authorizes landlords to seek recovery of unpaid rents (consumer debt) through Small Claims Court, beginning March 1, 2021
- ❑ Allows eviction for causes allowable under law, other than non-payment of rent due to the impacts of COVID-19
- ❑ Protections against evictions were scheduled to expire as of February 1, 2021



# SB 91

- On January 29, 2021, SB 91 was signed into law, extending Phase 2 protections through June 30, 2021:
  - Prohibits eviction for nonpayment of rent due to financial hardship cause by the COVID pandemic, provided that:
    - Tenant submits a declaration that failure to pay rent was due to COVID-related financial hardship, and
    - Tenant pays 25% of rent due by June 30, 2021

# SB 91

- Small Claims collection actions postponed until August 1, 2021
- Continues to allow for evictions for causes other than nonpayment of rent due to the impacts of COVID, including for:
  - At-fault just cause
  - No-fault just cause
- Expressly allows for additional local eviction protections

# SB 91

- Establishes State Rental Assistance Program
  - \$2.6 Billion in federal rental assistance
  - Aid to income-qualified tenants most at risk (tenants at or below 80% of AMI)
  - Aid to landlords – Property owners who agree to waive 20% of unpaid rent will be eligible for reimbursement of 80% of rent amounts owned between April 1, 2020 and March 31, 2021

# Sonoma County Ordinance No. 6301

- Urgency Ordinance adopted March 24, 2020
- Prohibits residential evictions for failure to pay rent if that failure to pay rent was the result of substantial loss of income or out-of-pocket medical expenses associated with COVID-19
- Does not relieve tenant of obligation to pay rent, but instead allows additional time to make that payment

# Sonoma County Ordinance No. 6301

- Creates an affirmative defense, which may be asserted in the tenant's answer to an unlawful detainer action
- Creates a private right of action for any violation of the ordinance by a landlord:
  - Civil action for injunctive relief and/or damages
  - Treble damages may be awarded
  - Damages may include damages for mental or emotional distress (but will not be trebled)

# Sonoma County Ordinance No. 6301

- ❑ Ordinance adopted under County's emergency powers
- ❑ Expressly intended to apply within incorporated and unincorporated areas
- ❑ Does not preclude additional or alternative action by cities, although consistency was urged
- ❑ City Council received a report on the ordinance on March 31, 2020

# Amendments to County Ordinance

- Urgency Ordinance adopted February 9, 2021, to expand protections of Ordinance 6301

- Board of Supervisors' findings include that:

“Housing displacement and evictions during Public Health Emergency would hinder individuals from complying with state and local directives to shelter in place, and would lead to increased spread of COVID-19, overburdening our healthcare system, and potentially resulting in loss of life.”



# Amendments to County Ordinance

- Prohibits all evictions except as follows:
  - When necessary due to violence, threats of violence or when tenant poses an imminent threat to the health or safety of another
  - When sought for the purposes of immediately removing the unit from the rental market in compliance with state law
  - When based upon nonpayment of rent between March 1, 2020 and June 30, 2021, unrelated to financial hardships resulting from COVID-19



# Amendments to County Ordinance

- All other provisions of Ordinance 6301 remain unchanged:
  - Expressly intended to apply in both incorporated and unincorporated areas
  - Self-executing, no further action required by cities
  - Does not, however, preclude additional or alternative action by cities

**QUESTIONS?**