



City of Culver City

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Staff Report

File #: 20-926, **Version:** 1

Item #: A-4.

CC - (1) Discussion of Options for Including Repayment Plan Provisions in the Eviction Moratoria Implementation Measures; and (2) Direction to the City Manager as Deemed Appropriate.

Meeting Date: May 11, 2020

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Fiscal Impact: Yes ☐ No ☒

General Fund: Yes ☐ No ☒

Public Hearing: ☐ **Action Item:** ☒ **Attachments:** ☐

Commission Action Required: Yes ☐ No ☒ **Date:**

Public Notification: (E-Mail) Meetings and Agendas - City Council (05/06/2020)

Department Approval: John Nachbar, City Manager (05/06/2020)

RECOMMENDATION

Staff recommends the City Council (1) discuss options for including repayment plan provisions in the Eviction Moratoria Implementation Measures; and (2) provide direction to the City Manager as deemed appropriate.

BACKGROUND

On March 16, 2020, the City Manager issued a Public Order enacting City measures to protect members of the public and City workers from undue risk of COVID-19, which included, among other things, the imposition of a moratorium on residential tenant evictions ("Residential Tenant Eviction Moratorium" or "RTEM"). The Residential Tenant Eviction Moratorium stipulated that no landlord shall evict a residential tenant in the City of Culver City during this local emergency period if the tenant documents an inability to pay rent due to circumstances related to the COVID-19 pandemic.

On March 20, 2020, the City Manager issued a First Supplement to Public Order, which included, among other things, protections for commercial tenants against evictions based on an inability to pay

rent due to COVID-19 related circumstances (“Commercial Tenant Eviction Moratorium” or “CTEM”).

On March 26, 2020, in response to growing evidence of the critical need for residents to shelter in place, the City Council considered further expanding the Residential Tenant Eviction Moratorium. Finding a compelling public interest in protecting the public health and safety and the health and safety of tenants who are facing eviction, and in ensuring that residents have a home in which to shelter in place during this critical health crisis, the City Council directed the City Manager to expand the RTEM to prohibit all evictions of residential tenants through May 31, 2020, subject to certain limited exceptions.

On March 27, 2020, the City Manager issued a Second Supplement to Public Order extending the Residential Tenant Eviction Moratorium through May 31, 2020 and expanding its scope, consistent with the City Council’s direction.

On April 7, 2020, as economic impacts continued, affecting both residential and commercial tenants and their ability to fulfill their financial obligations, including the payment of rent, the City Manager issued a Fifth Supplement to Public Order extending the Commercial Tenant Eviction Moratorium through May 31, 2020.

Included in both the Residential Tenant Eviction Moratorium and the Commercial Tenant Eviction Moratorium (collectively, “Eviction Moratoria”), was a provision that requires a tenant who has an inability to pay rent during the local emergency period, and who qualifies for protection under the respective Eviction Moratoria, to pay any rent that remains unpaid (“Back Rent”) within six months of the expiration of the local emergency period.

Over the past several weeks, residential and commercial tenants expressed concerns that once the stay at home orders are lifted and they are able to go back to work or reopen a business, as the case may be, it will be a slow financial recovery and challenging to pay Back Rent owed while keeping up with current rent due, and that the six-month period for the payment of Back Rent may not be sufficient.

On April 27, 2020, in response to such concerns, the City Council considered whether to extend the period for the payment of Back Rent to 12 months. Finding there to be a public interest in ensuring tenants have a sufficient recovery period once the Eviction Moratoria have expired, preserving and increasing housing security and stability, preventing residents from falling into homelessness due to this health crisis, and promoting economic recovery, the City Council directed the City Manager to extend the period for the payment of Back Rent to 12 months.

Also, at the April 27th meeting, the City Council directed staff to return with a discussion of possible options for including repayment plan provisions in the Eviction Moratoria, in order to ensure that tenants are not faced with unmanageable “balloon payments” at the end of the 12-month grace period, and risk eviction for nonpayment of rent.

DISCUSSION

Pursuant to the City Council’s direction at the April 27th meeting, Housing and City Attorney staff, with the assistance of and in coordination with Vice Mayor Fisch, researched how other cities are handling the repayment of rent after the expiration of their respective moratorium periods.

Other Cities

Beverly Hills: On May 5, 2020, the City of Beverly Hills discussed this issue, but did not take action. The item is scheduled to return on May 19th. Staff reviewed the video of the discussion, which got into substantial detail. Overall, it appeared the general sentiment of the City Council was that a payment plan should be encouraged and incentivized, if possible; however, mandatory payment plans, or penalties if a tenant misses a payment on an agreed upon payment schedule, should not be required.

Emeryville: Prohibits an eviction for the failure to pay rent, unless a landlord can demonstrate that, among other things, prior to delivering a three-day notice to pay or quit (under Code of Civil Procedure Section 1161), the landlord offered an affected residential tenant (defined as a tenant who is required to shelter in place) a reasonable repayment plan to repay the rent owed, but not paid, over a 12-month period beginning from when the COVID-19 emergency concluded.

Los Angeles City: Permits, but does not require, landlords and tenants to mutually agree to a plan for the repayment of unpaid rent. The repayment period may be extended by mutual agreement by the landlord and tenant. The City's Housing and Community Investment Department (HCIDLA) also suggests specific payment plan options (i.e. monthly, bi-weekly or weekly plans during the 12-month period).

Los Angeles County: Encourages landlords and tenants to agree to a payment plan during the 12-month grace period, but does prevent a tenant from paying a landlord any amount due incrementally during the grace period.

San Francisco: Allows a landlord and tenant to negotiate a payment plan that may waive portions of what the tenant owes, and may grant the tenant additional time to pay beyond the grace period. However, a tenant's failure to comply with a payment plan prior to the end of the grace period is not just cause to evict. If the parties do not agree on a payment plan, then a landlord may have just cause to evict the tenant based on the unpaid amounts as soon as those amounts are due after the grace period ends.

Santa Monica: Recognizes that while a landlord and tenant may enter into a payment plan for payment of delayed rent, the landlord may not require a tenant to enter into a payment plan. Regardless of any payment plan agreement, a residential tenant has up to 12 months after the moratorium ends to pay any rent that was unpaid due to financial impacts related to COVID-19 during the moratorium.

West Hollywood: Landlords are strongly encouraged to offer payment plans to tenants after the period of local emergency, which may go beyond the 12 month repayment period upon mutual written agreement of the parties. Tenants may draw down on a security deposit during the repayment period to pay back rent and such security deposit shall be replenished by the end of the 12 month repayment period or longer if mutually agreed upon in writing between the parties.

Staff also reviewed the eviction moratoria of the cities of Burbank, Glendale, Long Beach, Pasadena and Torrance, but did not find provisions relating to payment plans or schedules for unpaid rent.

Next Steps

Staff recommends the City Council discuss the matter and provide direction as deemed appropriate. If the City Council provides direction to modify the Eviction Moratoria to further address the payment of Back Rent through a repayment plan or schedule, the City Manager will issue respective amended Implementation Measures for each of the Eviction Moratoria consistent with City Council's Direction. The current Implementation Measures for the Residential Tenant Eviction Moratorium and the Commercial Tenant Eviction Moratorium are included as Attachments 1 and 2, respectively.

FISCAL ANALYSIS

There is no fiscal impact associated with the discussion of this matter.

ATTACHMENTS

1. RTEM Second Amended Implementation Measures
2. CTEM Amended Implementation Measures

MOTION

That the City Council:

1. Discuss options for including repayment plan provisions in the Eviction Moratoria Implementation Measures; and
2. Provide direction to the City Manager as deemed appropriate.