



City of Culver City

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Staff Report

File #: 22-1006, Version: 1

Item #: C-14.

CC - CONSENT ITEM: Adoption of a Resolution Confirming the April 29, 2022 Forty-Second Supplement to Public Order (Termination of Commercial Tenant Eviction Moratorium and Establishment of Repayment Plans) Issued by the City Manager, as Director of Emergency Services, under City of Culver City Emergency Authority, Due to the Coronavirus Respiratory Disease (COVID-19) Pandemic.

Meeting Date: May 9, 2022

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Fiscal Impact: Yes ☒ No ☐ **General Fund:** Yes ☒ No ☐

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

Commission Action Required: Yes ☐ No ☒

Public Notification: (E-Mail) Meetings and Agendas - City Council (05/04/2022)

Department Approval: John M. Nachbar, City Manager (05/04/2022); Heather Baker, City Attorney (05/04/2022)

RECOMMENDATION

Staff recommends the City Council adopt a Resolution confirming the April 29, 2022 Forty-Second Supplement to Public Order (Termination of Commercial Tenant Eviction Moratorium and Establishment of Repayment Plans), under City of Culver City emergency authority, due to the coronavirus respiratory disease (COVID-19) pandemic.

BACKGROUND

On March 14, 2020, pursuant to the authority granted by Culver City Municipal Code ("CCMC") Section 3.09.020.B.1.a, the City Manager, as the Director of Emergency Services ("City Manager"),

issued a Proclamation of Local Emergency (“Local Emergency”) due to the outbreak and spread of the coronavirus respiratory disease (“COVID-19”) pandemic.

During this unprecedented time, various orders have been issued by the State of California and the Los Angeles County Department of Public Health, as well as a number of our neighboring communities, designed to protect both residential and commercial tenants from eviction during the COVID-19 pandemic.

On March 20, 2020, the City Manager issued a First Supplement to Public Order (“March 20 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”). The CTEM has been updated eight times, with the most recent update being issued on February 25, 2021.

On February 22, 2021, the City Council considered recommendations from the Economic Development Subcommittee with regard to proposed modifications to the CTEM and directed the City Manager (1) to extend the CTEM through the end of the Local Emergency; (2) to modify the definition of “Commercial Tenant” to exclude, effective March 1, 2021, any company that, together with that company’s parent, subsidiary, affiliated, and related companies, employed 200 or more employees on March 20, 2020; (3) effective April 1, 2021, to require commercial tenants to pay 25% of the current rent due each month in order to qualify for eviction protection under the CTEM; and (4) to refer landlords and tenants to mediation services at LA Represents, a coalition of law firms, bar associations and attorneys who will provide COVID-19-related legal services free of charge as part of their pro bono commitments. The City Council further directed staff to use its discretion to enhance the documentation requirements of the CTEM Implementation Measures in order to facilitate a clearer understanding of those requirements by landlords and tenants.

On February 25 and March 10, 2021, respectively, the City Manager issued the Thirty-Fourth Supplement to Public Order and Ninth Amended CTEM Implementation Measures, consistent with the City Council’s direction.

During the course of the last year, economic recovery has been slowly but steadily progressing and many cities in the region terminated their commercial tenant eviction moratoria during summer and fall of 2021.

On March 14, 2022, the City Council discussed the status of the CTEM and provided direction to the City Manager: (1) to terminate the Moratorium Period of the CTEM July 31, 2022 or the termination of the Local Emergency, whichever occurs earlier (“Moratorium Termination Date”); (2) to retain the 12-month grace period for the repayment of back rent (“Back Rent”); and (3) to establish additional repayment options for tenants to select, including a 24-month or 30-month graduated payment plan for the repayment of Back Rent, which repayment plan would be superseded by any repayment plan agreed upon in writing as between a landlord and tenant. The City Council also confirmed landlords may not charge late fees or penalties on any Back Rent owed.

DISCUSSION

Public Order

On April 29, 2022, the City Manager issued a public order terminating the Moratorium Period of the CTEM on July 31, 2022 or the termination of the Local Emergency (as determined by resolution of the City Council), whichever occurs earlier (the "Moratorium Termination Date"), consistent with the City Council's March 14th direction ("April 29 Order"). The April 29 Order also established payment plan options for Back Rent, as further detailed in the related implementation measures issued concurrently with the April 29 Order and discussed further below. After the Moratorium Termination Date, a tenant must also pay current rent due, regardless of any COVID-19 related circumstances.

Pursuant to CCMC Section 3.09.020.B.1.h(2), staff recommends the City Council adopt the proposed Resolution confirming the April 29 Order issued by the Director of Emergency Services (Attachment 1).

CTEM Implementation Measures

Concurrently with the April 29 Order, the City Manager issued the Tenth Amended Rules and Implementation Measures Regarding Commercial Tenant Eviction Moratorium ("Implementation Measures") (Attachment 2).

The key changes to the Implementation Measures involve the requirements and procedures for the repayment of Back Rent. In order to receive the protections of the CTEM during the repayment of Back Rent ("Grace Period"), tenants must select and adhere to one of the following repayment plans, as further detailed in Section 8 of the Implementation Measures:

- Repayment of Back Rent in full within 12 months after the Moratorium Termination Date;
- 24-month graduated repayment plan;
- 30-month graduated repayment plan; or
- Any other repayment plan mutually agreed upon in writing by landlord and tenant.

In order to qualify for the protections of the CTEM during the applicable Grace Period, a tenant must, by the Moratorium Termination Date, select and adhere to the 12-month, 24-month or 30-month repayment schedules, unless a different agreement for repayment is reached between the landlord and tenant. If a tenant fails to provide written communication to the Landlord with selection one of the repayment options on or before the Moratorium Termination Date, then the tenant will automatically be subject to the 12-month repayment plan. (See Section 8.C of the Implementation Measures.) Examples of the 24-month and 30-month graduated repayment plans are set forth in Section 8.C.2 and 8.C.3 of the Implementation Measures. Although the 12-month Grace Period does not require regular monthly payments, tenants are encouraged to make monthly payments rather than be faced with a balloon payment at the end of the 12-month Grace Period.

If at any time during the 24-month or 30-month repayment plan, or other repayment plan agreed upon between a landlord and tenant, a tenant fails to make a payment timely, then the tenant will forfeit any protection from eviction afforded during the applicable Grace Period.

As has been the case since the inception of the CTEM, nothing in the April 29 Public Order, nor the Implementation Measures, shall preclude a landlord from collecting Back Rent through other lawful

means. However, during the applicable Grace Period, a landlord shall not evict a tenant for the nonpayment of Back Rent, provided the tenant remains in compliance with any applicable repayment plan.

FISCAL ANALYSIS

There may be staff costs associated with the enforcement of the April 29 Order and related CTEM Implementation Measures; however, it is not estimated to be material at this time. If staff incurs any overtime with the enforcement of the Order and Implementation Measures, the overtime will be tracked and included with the FEMA reimbursement requests.

ATTACHMENTS

1. 2022-05-09_ATT 1_Proposed Resolution Confirming April 29 Order
2. 2022-05-09_ATT 2_CTEM Implementation Measures

MOTION

That the City Council:

Adopt a Resolution confirming the April 29, 2022 Forty-Second Supplement to Public Order (Termination of Commercial Tenant Eviction Moratorium and Establishment of Repayment Plans), under City of Culver City emergency authority, due to the coronavirus respiratory disease (COVID-19) pandemic.