



City of Culver City

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Staff Report

File #: 23-775, Version: 1

Item #: A-2.

CC - ACTION ITEM: (FOUR-FIFTHS VOTE REQUIREMENT) Adoption of an Urgency Ordinance Establishing Commercial Tenant Eviction Protections during Applicable Grace Periods for the Repayment of Rent Accrued During the Eviction Moratorium Period Established under the COVID-19 Local Emergency.

Meeting Date: March 27, 2023

Contact Person/Dept: Heather Baker/City Attorney's Office
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Fiscal Impact: Yes No

General Fund: Yes No

Attachments: Yes No

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

Public Notification: (E-Mail) Meetings and Agendas - City Council (03/22/2023);

Department Approval: Heather Baker, City Attorney (03/22/2023)

RECOMMENDATION

Staff recommends the City Council adopt an urgency ordinance establishing commercial tenant eviction protections during applicable grace periods for the repayment of rent accrued during the eviction moratorium period established under the COVID-19 local emergency (Attachment 1) (*requires a four-fifths vote*).

BACKGROUND

On March 14, 2020, the City Manager, under the authority of Culver City Municipal Code (CCMC) Section 3.09.020, as the Director of Emergency Services, issued a Proclamation of Local Emergency in relation to the arrival of the COVID-19 virus in the Culver City community, which was ratified by the City Council on March 18, 2020.

On March 16, 2020, the City Manager, under the authority of CCMC Section 3.09.020, as the Director of Emergency Services, issued a Public Order enacting City measures to protect members of the public and City workers from undue risk of COVID-19 and on March 20, 2020 issued a First Supplement to Public Order. Section 2 of the March 20 Order included, among other things, the

following order (“Commercial Tenant Eviction Moratorium” or “CTEM”):

“[N]o landlord shall evict a commercial tenant in the City of Culver City during this local emergency period if the tenant is able to show an inability to pay rent due to circumstances related to the COVID-19 pandemic. These circumstances include:

- A. loss of income due to a COVID-19 related workplace closure;*
- B. child care expenditures due to school closures;*
- C. health care expenses related to being ill with COVID-19;*
- D. expenses or loss of income due to caring for a member of the tenant’s household who is ill with COVID-19; or*
- E. reasonable expenditures that stem from government-ordered emergency measures.*

Nothing in this Section 2 shall be construed to mean that the commercial tenant will not still be obligated to pay lawfully charged rent as provided below. Tenants will have up to six months following the expiration of the local emergency period to repay any back due rent. Commercial tenants may use the protections afforded in this Section 2 as an affirmative defense in an unlawful detainer action. The moratorium on evictions imposed by this subsection shall remain in effect during the pendency of the local emergency period, but will not apply in cases where eviction is necessary to address an imminent and objectively verifiable threat to the health and safety of tenant or tenant’s employees, landlord or landlord’s employees, or neighboring businesses or residents.”

The Commercial Tenant Eviction Moratorium also provided the City Manager the authority to promulgate rules and implementation measures (collectively, “Implementation Measures”) with regard to the Commercial Tenant Eviction Moratorium, which were issued on March 27, 2020.

Since March 2020, various orders were issued by the State of California and the Los Angeles County Department of Public Health, as well as neighboring communities, designed to protect both residential and commercial tenants from eviction during the COVID-19 pandemic.

The Commercial Tenant Eviction Moratorium was updated on eight occasions: March 20, April 7, April 28, May 19 (Revised May 26), August 4, September 17 and November 12, 2020; and February 25, 2021; and the related Implementation Measures were updated on April 29, May 20, May 26, May 27, August 4, September 17 and November 12, 2020; and February 25 and March 10, 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; (2) to retain the 12-month grace period for the repayment of 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. The selected 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.

On April 29, 2022, the City Manager issued a public order terminating the CTEM Moratorium Period on July 31, 2022 or the termination of the Local Emergency (as determined by resolution of the City Council), whichever occurs earlier, consistent with the City Council’s March 14th direction

(Attachment 2). The April 29 Public Order also established the foregoing grace period/repayment options for Back Rent, as further detailed in the related Implementation Measures issued by the City Manager on April 29, 2022 (Attachment 3).

Pursuant to the April 29 Public Order and April 29 Implementation Measures, commercial tenants were required to provide their landlord with written notice selecting either the 12-month, 24-month or 30-month grace period/repayment options as set forth in Section 8 of the April 29 Implementation Measures. If a tenant failed to provide written communication to the Landlord selecting one of the grace period/repayment options on or before July 31, 2022, the tenant automatically became subject to the 12-month grace period for repayment of Back Rent.

On July 31, 2022, the CTEM Moratorium Period terminated, and landlords and tenants have been subject to the requirements of the Implementation Measures for the payment of current rent due and Back Rent accrued during the Moratorium Period.

On February 27, 2023, the City Council directed the City Manager to return to City Council with (1) a resolution terminating the COVID-19 local emergency, effective April 1, 2023; and (2) a proposed urgency ordinance establishing commercial tenant eviction protections during the grace period for the repayment of rent accrued during the Moratorium Period established under COVID-19 local emergency.

DISCUSSION

On March 27, 2023, the City Council will consider the adoption of a resolution terminating the COVID-19 local emergency, effective April 1, 2023. With the termination of the COVID-19 local emergency, the public order establishing the Commercial Tenant Eviction Moratorium, including the Implementation Measures, will no longer be enforceable.

Commercial tenants have relied on eviction protection during the grace periods/repayment schedules they selected under the Implementations Measures, provided they are in compliance with the requirements of the Implementation Measures.

Despite the State, County and local emergencies terminating, many commercial tenants are still in an economic recovery from the significant economic impacts to their businesses since March 2020.

The proposed Ordinance establishes eviction protections for commercial tenants during the grace periods established under the CTEM for the repayment of rent accrued during the Moratorium Period under the COVID-19 local emergency (Attachment 3). The Ordinance contains the relevant provisions of the Implementation Measures and will provide the City with the ability to enforce the prohibition on evictions during the grace periods, provided tenants are in compliance with the requirements set forth in Ordinance. The Ordinance also contains the required findings for an urgency ordinance, pursuant to Government Code Section 36937(b) and Culver city Charter Section 614.

FISCAL ANALYSIS

There may be minimal staff costs associated with the enforcement of the Ordinance.

ATTACHMENTS

1. 2023-03-27_ATT 1_Proposed Urgency Ordinance re CTEM
2. 2023-03-27_ATT 2_April 29, 2022 Public Order
3. 2023-03-27_ATT 3_April 29, 2022 CTEM Implementation Measures

MOTION

That the City Council:

Adopt an urgency ordinance establishing commercial tenant eviction protections during applicable grace periods for the repayment of rent accrued during the eviction moratorium period established under the COVID-19 local emergency (**requires a four-fifths vote**).