

April 2020

Background and Statewide Rules

On March 16, 2020, Governor Gavin Newsom issued an Executive Order in response to the Covid-19 pandemic that permitted local governments to pass ordinances which imposed substantive limitations on residential and commercial evictions of tenants affected by the pandemic. A number of cities, in short order, passed such ordinances. Oakland's ordinance is summarized below. Similar ordinances implemented by a number of Bay Area cities follow the summary, with links to the ordinances themselves.

Effective April 6, 2020, statewide emergency rules were added to the California Rules of Court. They apply to all tenant evictions in California, regardless of cause, unless the eviction is necessary to protect the public health and safety. These rules remain in effect until 90 days after the emergency period related to the pandemic is lifted, or modification of the order.

Under the rules, a court may not: issue a summons on an Unlawful Detainer complaint, enter a default or a default judgment for restitution, or set a trial date earlier than 60 days after a request for trial is made. Any trial set in an unlawful detainer proceeding as of April 6, 2020 must be continued at least 60 days from the initial date of trial.

Oakland's Moratorium

At a special meeting convened via Zoom on March 27, 2020, the Oakland City Council approved an Ordinance implementing a 60 day moratorium on residential and commercial evictions, the most stringent against property owners, to date, in California. The moratorium is in effect through May 31, 2020, but may be extended by the City Council if the pandemic continues.

The moratorium is retroactive to March 9, 2020 and applies to all tenancies covered by the Oakland Rent Ordinance, and small business renters (generally fewer than 100 employees). Tenancies not covered under the Ordinance include: 1) renters in buildings constructed in 1996 and after, 2) renters living in the same unit as their landlord, sharing a kitchen or bathroom, 3) renters living in a health facility, non-profit substance abuse center, or certain short-term housing for homeless.

Obligation to Pay Rent Not Relieved

Under the Oakland Ordinance, residential tenants are not relieved of their obligation to pay rent under the Ordinance. Unpaid rent, due on or after March 9th, will still be due, and tenants are not relieved of their obligation to pay unpaid rent in the future. The Ordinance provides tenants with a defense in UD actions if unpaid rent became due on or March 9th, and was unpaid because of a substantial reduction in household income or substantial increase in expenses resulting from the Coronavirus pandemic.

Payment of rent by a third party is sanctioned under the Oakland Ordinance; failure by the landlord to accept rent from a third party is a tenant defense in a UD action. No tenancy is created between the landlord and the third party provided that written notice is given by one of the parties that no tenancy was intended.

Late Fees

The Oakland moratorium prohibits rent increases above 3.5% (the Consumer Price Index, or CPI).

Under the Ordinance, no late fees may be imposed for rent that became due on or after March 9th if the rent was late for reasons resulting from the pandemic. This includes, but is not limited to (1) the tenant was sick or incapacitated due to COVID-19, or was complying with a recommendation from a governmental agency to self-quarantine, (2) the tenant suffered a substantial reduction in household income because of a loss of employment or a reduction in hours, or because they were unable to work because they were caring for their child(ren) who were out of school or a household or family member who was sick with COVID-19, or because they were complying with a recommendation from a government agency to self-quarantine, and (3) the tenant incurred substantial out-of-pocket medical expenses caused by COVID-19.

Commercial Tenancies

Commercial tenants have a defense in Unlawful Detainer actions under the Oakland Ordinance if the failure to pay rent on or after March 9th was the result of a substantial decrease in income (including but not limited to a decrease caused by a reduction in hours or consumer demand) and the decrease in income was caused by the pandemic or by any local, state, or federal government response to COVID-19, and is documented.

Ellis Act/Move-outs Permitted

Tenant buyout agreements pursuant to the Oakland Ordinance, and under the Ellis Act, are still permitted.

Notice Requirements

The Oakland Ordinance specifies the language, and font size, that must be included in notices for: eviction, demand for rent or late fees for commercial and residential tenants that became due on or after March 9th, and rent increases

Similar Ordinances Enacted by other Bay Area Cities - See Links Below:

- [Alameda](#)
- [Benicia](#)
- [Berkeley](#)
- [Concord](#)
- [Contra Costa County](#)
- [El Cerrito](#)
- [Emeryville](#)
- [Hayward](#)
- [Napa](#) (Shelter in Place Only)
- [Oakland](#)
- [Richmond](#)
- [San Francisco](#)
- [San Leandro](#)
- [San Mateo](#)
- [Sanoma County](#)
- [Union City](#)

We continue to monitor the Ordinances being enacted, state-wide. If you have questions or seek consultation regarding the eviction moratoriums, please contact us.

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