



## Legislation Text

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### **First Reading of an Ordinance Amending Ordinance No. 2023-001 To Terminate the City's Eviction Moratorium effective July 31, 2023.**

#### **COUNCIL PRIORITY**

- Housing and Homelessness
- Race and Equity Initiatives

#### **SUMMARY AND RECOMMENDATIONS**

Staff presents for the City Council's consideration:

- 1) First Reading of an Ordinance to Amend Ordinance No. 2023-001 To Terminate the City's Eviction Moratorium effective July 31, 2023 (Attachment A).

#### **BACKGROUND**

In response to the COVID-19 Pandemic, the Governor of California proclaimed a state of emergency throughout California on March 4, 2020. Thereafter, the San Leandro Director of Emergency Services proclaimed a local emergency that was ratified by the City Council on March 16, 2020. Soon thereafter, health officers in the Bay Area (and later throughout California) issued orders directing residents to shelter at home and limit activity, travel, and business to only the most essential needs. These health orders caused businesses of all types to cease, or substantially reduce operations. This caused many employees to lose jobs or have their hours reduced.

In response to the COVID-19 pandemic and shelter-in-place orders requiring most people to stay at home, the San Leandro City Council adopted Ordinance No. 2020-003, as an urgency ordinance, to enact a residential and commercial eviction moratorium (the commercial eviction moratorium terminated in September 2021). Ordinance No. 2020-003 was a temporary measure intended to promote stability and fairness within the residential and commercial rental market in the City during the COVID-19 pandemic outbreak, and to prevent avoidable homelessness and evictions thereby preserving the peace, health, safety, and public welfare and to enable tenants in the City whose incomes and ability to work were affected by COVID-19 to remain in their homes and businesses.

Ordinance No. 2020-003 provided that the eviction moratorium would terminate on the later of: 1) May 31, 2020, or 2) the expiration of the local emergency, or 3) the Governor's proclamation of a state of emergency. The Governor's proclamation of a state of emergency and the City's local emergency both terminated on February 28, 2023. Notwithstanding the end of the state of

emergency and the local emergency, COVID-19 continues to be a threat to public health, with unpredictable impacts.

In anticipation of the original eviction moratorium expiring, on February 21, 2023 the City Council adopted Ordinance No. 2023-001 extending the moratorium on residential evictions until February 28, 2024. The COVID-19 pandemic has persisted longer than the City Council anticipated when it initially enacted the eviction moratorium, and the City Council desired to prevent an abrupt ending of the Eviction Moratorium in order to promote stability within the residential rental market. The Eviction Moratorium only prevented evictions based on nonpayment of rent for tenants where the failure to pay rent was due to impacts from COVID-19.

At the time the City Council adopted Ordinance No. 2023-001, it directed staff to provide an update to the City Council every 90 days thereafter on the impacts of the moratorium on tenants and landlords in San Leandro and related relevant data. The purpose of these reports was for the Council to reevaluate whether the eviction moratorium continued to be necessary.

The 90-day review of the eviction moratorium occurred on May 15, 2024. At that meeting staff presented the City Council with information regarding the impacts of the eviction moratorium on tenants and landlords within San Leandro, actions taken by other cities with eviction moratoria, the City's outreach efforts, and related relevant data. Following consideration of staff's presentation and public comment, the City Council, by a 6-1 vote, instructed staff to prepare an ordinance terminating the eviction moratorium effective July 31, 2023.

### **Analysis**

The proposed ordinance will amend the eviction moratorium to terminate at the end of the day on July 31, 2023. If the proposed ordinance is adopted, if a tenant is unable to pay the rent due on August 1, 2023, the tenant may be subject to eviction.

Some tenants may have accumulated unpaid rent during the period of the eviction moratorium (lasting from March 23, 2020 to June 30, 2023). Under the existing ordinance, landlords may seek repayment of outstanding unpaid rent that accumulated during the eviction moratorium 180 days after the end of the eviction moratorium. In addition to the 180 day repayment period contained in the City's ordinance, the Alameda County Municipal Code provides additional protections for tenants with accumulated unpaid rent. Specifically, the County's Code provides that unpaid rent that accumulated between March 24, 2020 and April 29, 2023 (the time period during which the County's eviction moratorium was in effect) can never be the basis of an eviction. The County's Code states that this provision applies in both unincorporated areas and incorporated cities like San Leandro.

Additional services provided by the City are available to tenants facing eviction. The City has contracted annually with the nonprofit Centro Legal de la Raza since July 2020 to administer the City's Tenant-Landlord Counseling Program, which includes legal services for low-income renter

households. Centro Legal subcontracts annually with ECHO Housing, a non-profit organization, to administer Tenant-Landlord Counseling, while Centro Legal administers legal consultation and services.

### **Environmental Review**

The proposed Ordinance is exempt from the requirements of the California Environmental Quality Act (“CEQA”) under Section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that the action may have a significant effect on the environment.

### **Legal Analysis**

The February 14 staff report for the introduction of Ordinance No. 2023-001 contains a detailed legal analysis of the City’s eviction moratorium. While no Council legislative action can be completely immune from legal challenge, based on the Northern District’s recent decision in *Williams v. Alameda County* (N.D. Cal., Nov. 22, 2022) 2022 WL 17169833 (*Williams*), where plaintiffs contested Alameda County’s and the City of Oakland’s eviction moratoria, both of which extend past the expiration of the Governor’s state of emergency, the City has strong arguments that its extension of the eviction moratorium will withstand a facial challenge.

The existing eviction moratorium does not violate State law because it is temporary in nature, it does not relieve tenants of their contractual obligations to pay back rent, eviction restrictions are limited to non-payment of rent, the ordinance’s protections apply to tenants only, and it includes exceptions allowing a landlord to leave the rental business (i.e. exercising an Ellis Act eviction). The eviction moratorium similarly does not violate the U.S. Constitution’s Contracts Clause because the elimination of the eviction remedy does not extinguish landlords’ contractual rights such that tenants may be evicted for breach of contract. It does not violate due process and equal protection under the Fourteenth Amendment because landlords are not denied a hearing or prevented from litigation; the ordinance allows tenants to raise a defense in an eviction proceeding.

By ending the eviction moratorium effective July 31, 2023, the City will strengthen the argument that the eviction moratorium was temporary in nature, designed to address specific public welfare concerns, and terminated as soon as circumstances warranted.

### **ATTACHMENT**

Attachment A: Ordinance of the City of San Leandro City Council Amending Ordinance No. 2023-001 To Terminate the City’s Eviction Moratorium effective July 31, 2023.

**PREPARED BY:** Tom Liao, Community Development Department Director