

MOTION BY SUPERVISORS SHEILA KUEHL AND
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January 25, 2022

**Updating the County's COVID-19 Tenant Protections Resolution to Extend,
Clarify, and Gradually Phase Out Temporary Emergency Protections**

In March 2020, in response to the serious health and economic impacts of the Novel Coronavirus (COVID-19) pandemic, the County of Los Angeles adopted emergency tenant protections creating affirmative defenses against evictions for residential and commercial tenants in certain identified instances. Over the past 22 months, the Board of Supervisors (Board) has modified and extended these protections, which are currently set to expire on January 31, 2022, providing timely and critical relief to impacted tenants. The State has also taken multiple executive and legislative actions since March 2020, to limit evictions of residential tenants.

In April 2020, the Judicial Council of California (JCC) instituted a prohibition on the issuance of a summons or the entering of default judgments for eviction cases brought against residential or commercial tenants, except for those instances where tenant actions were causing serious health or safety impacts to tenants, units, or communities.

On August 31, 2020, Governor Newsom signed Assembly Bill (AB) 3088 into law to provide, among other things, eviction protections to residential tenants who were

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unable to pay rent due to the COVID-19 emergency, subject to certain requirements. The protections offered under AB 3088 have been subsequently expanded and extended by Senate Bill (SB) 91, AB 81, and AB 832 (collectively, State's eviction protections). The State's eviction protections preempt the County from reenacting or establishing new local nonpayment of rent protections through March 31, 2022.

On September 1, 2020, the JCC lifted the prohibition on eviction filings, and on October 1, 2021, state eviction protections for residential tenants expired. This has allowed residential property owners to resume eviction filings with the Courts, and tenants have been able to use State and local protections as affirmative defenses against these filings.

The State manages Housing is Key, a federally funded rent relief program to support property owners and income-qualified residential tenants who have struggled to pay rent and bills due to financial hardships caused by the pandemic. As of January 11, 2022, the State has paid out over \$915 million to 73,224 impacted County households, representing 32% of the total number of households who have applied for relief in the County. The rental assistance program has undoubtedly prevented thousands of residents from losing their housing. However, the percentage of households who are still awaiting funds is evidence that a good deal of work still needs to occur in order to ensure that those most in need can receive support.

On June 22, 2021, the Board began methodically phasing out temporary eviction protections by allowing limited owner move-ins to resume. On September 28, 2021, the Board voted to further extend and phase out the residential and commercial protections through January 31, 2022. During the September consideration, the Board also directed the Chief Executive Officer (CEO), in conjunction with the Department of Consumer and Business Affairs (DCBA), the Los Angeles County Development Authority (LACDA),

Department of Public Health (DPH), and County Counsel to report back with recommendations for data sets, metrics and other pertinent criteria to evaluate further extensions of the COVID-19 Tenant Protections Resolution (Resolution) and to develop a phase-out plan.

While the County has made significant progress in vaccine distribution, COVID-19 cases have surged once again, this time due to the Omicron variant, which emerged in late 2021. On January 9, 2022, the County recorded 45,584 new COVID-19 cases – its highest number of new cases in one day since the pandemic's onset in March 2020. With the recent and dramatic increase in daily COVID-19 cases, the working group is proposing that we preserve protections relating to: (1) anti-harassment and retaliation for all commercial tenants, (2) prohibiting enforcement of personal guarantees for rent incurred by commercial tenants with nine employees or fewer, and (3) requiring landlords to provide notices of rights to commercial tenants with nine employees or fewer, as stated in the Resolution, while allowing commercial eviction protections to expire on January 31, 2022, due to a reinstated State law preemption concerning commercial tenancies. With respect to residential tenants, the working group, consisting of CEO, DCBA, LACDA, and County Counsel is using current economic, housing, health, and programmatic data in developing a thoughtful three-phase plan for extending and lifting residential protections beginning February 1, 2022, and continuing through June 30, 2023. The three phases include:

- Phase I (February 1 – May 31, 2022): Beginning February 1, 2022, current residential tenant and mobilehome space renter protections set forth in the COVID-19 Tenant Protections Resolution would be extended through May 31, 2022, where not preempted by State law. Effective April 1, 2022, eviction protections would be reinstated for all residential tenants and mobilehome space

renters, including creating an affirmative defense, related to nonpayment of rent due to COVID-19 financial hardship for rent incurred on or after April 1, 2022. In addition, such eligible households would be able to self-certify financial hardship in order to establish an affirmative defense in unlawful detainer actions.

Protections relating to (1) anti-harassment and retaliation for all residential and commercial tenants, (2) prohibiting enforcement of personal guarantees for rent incurred by commercial tenants with nine employees or fewer, and (3) requiring landlords to provide notices of rights to commercial tenants with nine employees or fewer would be preserved, as stated in the Resolution, while allowing commercial eviction protections to expire on January 31, 2022, due to a reinstated State law preemption concerning commercial tenancies.

- Phase II (June 1 – December 31, 2022): Specific protections for residential tenants and mobilehome space renters would be phased out beginning June 1, 2022. Amendments would include removing the purchase date requirement for owner move-ins; lifting the requirement that the residential tenant can only be displaced if the tenant has not been impacted by COVID-19 to allow for owner move-ins; and allowing evictions for denying entry to a landlord, except when such attempted entries constitute harassment. Eviction protections for nuisance, unauthorized occupants or pets would remain. Eviction protections would also continue for residential tenants and mobilehome space renters, including creating an affirmative defense, related to nonpayment of rent due to COVID-19 financial hardship for rent incurred on or after April 1, 2022, and are amended to apply to households with income at 80 percent Area Median Income (AMI) or below. Such eligible households would be able to self-certify their income level and financial hardship in order to establish an affirmative defense in unlawful detainer

actions. Repayment of unpaid rent for those households who were unable to pay rent in Phase 1 will be due on May 31, 2023, unless extended further by the Board. Eligible households who self-certify income level and financial hardship will have up to twelve (12) months from the expiration of the Phase II to repay unpaid rent incurred during Phase 1 and/or Phase II, unless extended by the Board to Phase III. Lastly, the rent increase freeze currently in place for residential properties in the unincorporated areas would be extended. Protections relating to (1) anti-harassment and retaliation for all residential and commercial tenants would be preserved, (2) prohibiting enforcement of personal guarantees for rent incurred by commercial tenants with nine employees or fewer, and (3) requiring landlords to provide notices of rights to commercial tenants with nine employees or fewer would be preserved, as stated in the Resolution.

- Phase III (January 1 – June 30, 2023): Eviction protections, including self-certification, for residential tenants and mobilehome space renters earning 80 percent AMI or below would continue. All other eviction protections for residential tenants would be lifted, unless the Board considers options for extending eviction protections for tenants who have had to house unauthorized occupants or pets. Protections relating to (1) anti-harassment and retaliation for all commercial tenants, (2) prohibiting enforcement of personal guarantees for rent incurred by commercial tenants with nine employees or fewer, and (3) requiring landlords to provide notices of rights to commercial tenants with nine employees or fewer would be preserved, as stated in the Resolution.

A thoughtful phase-out provides an opportunity for the County to consider lessons learned over the past 22 months and provides recommendations for the Board to consider related to tenant protections to create a healthier housing market post

pandemic than that which existed before it began. Prior to the start of the pandemic, the Board adopted a series of permanent protections for residential tenants and mobilehome space renters in the unincorporated areas of the County, protecting hundreds of thousands of tenants who previously had little protection from significant rent increases, landlord harassment, etc. As we implement this phase-out plan, the County should simultaneously examine our existing permanent protections to determine whether changes and/or additions should be made based on lessons learned over the past two years. Additionally, many incorporated cities that do not have permanent protections and that have relied on the County's emergency COVID-19 protections have expressed interest in adopting their own. The County should also explore opportunities to share these lessons learned and provide guidance and technical assistance to interested incorporated cities within the County.

The current unprecedented spike in the number of confirmed cases of the COVID-19 virus makes it clear that we are not yet out of the pandemic. Adopting the first two phases of the plan, which extends some of our local emergency residential protections allowable under State law, while slowly beginning to lift others, is a balanced approach to protecting the health and welfare of vulnerable tenants while also providing thoughtful relief to impacted property owners.

WE, THEREFORE, MOVE that the Board of Supervisors:

1. Approve and direct the Chair of the Board to execute the attached Resolution, approved as to form by County Counsel, further amending and restating the Resolution to implement Phase I and Phase II as detailed below:
 - a. Phase I (February 1 – May 31, 2022): Beginning February 1, 2022, current residential tenant and mobilehome space renter protections set forth in the COVID-19 Tenant Protections Resolution shall be extended through May 31,

2022, where not preempted under State law. Effective April 1, 2022, eviction protections shall be reinstated for all residential tenants and mobilehome space renters, including creating an affirmative defense, related to nonpayment of rent due to COVID-19 financial hardship for rent incurred on or after April 1, 2022. In addition, such eligible households shall be able to self-certify financial hardship in order to establish an affirmative defense in unlawful detainer actions. The County shall preserve protections relating to (1) anti-harassment and retaliation for all residential and commercial tenants, (2) prohibiting enforcement of personal guarantees for rent incurred by commercial tenants with nine employees or fewer, and (3) requiring landlords to provide notices of rights to commercial tenants with nine employees or fewer, as stated in the Resolution. Commercial eviction protections for nonpayment of rent shall expire on January 31, 2022, due to a reinstated State law preemption concerning commercial tenancies.

- b. Phase II (June 1 – December 31, 2022): Specific protections for residential tenants and mobilehome space renters shall be phased out beginning on June 1, 2022. The purchase date requirement for owner move-ins will be removed; the requirement that the residential tenant can only be displaced if the tenant has not been impacted by COVID-19 to allow for owner move-ins will be lifted. Evictions for denying entry to a landlord shall resume, except when such attempted entries constitute harassment. Eviction protections for nuisance, unauthorized occupants or pets shall remain. The rent increase freeze currently in place for residential properties in the unincorporated areas shall be extended. Eviction protections shall continue for residential tenants and mobilehome space renters, including creating an affirmative defense,

related to nonpayment of rent due to COVID-19 financial hardship for rent incurred on or after April 1, 2022, amended to apply to households who self-certify their income levels to be at 80 percent AMI or below. The County shall preserve protections relating to (1) anti-harassment and retaliation for all residential and commercial tenants, (2) prohibiting enforcement of personal guarantees for rent incurred by commercial tenants with nine employees or fewer, and (3) requiring landlords to provide notices of rights to commercial tenants with nine employees or fewer, as stated in the Resolution.

2. Direct DCBA, in coordination with CEO, LACDA, and in consultation with County Counsel, to report back in 120 days with lessons learned during the pandemic related to tenant protections, recommendations on opportunities to change or strengthen the County's permanent tenant protections, and recommendations for providing guidance and/or technical assistance to incorporated cities interested in creating and adopting their own permanent tenant protections.