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Title: Staff Report for a City of San Leandro City Council Urgency Uncodified Ordinance Imposing within the City of San Leandro a Temporary Moratorium on Evictions Due to Nonpayment of Rent for Mobile Homeowners, and Residential and Commercial Tenants Where the Failure to Pay Rent is From Income Loss Resulting from the Novel Coronavirus (COVID-19)

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Title

Staff Report for a City of San Leandro City Council Urgency Uncodified Ordinance Imposing within the City of San Leandro a Temporary Moratorium on Evictions Due to Nonpayment of Rent for Mobile Homeowners, and Residential and Commercial Tenants Where the Failure to Pay Rent is From Income Loss Resulting from the Novel Coronavirus (COVID-19)

Staffreport

SUMMARY AND RECOMMENDATIONS

Staff recommends that the City Council approve and adopt an urgency ordinance that establishes a temporary moratorium on evictions due to nonpayment of rent for mobile homeowners (which would include in the definition of mobile homeowners for the purposes of this Ordinance recreational vehicle (RV) owners), residential and commercial tenants where the failure to pay rent is from income loss resulting from the coronavirus (COVID-19). The ordinance would take effect immediately and would be in effect until May 31, 2020 or the expiration of the local emergency or the Governor's proclamation of a state of emergency, whichever is later.

BACKGROUND

The Centers for Disease Control and Prevention, the California Department of Health, and the Alameda County Department of Public Health have all issued recommendations including but not limited to social distancing, staying home if sick, canceling or postponing large group events, working from home, and other precautions to protect public health and prevent transmission of

COVID-19. In addition, the President of the United States declared a national emergency, the Governor of the State of California declared a State of Emergency for the State and for all the counties in the State, and the San Leandro Director of Emergency Services proclaimed a local emergency and state of emergency, which the City Council ratified, to be reviewed in the next 30 days.

As a result of the state of emergency and the government-recommended precautions, many mobile homeowners, and residential and commercial tenants have experienced sudden income loss, and further income impacts are anticipated, leaving tenants vulnerable to eviction. During this state of emergency, and in the interests of protecting the public health and welfare, and to help prevent transmission of the coronavirus, it is essential to avoid unnecessary displacement, business closures, and homelessness. Therefore, staff recommends that the City Council adopt an urgency ordinance imposing a temporary moratorium on mobile homeowners, and residential and commercial evictions due to a substantial loss of income resulting from COVID-19. The moratorium would be achieved by reason of the Ordinance providing to a mobile homeowner or tenant a substantive eviction defense if an eviction proceeding (an unlawful detainer) were filed against the mobile homeowner or tenant for non-payment of rent and the mobile homeowner or tenant could demonstrate that the non-payment of rent was due to the mobile homeowner's or tenant's substantial loss of income due to COVID-19.

As a result of the public health emergency related to COVID-19 and the precautions recommended by health authorities, mobile homeowners and tenants in San Leandro have experienced, or expect soon to experience, sudden and unexpected income loss due to temporarily being unable to report to work because of illness caused by COVID-19 or quarantines related to COVID-19, taking care of family members ill due to COVID-19, the closure of schools and daycare and the need to take care of children at home, taking care of elderly family members who are in quarantine, shelter-in-place or affected by COVID-19, and/or lay-offs due to business slow-downs and closures. Further economic impacts are anticipated, leaving mobile homeowners and tenants vulnerable to eviction during this local emergency. It is essential to avoid unnecessary housing and commercial displacement, to protect the City's affordable housing stock, to mitigate the economic effects on small and medium sized businesses, and to prevent housed individuals from falling into homelessness. A temporary moratorium on evictions from mobile home spaces, residential, and commercial rental units due to a substantial loss of income because of the COVID-19 pandemic will protect mobile homeowners and tenants from losing their housing and businesses, which will thereby protect the public health, safety and welfare, and prevent transmission of COVID-19.

Analysis/Discussion

The proposed urgency ordinance would take effect immediately and would apply to all eviction proceedings, such as notices to quit or pay rent or unlawful detainer actions served on or after the effective date of the Ordinance. By providing a substantive eviction defense to a mobile homeowner or tenant, the ordinance would place a temporary moratorium on eviction actions instituted for non-payment of rent where a mobile homeowners or tenant can demonstrate that the mobile homeowner or tenant suffered a substantial loss of income due to the COVID-19 pandemic. Impacts on loss of income include:

- the need to remain off work due to COVID-19 illness or symptoms
- the need to self-quarantine because of exposure to COVID-19
- a reduction in the number of work hours
- job loss due to closure of the business that employed the tenant

- the need to care for a child or children whose school is closed
- inability to operate because of the shelter-in-place order affecting a non-essential business
- lack of business due to no customers

The urgency ordinance, if adopted, will act as a deterrent to most landlords initiating eviction proceedings if a mobile homeowner or tenant can show that the non-payment of rent was due to the mobile homeowner's or tenant's loss of income arising out of the consequences of COVID-19. If a landlord nevertheless filed eviction proceedings in court, the ordinance could be used as an affirmative defense in a court proceeding regarding an unlawful detainer. The ordinance will provide an additional aid to preserve housing for mobile homeowners and tenants, and loss of business relief during this pandemic. Staff would also work to notify landlords, mobile homeowners, businesses, and tenants about the new ordinance if adopted.

The urgency ordinance would be in effect until May 31, 2020, or the expiration of the local emergency or the Governor's proclamation of a state of emergency, whichever is later. If necessary due to a continuing state of emergency, the ordinance can be extended.

Staff recommends that the City Council adopt the urgency ordinance as described above.

Environmental Review

Adoption of this ordinance is exempt from review under the California Environmental Quality Act: Section 15378 (not a project); and Section 15061(b)(3) (no significant environmental impact).

Legal Analysis

The City Attorney drafted the urgency ordinance. This Ordinance is proposed and drafted pursuant to the City's general police powers, section 1-1-345(b) of the City of San Leandro Municipal Code, and Article XI of the California Constitution.

Fiscal Impacts

There is no impact to the General Fund from adopting an urgency ordinance establishing a moratorium on evictions due to loss of income resulting from the COVID-19 pandemic. The ordinance could be relied upon as an affirmative defense in a court proceeding for an unlawful detainer. Therefore, there is no staff work associated with implementing the ordinance other than providing notifications to the community.

ATTACHMENT(S)

Attachment(s) to Staff Report

- None

Attachment(s) to Related Legislative Files

- Urgency Ordinance

PREPARED BY: Tom Liao, Community Development Director

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