April 3, 2020

Riverside County Board of Supervisors:
Supervisor Kevin Jeffries - District 1
Supervisor Karen Spiegel - District 2
Supervisor Chuck Washington - District 3
Supervisor V. Manuel Pérez - District 4
Supervisor Jeff Hewitt - District 5

Submitted via Email

RE: Riverside County Actions Necessary to Protect Housing Stability, Public Health, and Local Democracy

Dear Riverside County Board of Supervisors,

While COVID-19 cases spread throughout the United States and across the world, and as governments at all levels consider protective measures for their residents, housing stability -- especially for the most vulnerable among us -- must rank as a critical priority in our actions. Bold, decisive, and swift action to ensure that residents are able to remain in their homes during this time is necessary to minimize the spread of the virus, protect public health, and avoid potentially long-lasting and devastating consequences of the pandemic. We, the undersigned organizations work alongside thousands of residents across Riverside County, urge you to take immediate action to adopt the recommendations outlined below.
On Monday, March 16th, Governor Gavin Newsom issued Executive Order N-28-20 acknowledging the authority of local governments to enact various measures to protect the housing stability of renters and homeowners across the state and encouraged local governments to act. Furthermore, on May 19th, the Governor issued Executive Order N-33-20, a mandatory Stay at Home Order.

On March 27th, Governor Newsom issued Executive Order N-37-20 addressing tenant protections, however, after thorough review and analysis the order falls short in protecting vulnerable residents from eviction. To start, the order does not adequately protect tenants, creates confusion and, despite rhetoric to the contrary, is not the moratorium that is urgently needed to protect public health and economic stability. Given the confusion created by this order, we anticipate evictions will occur as soon as the 60 day extension is over. Leadership Counsel for Justice and Accountability’s analysis identifies how the Executive Order falls short (attachment 1):

- The order merely delays eviction proceedings for qualifying tenants;
- It does not bar evictions nor does it even provide tenants with a defense to evictions regardless of whether or not a tenant can’t pay rent due to COVID-19;
- Tenants will still need to file a response to a UD within 5 days and appear in order to assert their right to an extended 60 day timeline to file their response;
- Tenants are only eligible for this deadline extension if they comply with several onerous requirements. Where they must:
  - Be current on their rent as of the date of the order;
  - Notify their landlord in writing within seven days (at most) of when rent is due, that they need to delay all or some of the rent because of a COVID-19 related reason;
  - Retain documentation of the COVID-19 related loss of income. Tenants must know about these specific requirements in order to gain protection under the order. Many tenants will simply not be able to meet these requirements, such as tenants without bank accounts or in the informal economy.
- Landlords are under no obligation to accept the rent at a later date, enter into payment, or work with tenants to keep them in their homes.
- Landlords can still serve a three day notice if a tenant has told them they can’t pay the rent AND still file an eviction for nonpayment of rent or any other reason during this emergency
- The order only prohibits sheriff departments from forcefully removing tenants from their home if the sheriff determines that tenants have met the notice and proof requirements listed above.
We call upon you now to go above and beyond the Governor’s call to action by adopting unprecedented measures to protect residents, reduce physical and social dislocation, and promote public health during these extraordinary times.

Residents throughout Riverside County have struggled to pay their rent or their mortgage long before this current crisis. For instance, lack of access to safe and affordable housing along with consistent and affordable utility services is a common issue and are now exacerbated during this time. Low-income residents and renters are the most burdened, with the majority of low-income households paying over half of their income on housing each month. For residents who already struggle to meet their housing costs in a normal month, the myriad of financial impacts of the coronavirus pandemic will simply make it impossible for many individuals and families to stay in their homes without robust protective measures in place.

Unfortunately, given the lack of existing protections and massive job lay-offs, many vulnerable and low-income communities across Riverside County will face an extensive eviction crisis if we don’t act now. Among these vulnerable communities exist Tribal Nations and residents that live on allotted and Tribal land that also need your support. All community members, regardless of jurisdiction, will likely be impacted and meaningful action to prevent evictions is necessary to ensure residents are protected during these times. Without your swift and decisive action, this pandemic risks entrenching and compounding the housing crisis in all of Riverside County, and deepening existing inequities in housing opportunity, possibly for decades to come, while also further exacerbating the pandemic itself.

Since the release of the Governor’s order, we have seen jurisdictions across the state and within Riverside County not wanting or willing to do better. Instead, Riverside County officials have applauded and overly promised anti-eviction protections for tenants that are not guaranteed by the Governor’s order. This poor analysis and inability to do better further puts tenants at risk of losing their homes, but also at a greater risk of contracting COVID-19. One of the only recommendations we’ve seen from County officials is for tenants to utilize their template letter when providing notice to their landlord of their inability to make rent. This recommendation does not in any way provide protections for tenants nor does it respond to the demands from Riverside County residents to enact a strong and effective county-wide moratorium on rent increases, evictions, foreclosures, and the execution of writs of possession.

We urge the Riverside County Board of Supervisors take action immediately to protect the housing and economic stability of residents, especially the most vulnerable populations, by enacting ordinances with the following measures:
• A prohibition on all residential evictions, including mobile home parks, and foreclosures during the state of emergency. This is necessary to ensure that all residents can remain in their homes during the pandemic, without the confusion and difficulty that would result from requiring residents to individually substantiate the personal impacts of the coronavirus on their lives as well as the necessity of tenants appearing in court as defendants during a time when public health officials urge social distancing. Note that a current prohibition on evictions does not mean erasing missed rent payments but rather that tenants will not face the harsh and dangerous consequence of losing their homes in the midst of a global pandemic.

• A prohibition on assessing late fees or other charges associated with non payment of rent or mortgage for the duration of the moratorium.

• A requirement that all residential landlords extend expiring leases until at least three months after the last day the emergency declaration is in effect.

• A requirement that all landlords and residential mortgage holders develop and implement payment plans to allow financially impacted tenants and homeowners a reasonable amount of time to become current on rent or mortgage payments.

• A response and protocol, as well as emergency funding, for community residents living on allottee or tribal land to ensure they may also benefit from local and state policies to protect their housing stability and public health.

• A response and protocol for the protection of undocumented individuals who may need health services or public assistance and ensure there are no legal consequences in the present and future for receiving such assistance.

• A protocol that ensures counties and cities are enforcing California’s Sanctuary Law SB54, that makes California a "sanctuary state". This law prohibits local and state agencies from cooperating with ICE regarding “illegal” criminals who have committed misdemeanors.

• A protocol to enforce protective measures and education for all owners of farms and farmworkers in the County to ensure worker’ public health is prioritized.

• Remove any requirement that a tenant must “provide documentation to support the claim” of being financially impacted by COVID-19. The requirement to show documentation may cause an undue challenge for many residents, especially at this uncertain time. Ensuring the proposed ordinance will benefit all tenants - especially and including the most vulnerable - is critical to promoting the health and economic stability of residents in Riverside County.

• A protocol to support Polanco Park owners that includes but is not limited to:
  ○ Navigating suspension of mortgage payments to their land and payment plan for owed loan payments to ensure that financial impact is not passed on to the tenants; as well as assistance with credit card payments used to finance maintenance or infrastructure upgrades.
○ Assistance with ongoing fees and services that the park needs, like trash service and water testing, but also a plan that helps Polanco Parks continue upgrading and building a park without having to meet the strict permit, construction, and inspection deadlines or pay extension fees imposed by Riverside County and the Department of Environmental Health (DEH). In the case of emergency infrastructure repairs, like water and wastewater which could cost upwards of $45,000, we ask that Polanco Park owners not be subject to DEH’s fines or stripped of their compliant status due to their inability to immediately address the issue.

- A protocol and response for tenants who pay rent and reside on tribal land and allotted land as California Executive Orders and local Riverside County ordinances are not effective on sovereign land.
- A comprehensive financial recovery plan for tenants that includes emergency rental and mortgage assistance to support tenants, including those in the informal economy, residing in tribal land or allotted land or undocumented residents who will not have access to resources made available by state and federal economic relief benefits.
- A protocol for emergency water supplies for families, including those residing in mobile home parks, who do not have safe water to drink or have had their water services suspended.
- A protocol for emergency housing services for vulnerable residents, especially providing assistance to residents who are undocumented and have little to no access to federal assistance, unemployment benefits, and other available, yet restrictive public assistance.
- Provide and enhance your educational support, labor and income assistance, and health services for farmworkers and their families. Farmworkers and farmworker communities are one of the most vulnerable populations during this time. As essential workers, farmworkers are not able to effectively protect themselves from exposure, but are also facing other economic and access issues. Riverside County needs to provide additional assistance and resources for this frontline community.

Complementary to some of our suggestions above, we have enclosed a template for a comprehensive resolution to address water shutoffs, require provision of emergency water supply as needed, and a halt on late fees for sewer and trash during the state of emergency (attachment 2).

We also urge the Riverside County Housing Authority and Riverside County Sheriff to take the adopt the following measures:
• Suspension of all hearings, meetings for recertifications, and other administrative procedures unrelated to new applications for residents to enter housing authority programs for the duration of the state of emergency.
• Continue to respond to resident housing needs especially as it relates to deteriorating conditions of mobile homes.
• Postpone the execution of writs of possession or other lockouts that are not directly related to a protective order (e.g. TRO issued by a court related to domestic violence or elder or dependent abuse).

Finally, public participation is a crucial part of our democratic process, including the ability for all residents to engage in public board, commission, and legislative meetings and to provide public comment. All residents should be given the opportunity to have their voices heard in local, regional and state decision-making processes, in an inclusive and transparent manner. EO N-25-20 grants local legislative and state bodies the authorization “to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to attend and to address the local legislative or state body.” While the physical presence requirements of the Brown Act and Bagley-Keene Act are waived, public meetings are still required to abide by all other provisions of these laws, including advanced notice of public meetings. The Order further states that state and local bodies should: “adhere as closely as reasonably possible to the provisions of the Bagley-Keene Act and the Brown Act, and other applicable local laws regulating the conduct of public meetings, in order to maximize transparency and provide the public access to their meetings.”

Currently many public agencies are only allowing for public comment via email, are not reading public comments verbatim, and have not made information available about public comment opportunities online. All public agencies must take actions and practices that will ensure equitable remote public participation, to meet the legal requirements of N-25-20. Riverside County Board of Supervisors does not have a policy in place to respond to public comment and ensure community members can participate in future public meetings. We recommend you adopt a protocol that establishes this access with the recommended actions below:

• Reach out to community-based organizations and other stakeholders who may be in direct communication with residents early to help make sure that residents are informed and notified through multiple channels about remote options for public meetings.
  ○ Send any relevant preparatory materials and other necessary documents to community-based stakeholders, so that they may potentially share them with interested residents prior to the meeting.
• Notify the public of all hearing/meeting times, topics, and detailed information regarding participation. All translated preparatory materials and documents should be made
available at the time meeting notices are posted as well. Notices should be easy to find on state or local jurisdiction websites, and disseminated *at least* 72 hours in advance. Notices must clearly show how public comments will be received.

- Give ample time for the public to submit comments prior to the meeting’s start time, such as via a dedicated phone number. Comments should be accepted starting from the time the notices are disseminated. Written or voice message comments should be allowed up until the start of the meeting, as well as live comments throughout the meeting.
  - Do not limit opportunities to comment only to email and avoid implementing arbitrary word limits on email comments. Limiting comments only to email leaves room for them to remain unheard and ignored. Allow email comments to be read aloud on the record by staff during the live meeting, for transparency and consideration by the full board/commission.
  - Allow the public to leave voice message comments, which can be limited to 3 minutes, and played during the comment period of the meeting. Ensure that these messages, as well as the emails, can be received in multiple languages and interpreted as needed.

- During the meeting, provide multiple options for teleconferencing, with *two-way* communication options that allows either computer-users or phone-users to engage and provide public comment.

- For members of the public that may not have access to the internet or a computer, or who are unable to use video applications, consistently provide an adequate telephone option—available in multiple languages—and ensure that comments can be made via phone.

- During the meeting, consider using separate teleconference lines or audio channels to meet language access needs. Interpreters should be available—for Spanish and/or other languages that are needed—for residents to understand and participate in the meeting.

* * *

Thank you in advance for your consideration of these recommendations and for your prompt action to protect all households in Riverside County during this time. While this is an unprecedented and worrisome time, it is also a historic opportunity for you to collectively lead, work together and look out for one another, particularly our most vulnerable neighbors. Please contact Lesly Figueroa at 760-972-6337 or email lfigueroa@leadershipcounsel.org should you wish to find a time to discuss our requests.

In Community,
Lesly Figueroa, Policy Advocate, Leadership Counsel for Justice and Accountability

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Amber Amaya, Program Manager, Youth Leadership Institute

Heather Vaikona, President and CEO, Lift To Rise

Yaneth Andrade-Magaña, Director of Community Capacity Building, Pueblo Unido CDC

Sergio Carranza, Executive Director, Pueblo Unido CDC

Olivia Rodriguez, Thermal Resident

Diana Reza, Coachella Resident

Suguet Lopez, Executive Director, Lideres Campesinas

Maribel Nunez, Executive Director, California Partnership

Lorraine Salas, Palm Desert Resident

Maria Jose Rodriguez, Coachella Resident

Ruth Melissa Garcia, Coachella Resident

Andrea Vidaurre, Center for Community Action and Environmental Justice

Vanessa Moreno, Coachella Program Coordinator, Council of Mexican Federations

Cecilia A. Lemus, Indio Resident

Leslie Lemus, Indio Resident

Roman Lemus Medina, Indio Resident

Cecilia Salazar, Indio Resident

Hermelinda Tejas, Thermal Resident

Chelina Odbert, Executive Director, Kounkuey Design Initiative

Attachments

1. Leadership Counsel for Justice and Accountability Press Release
2. Urgency Ordinance To The City or County Code Title___ The COVID-19 Emergency Response Ordinance Template
March 27, 2020

Contact: Tim Douglas, 916.207.8771

Press Statement attributed to Leadership Counsel for Justice and Accountability: Gov. Newsom's Executive Order

We appreciate Gov. Newsom’s leadership in confronting the health and economic impacts of this pandemic. However, the Executive Order issued March 27 falls woefully short of what is needed to meet the moment. To start, the order does not adequately protect tenants, creates confusion and, despite rhetoric to the contrary, is not the moratorium that is urgently needed to protect public health and economic stability.

- The order merely delays eviction proceedings for qualifying tenants;
- It does not bar evictions nor does it even provide tenants with a defense to evictions regardless of whether or not a tenant can't pay rent due to COVID-19;
- Tenants will still need to file a response to a UD within 5 days and appear in order to assert their right to an extended 60 day timeline to file their response;
- Tenants are only eligible for this deadline extension if they comply with several onerous requirements. They must:
  - Be current on their rent as of date of the order;
  - Notify their landlord in writing within seven days (at most) of when rent is due, that they need to delay all or some of the rent because of a COVID-19 related reason;
  - Retain documentation of the COVID-19 related loss of income.
Tenants must know about these specific requirements in order to gain protection under the order. Many tenants will simply not be able to meet these requirements, such as tenants without bank accounts or in the informal economy.
- Landlords are under no obligation to accept the rent at a later date, enter into payment, or work with tenants to keep them in their homes.
- Landlords can still serve a three day notice if a tenant has told them they can't pay the rent AND still file an eviction for nonpayment of rent or any other reason during this emergency.
The order only prohibits sheriff departments from forcefully removing tenants from their home if the sheriff determines that tenants have met the notice and proof requirements listed above.

Eviction is dangerous to the health, economic and housing stability of millions of Californians and this Order provides neither the necessary clarity nor the protections this moment demands. Gov. Newsom must act now and pass a true eviction moratorium that protects families in the short and long term.

Local jurisdictions also still have the power and authority to adopt strong and enforceable local ordinances. We urge local leaders to take action NOW.
ORDINANCE NO. -N.S.

URGENCY ORDINANCE TO THE CITY OR COUNTY CODE TITLE ___ THE COVID-19 EMERGENCY RESPONSE ORDINANCE

BE IT ORDAINED by the Council / Board of the CITY OR COUNTY OF ___________ as follows:

Section 1. The ____________ Code Chapter 13.110 is added to read as follows:

Chapter __________
COVID-19 EMERGENCY RESPONSE ORDINANCE

Sections:
XX.XXX.010 Findings and Purpose
XX.XXX.020 Prohibited Conduct
XX.XXX.030 Definitions
XX.XXX.040 Collection of Back Rent
XX.XXX.050 Application
XX.XXX.060 Implementing Regulations
XX.XXX.080 Remedies
XX.XXX.090 Severability

13.110.010 Findings and Purpose

International, national, state and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named “SARS-CoV-2.” The disease it causes has been named “coronavirus disease 2019,” abbreviated as COVID-19, (“COVID-19”). In response to this emergency, on DATE, the City Manager acting as the Director of Emergency Services declared a local State of Emergency based on COVID-19 (hereinafter referred to as “the State of Emergency”), which the [CITY] City Council or Board subsequently ratified on DATE. In addition, on March 4, 2020, the Governor declared a state of emergency in California and the President of the United States declared a national state of emergency on March 13, 2020 regarding the novel coronavirus and COVID-19.

On March 16, 2020, the Governor issued Executive Order N-28-20, specifically authorizing local governments to halt evictions for renters and homeowners who have been affected by COVID-19, emphasizing that the economic impacts of COVID-19 have been significant and could threaten to undermine housing security as many people are experiencing substantial income loss as a result of business closures, the loss of hours or wages or layoffs related to COVID-19, hindering their ability to keep up with rents, mortgages and utility bills.

Commented [AW1]: Insert paragraph with details regarding any declarations of a local state of emergency, shelter in place order, or business closures, before or after this paragraph so they are in chronological order.
The Order also stated that because homelessness can exacerbate vulnerability to COVID-19, we must take measures to preserve and increase housing security for Californians to protect public health and specifically stated that local jurisdictions may take measures to promote housing security beyond what the state law would provide.

During this State of Emergency, and in the interests of protecting the public health and preventing transmission of the COVID-19, it is essential to avoid unnecessary displacement and homelessness. Accordingly, the City of [NAME] is adopting the following.

XX.XXXX.XX Prohibited Conduct

A. During the State of Emergency, no landlord shall evict or attempt to evict a tenant for any reason except for imminent threat to the health and safety of other tenants or neighbors. Such imminent threat must be a stated cause for the eviction in the termination notice and a basis upon which the landlord bases the unlawful detainer action.

B. Upon the conclusion of the State of Emergency the following defense to an eviction shall apply:

1. It shall be a defense to any unlawful detainer action filed under _________ Municipal Code _______ that the landlord thwarted the tenant’s effort to pay rent by refusing to accept rent paid on behalf of the tenant by a third party, or refusing to provide a W-9 form or other necessary documentation for the tenant to receive rental assistance from a government agency, non-profit organization, or other third party.

2. It shall be a defense to any unlawful detainer action filed under Civil Code section 1946.2 that the unpaid rent accrued during the State of Emergency declared by the Governor and said rent was unpaid due to a reduction in household income resulting from the Coronavirus pandemic. This includes, but is not limited to, where, as a result of the Coronavirus pandemic, the tenant suffered a loss of income, employment or a reduction in hours; or was unable to work because their children were out of school; or was unable to work because they were sick with COVID-19 or caring for a household or family member who was sick with COVID-19; or was complying with a recommendation from a government agency to self-quarantine. Nothing in this section shall relieve the tenant of liability for the unpaid rent but it may not be the basis of an eviction.

C. Except where the basis for the unlawful detainer action is that the tenant poses an imminent threat to the health or safety of other tenants at the property, as stated in the termination notice underlying the unlawful detainer action, it shall be an absolute defense to any unlawful detainer action filed under JURISDICTION Code ______ that the notice was served or expired, or that the action was filed or served, during the Local Emergency declared by the City manager and ratified by ________COUNCIL/ BOARD on ________.
D. Whether during or upon the conclusion of the State of Emergency, no landlord shall assess late fees to a tenant for failure to pay rent during the State of Emergency.

E. If a tenant fails to pay any portion of his or her rent during the State of Emergency due to a reduction in household income resulting from the Coronavirus pandemic, as defined in paragraph (2) of subdivision (B), the landlord shall make a diligent effort to establish a payment plan that allows the tenant a reasonable time to come current on rent.

XX.XXXX Definitions

An “imminent threat to the health and safety of other tenants at the property” shall include violent criminal activity, sale of narcotics, or damage to rental property that requires it to be immediately vacated. Non-compliance with building and housing codes shall not be considered an imminent threat where the condition created would not result in a notice to immediately vacate or “red-tag” by a local code enforcement agency.

“Covered Reason for Delayed Payment” includes, but is not limited to, any of the following:

1. Tenant lost household income as a result of being sick with COVID-19, or caring for a household or family member who is sick with COVID-19, or self-quarantining per the recommendation of a medical professional due to suspected exposure to COVID-19;

2. Tenant lost household income as a result of a lay-off, loss of hours, or other income reduction resulting from COVID-19 or the State of Emergency, including for a reduction in freelance or contract work;

3. Tenant lost household income as a result of school closures due to COVID-19;

4. Tenant lost household income due to compliance with a recommendation from a government agency or medical professional to stay home, self-quarantine, or avoid congregating with others during the State of Emergency; or

5. Tenant incurred expenses directly related to COVID-19, emergency measures put in place because of COVID-19, or other incidental effects of any government agency action or interruption of any business due to COVID-19.

XXXXXXX Collection of Back Rent

Nothing in this Chapter shall relieve the tenant of liability for unpaid rent that has accrued during this period, which the landlord may seek after expiration of the State of Emergency. The rent may be collected as any other debt owed but not through the unlawful detainer process. Landlords
are encouraged to work with local agencies that will be making rental assistance available for qualifying tenants. A landlord may not charge or collect a late fee for rent that is delayed for any of the reasons stated in this Chapter.

**XXXXXX Application**

This Chapter applies to eviction notices and unlawful detainer actions served or filed on or after the effective date of the Declaration of a State of Emergency in California. With respect to delayed payment covered by this Ordinance, a landlord may seek such rent after the expiration of the State of Emergency, but may not file an action pursuant to Code of Civil Procedure sections 1161(1) et seq. based on the failure to pay rent.

**XXXXXX Implementing Regulations**

The JURISDICTION may promulgate implementing regulations to effectuate this Ordinance.

**XXXXXXX Remedies**

In the event of a violation of this Ordinance, an aggrieved tenant may institute a civil proceeding for injunctive relief, and money damages as specified below, and whatever other relief the court deems appropriate. Money damages shall only be awarded if the trier of fact finds that the landlord acted in knowing violation of or in reckless disregard of this Ordinance. The prevailing party shall be entitled to reasonable attorney's fees and costs pursuant to order of the court. The remedy available under this section shall be in addition to any other existing remedies which may be available to the tenant under local, state or federal law. In addition, this Ordinance grants a defense to eviction in the event that an unlawful detainer action is commenced in violation of this Ordinance.

**XXXXXX Severability**

If any section, subsection, sentence, clause, phrase, or word of this Chapter, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of this Chapter. The Council of the City of Berkeley hereby declares that it would have passed this Chapter and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this Chapter or application thereof would be subsequently declared invalid or unconstitutional.

**XXXX XXXX Vote Required, Immediately Effective**
Based on the findings and evidence in Section XXXXXof this Urgency Ordinance, the Council determines that this Ordinance is necessary for the immediate preservation of the public health, peace and safety in accordance with Article ____ Section ___ of the Charter of the City of ______ and must therefore go into effect immediately. This Ordinance shall go into effect immediately upon a seven-ninths vote of the City Council, in satisfaction of the Charter of the City of________.