

Disclaimer: The following outline contains general principles of law that cannot be applied to every case. Some issues covered are subject to developing case law and legislation that cannot be forecast or predicted with certainty. In the event that you encounter issues covered in this outline, you should review the appropriate response with counsel experienced in this area of law and should update the status of any legislation, orders or ordinances mentioned. . No permission for the general public to use this Outline is granted by SLG.

FREQUENTLY ASKED QUESTIONS REGARDING EVICTIONS DURING THE CORONAVIRUS CRISIS

Before reviewing the questions and answers below, in determining whether a landlord may proceed with an eviction, it is important to keep in mind that there is a complicated interplay between (1) the restrictions on evictions set out in state and local law, (2) restrictions imposed by courts in adjudicating unlawful detainer (eviction) cases, and (3) restrictions imposed by the county sheriff's department in performing tenant lock-outs. In order to evict a tenant, none of the restrictions imposed by any of these three entities may apply (unless the tenant voluntarily vacates). Those restrictions are discussed below.

Q: Is there a statewide moratorium on residential evictions?

A: Yes, as to nonpayment of rent cases only. The failure to pay rent must be the result of the coronavirus such loss of income, medical bills and other financial impacts caused by the coronavirus. Here are links to the two orders imposing the moratorium:

<https://www.gov.ca.gov/wp-content/uploads/2020/03/3.16.20-Executive-Order.pdf>

<https://www.gov.ca.gov/wp-content/uploads/2020/03/3.27.20-EO-N-37-20.pdf>

Q: Does the statewide moratorium prevent a landlord from serving a three day notice to pay rent or quit?

A: No. However, if the tenant provides written proof to the landlord within seven days that he or she was unable to pay rent related to the coronavirus crisis, then the tenant cannot be evicted at that time.

Q: Do any cities or counties have their own eviction moratoriums that are more restrictive than the statewide moratorium?

A: Yes, at last check, in Northern California, Alameda (city), Alameda County, Benicia, Berkeley, Concord, Emeryville, Fremont, Oakland, Palo Alto, Santa Clara County, San Francisco, San Mateo County, and San Jose. Many of those jurisdictions require that a similar loss of income due to the coronavirus. Many also require that the landlord provide a copy of the applicable moratorium be served along with a three day notice to pay rent or quit.

Q: If a landlord serves a three day notice to pay rent or quit against a residential tenant and the tenant time advises and documents that his or her inability to pay is due to COVID-19, may the landlord file an unlawful detainer action?

A: Yes, the tenant will have 60 days to file a responsive pleading instead of the normal five days. This will delay the landlord is obtaining a default judgment or a judgment after trial.

Q: If the tenant cannot pay rent due to the coronavirus and cannot be evicted as a result, will the tenant have to pay the rent eventually?

A: Yes. How and when depends on the terms of the applicable moratorium.

Q: Is there a statewide moratorium on commercial evictions?

A: No, but some local jurisdictions such as San Francisco, Los Angeles and Oakland limit evictions for nonpayment of rent due to COVID-19. As is the case with residential moratoria, the rent will have to be paid back within a specified period.

Q: Do the statewide, county or city moratoriums apply to nonpayment prior to the coronavirus crisis?

A: No, but subsequent events could impact the claims.

Q: If a landlord started an eviction before any moratorium went into effect or there is no moratorium that applies to an eviction that the landlord is considering, will the eviction proceed in the normal fashion?

A: Generally not. In order to evict a tenant, a notice must be served and expire, an unlawful detainer action must be filed in court, the court must issue a judgment in the landlord's favor, and the sheriff must lock out the tenant (if the tenant does not voluntarily vacate). Currently courts are open only for emergency matters. Therefore, unlawful detainer trials and judgment will be delayed. However, most courts will proceed with unlawful detainer cases involving violence or health and safety issues.

Q: If a landlord already has obtained an unlawful detainer judgment or is able to obtain one, will the sheriff's lockout proceed in normal time (generally about two weeks after judgment is obtained)?

A: No. To our knowledge, the county sheriff's departments has placed holds on all lockouts. However, if the eviction involves violence or health and safety issues, it may be possible to obtain an order directing the sheriff's department to move forward with the lockout.

Q: Is there a moratorium limiting or prohibiting rent increases?

A: To our knowledge, Oakland and Concord have imposed limits on rent increases.

This is a very fluid situation with new moratoriums being issued, existing moratoriums being modified (sometimes multiple times) and court procedures being modified virtually every day. In addition, each moratorium has different procedural requirements for landlord, different deadlines for tenants to provide proof of the inability to pay rent due to the coronavirus crisis, and the like. This Q&A addresses these issues only generally and we strongly suggest that you

obtain assistance from an attorney with experience in landlord-tenant matters in your particular jurisdiction.

SLG has assisted landlord and lenders and landlords in navigating through turbulent times for over 30 years and will help guide them through the current situation. If you would like to speak with someone at SLG regarding landlord-tenant matters, contact Jonathan Seigel at (415) 491-8900, ext. 107 or jseigel@scheerlawgroup.com