



# ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY

Sandra Rivera  
Interim Agency Director

Agenda Item 6 November 10, 2022

224 West Winton Ave  
Room 110

Hayward, California  
94544-1215

phone  
510.670.5333  
fax  
510.670.6374

[www.acgov.org/cda](http://www.acgov.org/cda)

November 2, 2022

Honorable Board of Supervisors  
Administration Building  
1221 Oak Street, Suite 536  
Oakland, California 94612

Dear Board Members:

**SUBJECT: ALAMEDA COUNTY EVICTION MORATORIUM**

**RECOMMENDATION:**

That the Board of Supervisors hear an update from staff on the County eviction moratorium enacted in March 2020 and amended in August 2020 to protect tenants at risk of homelessness and displacement resulting from the COVID-19 pandemic.

**BACKGROUND:**

On March 24, 2020, in response to the economic impacts of the developing COVID-19 Pandemic, to ensure the safety of Alameda County residents to shelter in place, and to prevent a large increase in homelessness and displacement among Alameda County residents, your Board passed a moratorium on residential evictions, with few exceptions. On August 4, 2020, your Board adopted an amended ordinance which extended the eviction moratorium from September 30, 2020 to 60 days after the end of the local health emergency, as declared by the County Public Health Officer.

The moratorium prohibits evictions countywide in most cases, except when necessary to comply with a government order, when the unit is taken off the market under the Ellis Act, or in the case of an imminent health and safety concern such as black mold. The moratorium contains no eligibility requirements, and no proof of COVID-19 impacts is required.

Subsequently, the State of California passed AB 3088, which froze all local eviction moratoriums until the end of the State moratorium, originally through July 2021. Subsequent extensions of the State's eviction protections included similar prohibitions on local eviction moratoriums that provide protections exceeding those enshrined in state law. The State's preemption of local COVID-19 eviction protections ended on June 30, 2022.

Alameda County's eviction moratorium was intended to provide strong protections for households impacted by the economic fallout from the COVID-19 pandemic, until the end of the health emergency as declared by the County Public Health Officer.

Communities of color, those living in multi-generational households, and those that could not work remotely were disproportionately impacted by the COVID-19 pandemic. In particular, the African American, Hispanic and Latino, Pacific Islander, and Native American communities make up a disproportionate share of COVID-19 cases in Alameda County at rates of at least 1.5 times their White and Asian counterparts. While systematic data on the impact of Alameda County's eviction moratorium on these communities that were most impacted by the COVID-19 pandemic can be hard to come by, the Eviction Lab at Princeton University finds that African American and Latino renters are disproportionately represented in eviction cases in the jurisdictions they track, and that the Centers for Disease Control and Prevention (CDC) eviction moratorium reduced evictions in those jurisdictions. Those populations could also be most negatively impacted by an abrupt end to the eviction moratorium.

**DISCUSSION/SUMMARY:**

Your Board has received many concerns from landlords and tenants regarding the state of housing during the pandemic. Landlords are concerned with tenants who have not paid rent or who have damaged property or otherwise violated their lease agreement, while tenants have been concerned about harassment, poor living conditions, and unfair treatment.

While the total amount of unpaid rent that has accumulated countywide since the enactment of the eviction moratorium is difficult to estimate, HCD distributed a survey this summer of landlords to assess the impact of non-payment of rent and typical amounts of unpaid rent on properties with rental arrears. A total of 152 landlords responded to the survey, and 148 had tenants that were behind on rent by an average amount of \$22,920, for a total of \$5.06M. Additionally, a survey conducted by the East Bay Rental Housing Association (EBRHA) found that, among members who previously applied, inquired about the Emergency Rental Assistance Program (ERAP), or indicated they had/have unpaid rent since March 2020, 70% of owners have back rent currently owed and 50% plan on going to small claims court to receive the amount owed.

Landlords have frequently shared complaints with HCD and your Board about "bad actor" tenants that are taking advantage of the eviction moratorium despite not losing work or income during the pandemic. Most landlords reported some involvement with the ERAP process, receiving full or partial payments, though some tenants remained unable to pay even after disbursement of rental assistance. Some landlords have reported tenants exploiting the eviction moratorium in bad faith, though there is no system-wide data collected to determine the scope or scale of the issue. However, 1,488 tenants did not apply for ERAP, despite their landlords applying, though a clear estimate of how much in rental arrears is owed to such landlords is not currently available. In addition, 897 tenant applicants whose landlords also applied for ERAP were unresponsive to outreach attempts by ERAP application coordinators.

**Mitigation Measures Implemented by the Federal Government**

In response to the COVID-19 pandemic, the federal government created funding for emergency rental assistance, funded in two tranches from the Consolidated Appropriations Act, of 2021 and the American Rescue Plan Act of 2021, for a total of \$46 billion nationwide. Alameda County,

the City of Oakland, and the City of Fremont all received funding under these programs and launched local programs to assist with back rental payments. Eligible households earning less than 80% of Area Median Income and have back-owed rent incurred during or due to the COVID-19 pandemic.

In March 2021, Alameda County launched its Emergency Rental Assistance Program (ERAP) with this federal funding received both directly from the US Department of Treasury as well as passed through from the State of California. In total, the County has received \$131.2 million in federal funds for ERAP. Funds can be used for up to 15 months of back owed rent and utilities, services to keep people stably housed, and funding to cover the costs of program administration. The program budgeted 88% or \$115 million for direct financial assistance, and as of October 31, 2022, has distributed \$114.5 million in financial assistance to over 8,600 qualifying households. There remain approximately 2,000 households that have applied to the program who have not been served.

On February 9, 2022, the State of California authorized SB 115 to provide additional funding to the State and other local ERAP programs with gaps in resources. This funding comes in the form of a forgivable loan, with the repayment amount tied to the receipt of additional federal funds through the American Rescue Plan Act. Any amount received from the Federal government would be paid out to tenants in place of state funds, and the outstanding amount of State funding would be forgiven.

The County currently is in discussions with the State regarding final details of the loan terms, which was initially authorized on May 24, 2022. The final contract with ERAP administrator Centro Legal de la Raza (Centro Legal) for direct financial assistance will be brought to your Board as soon as the State funds are received. Staff expects the funds received will assist the roughly 1,600 households eligible for assistance under the state loan terms in the next couple of weeks. At the average award amount, staff estimate between \$20-30 million is required to cover final applications.

State funding is limited to applications received before March 31. The County received 392 applications before May 13, when the portal was closed, which are not eligible for the State funding. HCD estimates that rental assistance payments for the remaining 392 applications will likely total approximately \$6 million. To serve these final applications, a funding source is needed.

In addition to rental assistance, HCD has contracted with Centro Legal de la Raza to provide housing stability services intended to prevent evictions. Centro Legal's stability services include renter education, legal advice, representation on tenant concerns including habitability and harassment/intimidation, representation of tenants in the eviction process and negotiation of rent settlements with landlords, best achieved through flexible funding. Centro Legal anticipates the need for these services will increase in tandem with evictions in the near future and will exceed the funding available in the current contract.

*Evictions on the Rise*

County-level data for the Bay Area show eviction rates more than doubled from when the remaining state eviction protections expired in March 2022 through July 2022 (Exhibit A). Alameda County is the sole exception to this pattern, though rates here have trended marginally upwards. There were 86 evictions in Alameda County in July 2022, slightly more than half the total of Santa Clara. See Exhibit A for details.

While regional eviction rates are only half of their pre-pandemic levels, each month since March has seen successive increases that appear likely to continue. Importantly, these data only include evictions that escalate to court proceedings. Many tenants may vacate units earlier in the eviction process if they don't understand their rights or are the target of harassment or intimidation from their landlord. This resumption of evictions takes place in the context of rising rents and increasing cost of living, putting increasing strain on vulnerable families. Since January 2020, AB1482 has allowed rent increases of approximately 24%, depending upon which quarter the rent increases took effect.

Some California jurisdictions, including San Francisco and Los Angeles Counties, have significantly narrowed their moratoria. These phases last 3-6 months and have generally narrowed the populations who are covered by the moratorium. In San Francisco, coverage was narrowed to those who had unpaid rent after July 1, 2022 due to COVID-19 and in Los Angeles, coverage was narrowed to only households with annual income less than 80% of area median, with a phase-out period of 6 months. Los Angeles County's eviction protections will expire at the end of 2022, while San Francisco's are tied to the health emergency proclamation, similar to Alameda County's. Additional provisions, such as the resumption of owner move-in evictions are also included.

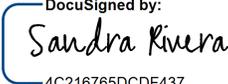
Absent additional action to amend the eviction moratorium, it will expire 60 days after the end of the Local Health Emergency, as determined by the County Health Officer. Until June 30, 2022, your Board was prohibited by State Law from amending the eviction moratorium due to the preemption language in the State's pandemic eviction ordinances.

**CONCLUSION:**

ERAP has effectively reduced rental arrears for County residents built up during the pandemic. However, funding for ERAP from the State and Federal governments has not been sufficient to meet the needs of everyone that applied to the program. The County continues to apply to the Federal government for additional resources; however, it is not expected to be received at the levels necessary to serve all who qualify for assistance. Funds are additionally needed to assist households who must negotiate with their landlords to retain their tenancy.

Staff recommends that your Board review the information presented in this memo, hear a presentation by staff, and take public comment.

Very truly yours,

DocuSigned by:  
  
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Sandra Rivera, Interim Director  
Community Development Agency

cc: Susan S. Muranishi, County Administrator  
Donna R. Ziegler, County Counsel  
Melissa Wilk, Auditor-Controller  
Laura Lloyd, County Administrator's Office  
Heather Littlejohn Goodman, Office of the County Counsel  
Lucy Romo, Community Development Agency

**Exhibit A: Eviction Rates in Bay Area Counties (Source: Mercury News, 10/20/22)**

