County Just Cause/Eviction Ordinance

May 19, 2021

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO EXERCISING THE COUNTY'S POLICE POWER TO PROHIBIT RESIDENTIAL EVICTIONS WITHOUT JUST CAUSE AND TO ENACT A MORATORIUM ON CERTAIN RESIDENTIAL RENT INCREASES

Moratorium Prohibiting Residential Evictions Without Just Cause

- Just Cause" requires a showing that the Tenant is an imminent health or safety threat, as defined.
- "Imminent health or safety threat" is a hazard to the health or safety of other tenants or occupants of the same property, taking into account (1) the risk of potential spread of coronavirus caused by the eviction, in case of a Local Emergency due to COVID-19, (2) any public health or safety risk caused by the eviction, and (3) all other remedies available to the landlord and other occupants of the property, against the nature and degree of health and safety risk posed by the tenant's activity. An imminent health or safety threat cannot be the Resident's COVID-19 illness or exposure to COVID-19, whether actual or suspected.

In the absence of just cause, no Landlord may lawfully terminate a residential tenancy and landlords are therefore prohibited from engaging in any of the following behaviors with respect to a Tenant of a residential unit:

- (1) Serve a notice of termination of tenancy;
- (2) File or serve an unlawful detainer lawsuit, ejectment action, or other action to recover possession of a residential unit;
- (3) Evict a Tenant or require a Tenant to vacate a residential unit, including by seeking the entry of an eviction judgment or by causing or permitting a writ of possession to be executed, including in the case of judgments entered prior to the date of this ordinance; or
- (4) Take any other action in reliance on a notice of termination of tenancy that expired during the Local Emergency or attempt to induce a tenant to vacate based on such a notice. Any notice of termination of tenancy served or expiring during the Local Emergency or within sixty (60) days afterward shall be deemed invalid and insufficient to support an action in unlawful detainer during the Local Emergency or at any time afterward; or
- (5) Represent to a Tenant that the Tenant is required to move out of their unit by law.

- No Landlord shall be permitted to recover possession of a rental unit or prevail
 in an unlawful detainer action unless the Landlord is able to provide notice of
 termination of tenancy does fully complies with all of the terms of the ordinance
 and that the lawsuit was served and filed complying with the ordinance.
- Nothing in this section shall be construed to reduce or eliminate a Landlord's duty to make a reasonable accommodation for disability in rules, policies, practices, or services that may be necessary to afford a person equal opportunity to use and enjoy a dwelling, including remedies such as the reinstatement of a terminated tenancy.
- Nothing in this section shall be construed to supersede any applicable requirements in Civil Code section 1946.2 pertaining to relocation assistance or rent waiver.

Non-Payment of Rent

- Actions to recover an unpaid COVID-19 rental debt, as defined in Section 1179.02 of the Code of Civil Procedure, is governed by SB 91, and nothing in this ordinance shall be construed to supersede or conflict with SB 91.
- Non-payment of rent effective July 1 will be protected through duration of ordinance unless state extends SB 91 with pre-emption.

Noticing Requirements

- In addition to complying with any other applicable notice requirements under local, state, or federal law, any notice of termination of tenancy served on a Tenant with respect to a residential unit during the Local Emergency and sixty (60) days afterward shall:
- Include the following statement in bold underlined 12-point font: "The Emergency Eviction Moratorium is currently in effect. Other than for failure to pay rent or an imminent health or safety threat, evictions are restricted during the Local Emergency declared by the County of San Diego]. Tenants who are being evicted for failure to pay rent may have additional protections under California law. You may contact Legal Aid Society of San Diego (1-877-534-2524) or the Legal Referral and Information Service of the San Diego County Bar Association at 619-231-8585 or 800-464-1529. For additional information and referrals or visit https://www.lassd.org."

Noticing Requirements

- Include the reason for termination amounting to just cause or a different basis for eviction authorized under this ordinance and must set forth specific facts to permit a determination of the date, place, witnesses, and circumstances concerning the reason for eviction.
- Be written in all languages that the Landlord and/or the Landlord's agents normally use for verbal communications with the Tenant.
- In order to prevail in an action to recover possession of a residential unit, a Landlord must prove strict compliance with all applicable notice requirements or any applicable portion of this ordinance.

Moratorium on Residential Rent Increases

- From the effective date of this Ordinance, June 3, until July 1, 2021, no Landlord may increase a Tenant's rent by any amount greater than the CPI for the previous year.
- "Change in CPI" means the percentage change from April 1 of the prior year to April 1
 of the current year in the regional Consumer Price Index for the San Diego area, as
 published by the United States Bureau of Labor Statistics. (4.1%)
- Just cause does not include a Tenant's failure to pay any increase in rent from the effective date of this Ordinance until July 1, 2021.
- A residential real property that is exempt from the rent limits imposed by Civil Code section 1947.12 is exempt from this section. (AB 1482 exemptions)
- This section does not apply when a unit becomes vacant and the Landlord sets the initial rent for a new tenancy for a new Tenant. (Vacancy decontrol). Anti Price Gouging rules still apply.

No Waiver of Rights

 Any agreement to waive any rights under this ordinance, including a stipulation, settlement agreement, or lease agreement, shall be void as contrary to public policy

Right to Education, Outreach, and Organizing

- (a) No Landlord may take any adverse action against a Tenant, including increasing the Tenant's rent, attempting to evict the Tenant, removing services provided to a Tenant, or threatening to do any of the foregoing because of any of the following reasons:
 - (1) the Tenant disseminated information about Tenant rights ordinances;
 - (2) the Tenant disseminated information about a Tenant rights organization; or
 - (3) the Tenant belonged to or participated in a Tenant rights organization.
- (b) Just cause, as defined in Section 3 of this ordinance, does not include termination of a tenancy for performing activities protected by subdivision (a) of this section.

Remedies

- No Landlord shall be permitted to recover possession of a rental unit or prevail in an unlawful detainer action, ejectment action, or other action to recover possession of a residential unit unless the Landlord is able to prove strict compliance with any applicable provision of this ordinance, including all notice requirements. A Landlord's lack of strict compliance with the terms and all other noncompliance constituting a fatal defect to the Landlord's case shall entitle a Tenant to judgment.
- The provisions of this ordinance may be asserted as an affirmative defense in an unlawful detainer action, ejectment action, or any other action to recover possession of a residential unit.
- If a Landlord attempts to recover possession or recovers possession of a residential real property in violation of this ordinance, retaliates against a Tenant for the exercise of any rights under this ordinance, or attempts to prevent a Tenant from acquiring any rights under this ordinance, the aggrieved Tenant may institute a civil proceeding for injunctive relief, money damages (including damages for mental or emotional distress as specified below), and all other relief the court deems appropriate. In the case of an award of damages for mental or emotional distress, said award shall only be trebled if the trier of fact finds that the Landlord acted in knowing violation of or in reckless disregard of this Ordinance. 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.
- Remedies provided by this ordinance are cumulative and in addition to any other remedies available at law or in equity, including sanctions for violating an order issued pursuant to the Emergency Services Act (Government Code section 8550 et seq.) and all remedies provided for in Government Code section 25132 or for authorized for violations of the San Diego County Code of Regulatory Ordinances.

Applicability

- Government Code section 8634 authorizes the Board of Supervisors to promulgate countywide orders and regulations necessary to provide for the protection of life and property during a local emergency. Pursuant to Government Code section 8634, the regulations in this ordinance shall apply to cities within the County of San Diego and unincorporated area of the county, subject to subsections (b) and (c) below.
 - (b) If the governing body of a city has enacted an ordinance that has stronger protections for Tenants during the COVID-19 emergency, the Tenant may apply the city ordinance in lieu of the county ordinance, to the extent its ordinance is stronger.
 - (c) To the extent the city ordinance is not stronger, the county ordinance protecting Tenants shall apply despite contrary provisions or silence on the subject in the city ordinance.

Effective Date

- The ordinance shall take effect 30 days after final passage.
- The ordinance is effective until 60 days after the Governor lifts all COVID-19-related stay-at-home and work-at-home orders.

Governor Newson stated he hopes to lift those orders on June 15, meaning best case scenario this ordinance ends August 15.

Questions?