

Date: June 1, 2020

To: Thomas B. Modica, City Manager 

From: John Keisler, Director of Economic Development 

For: Mayor and Members of the City Council

Subject: **Economic Relief Package—Property Owner Assistance Programs**

At its May 19, 2020 meeting, the City Council directed the City Attorney to draft and submit an Ordinance amending the temporary prohibition on evictions of residential and commercial tenants due to non-payment of rent resulting from adverse impacts associated with the COVID-19 pandemic. As part of the discussion, the City Council directed the City Manager to report back with a summary of available assistance programs for both residential and commercial property owners impacted by the ordinance, including: (a) relief programs for property owners to offset the loss of rental income, (b) resources to prevent foreclosure, (c) property tax relief programs, (d) access to affordable loan funds, and (e) legislative strategies to encourage State legislation providing such relief programs.

The purpose of this memorandum is to provide the City Council with a response to that request, and to provide additional strategies for City Council consideration to assist both residential and commercial property owners impacted by the deferment or delay of rental payments.

BACKGROUND

On March 4, 2020, California Governor Newsom declared a State of Emergency to make additional resources available and prepare emergency actions for State agencies and departments in response to the spread of the novel coronavirus (COVID-19). On March 10, 2020, the City Council adopted a Resolution ratifying the City Manager's Proclamation of Local Emergency and the Long Beach Health Officer's Declaration of Local Health Emergency regarding the serious and imminent threat of a COVID-19 outbreak. On March 16, 2020 Governor Newsom issued an Executive [Order N-37-20](#) that allowed local governments to impose an eviction moratorium within their jurisdictions. There are now more than 80 local governments in the State of California (State) that have passed some version of a temporary ban on evictions to assist those experiencing a decrease in income or inability to pay their mortgage due to COVID-19.

Locally, the City issued its own eviction moratorium [Ordinance No. 20-0010](#) (Ordinance) on March 24, 2020, temporarily prohibiting evictions and allowing tenants to defer any rents due between March 4 and May 31, 2020 to November 30, 2020, provided the tenant notify the landlord in advance and submit supporting documentation establishing COVID-19 as the cause of financial hardship. On May 26, 2020, an [amended Ordinance](#) was approved by the City Council extending the rent deferment period for an additional 60 days (to July 31, 2020), and the repayment period an additional 12 months (to July 31, 2021). Although the amended Ordinance covers both residential and commercial tenants within City boundaries, the additional deferment does not apply to multi-national companies, publicly-traded companies, companies with 500 or more employees, all tenancies managed by the Long Beach Airport and Harbor Department, and those

tenants located in the Tidelands area. City staff was directed to work with Airport and Tidelands tenants and return with proposed payment plans on a case-by-case basis for City Council consideration prior to the expiration of the moratorium.

RESIDENTIAL PROPERTY RELIEF PROGRAMS

The impacts of COVID-19 have been significant for both renters and property owners, given the already high cost of housing in the State and the city. With over 14 million housing units in the State of California, 55 percent are owner-occupied and pay an average mortgage of \$2,282 monthly. The remaining 45 percent of housing units are renter-occupied and pay an average rent of \$1,429 per month. In Long Beach, there are more than 175,000 total housing units with approximately 40 percent owner-occupied and 60 percent occupied by renters¹. The average cost of a single-family home in the city is \$599,000, while the average asking rent is \$2,350². As such, over 48 percent of all households in the city spend more than 30 percent of gross household income on housing, which the U.S. Department of Housing and Urban Development (HUD) defines as a “housing cost burden.”

In short, the sudden and dramatic financial impacts of COVID-19 have the potential to create an additional crisis around residential sheltering, vacancy, homelessness, and mortgage default owners if timely and decisive actions are not taken to temporarily suspend evictions. These actions, however, must also be offset by residential property relief programs to ensure that property owners who rely on the payment of rent or debt service as a primary source of income. The subsequent section describes in more detail, some of the residential property owner relief programs provided at the federal, state, and local levels.

Federal Relief Programs

HUD is an important federal program that provides both housing assistance to tenants and provides an important source of revenue to affordable housing providers. Through its Community Development Block Grants (CDBG) program, HUD has made available \$5 billion in grant funding to address COVID-19 impacts including \$2 billion through the existing formula distribution (70 percent to entitlement cities and counties, 30 percent to states); \$1 billion directly to states; and the remaining \$2 billion to states with localities using a special formula developed by HUD for COVID-19.

On April 9, 2020, HUD issued a [memorandum](#) that provides guidance on CARES Act Flexibilities for CDBG Funds Used to Support Coronavirus Response, which stipulates that CDBG funding can be used as follows:

- Addressing immediate housing stability needs by paying rent and mortgage payments for up to three months directly to the landlord or to the mortgage financing company for currently due or future payments (late or past due payments are likely not permitted);

¹ <https://dashboards.mysidewalk.com/long-beach-economic-insights/housing>

² Zillow.com

- Providing public services by funding counseling, job training, transportation, health care, and alcohol/drug treatment and eliminates the 15 percent cap on the amount of grant funds that can be used for public services activities;
- Building improvements, including public facilities by providing funding for hotels/motels to improve physical distancing in isolation, or providing funding for constructing or rehabilitating public facilities, such as shelters for people experiencing homelessness and domestic violence survivors; and,
- Public Housing Programs may sell all, or a portion of, a public housing development to eligible residents for the purpose of homeownership, will receive additional operating assistance to make up for reduced tenant payments, and to help contain the spread of coronavirus in public housing properties. More information is available [online](#).

City CARES Emergency Rental Assistance Program

Following City Council direction to study the potential implementation of an emergency rental assistance program in Long Beach, on May 20, 2020, the City Manager provided a written [memorandum](#) to the City Council regarding the emergency rental assistance available through HUD. While property owners should be aware of the programs that HUD provides at the City level, the CARES Act provided additional allocations for City relief efforts. This includes an initial CARES Act allocation of \$3,618,830 for CDBG and \$1,846,866 for the Emergency Solutions Grant (ESG) for COVID-19.

On June 2, 2020, staff is bringing an item for City Council's consideration recommending CDBG and HOME funding be used for emergency rental assistance, providing up to \$1,000 per month for up to three months to households earning 80 percent or less of the Area Median Income (AMI) and have experienced income loss due to COVID-19. This Long Beach CARES Emergency Rental Assistance Program will provide payments that can be used to cover all or a portion of monthly rent and/or rental arrears payments. HUD requires that the rental assistance payments be made directly to the property owner. The City is an independent grantee from the County of Los Angeles (County) and receives funding directly from HUD, therefore, the City does not have access to the County Emergency Rental Assistance Program.

Given that HUD is treating the funds as a special allocation of CDBG and ESG funding, the City's use of these funds requires a substantial amendment to the current approved Citizen Participation Plan, 2018-2022 Five-Year Consolidated Plan, and FY 2019-2020 Action Plan. These amendments are necessary to allow the City to receive and expend these funds and will be presented to the City Council for [approval](#) on June 2, 2020.

City Housing Authority Programs Funded by HUD

The City Housing Authority also operates a number of critical programs that benefit both tenants and property owners funded through HUD. The [Tenant-Based Rental Assistance](#) (TBRA) program is a Section 8 voucher rental assistance program for seniors, the disabled, and low-income working families, who will experience loss of income from COVID-19. HUD released a [memorandum](#) to provide guidance on the use of TBRA funding for COVID-19. Additional funds

have been made available to make up for reduced tenant payments as a result of COVID-19. Project-Based Rental Assistance provides critical affordable housing stock to low-income families across the country. This type of rental assistance allows tenants to live in an affordable unit and pay rent based upon their income. The City has a project-based program called the [Palace Apartments](#).

Additionally, the [Housing Opportunities for Persons with AIDS](#) (HOPWA) program assists households where one or more people are HIV positive or have AIDS. The City operates two HOPWA programs, a TBRA program for persons who are HIV positive or have AIDS, and a Short-Term Assistance Program, which provides periodic grant(s) on an “as-needed” basis to help low-income tenants catch-up with rent and utility payments or pay for moving expenses. More information on these programs can be found online.

Finally, Section 202 Housing for the Elderly program maintains housing stability and services for low-income seniors. Seniors are especially vulnerable to COVID-19. The City’s Housing Authority provides a [list of senior housing properties](#) located within Long Beach. More information can be found online.

State Relief Programs

There are numerous State programs that seek to assist residential tenants and property owners. On March 16, 2020, Governor Newsom signed [Executive Order N-28-20](#) that authorizes local governments to halt evictions for renters and homeowners, slows foreclosures, and protects against utility shutoffs for Californians affected by COVID-19. The Order was revised on March 27, 2020 ([Order N-37-20](#)), to require tenants to declare in writing, no more than seven days after the rent is due, that the tenant cannot pay all or part of their rent due to COVID-19. This statewide Moratorium on Evictions was extended to May 31, 2020. Rent deferment, utility security, and limitations on evictions due to COVID-19 promotes housing stability for vulnerable households significantly impacted by the pandemic through loss of income, but no funding was identified to support this action or the impacts to property owners.

Furthermore, at its meeting on April 6, 2020, the Judicial Council, the policymaking body of the California courts, adopted [Emergency Rules Related to COVID-19](#). Emergency Rule 1 effectively prevents new judicial eviction cases from proceeding, by prohibiting a court from issuing a summons unless necessary to protect public health and safety, until 90 days after the Governor lifts the Stay-at-Home Order.

Unemployment Insurance Benefit Programs

Perhaps the greatest ongoing source of income available to assist with the payment of rent for both residential tenants and residential property owners during the COVID-19 economic emergency is the Unemployment Insurance Benefits program provided by the State [Employment Development Department](#) (EDD). In combination with the Federal CARES Act program that provides an additional \$600 per week, EDD provides up to \$450 per week to workers impacted by the COVID-19 emergency. Currently, this program is providing between \$640 and \$1,050 per week to an estimated 64,000 Long Beach residents who have lost their jobs as a result of COVID-19, which can be used to pay rent and other living expenses while out of work.

In addition, another 6,400 residents are receiving between \$660 and \$767 per week from the State [Pandemic Unemployment Assistance](#) (PUA) program, which is funded by CARES and can cover contract workers and self-employed business owners. Combined, these two programs provide between \$45 million and \$72 million in supplemental income, which may be used to pay all or a portion of monthly rent.

COMMERCIAL PROPERTY RELIEF PROGRAMS

The inability of commercial property tenants to pay rent can also have a significant impact on property owners who derive income from leasing retail, office, or industrial space to local small businesses. Similar to the discussion above regarding residential tenants, the impacts of COVID-19 on small businesses have been sudden and severe. More than 4 in 10 U.S. businesses with paid employees operate in higher-risk industries likely to be affected more deeply by the COVID-19 outbreak³. The National Bureau of Economic Research conducted a survey of small businesses in April 2020 and found that 43 percent of businesses are temporarily closed, and businesses have, on average, reduced their employee counts by 40 percent relative to January 2020. According to Federal Emergency Management Agency (FEMA), 40 percent of businesses do not reopen following a disaster and an additional 25 percent will fail within one year. The U.S. Small Business Administration (SBA) found that 90 percent of companies fail within two years of being struck by a disaster.

In Long Beach, there are approximately 10,700 licensed business owners that generate income from residential and/or commercial real estate. While some property owners operate very large numbers of residential units or thousands of square feet of commercial space, many property owners operate a much smaller number and size of units. Regardless, property-based revenue is an important source of income for many people and the delay, deferment, or loss of rent-based-revenue, for even a short time, can have negative impacts on the ability of property owners to make mortgage payments, maintenance, security, utilities, and property tax payments among other costs associated with owning and operating a property for renters.

Commercial real estate—owning, operating, and leasing—is a significant economic sector and source of income for many Long Beach residents and businesses. When property-based income is impacted in a negative way, there is a significant impact to median household income and to the local economy overall. As such, it is important the City continue to take an active role to provide programs, resources, and support services available to residents and business owners who rely on commercial property-based income. The subsequent section describes in more detail some of the property owner relief programs provided at the federal, state, and local levels.

Federal Relief Programs

As with provisions for residential tenants, the Federal CARES Act also provides several relief programs for the commercial real estate tenants and property owners to assist with the payment of rent, debt service, or other property-related obligations. The following programs are provided

³ 2020 Pew Research

by the SBA to assist commercial property tenants so that they may continue to make rental payments:

- [Emergency EIDL Grants](#) provides \$10 billion for SBA emergency grants of up to \$10,000, to provide immediate relief for small business operating costs including rent. SBA administers these grants and interested persons need to [apply directly](#).
- [Business Loans Program Account](#) provides \$17 billion for SBA to cover up to six months of payments for small businesses with existing SBA loans. This program applies only to businesses that already have existing loans with SBA.
- [Paycheck Protection Program](#) provides \$349 billion made available to SBA to launch the Payment Protection Program, designed to help small businesses and nonprofits cover payroll and additional costs for eight weeks. The Paycheck Protection Program (PPP) helps businesses keep their workforce employed during the COVID-19 crisis. Loan proceeds can be used for payroll costs, interest on most mortgages and rent and utilities costs over the eight-week period after the loan is made. Eligible small businesses should start preparing a documentation checklist and identifying lender(s) that are accepting new PPP applications. For more information, potential borrowers may contact either a participating lender or the Small Business Development Center (SBDC) by visiting the [SBDC website](#) or calling (562) 938-5100. Additional information can be found on the SBA website.

In addition to the programs provided for commercial property tenants, the CARES Act also provides the U.S. Treasury with up to \$500 billion through the [Exchange Stabilization Fund](#) (ESF) to make loans, loan guarantees, or investments to assist eligible businesses, states, and municipalities affected by COVID-19 until the end of 2020, referred to by some as sector specific bailouts. This program is important to Long Beach commercial property owners in a number of ways given that it allows the U.S. Treasury to make loans and loan guarantees directly to companies in three industries that are present in the City: air travel, cargo air carriers, and businesses critical to national security. Additionally, the remainder (\$454 billion) is available to support facilities established by the federal government to provide liquidity to businesses, states, and municipalities. This is important because it may allow for lenders to work with borrowers, both property owners and tenants, to stay afloat during the COVID-19 emergency.

State Relief Programs

There are several State programs designed to assist both commercial tenants and commercial property owners. On April 2, 2020, Governor Newsom approved a series of resources to aid small businesses and help California workers who have lost work due to COVID-19. The State allocated \$50 million to the [California Infrastructure and Economic Development Bank](#) for loan guarantees to small businesses to help eliminate barriers to capital for individuals who do not qualify for federal funds, including low-wealth and undocumented immigrant communities.

In March 2020, Governor Newsom signed an [executive order](#) to help small businesses, granting a 90-day extension for small businesses to pay sales taxes, as well as \$17.8 million in new state initiatives to support California workers impacted by COVID-19. The allocation will come

from Workforce Innovation and Opportunity Act (WIOA) funds with \$7.8 million going to the Los Angeles region and \$10 million made available statewide.

Local Property Relief Programs

In a [memorandum to the City Council dated May 21, 2020, the City Manager](#) summarized “COVID-19 Relief Proposals” to reduce the regulatory costs for property owners. This memorandum outlined several ways the City can provide fee relief for owners, developers, and operators of both residential and commercial properties, including the following general recommendations to be considered by the City Council on June 2, 2020, and related Commissions responsible for establishing and modifying these programs (special conditions apply):

- Extension of existing entitlement approvals;
- Extension of the entitlement expiration period for new project approvals;
- Deferral of a portion of the Conditional Use Permit (CUP), or other application fees;
- Extension of the plan review period;
- Extension of building permits already issued;
- Deference of the payment of building plan check fees until building permit issuance;
- Payment of fees by phone, via a secure credit card transaction process, until an online payment system can be implemented;
- Extension of the compliance period for violations except for violations;
- Extension of the compliance period for citations issued;
- Deference of the due date of Proactive Rental Housing Inspection Program (PRHIP) fees;
- Extension of the plan review period;
- Extension of annual inspection fee balance due dates;
- Waiver of certain penalty fees for all late payments on business license taxes, including commercial property licensees and residential property licensees;
- Deferment of payment for parklet and sidewalk dining permits; and,
- Deferment of a portion of residential and commercial building plan review applications.

Although the above list is just a summary of the proposed programs to provide relief for property owners, a complete list of the recommendations and the special conditions that apply can be found in the City Council [recommendation](#) that will be considered on June 2, 2020.

REVOLVING LOAN FUND PROGRAMS

The City Council also directed the City Manager to explore is the availability or development of low-cost loan programs to assist property owners during the deferment period when tenants may not be willing or able to pay rent. As evidenced by the effects of COVID-19 at a national, state and local level, much of the impact and corresponding assistance has been focused on business owners and residential tenants, but there are fewer programs available for property owners who

may experience financial hardship from the deferment of rental income for extended periods of time. Efforts made to date by the federal, state and local governments have focused on helping businesses bridge the gap until restrictions and closures are lifted.

The impact of these loan programs may benefit the commercial property owner if the tenant uses the proceeds of the loan or grant to pay rent or avoid closure. However, if the residential or commercial tenant does not use proceeds from these programs to pay rent, the property owner may be forced to secure more expensive commercial debt or line of credit to pay mortgage, operating costs, or taxes during the period of deferment. Additionally, there is no guarantee the tenant will make full payment by the end of the deferment period, which is the source of repayment for the property owner.

Federal Loan Programs

An initial review of loan programs reveals that there are few government-backed options for real estate businesses that generate income as residential or commercial property owners. Real estate-based income is considered by both the SBA and EDA as “passive income” and not eligible for federal SBA or EDA loans. This may not be a major issue for larger real estate companies that own and operate dozens of residential units or thousands of square feet of commercial space and have access to credit. However, there appears to be fewer options for very small real estate owners that may rely on rental income from owning and managing a handful of units. These micro-businesses may have trouble securing additional credit or may face default or foreclosure in the event they are unable to make mortgage payments.

Local Loan Programs

Currently, the City provides the following loan programs for businesses and commercial tenants, which may indirectly benefit property owners, but these programs are not currently available to real estate-based businesses:

- [Emergency Microloan Program](#): The Emergency Microloan Program is designed to support Long Beach businesses and non-profits with five or less employees that have been financially burdened by the COVID-19 public health emergency. Loan amounts range from \$2,500 to \$10,000. Loan proceeds may go toward business expenses, such as personnel, rent, supplies/materials, utilities, professional services, and more. Funding is subject to availability and submittal of a loan application and does not guarantee funding. To get started, potential borrowers must sign-up for an appointment with the Small Business Development Center (SBDC) at longbeachsbdc.org or by phone at (562) 938-5100.
- [Kiva Long Beach Loan Program](#): The Kiva Long Beach Loan Program is an online community-lending program that is designed to support Long Beach small businesses. Loan amounts range from \$500 to \$15,000, at an interest rate of 0 percent. Loan proceeds may go toward business expenses, such as personnel, rent, supplies/materials, utilities, professional services, and more. All loan applications are reviewed and either approved or denied by Kiva, a nonprofit organization.

- [Grow Long Beach Fund](#): This partnership between the City and National Development Council (NDC) Grow America Fund provides loans between \$100,000 to \$2 million, available for businesses that have been operating in Long Beach for at least two years. Fixed rate loans (based on current prime rate) are underwritten by NDC and guaranteed by the SBA. Business must be a for-profit entity. Funds can be used for any legitimate business expense (construction, tenant improvements, equipment, working capital, etc.).

As such, to address City Council concerns regarding the impacts of the eviction moratorium on very small, property-based businesses, it is recommended that the City Council consider developing a revolving loan fund and/or loan guarantee program to leverage private capital, at the local level.

TECHNICAL ASSISTANCE PROGRAMS

Another way to assist property owners is to provide technical assistance, training, and support. This type of technical assistance may include assistance securing licenses and permits, financial planning, tax preparation, legal expertise, or preparing financial documents for loan applications. In addition to the direct technical assistance that the City can provide property owners, staff work with several organizations and partners to offer technical assistance available to property owners including:

- The California Apartment Association (CAA) is the nation's largest statewide trade group representing owners, investors, developers, managers and suppliers of rental homes and apartment communities. Currently the CAA provides [COVID-19 information and resources](#) for landlords/property owners.
- The County of Los Angeles has collected guidance, current news, and [resources for tenants and landlords](#) affected by COVID-19.
- Los Angeles County Development Authority (LACDA) has collected COVID-19 pandemic updates and recourse such as a [Rent Relief Program](#) for Property Owners. The Rent Relief Program provides rent payments to property owners on behalf of income-eligible households. Interested property owners are encouraged to apply by emailing rentrelief@lacda.org, or calling (626) 943-3800.
- SBDC, which is operated by Long Beach City College (LBCC), is the most comprehensive small business assistance network in the country and its territories. The SBDC is providing free virtual business consultation and is assisting small businesses with disaster preparedness and recovery. Business consultants are available to help answer questions regarding supply chain disruption and liability, technology plans for setting up remote workstations for employees, concerns about cashflow during disruption and concerns about credit and finance issues. For business consultation assistance, contact the local SBDC at (562) 938-5100 or visit the SBDC [website](#).
- The City of Long Beach Economic Development [website](#) for “Tenants and Property Owners” is regularly updated with resources to assist property owners with questions about the eviction moratorium and how to access resources that may help them navigate the

payment deferment period. The website also includes resources for City tenants that request payment deferment.

City staff will continue research and outreach to identify technical assistance providers that can support local property owners with the type of legal, financial, and strategic challenges they are facing during the payment deferment period. These resources will be updated on the City webpage for “Business and Workers Resources” and be distributed through daily business brief emails, social media, and weekly email blasts.

FORECLOSURE ASSISTANCE PROGRAMS

In normal times, foreclosures are legal issues, contracts between private parties including lenders and property owners. Additionally, banking and lending laws are established by Congress and enforced by Federal agencies. During this time, when public health orders have suddenly limited the ability of property owners and their tenants to generate income and to fulfill their contractual obligations, government entities at the federal, state, and local levels have been responding with foreclosure assistance programs through a variety of legislative strategies, cooperative agreements with lenders, and financial subsidies via tax credits and contract amendments. The subsequent section describes some of the property owner assistance programs related to foreclosure assistance.

Federal Foreclosure Assistance Programs

The Coronavirus Aid, Relief, and Economic Security ([CARES Act](#)), signed into law on March 27, 2020, provides deferment, foreclosure moratorium and forbearance options. Approximately 40 percent of the nation’s single-family homes and approximately 50 percent of multifamily homes qualify for CARES Act relief. Support programs provided by the legislation include:

- Deferments provided on federally-backed mortgages (including federally-subsidized low-income housing); any mortgages on single-family or multi-family structures that are financed through a private institution are not eligible for the CARES Act. Any deferment available from privately funded mortgages need to be addressed with the funding financial institution.
- A Foreclosure Moratorium that suspends the foreclosure process for homeowners who fail to meet payments. The new law prohibits lenders or loan providers from foreclosing on property owners for 60 days beginning March 18, 2020. Lenders and servicers may not begin a judicial or non-judicial foreclosure, or finalize a foreclosure judgement or sale during this time.
- A Right to Forbearance for homeowners experiencing financial hardship due to the COVID-19 pandemic. Under the new law, homeowners have the right to request forbearance for up to 180 days, by contacting their loan servicer. There will be no fees or penalties added to borrowers’ accounts for obtaining a forbearance, and no documentation required other than a claim to have a pandemic-related financial hardship.

- The forbearance must be requested prior to the termination of the National Emergency declared on March 13, 2020, because of COVID-19, but no later than December 31, 2020. During the forbearance period, no interest, fees or penalties will accrue other than amounts that would apply if borrowers made regularly scheduled payments. Servicers will be required to grant forbearance even if the borrower is delinquent, and no borrower documentation will be required beyond an attestation of financial hardship. Any landlord who has received such forbearance on a federally-backed mortgage may not evict any tenants from their property based solely on non-payment of rent or charge any tenants any late fees or other penalties due to non-payment of rent.

State Foreclosure Assistance Programs

On March 25, 2020, Governor Newsom also announced an [agreement](#) with more than 200 financial institutions to provide a 90-day grace period for mortgage payments and associated fees to borrowers that are impacted by COVID-19. The agreement ensures financial institutions will not initiate foreclosure sales or evictions for at least 60 days. As with other private sector relief measures, this agreement is voluntary and does not provide enforceable legal protections.

County Foreclosure Assistance Programs

The Los Angeles County Board of Supervisors, the Department of Consumer and Business Affairs (DCBA) have launched enhanced foreclosure prevention services for property owners and landlords with 15 or fewer units in Los Angeles County as part of the Los Angeles County Disaster Help Center. Free one-on-one counseling and support is available for property owners who have been adversely affected by the ongoing COVID-19 emergency. Whether their loan is owned by the government, a national or state charter bank, or private institution, property owners facing COVID-19 hardships may be eligible for temporary relief. The County is helping property owners work with their lenders the following services:

- Forbearance plans to temporarily reduce or delay payments;
- Repayment plans for missed payments;
- Loan modifications to reduce payments, interest or extend the loan term; and,
- Short sales to sell the home for less than owed.

Some lenders may be limited in initiating foreclosures during the declared COVID-19 health emergency. For more information, click [here](#) to contact the L.A. County Disaster Help Center.

City Foreclosure Assistance Programs

Although it may, theoretically, be within the City's general police powers to suspend mortgage payments or prohibit foreclosures, it is likely that local municipalities would be prohibited from taking such actions due to pre-emption by widespread Federal and State regulation of the banking and mortgage industries. Further, the private contract nature of power-of-sale mortgages make it extremely difficult to enact an effective and enforceable moratorium. For these reasons, staff can find no evidence that California municipalities or counties have ever adopted foreclosure or mortgage payment moratoriums, and the City Attorney recommends against the City Council

taking such an action. Staff are conducting local outreach to collect best practice examples of how tenants, landlords, and lenders are working together to renegotiate agreements to survive the downturn.

Overall, landlords and lenders indicate their appreciation for tenants and highlight their efforts to get tenants through the current economic emergency. Landlords, however, are also concerned for their ability to continue paying their lenders, property taxes, insurance, mortgages, business license, and utilities, if business closures and payment deferrals persist. Listed below are some initial examples of how landlords are approaching the situation with tenants:

- Case-by-Case: landlords are handling lease negotiations on a case-by-case basis as some tenants are more directly affected than others by COVID-19 and subsequent closure mandates;
- Month-to-Month: landlords are considering rent reduction or deferment month-by-month to address changing needs in a fluid situation;
- Immediate Relief: most directly affected tenants are being offered a 50 percent deferment in base rent for the month of April 2020, with potentially larger reductions for May and June, if conditions persist; and,
- Lease Extensions: landlords are considering the extension of lease agreements as to amortize the cost over the full term or remainder of the lease to keep the current monthly payments as affordable as possible in the short term.

City staff will continue to work with both landlords and tenants to identify best practices, share strategies, and encourage all parties to work together to negotiate a solution that makes it possible for residents and businesses to remain in place while the economic emergency persists. Meanwhile, local lenders contacted by staff report that property owners are encouraged to reach out directly to their banker or lender to discuss options.

TAX RELIEF PROGRAMS

In addition to information on current assistance available to property owners who have been impacted by COVID-19, City Council requested specific feedback regarding possible relief for property tax payments. Although jurisdiction over the administration and collection of both residential and commercial property taxes falls under State and County jurisdiction; and, income tax benefits, credits and reductions fall under Federal jurisdiction, the following section highlights ways the City might provide educational programs, marketing, and promotion of tax relief programs available to local property owners.

Federal Tax Relief Programs

The CARES Act contains certain tax relief provisions aimed at business taxpayers that are intended to provide prompt relief to various businesses. Certain key tax relief provisions are briefly highlighted below.

Removal of Certain Net Operating Losses Restrictions

The Tax Cuts and Jobs Act (TCJA) that was signed into law at the end of 2017 substantially limited the ability of corporate taxpayers to use Net Operating Losses (NOLs) arising after December 31, 2017 to offset taxable income. Under the TCJA, corporate taxpayers could use NOLs arising in 2018 or subsequent tax years to offset no more than 80 percent of their taxable income and could not carryback NOLs to prior years. The CARES Act removes the 80 percent limitation for taxable years beginning before January 1, 2021 and allows taxpayers to carryback NOLs arising in tax years beginning after December 31, 2017 and before January 1, 2021 over a five-year period. The CARES Act contains certain exceptions and special rules. For example, consistent with prior law, Real Estate Investment Trusts (REITs) cannot carryback NOLs to non-REIT years.

Increased Allowance for Business Interest Expense Deductions

Under Section 163(j), enacted by the TCJA, taxpayers may deduct business interest expense only up to 30 percent of their Adjusted Taxable Income (ATI), a concept similar to EBITDA (earnings before interest, taxes, depreciation, and amortization). The CARES Act increases the limitation to 50 percent for taxable years beginning in 2019 and 2020 and allows taxpayers to elect to use their 2019 ATI to calculate their Section 163(j) limitation for their 2020 taxable year.

For partnerships, the Section 163(j) limitation applies at the partnership level. The 30 percent limitation will continue to apply to partnership interest expense in 2019; however, 50 percent of any excess business interest allocated to a partner and carried over from 2019 will be treated as business interest paid by the partner in 2020 and will not be limited to the partner's business interest income for 2020. The remaining 50 percent will continue to be subject to such limitations.

Acceleration of Alternative Minimum Tax Credits

Prior to the enactment of the TCJA, corporations were subject to Alternative Minimum Tax (AMT) at a rate of 20 percent. AMT taxes were treated as a tax credit that could be carried forward to offset non-AMT taxes in subsequent years. The TCJA eliminated the corporate AMT, and provided that only 50 percent of the AMT credits carried forward by a corporation could be refundable in tax years beginning after December 31, 2017 and before January 1, 2021. After December 31, 2020, 100 percent of any excess AMT credits could be refunded. The CARES Act permits corporations to claim a refund for 2018 equal to the full amount of their excess AMT tax credit carryforwards. For corporations that do not elect this refund, the CARES Act eliminates the 50 percent limit on AMT tax credits for taxable years beginning in 2019. This provision will benefit corporations with excess AMT tax credits by permitting refunds of 2018 taxes.

Payroll Tax Relief

The CARES Act puts in place a temporary moratorium on the payment of an employer's share of Social Security taxes for the tax periods ending before January 1, 2021. The deferred tax payments must be paid over the following two years: 50 percent by December 31, 2021 and the remaining 50 percent by December 31, 2022.

In addition, for businesses with operations that were all or partially suspended due to orders from a governmental authority as a result of COVID-19, or who experienced a significant decline in gross receipts as determined under a qualitative test set forth in the bill, they are entitled to a refundable payroll credit for 50 percent of the wages paid or incurred from March 13, 2020 through the end of the year. This provision will ease the strain on employers' cash flow and may encourage employers to retain current employees. In particular, to the extent affected businesses expect business disruption to be temporary, the refundable payroll credit for wages paid during COVID-19 may help companies retain and pay employees during this time.

Removal of Loss Limitations for Non-Corporate Taxpayers

Present law disallows a deduction for "excess business losses" with any disallowed deduction being permitted to be carried forward as a NOL. The CARES Act suspends this limitation for tax years beginning before 2021. As with the changes to NOLs for corporate taxpayers, the suspension of the limitation on excess business losses provides a similar benefit to non-corporate taxpayers, some of whom may be able to claim a refund for their 2018 taxable year.

Accelerated Depreciation for Qualified Improvement Property

Under current law, a taxpayer can deduct the full cost of certain depreciable property placed in service or acquired by the taxpayer in a taxable year before January 1, 2027 (bonus depreciation). Improvements to building interior made by a taxpayer (qualified improvement property) were not included in the list of property eligible for bonus depreciation. The CARES Act includes a technical correction that identifies qualified improvement property as "15-year property" eligible for bonus depreciation, instead of having to depreciate over the 39-year life of the building as set forth in the TCJA. This provision may allow taxpayers to file amended returns and claim refunds for the 2018 and 2019 tax years, if they placed qualified improvement property into service during those years and may also encourage taxpayers to make needed improvements in the coming years as the economy recovers from the COVID-19 pandemic.

County Property Tax Relief

The Los Angeles County Treasurer and Tax Collector (Treasurer and Tax Collector) collect property taxes pursuant to the State Revenue and Taxation Code (RTC). Amending the RTC to allow for the waiver or abatement of property taxes falls under the jurisdiction of the State legislature. The Los Angeles County Board of Supervisors (Board of Supervisors) and the Treasurer and Tax Collector do not have the authority to waive or abate property taxes.

The Treasurer and Tax Collector does have the authority to waive interest or penalties should they be imposed on the second installment of 2019-20 property taxes, which were due April 10, 2020. The following is a COVID-19 statement made by the California Association of County Treasurers and Tax Collectors (CATTTC):

Tax Collectors have the authority to handle specific scenarios where a taxpayer cannot physically pay their taxes on April 10 due to quarantine, illness, or closure of the Tax Collector's office as a result of COVID-19. In such cases, the Tax Collector will utilize their authority, pursuant to RTC 4985.2, to waive interest or penalties that would otherwise be

imposed or collected with respect to a delinquent second installment of property taxes levied for the 2019-2020 Fiscal Year on residential real property.

To that end, the Treasurer and Tax Collector has established an [online form](#) for the cancellation of penalties related to missed Property Tax payments due to the COVID-19 emergency.

Further, the Board of Supervisors has taken action in an attempt to legislate some relief for property owners. On May 12, 2020, the Board of Supervisors instructed the Treasurer and Tax Collector and the Auditor-Controller to report back to the them in writing within 45 days on deferring the collection of real property taxes and Property Assisted Clean Energy (PACE) tax assessments for no less than 12 months with deferred payments added to the end of the PACE assessment contract term and suspension of new PACE loans for the duration of the crisis.

State Sales Tax Relief

Sales tax involves a number of State, local, and regional taxing authorities and can benefit property owners by delaying or deferring the payments that commercial tenants may be required to make to the respective taxing authority. Currently, the State is allowing small businesses to [apply to defer payment](#) of sales and use taxes of up to \$50,000, for up to 12 months. While property owners may not benefit directly from the decrement of sales tax payments, this type of program can function like a short-term loan to commercial tenants (when they are allowed to reopen and resume business), so that they may pay all or a portion of their rent.

LEGISLATIVE PROPOSALS

In addition to these existing programs, the City Council requested an update on legislative proposals that seek to provide forbearance, foreclosure, and eviction protections, and rental relief. These proposals generally fall into two categories: (1) moratoriums on foreclosure and evictions, and (2) tax relief and rental assistance programs. These proposals are still being negotiated and will likely change over the coming weeks and months, throughout the Legislative process.

Moratorium Proposals

SB 939 (Wiener)

This bill proposes a temporary moratorium on evictions for commercial tenants during the COVID-19 emergency and a repayment period of roughly one year to make up missed rental payments. The bill was significantly amended on May 13, 2020, to allow small businesses with less than 500 employees, commercial dining, drinking, and entertainment tenants the ability to re-negotiate or terminate their lease, under certain circumstances, through December 31, 2021, or two months following the end of the declared emergency, whichever is later. An urgency clause within the bill would make it effective immediately upon being signed into law. Proponents of the bill include dozens of small business owners, restaurants, and bars. The California Chamber of Commerce and California Downtown Association, among dozens of other business organizations and coalitions, have registered opposition for SB 939, stating the bill would cause undue financial strain on property owners and potentially lead to foreclosure. SB 939 passed through the Senate

Judiciary Committee 5-1 on May 22, 2020, and has been referred to the Appropriations Committee.

On April 29, 2020, the City submitted support for the original version of SB 939, based on its initial alignment with the City's Economic Relief Package and evictions moratorium. Recent amendments to SB 939, however, could have wide-ranging implications for the City, and staff has been working with the author's office to clarify the potential impacts. While SB 939 includes language to not preempt local ordinances that prohibit similar evictions actions, it is unclear whether the legislation would apply to the City. In particular, the amended language allowing tenants to renegotiate and potentially terminate their lease due to COVID-19 no longer aligns with City Council direction on May 19, 2020 to exempt the Long Beach Airport, Harbor Department, and Tidelands tenants from the extended local ordinance.

AB 828 (Ting)

This bill proposes a temporary eviction moratorium for residential tenants facing economic hardship, for the duration of the COVID-19 emergency and 15 days thereafter. During this time, County Recorders would be prohibited from recording notices of default, or similar actions, in addition to accepting or filing unlawful detainer cases. An earlier provision that would have allowed tenants to pay 25 percent reduced rent was struck from the current version of the bill. The bill contains an urgency clause, meaning it requires a two-thirds vote and would become effective immediately upon the Governor's signature of approval. AB 828 is in the Senate Rules Committee, awaiting referral to a policy committee.

AB 2501 (Limón)

This bill proposes to enact several housing relief measures for property owners during the COVID-19 emergency and 180 days thereafter. It would instate an eviction moratorium for residential mortgage owners impacted by COVID-19 and provide additional forbearance in increments of 180 days for mortgage owners continuing to experience hardship. AB 2501 prohibits private mortgage providers from imposing extraneous fees, penalties, or additional interest. Forbearance would extend to multifamily mortgage loans and vehicle-secured credit obligations (e.g., mobile homes). Additionally, the bill would allow forbearance on PACE contracts through the next annual assessment for property owners experiencing financial hardship. The proposal is supported by numerous housing rights advocacy groups and is opposed by certain financial services associations and business organizations, including the California Chamber of Commerce. On May 19, 2020, AB 2501 passed 7-3 out of the Assembly Committee on Banking and Finance to be referred to the Committee on Appropriations, where a hearing date is yet to be determined.

SB 915 (Leyva)

This bill proposes to prohibit evictions of mobile home homeowners or residents who notify park management they have been financially impacted by COVID-19, for the duration of the emergency and 120 days thereafter. Mobile home homeowners and residents would have up to a year to repay outstanding rent, utilities, and other charges. The bill is sponsored by the Golden State Manufactured Home-Owners League and has received opposition from a handful of housing and

apartment associations. SB 915 passed the Senate Judiciary Committee 7-1 on May 22, 2020, and is now in the Appropriations Committee.

Relief and Rental Assistance Proposals

SB 1431 (Glazer)

The State Constitution allows the Legislature to authorize local agencies to provide tax relief through reassessment of properties that are “physically damaged or destroyed.” SB 1431 would expand the definition of disaster relief to include the diminution of property values (estimated at more than \$10,000) due to the COVID-19 state of emergency. The proposal would allow property owners to apply for reassessment between April 5, 2020, and within 12 months of the effective date of the bill. While the direct impact to the City would depend on the decreased property taxes collected, the California State Association of Counties and League of California Cities oppose the bill, expressing concerns that it places an undue burden on local agencies.

SB 1410 (Gonzalez)

This bill, sponsored by the California Apartment Association, proposes to establish the COVID-19 Emergency Rental Assistance Program, overseen by the State Department of Housing and Community Development. The program would provide rental assistance for missed rent due to COVID-19 between April 1 and December 31, 2020. Rental assistance would cover a minimum of 80 percent rent owed directly to property owners, whose participation in the program is voluntary. To benefit from the program, participating property owners would be prohibited from increasing rent or imposing late fees. Funding for the program would require appropriation and approval from the Legislature through the State Budget Act, with the intent to prioritize the use of available federal funds before using the General Fund. The bill has received support from the California Chamber of Commerce, the League of California Cities Latino Caucus, and the Cities of Mountain View and Paramount, among others. It has received opposition from numerous tenant and housing advocacy groups, including Housing Long Beach, due to concerns that the program is voluntary for landlords and may not provide support for all tenants who need it. SB 1410 passed the Senate Housing Committee 10-0 on May 27, 2020, and is now in the Senate Appropriations Committee.

State Senate Leadership Proposal

State Senate leadership released an economic recovery proposal on May 12, 2020, which includes a Renter/Landlord Stabilization program. The proposal is expected to be introduced through State budget negotiations and seeks to provide relief to both renters and landlords impacted by COVID-19, through an innovative State tax credit and repayment structure. The State would offer tax credits to landlords equal to the amount of unpaid rent, estimated at a cost of \$300-500 million annually from 2024-2033. Renters would receive protection from evictions and immediate relief for unpaid rent from the State, and renters would repay the State over a 10-year period, beginning in 2024. Like SB 1410, landlords would have to voluntarily enter into this agreement.

Federal Relief: HEROES Act

State proposals for eviction and foreclosure moratoriums offer critical protections for tenant and property owners during COVID-19, but they nevertheless place a strain on landlords who rely on rental income for their livelihood. Even with extended repayment timelines, there is no guarantee that tenants will be able to pay back rent following the pandemic. Moreover, none of the moratorium proposals have a funding source to backfill lost rent, and certain proposals further allow tenants to terminate their lease. To offset the fiscal impacts moratorium proposals could present for small commercial and residential landlords, SB 1410 would provide a State fund to pay rent for tenants who are experiencing financial impacts due to COVID-19, and Senate leadership's budget proposal for stabilization seeks to provide immediate relief for tenants and landlords. However, facing a State budget deficit estimated at \$54 billion, additional Federal stimulus will be critical to meet the fiscal requirements of these proposals.

At the Federal level, the House of Representatives recently passed the HEROES Act, which includes \$75 billion to provide direct assistance for homeowners to help with mortgage payments, property taxes, property insurance, utilities, and other housing costs. The bill would also provide more than \$100 billion to help low-income renters at risk of homelessness through emergency rental assistance programs. The HEROES Act further proposes to extend the eviction and foreclosure moratorium outlined in the CARES Act. The bill is currently in the Senate, where it is expected to change significantly through negotiations. Federal funding is essential to not only support State legislative relief proposals but also expand local programs. With additional Federal funding, such as outlined in the HEROES Act, the City could further help tenants and stabilize landlords through the City's rental assistance program and a revolving loan fund for property owners that rely on rental income for their livelihood.

STRATEGIES

The impact of COVID-19 on tenants and property owners is far-reaching, and State and Federal legislative proposals could have myriad impacts on the City's efforts to help the community during this unprecedented time. Staff are continuing to explore the following strategies to partner with property owners, financial institutions, lenders, and technical assistance providers to assist property owners who have suffered loss of income because deferred rental income related to the financial impacts of COVID-19:

- A. Work with the appropriate departments to develop a dedicated educational and marketing program to promote State and Federal foreclosure protection programs for both residential and commercial tenants and return to City Council with an estimated cost to implement such a program.
- B. Work with local nonprofit economic development or community development corporations to develop a mortgage assistance program to provide property owners with technical assistance and emergency support loans to prevent defaults and foreclosures during emergency periods.

- C. Work with State and Federal delegations, to advocate for legislation that promotes property owner assistance programs including tax relief, foreclosure; (a) relief programs for property owners to offset the loss of rental income, (b) resources to prevent foreclosure, (c) property tax relief programs, (d) access to affordable loan funds, and (e) legislative strategies to encourage State legislation providing such relief programs.
- D. Identify a source of funding at the local level to create a revolving loan fund or loan guarantee fund available to very small property-based businesses that are unable to access the State or Federal loan funds due to existing restrictions.

EQUITY LENS

Consistent with recommendations from the Equity Toolkit, staff sought to partner with those most affected by the financial burdens created by the COVID-19 emergency and the disruption of rental income. More specifically, staff made efforts to speak with property owners that owned and operated both residential and commercial buildings. Realizing that some residents rely upon property rental for some, or all, of their income, it is important that the City protect both tenants and property owners during a crisis, and also develop support programs that help property owners avoid default or foreclosure. As described in the strategies section, a combination of both policy and systems change is needed to accommodate for both tenants and property owners.

Additionally, although the timing for this report did not allow for a more in-depth investigation of unique user groups, staff would typically augment such a report by using data and storytelling to make inequities more visible for the public and for policymakers.

Finally, the strategies identified in this report seek to build the City's capacity to advance equity through training, tools, and technical assistance. This involves the development of internal awareness and capacity among City staff as well as the development of partnerships for technical assistance that is unique to property ownership. Although this is a new area for the City—supporting private property owners during times when they are unable to collect rental income—the process will undoubtedly lead to better service and economic opportunities for our residents.

CONCLUSION

Depending on which support strategies we develop as a City, there are significant potential fiscal impacts related to the strategies available to provide property owner assistance during the COVID-19 payment deferment period, and there remain many unknowns with regard to the length of the public health emergency that will dictate the scope and scale of the economic damage to residents and businesses of the City.

As such, the City Council might consider the initial strategies for economic relief as an immediate 90-day strategy to immediately address the following objectives: (a) mitigating the immediate impacts of property owners during the economic emergency; (b) promoting cooperative contract amendments between residents, businesses, property owners, and lenders; (c) preventing business closures and job losses; and (d) maximizing the leverage of State and Federal Government stimulus.

Economic Relief Package—Property Owner Assistance Programs

June 1, 2020

Page 20 of 20

Thank you for your leadership during this critical time in our City history. Our residents and businesses are fortunate to have City leaders that recognize the significance of the economic emergency caused by this public health crisis and will benefit from the collective action and collaboration of tenants, property owners, lenders, and government. Please do not hesitate to direct specific questions regarding this effort to me at john.keisler@longbeach.gov or 562-570-5282.

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