



April 13, 2020

*via email: ANilsen@co.humboldt.ca.us*

Amy Nilsen  
County Administrative Officer  
County of Humboldt  
825 Fifth Street  
Eureka, CA 95501

Re: Humboldt County's Proposed COVID-19 Eviction Defense Ordinance

Dear Amy Nilsen:

We are pleased to learn that Humboldt County is taking steps to protect all residents of the County by considering an eviction defense ordinance. The draft ordinance shared with our office moves the County in the direction of avoiding a wave of evictions instead of merely delaying it. Still, the draft ordinance can be improved, most substantively to apply to no-fault evictions instead of just non-payment evictions caused by COVID-19. As the Board and staff consider the draft ordinance, please keep in the mind the following points:

**1. Application to mobile home parks**

While the draft ordinance includes the finding that mobile home parks are an important source of housing in the County, particularly for older residents who are at high risk if exposed to COVID-19 (§ II, ¶ 14; *see* § III-2, ¶ 2), it does not contain language that explicitly applies the ordinance to mobile home park tenancies. The County should strengthen these protections by adding language that clarifies the application to mobile home park tenancies.

**2. Public safety exception**

The draft ordinance includes an exception for evictions necessary to protect public health and safety that is similar to the Judicial Council's Emergency Rules, adopted on

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April 6, 2020. (§ III, 4. Prohibition of Evictions, ¶ (F).) If the intent of this paragraph is to permit evictions that comply with the Emergency Rules, then the language should make that clear. As written the exception is so poorly worded that it threatens to swallow the entire rule. The County may not impermissibly expand the exceptions for public health and safety evictions pursuant to the Judicial Council’s Emergency Rules, and should explicitly confine the scope of this exception to evictions necessary for public safety.

### **3. No-fault evictions**

The County should consider prohibiting no-fault evictions for the duration of the public health emergency. Terminations of tenancies result in families moving. For most people, moving generally means going to the store to purchase boxes, searching for new housing, and enlisting the help of friends or neighbors to carry larger items. All of these activities are either dangerous during a public health crisis, prohibited by current shelter-in-place orders, or both. Moreover, with property management companies not deemed an essential business under the County’s shelter-in-place order and landlords reluctant to “show” property to prospective renters, it is virtually impossible to find and relocate to new housing. (Humboldt County Shelter-in-place Order, § 9 (Mar. 30, 2020).) As a result, people who receive no-fault termination notices are likely to end up either moving in with friends or relatives, leading to an exchange of germs that does not support public health, or forced into homelessness.

A temporary halt to no-fault evictions does not prohibit landlords from collecting rent, nor from removing tenants who violate their lease or otherwise cause a threat to public health and safety during the public health emergency. A temporary halt to no-fault evictions does not stop a landlord from serving a no-fault termination notice after the public health emergency ends. A temporary halt to no-fault evictions merely keeps people housed during the crisis, and prevents a wave of evictions immediately following it.

Our leaders must protect residents not only during the crisis, but also after it ends. By all accounts, the aftermath will not be a quick return-to-normal, but a gradual easing of restrictions and economic recovery. Preventing a sharp uptick in evictions supports the stability of the community, and the health of all Humboldt County residents. The County should apply its protections to no-fault evictions as well.

### **4. Proof of loss of income**

The County’s ordinance requires tenants to prove a “substantial loss of income” was caused by COVID-19. As written, the requirement is too vague and hard to follow, for

two reasons. First, without defining “substantial,” the County is inviting needless litigation over interpretation of the term. Similarly, without providing examples of how a tenant will prove loss of income, e.g., Internet announcement of closure of employer combined with prior paystub, or paystubs demonstrating decrease of income at the time public health crisis arrived, the ordinance may lead to disputes between landlords and tenants over what qualifies as sufficient proof.

Second, requiring a “substantial” loss of income, whatever its meaning, the County ignores the fact that many residents, including minimum wage workers, were living on the margins to begin with. For many families, even a 20% drop in income is the difference between being able to pay bills or not. To protect low-income residents, the County should omit the vague qualifier “substantial,” and spell out for both tenants and landlord what suffices for proof.

## **5. Payback period**

The County’s payback period should be flexible enough to contend with restrictions lasting for many months. Even a 90-day payback period may be unrealistic for a family who lost their job due to COVID-19. Consider a family with one full-time minimum wage worker paying \$1,000 per month in rent, just over median rent in Humboldt County,<sup>1</sup> who lost their income on March 30, 2020 due to COVID-19 and cannot pay rent for April. At most, the person will receive just under \$1,500 in unemployment insurance benefits per month, which includes the special pandemic benefit of \$600. Moreover, due to the substantial delays in receiving unemployment, they may not receive any benefits for weeks after their application. To catch up on rent by August 31, 2020, assuming they receive benefits by May 1, 2020 and the emergency is lifted at the end of May 2020, the person would have to set aside \$333 per month, while continuing to pay full rent for May through August, leaving just 11% of their income, or \$167 per month, to live on. The numbers get worse the longer the person must wait for unemployment insurance benefits and the longer the crisis continues.

The federal CARES Act provides homeowners with a mortgage forbearance of 180 days without fees or interest, and allows homeowners an additional 180 days upon request. Allowing tenants only one quarter of that time to make up unpaid rent puts the rights and interests of homeowners over those of renters. It suggests bias, and risks the appearance of the Board prioritizing the “haves” over the “have-nots.” We urge the County to consider the payback period in its eviction defense ordinance from the perspective of the tenants who will need to use it, and to ensure that it will have the intended result of keeping people safe and housed during the pandemic.

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<sup>1</sup> Humboldt County Housing Element, 2019-2024, Appendix G-20.

We thank you again for the County's proactive approach to protecting its residents and for your consideration of our comments. Please do not hesitate to reach out to me to answer any questions about the impact of COVID-19 on low-income Humboldt County residents as you consider this important action.

Sincerely,

LEGAL SERVICES OF NORTHERN CALIFORNIA

A handwritten signature in black ink that reads "Gregory M. Holtz". The signature is written in a cursive, flowing style.

Gregory M. Holtz  
Staff Attorney

cc: Jefferson Billingsly, Acting County Counsel