

Alameda Attorney's Office: Island eviction bans explained

By Wes Cheung and Kristina Swafford, City of Alameda

Jane Smith worked as a server at a restaurant and rents an apartment in Alameda. Up until March, she was financially stable and paid her rent with her salary and tips. Things changed, however, when the COVID-19 pandemic struck the nation.

On March 16, a local state of emergency was declared in Alameda County and a shelter-in-place order was put into effect at midnight that day. On March 19, California Gov. Gavin Newsom also declared a state of emergency and issued a stay-at-home order. As the shelter-in-place rolled into April, Jane found herself without work for almost a whole month. Jane now fears she will be evicted for not being able to pay her April rent.

Jane's situation is one faced by many Alameda residents. Anticipating these needs, the city of Alameda also declared a local state of emergency and passed Urgency Ordinance No. 3268 on March 17, which went into effect for 60 days. You can find a digital copy of the ordinance online at bit.ly/33ue4rM. On April 7, the Alameda City Council approved extending renter eviction protections for 30 days after the city's state of emergency is declared over and allow an additional 180 days to re-pay any deferred rent. The urgency ordinance protects renters from being evicted if the renter meets the following criteria:

- the eviction is for nonpayment of rent;
- the nonpayment is due to a substantial loss of income as a result of the COVID-19 pandemic, or the tenant or member of the tenant's household is ill with COVID-19; and
- the renter received the notice to leave or pay rent on or after March 1.

Urgency Ordinance No. 3268 defines "substantial loss of income" as:

- a reduction of 20% or more of monthly gross pay;
- extraordinary out-of-pocket medical expenses; or
- extraordinary childcare needs.

Urgency Ordinance No. 3268 does more than provide renters a defense from eviction proceedings; it also prohibits landlords from shutting off utilities except in the case of an emergency — such as a repair on the water line. This protects tenants from being effectively forced from their unit when a landlord shuts off a utility.

In addition, the City Council on April 7 extended similar protections for commercial tenants, preventing them also from being evicted for not paying rent if the reason is a substantial loss of income (e.g. a reduction in business operations in compliance with a governmental order to close).

Many tenants are experiencing a sudden income loss as a result of the COVID-19 pandemic and the shelter-in-place order affecting Alameda County. In Jane's hypothetical

case above, if her landlord attempts to evict her from her apartment for not paying rent, Urgency Ordinance No. 3268 gives Jane a defense against those eviction proceedings if she can prove her inability to pay her rent was due to a "substantial loss of income" because of the COVID-19 pandemic.

For households of a certain income, you may receive free legal services and more information on how Urgency Ordinance No. 3268 protects you by contacting Centro Legal De La Raza at 510-437-1554.

Commercial tenants: On April 7, the Alameda City Council approved the expanded Urgency Ordinance No. 3270, which includes additional protections for commercial tenants. Under the expanded ordinance, commercial tenants in Alameda (e.g., local businesses) are also provided a defense against eviction if the commercial tenant can demonstrate a substantial loss of income as a result of the COVID-19 pandemic. For businesses, a substantial loss of income is defined as:

- A 20% or more reduction in monthly gross income compared to the average monthly income of the business in 2019; or
- an extraordinary loss of business that was incurred, such as shutting down in compliance with state and local shelter-in-place orders; or extraordinary expenses incurred, such as continuing to pay employees not working due to COVID-19 impacts.

Similar to protections for residential tenants, a business has a defense against evictions if the business can show a substantial loss of income arising from the COVID-19 pandemic. For example, Greg owns a grocery store. If Greg is able to show that the pandemic caused his business to receive a reduction in income of 20% or more compared to last year's monthly average income, Greg's business can receive the protections provided in the expanded Urgency Ordinance No. 3270 if the landlord attempted to evict the business because the business was behind on rent.

The ordinance also protects businesses that had to close or pay employees to remain off work as a result of the COVID-19 pandemic. For example, Bill owns a bar. If Bill is able to show that he closed the bar in compliance with state and local orders to maintain social distancing and shelter-in-place compliance and therefore did not have money to pay the rent, Bill could be protected from being evicted under the expanded Urgency Ordinance No. 3270. Bill would similarly be protected if he had to pay his employees to remain off work because the employees had to shelter in place and, due to this expense, Bill had difficulty paying the commercial rent.

The protections offered under the expanded ordinance will last until 210 days after the Alameda City Council declares the city is no longer in a state of local emergency. For example, if the city rescinds its declaration of local emergency on May 1, 2020, residential and commercial tenants will still be protected by this ordinance for 210 days from that date.

The Alameda City Attorney Office's Prosecution Unit represents the people of the state of California in misdemeanor criminal matters referred by law enforcement agencies, such as the Alameda Police Department or Code Enforcement Division. City prosecutors are further charged with bringing affirmative litigation, in coordination with the District Attorney's Office, in response to violations of consumer protection and fair housing laws and protecting consumers against fraud and unfair business practices. If you have additional questions, please contact the City Attorney's Office's Prosecution Unit at 510-747-4772 or email to cityprosecutor@alamedacityattorney.org.