



**San Luis Obispo
Countywide 10 Year
Plan to End
Homelessness**

*We envision a future
in which the housing
and comprehensive
services necessary to
remain housed are
available for all,
affording everyone
maximum self-
sufficiency, and the
opportunity to be
productive and
participating
members of our
community*

HOMELESS SERVICES OVERSIGHT COUNCIL (HSOC)

Special Meeting Agenda

August 14, 2020, 2 p.m.

Members and the public may participate by Zoom video call:
<https://zoom.us/j/91542444540?pwd=U2tROUY1Q0dHam5wTnBNckxUZmhXdz09>

Or dial in:

+1 669 900 9128

Meeting ID: 915 4244 4540

Passcode: 755046

1. Call to Order and Introductions
2. Public Comment
3. Consent: Approval of Minutes
4. Action/Information/Discussion
 - 4.1. Discussion Item: Moment of silence and remembrance of Supervisor Adam Hill
 - 4.2. Discussion: Possible Upcoming Ending of Judicial Council Moratorium on Eviction Prevention
 - 4.2.1. Action Item: Vote to 1) create an Ad Hoc Committee to draft a letter to the Board of Supervisors and County Administrator requesting they undertake steps to prevent evictions for households who are behind on rent due to the economic impact of COVID-19 and identify additional, reasonable public information and outreach the County could take to educate the public about the duration and scope of the current Judicial Council Moratorium; 2) authorize the HSOC Executive Committee to review and send the letter to the Board of Supervisors and County Administrator and other County officials as appropriate; and 3) provide guidance to the Ad Hoc Committee regarding the scope and focus of the letter
 - 4.3. Discussion Item: California Emergency Solutions and Housing (CESH) grant

The full agenda packet for this meeting is available on the SLO County HSOC web page:
[https://www.slocounty.ca.gov/Departments/Social-Services/Homeless-Services/Homeless-Services-Oversight-Council-\(HSOC\).aspx](https://www.slocounty.ca.gov/Departments/Social-Services/Homeless-Services/Homeless-Services-Oversight-Council-(HSOC).aspx)

4.3.1. Action Item: Vote to 1) prioritize CESH 2019 CESH funds be prioritized for Coordinated Entry and to support operations of permanent housing or provide shallow rental subsidies for permanent housing for formerly homeless persons; and 2) to recommend up to \$40,000 of unobligated CESH 2018 funds be used for updating the Ten Year Plan to End Homelessness

5. Future Discussion/Report Items

6. Next Meeting Date: September 16, 2020

7. Adjournment

The full agenda packet for this meeting is available on the SLO County HSOC web page:
[https://www.slocounty.ca.gov/Departments/Social-Services/Homeless-Services/Homeless-Services-Oversight-Council-\(HSOC\).aspx](https://www.slocounty.ca.gov/Departments/Social-Services/Homeless-Services/Homeless-Services-Oversight-Council-(HSOC).aspx)

HOMELESS SERVICES OVERSIGHT COUNCIL

HSOC Meeting

July 15, 2020 1:00 p.m.

Physical Location: Conference Room 1, Department of Social Services, 3563 Empleo St, San Luis Obispo, CA
Members and the public were also able to participate by Zoom call.

MEMBERS PRESENT	MEMBERS ABSENT	STAFF & GUESTS
Amelia Grover Anne Robin Bill Crewe (alt for Paul Worsham) Caroline Hall Devin Drake Grace McIntosh Janna Nichols Jeff Smith (alt for Deanna Cantrell) Jessica Thomas Kristen Barneich Marianne Kennedy Mariam Shah Nicole Bennett (alt for Theresa Scott) Scott Smith Shay Stewart Susan Funk Tim Waag	Adam Hill Bettina Swigger Carlyn Christianson Joe Thompson Marcia Guthrie Mark Lamore Marlys McPherson Steve Martin	Abby Lassen Angela Smith Brandy Graham Cara Vereschagin Carolyn Berg Cory Hanh George Solis Jean Field Jeff Al-Mashat Jessica Lorange Joanna Balsamo-Lilien Ken Triguero Larissa Heeren Laurel Weir Lisa Jouet Nora Breslin Rick Rosen Riley Smith Russ Francis Tara Ozes Tony Navarro Wendy Lewis

AGENDA ITEM		CONCLUSIONS/ACTIONS
1. Call to Order and Introductions	Mariam called the meeting to order.	
2. Public Comment	<p>George passed on a message from the Public Works department, that the Blue Bag program (in which trash bags and personal sharps disposal containers were distributed weekly to encampment residents) was not budgeted in the 2020-21 fiscal budget.</p> <p>Mariam suggested that she could start attending meetings of the Board of Supervisors and providing an update on HSOC's activities during the Public Comment period.</p>	
3. Consent: Approval of Minutes		Janna moved to accept the minutes, seconded by Devin. The minutes were approved with none opposed and no abstentions.
4. Action/Information/Discussion		
4.1. Discussion Item: COVID Updates		
4.1.1. Discussion Item: COVID grant updates, presentation from HomeBase on Technical	Laurel shared that the County has awarded one round of COVID-related grants, and has learned that a second round of ESG-CV (Emergency Solutions Grant – Coronavirus) funding will be made available soon. This	

<p>Assistance for Grant Planning</p>	<p>grant will be approximately \$6 million. Before releasing an RFP (Request for Proposals), the County will be working with Technical Assistance provider HomeBase to look at the best use for this funding.</p> <p>Tara Ozes from HomeBase gave a presentation about the technical assistance that HomeBase would be providing. She explained that the California Department of Housing and Community Development (HCD) has authorized HomeBase to support communities implementing new COVID-related funding, which are facing new challenges and needs due to the pandemic. HomeBase helps by strategizing use of state funding, providing assistance to service providers, exploring and implementing innovative solutions, updating Coordinated Entry to incorporate COVID-19 considerations, and projecting need and coordinating investment planning.</p> <p>Tara took questions from the Council, and confirmed the following:</p> <ul style="list-style-type: none"> • Discussions around planning are in progress. The end date for this work is the end of 2020, although HCD may allow this to be extended. • This work is a free initiative that HCD created with money that was left over from other funding programs. • HomeBase has a matrix of funding sources and uses of funds, but not one that is specific to SLO County. This will be customized to the County and 	
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	<p>shared at a later date.</p> <ul style="list-style-type: none"> • The goal of this work is to implement long term solutions that will last beyond the pandemic. • Different project activities will run concurrently. • The State is now an active participant in coordinating agreements between hotels and service providers. • HomeBase works with CoCs (Continuums of Care) across the State. Tara can send more information and sign people up to HomeBase's email distribution list if they email tara@homebaseccc.org <p>Tara also shared information about Project Homekey, a new State initiative which will allow for leveraging Project Roomkey agreements with hotels and motels, but is not limited to this. The aim is to support the acquisition and conversion of hotels and motels into Permanent Housing or Bridge Housing. Some of the funding will be set aside for operating buildings once they are acquired, but it is not clear how much will be set aside per community. The NOFA for Project Homekey is due for release later in July.</p> <p>Susan Funk asked about the timing of the second round of HHAP. Laurel responded that the first round of HHAP funding has not been awarded locally yet; this had been planned for Spring but set aside due to COVID. The RFP for HHAP funding may be included in the Planning department's Action Plan grants in September. If the</p>	
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	second round of HHAP funding comes out around the same time, both rounds may be included in the Action Plan RFP.	
4.1.1.1. Discussion Item: Possible special meeting in August	Laurel explained that another RFP for COVID-related funds, including HHAP, may come out in September, so HSOC may want to hold a special meeting in August. The HSOC could give general guidelines to County staff about priorities for the funds. The HSOC members supported having a meeting in August.	
4.1.2. Discussion Item: Safe Parking and other efforts to mitigate spread	<p>Updates were provided on the Safe Parking programs from across the County.</p> <p>Grace shared that CAPSLO's (Community Action Partnership of San Luis Obispo) Safe Parking program is run in collaboration with SLO City. The program is for people who are participating in case management and aims to move them towards self-sufficiency and permanent housing. CAPSLO was approached recently by the County and City of San Luis Obispo about potentially expanding the program.</p> <p>Janna shared that 5CHC (5Cities Homeless Coalition) worked with the EOC (Emergency Operations Center) and County Parks & Recreation to create isolation opportunities, including ten spots at the Coastal Dunes campground in Oceano. This space allowed clients to</p>	

	<p>'shelter at home' in a campsite. 5CHC provided daily meal delivery to people in the campsite. Through this work, 5CHC were able to house ten people and reunify two people with their family in Montana. The EOC opened their own Safe Parking program in the same campground, so the 5CHC site was subsequently moved to ensure separation. 5CHC's program evolved into the Safe Shower program, but this was canceled as part of the County's reopening. Now that the County is returning to lockdown, 5CHC are involved in conversations to restart this program.</p> <p>Caroline shared that Los Osos Cares had been running a Safe Parking program in Los Osos prior to the pandemic. The program was successful in that no additional problems seemed to be created, and did provide a place for a few people for a while. The program ended because the people using the program did not feel safe at the site.</p> <p>Tim shared that he was involved with the Safe Parking program at the Vets Hall, which averaged 22 cars and 28 people per night, and provided food and hygiene supplies as well as helping people with showers. However, this program was ended when the County began reopening.</p> <p>Devin shared that the County has tried to find a way to keep this program going, including considering moving it to the parking lot next to the DSS (Department of</p>	
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	<p>Social Services) building on South Higuera street as a replacement site. However, this plan was met with opposition by neighbors. Devin suggested that any agency wanting to use the space for that purpose, and that would be able to talk to neighboring businesses and to provide security, should reach out to him.</p>	
<p>4.1.3. Discussion Item: Centers for Disease Control Guidance on Preventing Spread of COVID in homeless population</p>	<p>Dr. Rick Rosen from Public Health reported that Public Health is involved in testing efforts in all congregate settings, including congregate homeless shelters and informal encampments. Ideally, people would not be in congregate settings, but as this is not possible, the best measure is to keep cohort groups apart, thereby limiting the spread of infection. CDC guidance states that it is preferable that stable encampments are not disturbed, as people will disperse then return to the encampment, potentially spreading the infection between cohorts.</p> <p>Tim reported that this is the opposite to what has happened in the County, as encampments have been dispersed or threatened with dispersal, causing people to move about to other camps. Dr. Rosen agreed that this is a point of concern and this should be avoided.</p> <p>Laurel suggested that members of HSOC who represent a city can convey this to their cities as a public health concern, and could also be included in the update to the Board of Supervisors.</p> <p>The Council discussed planning for the winter warming</p>	

	<p>centers and creating a Zoom meeting between the current warming center providers.</p> <p>Jeff Al-Mashat reported that ECHO are working towards a solution for the upcoming sweep of the Paso Robles river bed, where there is an encampment of 75-100 people. The sweep has been prompted by the fire several weeks ago, which raised concerns about vegetation in the river bed. The dispersal of people from the river bed would be an opportunity for COVID to spread; last time the City of Paso Robles cleared out the river bed, people moved to encampments in Atascadero. ECHO are facing challenges finding a location for emergency shelter. They are looking at the possibility of acquiring multiple tents so that people can be kept apart while still being afforded shelter.</p>	
<p>4.2. Discussion Item: Public Review Draft of the Housing Element Update (2020-2028) – Airlin Singewald & Cory Hanh</p>	<p>Cory from the Department of Planning & Building (Planning) presented and took questions on the Housing Element Update.</p> <p>The Housing Element is a required element of the County Plan, with the goal of achieving an adequate supply of decent housing for residents of the unincorporated areas in the County. The objective for homelessness is to reduce homelessness and provide housing for people who are homeless or at risk of homelessness. The Housing Element qualifies the County to receive funding from some sources. Over the last year, Planning has been working on updating the</p>	

	<p>Housing Element. The evaluation process allows for stakeholders, members of the public, developers and the County to work together on a plan to serve current and future residents. The current draft includes an inventory of sites which demonstrate that the county has enough land to meet the housing demand.</p> <p>Ken asked if the County is considering By-Right Zoning for sites for low or very low income housing. Cory answered that this is a consideration for reducing regulations and streamlining the process. However, the parcels identified for residential development don't have to be used for this. The aim is to show the State that there is enough zoned land to meet housing needs, not that the sites identified will have to be developed in particular ways.</p>	
5. Committee Reports	<p>Devin reported that the Homeless Services Coordinating Committee has not met since the last full HSOC meeting.</p> <p>Janna reported that the Finance & Data Committee has not met since the last full HSOC meeting.</p> <p>Scott reported that the Housing Committee met. Airlin and Cory from Planning presented on the Housing Element.</p> <p>Mariam reported that the Executive Committee met. One of the main items of discussion was the Blue Bag</p>	

	program not being funded in the new budget.	
6. Future Discussion/Report Items	<ul style="list-style-type: none"> • Special meeting in August to discuss priorities for upcoming funding 	
7. Next Regular Meeting Date: September 16, 2020		
8. Adjournment	Mariam adjourned the meeting at 3:07pm.	

HOMELESS SERVICES OVERSIGHT COUNCIL (HSOC)
ACTION ITEM
August 14, 2020

AGENDA ITEM NUMBER: 4.2.1.

ITEM: Vote to 1) create an Ad Hoc Committee to draft a letter to the Board of Supervisors and County Administrator requesting they undertake steps to prevent evictions for households who are behind on rent due to the economic impact of COVID-19 and identify additional, reasonable public information and outreach the County could take to educate the public about the duration and scope of the current Judicial Council Moratorium; 2) authorize the HSOC Executive Committee to review and send the letter to the Board of Supervisors and County Administrator and other County officials as appropriate; and 3) provide guidance to the Ad Hoc Committee regarding the scope and focus of the letter

ACTION REQUIRED:

Vote to 1) create an Ad Hoc Committee to draft a letter to the Board of Supervisors and County Administrator requesting they undertake steps to prevent evictions for households who are behind on rent due to the economic impact of COVID-19 and identify additional, reasonable public information and outreach the County could take to educate the public about the duration and scope of the current Judicial Council Moratorium; 2) authorize the HSOC Executive Committee to review and send the letter to the Board of Supervisors and County Administrator and other County officials as appropriate; and 3) provide guidance to the Ad Hoc Committee regarding the scope and focus of the letter.

SUMMARY NARRATIVE:

The spread of COVID-19 throughout the country in 2020 has led to significant job losses, both nationally and locally. According to the San Luis Obispo County Workforce Development Board, the countywide unemployment rate in June 2020 was 11.6% -- or 15,600 persons -- compared to a 3% unemployment rate in June 2019.

For those who have lost jobs or who have seen significant decreases in income, it may become harder to pay rent or mortgage and many households have fallen behind on their rent. This has led to a growing number of households at risk of losing their home or apartments. The resulting impact on homelessness may be substantial. A recent analysis by Columbia University economist Brendan O'Flaherty estimated that homelessness may increase nationwide by as much as 40-45% by the end of this year, based on rates of homelessness increase related to unemployment in the prior

recession that occurred from 2007-2009.¹ Applying this formula to San Luis Obispo County indicates as many as 1,000 persons could become newly homeless by the end of the year absent intervention.

Two primary strategies have emerged to reduce homelessness caused by impacts of COVID-19: eviction moratoriums and providing homelessness prevention funding to help low-income families with back payment of rent.

Eviction Moratoriums

Traditionally in California, the process to evict a tenant is regulated by State law and local governments are generally pre-empted from regulating evictions. In March 2020 however, the Governor of California issued Executive Order N-37-20, which provided certain protections against COVID-related evictions in the State of California, and Executive Order N-28-20, which effectively suspended the pre-emption issue and allowed local governments to use their own police powers within certain limits to regulate evictions. The County subsequently issued County Emergency Order and Regulation No. 3, which established certain restrictions on residential and commercial evictions. Both N-37-20 and the County Emergency Order and Regulation No. 3 expired at the end of May 2020, however, the Governor extended Executive Order N-28-20 until September 30, 2020.

On April 6, 2020, the California Judicial Council issued two Emergency Rules pertaining to evictions and judicial orders. Emergency Rule number 1 effectively established a moratorium on most evictions in California, unless the eviction was for the purpose of protecting public health and safety. Emergency Rule number 2 set certain limitations on judicial foreclosures in California. It should be noted that very few residential foreclosures are done judicially so this protection had little to no impact or practical effect on residential foreclosures. The Judicial Council rules were originally set to expire 90 days from the end of the COVID-19 emergency in California.

On August 13, 2020, the Judicial Council amended the expiration date, moving it to September 1, 2020. Absent the extension of the Judicial Council's Emergency Rules or further action by the Governor, evictions in California will be able to proceed in communities that do not have their own eviction moratoriums.

CARES Act Eviction Prevention Assistance

Under the federal Coronavirus Aid, Relief, and Economic Security Act (CARES) Act, supplemental COVID-19 focused funding was provided to entitlement jurisdictions under the Community Development Block Grant (CDBG) and Emergency Solutions Grant (ESG) program. This supplemental funding was referred to as CDBG-CV and ESG-CV funding and could be used for a

¹ Available at <https://community.solutions/analysis-on-unemployment-projects-40-45-increase-in-homelessness-this-year/>. The O'Flaherty analysis assumes an unemployment rate of 16% in the third quarter.

variety of purposes to prevent, prepare and respond to COVID-19. Eligible uses include homelessness prevention funding that can provide back payment of rent owed.

The first tranche of CDBG-CV and ESG-CV funding was awarded in Spring 2020 to the County of San Luis Obispo. A local Request for Proposals was published in Spring 2020 and on June 16, 2020, the County Board of Supervisors awarded \$1,866,156 in CARES Act funding to activities that addressed homelessness, of which \$484,510 was awarded for homelessness prevention, which will serve approximately 76 households.

The County anticipates receiving a second tranche of CARES Act funding for the ESG-CV program, amounting to approximately \$6 million. This funding may be allocated to homelessness prevention and other certain other ESG-eligible activities related to addressing the impacts of COVID, such as Rapid Rehousing assistance for households that have become homeless as a result of COVID, operation of non-congregate shelters and increasing isolation capacity at congregate shelters.

Local Impacts

The economic impacts of the COVID-19 pandemic are resulting in increased calls for assistance to homeless prevention and rental assistance programs. For example, a representative from the Supportive Housing Consortium recently reported that requests for assistance have increased by 300% since the beginning of the year. Local Rapid Rehousing (RRH) programs also note that once persons become homeless due to unemployment, it is difficult to find housing for those persons event until they find other employment because even when RRH programs can provide security deposits and short-term rental assistance, landlords are typically unwilling to rent to persons who do not have a job or other source of steady incomes.

Job losses and income reductions among Housing Choice Voucher holders have also substantially impacted that program, forcing a hold on issuing new vouchers. Without these vouchers, which provide long-term rental subsidies to make housing affordable, it will be even more difficult to help those who become homeless to exit from homelessness.

Recommended Actions

On August 9, 2020, the HSOC Executive Committee met and considered information regarding unemployment rates, the expected upcoming expiration of the Judicial Council's eviction prevention moratorium, and the potential impacts on rates of homelessness should large numbers of evictions proceed.

The Executive Committee discussed possible actions the HSOC could take to support efforts to prevent large scale evictions. The Executive Committee discussed funding that had already been awarded to prevent evictions, but noted that if the persons who are being assisted with back payment of rent are unable to find work, they are likely to need additional help in future months in order to remain housed.

Several members of the Executive Committee also reported a need for more public education about the status and scope of eviction moratorium efforts, noting they were receiving requests from the public who were confused about current rules in effect.

Given the upcoming expiration of the Judicial Council's order in September, the Executive Committee recommended the HSOC vote to create an Ad Hoc Committee to review options to create or extend eviction moratoriums and draft a letter to the Board of Supervisors and the County Administrator requesting they take action to prevent evictions and identifying a small number of recommended steps that could be taken. The Executive Committee also recommended requesting direction from the full HSOC to the Ad Hoc Committee as to key areas of focus for the letter and asking the HSOC to authorize the Executive Committee to review and approve the letter at the next Executive Committee meeting, scheduled for August 19th at 1 p.m.

Possible Areas of Focus for the Letter

The Executive Committee suggested several possible areas of focus for the letter for the HSOC and the Ad Hoc Committee to consider:

- Supporting efforts to extend the eviction moratorium statewide, such as AB1436, which would prevent evictions during the COVID-19 emergency, would give tenants 15 months from the end of the emergency in which to pay back rent, and allow tenants and landlords to make voluntary, written repayment agreements
- Asking the County to implement a local eviction moratorium
- Researching and identifying tax credits or other options implemented by other communities or recommended by economists to alleviate some of the financial impact of the eviction moratorium on landlords
- Asking the County to increase public information efforts to educate renters and landlords about the status and requirements of current eviction moratoriums

BUDGET/FINANCIAL IMPACT:

There would be no financial impact from writing a letter. Should the Board follow the recommendations set forth in the letter, there could be a financial impact to landlords, tenants, nonprofit housing agencies or other entities. The type and extent of the impact would be based on the individual recommendations contained in the final letter.

STAFF COMMENTS:

No additional staff comments.



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue • San Francisco, California 94102-3688

www.courts.ca.gov

CIRCULATING ORDER MEMORANDUM TO THE JUDICIAL COUNCIL

Circulating Order Number: CO-20-13

Title

Civil Practice and Procedure: Emergency
Rules for Unlawful Detainer and Foreclosure
Proceedings in Response to State of
Emergency Related to COVID-19 Pandemic

Rules, Forms, Standards, or Statutes Affected

Amend Cal. Rules of Court, emergency rules
1 and 2

Recommended by

Executive and Planning Committee
Hon. Marsha G. Slough, Chair
Judicial Branch Budget Committee and
Litigation Management Committee
Hon. David M. Rubin, Chair
Judicial Council Technology Committee
Hon. Kyle S. Brodie, Chair
Legislation Committee
Hon. Marla O. Anderson, Chair
Rules Committee
Hon. Harry E. Hull, Jr., Chair

Action Requested

VOTING MEMBERS ONLY: Submit votes
by responding to the transmittal email.

Please Respond By

12:00 p.m. on August 13, 2020

Date of Report

August 11, 2020

Contact

Judicial Council Support
judicialcouncil@jud.ca.gov

Executive Summary

On March 27, 2020, the Governor issued an executive order (N-38-20) giving the Judicial Council of California and the Chief Justice as Chair of the Judicial Council authority to take necessary action to respond to the emergency caused by the COVID-19 pandemic. This authority provided for the adoption of emergency rules of court that otherwise would be inconsistent with statutes concerning civil or criminal practice or procedure.

The Judicial Council, in consultation with the Executive Branch, acted quickly to adopt temporary emergency rules in an effort to balance providing access to justice with protecting the health and safety of the public, litigants, attorneys, court employees, and judicial officers who work in, use and otherwise attend the courts.

- At an emergency remote meeting on March 28, 2020, the Judicial Council took action to extend time periods on hearings and trials and encourage the use of technology in judicial proceedings.
- On April 6, 2020, the council voted remotely to approve 11 temporary emergency rules, including adoption of a COVID-bail schedule, staying eviction and foreclosure proceedings, extending statutes of limitations in civil actions, and extending timeframes for restraining orders. Two additional rules were added relating to electronic service (April 17, 2020) and requests to modify child, spousal, partner, or family support (April 20, 2020).
- On June 10, 2020, the council voted remotely to repeal emergency rule 4 relating to the COVID-bail schedule, returning the authority to set county bail schedules to local trial courts.

The two temporary emergency rules, rules 1 and 2, which are the subject of this report, were adopted on April 6. Emergency rule 1 deals with unlawful detainer actions, more commonly known as “eviction actions,” prohibiting the issuance of summons or entering of defaults in such actions unless the case involves public health and safety issues, and providing that trials be set at least 60 days after a request for trial. Emergency rule 2 addresses judicial foreclosure actions, staying all pending actions other than those involving issues of public health and safety, tolling the statute of limitations on filing such actions, and extending the deadlines for election or exercise of rights relating to such actions.

At the time of the council’s action and for several weeks thereafter, the Legislature was not in session. The council acted with the expectation that legislation to address these statutory issues would follow quickly once the Legislature reconvened. In her statement regarding the temporary emergency authority provided by the Governor, the Chief Justice expressly noted that the judicial branch cannot usurp the responsibility of the other two branches on a long-term basis to deal with the myriad impacts of the pandemic—that it is the duty of the judicial branch to resolve disputes not to legislate.

Two months later, on June 10, the Judicial Council was set to consider amendment of the sunset provisions of emergency rules 1 and 2 to appropriately allow for legislative action on these vital issues affecting tenants and landlords throughout California. However, after hearing from the Governor, legislative leaders, Judicial Council members, and thousands of residents with many different viewpoints, the Chief Justice suspended the vote in order to provide the executive and legislative branches more time to develop appropriate policy proposals and solutions to deal with the potential impacts of evictions and foreclosures during the COVID-19 pandemic.

After an additional six weeks, on July 24, during a regularly scheduled remote business meeting of the Judicial Council, the Chief Justice advised that the Judicial Council would once again vote on amending Emergency Rules 1 and 2. In stating her intent to call for a vote, the Chief Justice noted that the remedies sought for all the affected parties on unlawful detainer actions and judicial foreclosures are best left to the legislative and executive branches of government for open and transparent opportunities to be heard and for permanent measures and permanent solutions.

Because Governor Gavin Newsom and the Legislature are working on legislation relating to unlawful detainer actions and foreclosures, and to ensure the absolute integrity and fairness of the court system as an independent arbiter of law in the adjudication of unlawful detainer and judicial foreclosure cases, the chairs of the Judicial Council's six internal committees propose that the council amend emergency rules 1 and 2 to sunset on September 1, 2020.

Recommendation

The chairs of the Judicial Council's six internal committees recommend that the Judicial Council, effective immediately, amend California Rules of Court:

- Emergency rule 1, to provide that the rule will remain in effect through September 1, 2020; and
- Emergency rule 2, to remove the tolling provision, because the tolling of all civil causes of action is addressed in emergency rule 9, and to provide that the remainder of the rule will remain in effect through September 1, 2020.

The proposed amendments to the rules are attached at pages 7–8.

Relevant Previous Council Action

On March 27, 2020, the Governor issued an executive order¹ giving the Judicial Council of California and the Chief Justice as chair of the Judicial Council authority to take necessary action to respond to the state of emergency related to the COVID-19 pandemic, including adopting emergency rules that otherwise would be inconsistent with statutes concerning civil or criminal practice or procedure.

The Governor's order also suspended statutes to the extent that they would be inconsistent with such emergency rules. At the time of this order and for several weeks thereafter, the Legislature was not in session. Under that order, the council adopted emergency rules 1–11 on April 6, 2020.

Among those rules, the Judicial Council adopted emergency rule 1, which prevents courts from issuing summons on unlawful detainer complaints or issuing defaults in such actions, unless the plaintiff can show the need to proceed on public health and safety grounds; and continues trials in any unlawful detainer actions for at least 60 days, with no new trials to be set until at least 60

¹ Executive Order N-38-20, www.gov.ca.gov/wp-content/uploads/2020/03/3.27.20-N-38-20.pdf.

days after a request for trial is filed. The council also adopted emergency rule 2, staying all judicial foreclosure actions brought under Code of Civil Procedure section 725a et seq., tolling the statute of limitation for such actions, and extending all deadlines of electing or exercising any rights related to such action. By their terms, both emergency rules 1 and 2 were to remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted.

Analysis/Rationale

Background

The COVID-19 pandemic and state of emergency

On March 4, 2020, Governor Gavin Newsom proclaimed a state of emergency in California as a result of the COVID-19 pandemic.² On March 19, 2020, Governor Newsom issued a statewide shelter-in-place order³ with limited exceptions for emergency and essential critical infrastructure services. The courts were included in this category. In addition, several counties issued local shelter-in-place orders that were more restrictive than the statewide order issued by the Governor.

On March 16, 2020, the Governor issued an executive order authorizing local governments to halt evictions for renters affected by the pandemic. The authorization originally was to expire on May 31, 2020,⁴ but has now been extended and will expire on September 30, 2020.⁵

Current Rules

At the time emergency rules 1 and 2 were adopted, Californians were being ordered to stay at home to protect public health and safety. The Judicial Council adopted the emergency rules as part of its efforts to balance providing access to justice with ensuring the health and safety of the public, court employees, attorneys, litigants, and judicial officers. At the time, the Legislature was not in session to address these issues, but it has subsequently reconvened. Additionally, courts have put in place health and safety protocols for access to courthouses and expanded the use of remote technology solutions.

The Proposal

This proposal will immediately amend emergency rules 1 and 2 to modify the time period in which they will remain in effect through September 1, 2020, with some other amendments, as described below.⁶

² State of Emergency proclamation, www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf.

³ Executive Order N-33-20, <https://covid19.ca.gov/img/Executive-Order-N-33-20.pdf>.

⁴ Executive Order N-28-20, www.gov.ca.gov/wp-content/uploads/2020/03/3.16.20-Executive-Order.pdf.)

⁵ Executive Order N-66-20, www.gov.ca.gov/wp-content/uploads/2020/05/5.29.20-EO-N-66-20.pdf.

⁶ This change is consistent with the temporary nature of the emergency rules. The Judicial Council will continue to review the applicability of each of these rules, including adjustment of the sunset of individual rules, as the state's response to the pandemic changes and courts continue to resume operations.

Proposed amendments to emergency rule 1

Emergency rule 1 prevents courts from issuing summons on unlawful detainer complaints or issuing defaults in such actions, unless the plaintiff can show the need to proceed on public health and safety grounds, and continues trials in any pending unlawful detainer actions for at least 60 days, with no new trials to be set until at least 60 days after a request for trial is filed. At the time emergency rule 1 was adopted, its effective period was pegged to the state of emergency (plus 90 days) because of the uncertainty of when courts would be able to resume operations and parties could begin to connect with each other again. Courts continue to find ways to operate despite the existence of COVID-19, including using remote technology in many situations.

Therefore, the Judicial Council's internal committee chairs recommend that the rule sunset on September 1, 2020. (Cal. Rules of Court, emergency rule 1(e).) The change in the sunset date means that as of September 2, 2020, unless the Legislature has enacted law providing otherwise, courts will once again be authorized to issue summons on all unlawful detainer actions, enter defaults and issue writs of execution when appropriate, and set trial dates on request, subject to Code of Civil Procedure section 1170.5.

Although the rule will sunset on September 1, the amendments provide that any trial dates that have been set as of that date under the rule (and so set at least 60 days after the request for trial) are to remain set, unless a court orders otherwise. In other words, cases with trial dates that have been set under the rule do not become immediately subject to the trial-setting provisions of Code of Civil Procedure section 1170.5. Without this amendment, having to reset all such trial dates at once could cause confusion in unlawful detainer departments.

Proposed amendments to emergency rule 2

Emergency rule 2 applies to actions for judicial foreclosures brought under Code of Civil Procedure section 725a et seq. The rule generally stays all such actions currently pending in a court, tolls the statute of limitations for filing such an action, and extends the deadlines for exercising or electing any rights related to such actions. The internal committee chairs propose amendments to two provisions in this rule.

The first amendment affects the end of the period during which the rule applies, changing it from the end of the state of emergency period (plus 90 days) to September 1, 2020, for many of the reasons discussed above in relation to the unlawful detainer actions. Thus, after September 1, stays on pending judicial foreclosure actions will be lifted and any deadlines in such actions will no longer be deferred.

The second amendment deletes paragraph (2) from the rule, which tolls all statutes of limitations for bringing judicial foreclosure actions. This provision is unnecessary because emergency rule 9 tolls statutes of limitations for *all* civil causes of action. Having a separate tolling provision in rule 2 could raise questions as to whether this provision is in some way different from the tolling provision in rule 9, when it is not. The intent behind this amendment is noted in the new advisory committee comment to rule 2.

Policy implications

Emergency rules 1 and 2 were adopted at a point in the state of emergency regarding the COVID-19 pandemic when most courts were unable to handle nonurgent civil matters. Just as state and local governments are loosening shelter-in-place orders and monitoring the reopening of businesses and resumption of activities, courts have been and are now resuming court operations, often using remote technology, and finding ways to continue to provide important services. Placing an end date on these rules reflects the progress of the judicial branch in moving forward and providing access to justice to more parties.

To the extent provisions are needed to protect the homes or commercial properties of those whose income or businesses have been lost or diminished due to the COVID-19 pandemic, the Legislature is in session again and working on such issues.

Comments

This proposal to change the sunset dates of emergency rules 1 and 2 has not been circulated for comment. These rules were intended to be temporary and, now that the Legislature is considering these areas of the law, the chairs concluded that to cede the balancing of the substantive policy to the consideration of the Legislature was appropriate.

Alternatives considered

The chairs of the internal committees considered leaving these rules as originally adopted, tied to the end of the state of emergency. However, given the length of time for which the formal state of emergency may be in place, the state's changing responses to the pandemic, the efforts of courts to resume operations, and the Legislature's current consideration of statutory changes, the chairs decided that an adjustment of the sunset of these rules was appropriate.

Fiscal and Operational Impacts

The sunset of these two rules could have a significant impact on court operations, which have had a very limited number of new unlawful detainer and judicial foreclosure filings to process and adjudicate since the rules were adopted on April 6. The impact may be mitigated somewhat if bills currently under consideration by the Legislature are enacted as urgency legislation. But, if not, the return to adjudicating these types of cases could present some challenges to courts as they continue their efforts to provide access to justice during this pandemic.

Attachments and Links

1. Cal. Rules of Court, emergency rules 1 and 2, at pages 7–8
2. Voting instructions, at page 9
3. Vote and signature pages, at pages 10–11

Emergency rules 1 and 2 of the California Rules of Court are amended, effective immediately, to read:

Emergency rule 1. Unlawful detainers

~~(a)–(c)~~ * * *

(d) Time for trial

If a defendant has appeared in the action, the court may not set a trial date earlier than 60 days after a request for trial is made unless the court finds that an earlier trial date is necessary to protect public health and safety. Any trial set in an unlawful detainer proceeding as of April 6, 2020 must be continued at least 60 days from the initial date of trial.

(e) Sunset of rule

This rule will remain in effect until through September 1, 2020, 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the Judicial Council. Notwithstanding Code of Civil Procedure section 1170.5 and this subdivision, any trial date set under (d) as of September 1, 2020, will remain as set unless a court otherwise orders.

Emergency rule 2. Judicial foreclosures—suspension of actions

Notwithstanding any other law, this rule applies to any action for foreclosure on a mortgage or deed of trust brought under chapter 1, title 10, of part 2 of the Code of Civil Procedure, beginning at section 725a, including any action for a deficiency judgment, and provides that, until through September 1, 2020, 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until this rule is amended or repealed by the Judicial Council:

(1) All such actions are stayed, and the court may take no action and issue no decisions or judgments unless the court finds that action is required to further the public health and safety.

~~(2) Any statute of limitations for filing such an action is tolled.~~

~~(3)~~(2) The period for electing or exercising any rights under that chapter, including exercising any right of redemption from a foreclosure sale or petitioning the court in relation to such a right, is extended.

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Advisory Committee Comment

The provision for tolling any applicable statute of limitations, in prior subdivision (2), has been removed as unnecessary because the tolling provisions in emergency rule 9 apply to actions subject to this rule.

Instructions for Review and Action by Circulating Order

Voting members

- Please reply to the email message with “I approve,” “I disapprove,” or “I abstain” by Thursday, August 13, 2020 at 12:00 p.m.
- If you are unable to reply by Thursday August 13, 2020 at 12:00 p.m., please do so as soon as possible thereafter.

Advisory members

The circulating order is being emailed to you for your information only. There is no need to sign or return any documents.

CIRCULATING ORDER
Judicial Council of California
Voting and Signature Pages

Effective immediately, the Judicial Council amends California Rules of Court, emergency Rules 1 and 2.

My vote is as follows:

☐ Approve

☐ Disapprove

☐ Abstain

Tani G. Cantil-Sakauye, Chair

Marla O. Anderson

Richard Bloom

C. Todd Bottke

Stacy Boulware Eurie

Kyle S. Brodie

Ming W. Chin

Jonathan B. Conklin

Samuel K. Feng

Brad R. Hill

Rachel W. Hill

Harold W. Hopp

Harry E. Hull, Jr.

Hannah-Beth Jackson

My vote is as follows:

☐ Approve

☐ Disapprove

☐ Abstain

Patrick M. Kelly

Dalila Corral Lyons

Gretchen Nelson

Maxwell V. Pritt

David M. Rubin

Marsha G. Slough

Eric C. Taylor

Date: _____

Attest:

Administrative Director and
Secretary of the Judicial Council

HOMELESS SERVICES OVERSIGHT COUNCIL
ACTION ITEM
August 14, 2020

AGENDA ITEM NUMBER: 4.3.1

ITEM: Vote to 1) prioritize CESH 2019 CESH funds be prioritized for Coordinated Entry and to support operations of permanent housing or provide shallow rental subsidies for permanent housing for formerly homeless persons; and 2) to recommend up to \$40,000 of unobligated CESH 2018 funds be used for updating the Ten Year Plan to End Homelessness

ACTION REQUIRED: Vote to 1) prioritize CESH 2019 funds for Coordinated Entry and to support operations of permanent housing or provide shallow rental subsidies for permanent housing for formerly homeless persons; and 2) to recommend up to \$40,000 of unobligated CESH 2018 funds be used for updating the Ten Year Plan to End Homelessness.

SUMMARY NARRATIVE:

The County has been awarded \$412,874 in 2019 California Emergency Solutions and Housing (CESH) program and \$727,047 in 2018 CESH funds from the State of California to address homelessness. CESH was authorized by California Senate Bill 850 (SB850) and signed into law by Governor Jerry Brown in June 2018. Although split into two awards by the State, CESH was authorized one-time program and funds will not be renewed in future years.

CESH is administered by the California Department of Housing and Community Development (HCD) and funded by revenues deposited in the Building Homes and Jobs Act Trust Fund (Trust Fund), created by Senate Bill 2. On August 15, 2018, HCD release a Notice of Funding Availability for 2018 CESH program funds. This first Notice of Funding Availability was funded from a portion of the first and second quarters of revenue deposited in the Trust Fund, and approximately \$25 million in unallocated California Emergency Solutions Grant (ESG) funds.

CESH may be not be used for capital projects, but may otherwise fund a broad variety of activities to support efforts to address homelessness. Eligible activities include:

- 1) Rental assistance, housing relocation, and stabilization services to ensure housing affordability to individuals experiencing homelessness or who are at risk of homelessness.
- 2) Operating subsidies in the form of 15-year capitalized operating reserves for new and existing affordable permanent housing units for homeless individuals and/or families.

- 3) Flexible housing subsidy funds for local programs that establish or support the provision of rental subsidies in permanent housing to assist homeless individuals and families.
- 4) Operating support for emergency housing interventions including, but not limited to, the following:
 - a. Navigation centers that provide temporary room and board and case managers who work to connect homeless individuals and families to income, public benefits, health services, permanent housing, or other shelter.
 - b. Street outreach services to connect unsheltered homeless individuals and families to temporary or permanent housing.
 - c. Shelter diversion, including, but not limited to, homelessness prevention activities to connect individuals and families to alternate housing arrangements, services, and financial assistance.
- 5) Systems support for activities necessary to maintain a comprehensive homeless services and housing delivery system, including Coordinated Entry System (CES) data, and Homeless Management Information System (HMIS) reporting, and homelessness planning activities.
- 6) Development or update of a CES, if the CoC does not have a system in place that meets the applicable HUD requirements.
- 7) Development of a plan addressing actions to be taken within the CoC service area if no such plan exists. If an applicant requests funding to develop a plan, the applicant shall submit the plan to HCD prior to the expiration of the contract executed with HCD.

Staff submitted an application to HCD for the CESH Program on October 15, 2018. The County received an award letter from HCD on January 11, 2019, for a total of \$727,047 in 2018 CESH funding. Five percent of the total allocation, or \$36,352 will be set aside for administration of the CESH Program. CESH funds are one time only and must be expended within five years of the award. A total of \$540,695 was awarded through a local Request for Proposals process to a collaborative partnership of the Community Action Partnership of San Luis Obispo (CAPSLO), the El Camino Homeless Organization (ECHO) and the 5Cities Homeless Coalition to expand and strengthen their Coordinated Entry program.

In addition to the amount awarded above, a total of \$150,000 was set aside from the 2018 CESH funding for possible migration of the County's Homeless Management Information System to another platform. In 2019 staff began research on alternatives and building a scope of work, working towards a planned Request for Proposals in the Spring of 2020. However, due to the onset of COVID, the U.S. Department of Housing and Urban Development announced that it will no longer provide technical support for HMIS migrations from one vendor to another during the current year and possibly in 2021. HCD requires that CESH funds be obligated by January 11, 2021. The HSOC Finance and Data Committee met in August 2020 and discussed the 2018 CESH funds and recommended that a portion of the funds be reallocated to updating the County's Ten Year Plan to End

Homelessness and that the remaining funds be used to upgrade the County's existing HMIS.

A second round of CESH funding was announced in 2019 and on October 7, 2019. The County was awarded \$412,874, of which \$20,643 is reserved for grant administration and \$392,231 will be available for awards to subrecipients. The County is preparing to release a Request for Proposals for the 2019 CESH funds next month and is seeking guidance from the HSOC on priorities for the funding. The HSOC Executive Committee held a Special meeting on August 9, 2020 and recommended prioritizing funding for continuing the expansion of Coordinated Entry and for capitalized operating subsidies.

BUDGET/FINANCIAL IMPACT:

Making recommendations will help determine how \$392,231 in 2019 CESH funds may be awarded, but are not final. After the Request for Proposals is issued for these funds, award recommendations will be brought back to the HSOC and then brought to the Board of Supervisors for final approval.

STAFF COMMENTS:

Staff recommend adoption of the recommendation.