

A resolution by Supervisors Taylor, Shea, and Nicholson, calling upon the Governor of Wisconsin to suspend tenancy termination and related late fees, and the United States Federal Government to forgive outstanding rent and mortgage payments during the period of COVID-19 emergency, and prohibit the accumulation of debt for property owners and renters based on a financial hardship due to the pandemic, by recommending adoption of the following:

AN AMENDED RESOLUTION

WHEREAS, the novel coronavirus, Severe Acute Respiratory Syndrome-CoronaVirus-2/Coronavirus disease (COVID-19), an influenza-like respiratory virus, emerged in China in December 2019, and has caused a global pandemic, killing thousands and infecting millions more; and

WHEREAS, amidst growing evidence of a public health crisis, State of Wisconsin (the State) Governor Evers (the Governor) declared a public health emergency on March 12, 2020, which was also the date of the first known COVID-19 diagnosis in Milwaukee County (the County); and

WHEREAS, the County Executive declared a local public health emergency due to COVID-19 on March 13, 2020; and

WHEREAS, on March 17, 2020, County municipalities including the Cities and Villages of Milwaukee, Bayside, Brown Deer, Cudahy, Fox Point, Glendale, River Hills, Shorewood, South Milwaukee, St. Francis, and Whitefish Bay restricted food and beverage sales within their borders, affecting many low wage workers; and

WHEREAS, from approximately March 15 to 23, 2020, the *Milwaukee Journal Sentinel* reported in a March 24, 2020, article that in nine days, 101,400 Wisconsinites filed unemployment claims, in large part due to pandemic-related business closures, indicating the severity at which many Wisconsinites are unable to earn income, and therefore pay living necessities including rent or mortgages; and

WHEREAS, those eligible for unemployment insurance receive only a fraction of their normal income, and many workers may not be eligible for unemployment benefits, and the Federal Reserve found in its May 2019, "*Report on the Economic Well-Being of U.S. Households in 2018*," that approximately 40 percent of Americans did not have the cash on hand to cover an emergency expense of only \$400; and

WHEREAS, on March 27, 2020, the Governor issued his fifteenth State-wide emergency order, which has for 60 days banned eviction proceedings on the basis of failure to pay rent, and banned mortgage foreclosures or sheriffs' real estate sales; and

WHEREAS, on March 27, 2020, the United States Congress passed and the President signed into law the Coronavirus Aid, Relief, and Economic Security Act, which granted \$1,200 to most adult Americans, and among other things, for properties financed with Federally-backed mortgages, imposed moratoria on foreclosures and evictions, and permitted forbearance on the following:

- One to Four-Family Properties:
 - Foreclosure moratorium for at least 60 days.
 - Forbearance based on financial hardship for 60 days, with four possible 30-day extensions.
- Multi-family properties:
 - Forbearance for 30 days, with two possible 30-day extensions.
 - Borrower may not evict or initiate tenant eviction for non-payment.
- General temporary moratorium on eviction filings for 120 days:
 - Single-family properties with Federally-backed mortgages.
 - Multi-family properties with Federally-backed mortgages in forbearance.
 - Most single and multi-family properties, which receive financial assistance, including tax credit projects, Violence against Women Act properties, projects receiving HOME Investment Partnerships Program and Housing Opportunities for Persons With Acquired Immune Deficiency Syndrome dollars.

; and

WHEREAS, on April 1, 2020, the Governor proposed draft legislation Legislative Reference Bureau 5920, which if passed into law, among other things, would waive interest and penalties on delinquent property taxes for the “2019 payable 2020 tax roll, on and after April 1, 2020;” and

WHEREAS, on May 13, 2020, a majority of the State Supreme Court in Case No. 2020AP765-OA, *Wisconsin Legislature v. Secretary-Designee Andrea Palm*, determined Secretary-Designee Palm’s April 16, 2020, order exceeded her authority under Section 252.02, Wisconsin State Statutes (State Statutes), and immediately terminated Emergency Order 28 extending the “Safer at Home Order”, ending any Statewide response to the COVID-19 Pandemic; a decision which Supreme Court Justice Brian Hagedorn dissented as, “[W]e are threatening the very constitutional structure and protections we have sworn to uphold”, and Supreme Court Justice Rebecca Dallet further dissented, “The majority reaches its conclusion by torturing the plain language of [the statute] and completely disregarding the long-standing, broad statutory powers the Legislature granted to the Department of Health Services (DHS) to control COVID-19...”; and

90 **WHEREAS, on May 20, 2020, the Governor announced a \$25 million**
91 **Wisconsin Rental Assistance Program for Wisconsinites which would grant**
92 **eligible applicants with a household income at or below 80 percent of a county**
93 **median income to receive assistance up to \$3,000, in a combination of rental**
94 **payments and/or security deposits, paid directly to the landlord on behalf of the**
95 **tenant; and**
96
97

98 WHEREAS, late fees ought to be reasonably related to damages incurred by
99 landlords, and not be punitively excessive, but during the COVID-19 pandemic
100 emergency, any form of late fee can be excessive; and
101

102 WHEREAS, Section 704.17(2)(a), State Statutes, stipulates, "If a tenant under a
103 lease term of one year or less, or a year-to-year tenant, fails to pay any installment of
104 rent when due, the tenant's tenancy is terminated if the landlord gives the tenant notice
105 requiring the tenant to pay rent or vacate on or before a date of at least 5 days after the
106 giving of the notice and if the tenant fails to pay accordingly. If a tenant has been given
107 such a notice and has paid the rent on or before the specified date, or been permitted
108 by the landlord to remain in possession contrary to such notice, and if within one year of
109 any prior default in payment of rent for which notice was given the tenant fails to pay a
110 subsequent installment of rent on time, the tenant's tenancy is terminated if the landlord,
111 while the tenant is in default in payment of rent, gives the tenant notice to vacate on or
112 before a date of at least 14 days after giving of the notice;" and
113

114 WHEREAS, Section 134.09(7), Wisconsin Administrative Code of Agriculture,
115 Trade, and Consumer Protection states, "No landlord may exclude, forcibly evict or
116 constructively evict a tenant from a dwelling unit, other than by an eviction procedure
117 specified under ch. 799 Stats.", therefore making it illegal for a landlord to coerce
118 tenants into leaving the premises by for example, shutting off utilities, removing doors,
119 or changing locks; and
120

121 WHEREAS, permitting mortgage forbearance and suspending eviction
122 proceedings are positive steps, but the poorest Americans cannot afford to incur
123 additional debt toward mortgage or rent payments based on income lost at no fault of
124 their own; and
125

126 WHEREAS, the Committee on Intergovernmental Relations, at its meeting of
127 May 20, 2020, recommended adoption of File No. 20-301 as amended (vote 4-0);
128 now, therefore,
129

130 BE IT RESOLVED, the Milwaukee County Board of Supervisors (County Board)
131 hereby calls upon the United States Federal Government to build upon current
132 emergency orders and the Coronavirus Aid, Relief, and Economic Security Act to
133 forgive outstanding rent or mortgage payments for the duration of the pandemic
134 emergency, and prevent the accumulation of additional debt to property owners or
135 renters by forgiving all mortgage and rent payments throughout the duration of the
136 Severe Acute Respiratory Syndrome-CoronaVirus-2/Coronavirus disease pandemic;
137 and

138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157

~~BE IT FURTHER RESOLVED, the County Board hereby calls upon the Governor of Wisconsin (the Governor) to suspend Section 704.17, Wisconsin State Statutes, relating to landlord issuance of tenancy termination notices, and render unenforceable the ability for landlords to charge late fees, for the duration of the emergency period of the COVID-19 pandemic; and~~

BE IT FURTHER RESOLVED, Milwaukee County (the County) hereby supports and endorses the Wisconsin Rental Assistance Program (W.R.A.P.) announced on May 20, 2020, by Wisconsin Governor Evers (the Governor) to help the many Wisconsin families in need; and

BE IT FURTHER RESOLVED, the County Board hereby requests Governmental Affairs staff provide this resolution to the Governor, the President of the United States, and all Federal elected officials who represent any part of Milwaukee County.

kae
05/20/20
s:\committees\2020\may\igr\resolutions\20-301 suspend tenancy termination.docx