



Quality Housing • Ethics • Professionalism



April 29, 2020

The Honorable Gavin Newsom
Governor, State of California
California State Capitol, 1st Floor
Sacramento, CA 95814

RE: COVID-19 - Task Force on Business and Jobs Recovery

Dear Governor Newsom:

On behalf of the members of the California Apartment Association (CAA), I want to start by commending you for your leadership during this crisis. The COVID-19 pandemic has dramatically changed the way we live as we all strive to slow the spread of this novel virus. The measures taken in response to this pandemic have been necessary and swift, but as you know, they have been devastating for many individuals and businesses.

Recognizing that we are in unprecedented times, CAA has urged its members – and all rental housing providers – to act with compassion toward residents who face coronavirus-related hardships. CAA has asked rental housing providers to follow [CAA's Safe at Home Guidelines](#),¹ which include freezing rents, not issuing rent increases, and working with tenants who cannot pay the rent. Housing providers throughout the state have voluntarily taken up the call.

We know that rental property owners and tenants are anxious to get back to work. As you begin the process of considering strategies to restart the economy, we submit the following rental housing-specific recommendations for consideration by you and your Task Force on Business and Jobs Recovery:

Support Legislation and a Budget Appropriation that Provides Dollars for Tenants to Pay a Portion of the Rent – CAA is working with Legislators to bring to you a bill that, with the help of a budget appropriation, will help tenants pay their rent. Unfortunately, federal stimulus dollars only provide one-time, limited assistance to individuals and families,² and unemployment insurance payments are either insufficient to meet individuals' expenses, unavailable for some types of workers, or have been delayed as EDD has ramped up to meet and implement the new Pandemic Unemployment Assistance Program.³

At the same time, a large percentage of rental property owners do not qualify for federal grants or stimulus programs. According to Small Business Administration (SBA) rules and the federal rules implementing the Paycheck Protection Program, the SBA does not provide money to "passive businesses," which is the category under which smaller rental housing providers fall.⁴ We very much appreciate the work you have done to obtain an agreement with some banks to provide a 90-day forbearance of mortgage payments for properties with 1 to 4 units. We also appreciate the assistance provided under the federal CARES Act for mortgages owned or guaranteed by a federal agency.

¹ www.caanet.org/caa-unveils-safe-at-home-guidelines-in-response-to-covid-19/

² Subject to certain income phase outs, individuals can a single payment of up to \$1,200 plus an additional \$500 per child under the age of 17.

³ Patrick McGreevy, "California unemployment call center still struggling to process claims," *San Diego Union-Tribune* (4/20/20). Greg Iacurci, "Some gig workers are getting \$0 in unemployment benefits," *CNBC* (4/24/20), found at www.cnn.com/2020/04/24/some-gig-workers-are-getting-0-in-unemployment-benefits.html.

⁴ See 13 CFR § 120.110; 85 Fed. Reg. at 20812.

Unfortunately, those agreements only extend to some small property owners in the state. The midsize owners, affordable housing providers, and those who fall under strict forms of rent control face challenges with mortgage payments and other expenses including payments to their maintenance and on-site employees. At the same time, you have probably seen the campaigns by extreme tenant groups calling for all tenants to withhold their rent – even if they can afford to pay. We ask that you publicly condemn these inappropriate actions and that you approve an appropriation to help those tenants who are truly in need.

Open the Courts – Local laws and your Executive Orders have made clear that tenants cannot be evicted for nonpayment of rent when nonpayment is related to a COVID-19 hardship. The courts have gone even further, and on April 6, the Judicial Council adopted Emergency Rule 1, closing the doors to litigants in unlawful detainer actions. A rule as sweeping as Emergency Rule 1 may have been appropriate as a very short-term measure, but the Judicial Council has made Emergency Rule 1 effective for the unforeseeable future. We ask that you call for a more finely tuned rule. A narrowly tailored approach could serve the legitimate concerns the Rule was designed to address while balancing the equally legitimate needs of responsible housing providers and the tenants who live at their property. CAA offered recommendations for the Judicial Council to consider, which included plaintiff declarations regarding tenants' entitlement to relief under your March 27 Executive Order, the suspension of clerk judgments, and a simplified process for tenants to set aside judgments.⁵

To be clear, rental housing providers do not get into this business in order to evict tenants, but eviction is, unfortunately, a necessary – and often singular – tool for addressing the most disruptive situations faced by rental housing providers. Without the ability to legally and peacefully regain possession of property, rental housing providers will be powerless to combat many of the problems they and their tenants face at their property during a time when it is more important than ever for Californians to have a safe place to call home.

Make Clear that Construction of Rental Housing must Continue - Some local jurisdictions have halted construction of rental housing unless there is a percentage of affordable units at the site. Unfortunately, local jurisdictions, especially in the Bay Area, have failed to make clear why this distinction has been made, especially in cases where rental housing construction is in the final stages and will bring hundreds of new units on-line at a time when those units are desperately needed for all levels of income. As you know, we face a significant housing shortage and COVID-19 has not changed our housing situation. In fact, it has made it clear that more units are desperately needed to address overcrowding and to ensure people can comfortably work from home or easily commute to their place of work.

Construction of housing projects should continue to be allowed regardless of whether they contain dedicated affordable units on-site. It is critical that housing units of all types and for all income levels continue to move forward if we hope to achieve California's goal of producing 3.5-million new homes in the coming years.

⁵ www.caanet.org/app/uploads/2020/04/Judicial-Council-letter-Final-Letter-With-Attachments.pdf

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Make Clear that Rental Housing is an Essential Industry – Rental property owners have a duty under existing law to maintain their property. We ask that you make clear the importance of property maintenance and owners' response to tenants when it comes to repairs and maintenance. Fearing liability and violation of stay at home orders, rental property owners have been reluctant to continue basic levels of service at their property. The Occupational Safety and Health Administration, the U.S. Department of Health and Human Services (HHS), as well as the Center for Disease Control (CDC) have all issued guidance for individuals and employers when it comes to preparing the workplace for COVID-19. If employing the guidelines, rental property owners and their employees should be encouraged to continue services at their property.

Again, Make Clear that Rent Is Delayed Not Forgiven – We know and appreciate that you previously made public statements that tenants must pay their rent when they can and that owners should work with those tenants who cannot pay the rent. We have worked to promote that ideal. Unfortunately, extreme tenant groups are calling on ALL tenants to not pay their rent even if they have the means to do so. These actions are extremely detrimental to the overall operations at rental property. This affects not only the owners of rental property, but their employees and vendors who rely on these jobs to feed their families and pay for their own housing and healthcare. Please make clear that these political maneuvers are not positive and are, in fact, deceptive, harming owners, workers, and tenants in the long run.

The California Apartment Association is the largest statewide rental housing trade association in the country, representing over 50,000 single family and multi-family apartment owners and property managers who are responsible for over 2 million affordable and market-rate rental units throughout the State of California. Thank you for your consideration.

Sincerely,

CALIFORNIA APARTMENT ASSOCIATION

A handwritten signature in blue ink that reads "Thomas K. Bannon". The signature is fluid and cursive, with the first name "Thomas" and last name "Bannon" clearly legible.

By
Thomas K. Bannon, CEO

cc: Governor's Task Force on Business and Jobs Recovery