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June 23, 2022

To: San Rafael City Council Members, City Attorney, and City Clerk

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Re: June 21, 2022 Ordinance Extending Eviction Moratorium

Dear Ladies and Gentlemen:

I write on behalf of my client Marie Farley to request clarification of the misguided ordinance adopted on June 21, 2022.

Ms. Farley owns a residential property at [REDACTED] San Rafael. Her tenant stopped paying rent in March 2020. Ms. Farley continued to pay the mortgage, all utilities, taxes, and insurance. Ms. Farley could not evict the tenant because of statewide eviction moratoriums so she applied for rental assistance under the Marin County Rental Assistance Program - which required her to accept reduced rent. Ms. Farley's initial application was accepted and in September 2021 she received approximately \$18,000 in rental assistance. Still the tenant continued to pay no rent. Ms. Farley again applied for rental assistance. Her second application was likewise approved and in May 2022 she received another \$14,000. As of the end of March 2022, after receipt of the two assistance payments, Ms. Farley had sustained a net loss of \$52,500. Still the tenant continues to pay no rent. [We are of the belief that the tenant's claim of impact from COVID-19 is dubious.]

The County Rental Assistance Program advised Ms. Farley that, having received payment for two approved applications, [REDACTED] is ineligible for further rental assistance.

As you may know, state eviction moratoriums were extended depending on the status of applications for rental assistance under local programs. Basically, a tenant could not be evicted when a local rental assistance application was pending. But once the application is approved and paid, if the tenant continues to pay no rent the state eviction moratorium does not apply and eviction may proceed. In any event, statewide eviction moratoriums expressly do not apply to rent for periods after March 31, 2022. In reliance

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on the crystal clear state law, on June 17, 2022 Ms. Farley served her tenant with a three day notice demanding rent for April, May, and June 2022.

At the writing of this letter I was unable to obtain the text of the City ordinance adopted on June 21, 2022. According to newspaper articles, the City simply adopted a County ordinance passed by the Board of Supervisors earlier the same day. I will assume that is so – I hope I am wrong. The text of County ordinance seems to say in section (1) a. that an eviction notice served before September 30, 2022, must state that the tenant cannot be evicted if the tenant submits a COVID-19 declaration. The County ordinance at section (1) b. says that a landlord who received a COVID-19 declaration can never evict the tenant for nonpayment of rent owed after April 1, 2022. The ordinance at section (1) c. seems to state that while the tenant can be sued for the unpaid rent, the tenant can never be evicted for failure to pay rent. Strangely, the County ordinance makes no express mention of applications for rental assistance.

Where does this leave Ms. Farley?

Following state law in good faith, Ms. Farley applied for and eventually received rental assistance and did not evict the tenant. In doing so she lost \$52,000. The tenant owes another \$7,600 in rent for April, May, and June 2022. Now that the rental assistance has come to an end for this property, must Ms. Farley continue to allow the tenant to remain in the premises rent free forever while Ms. Farley pays the mortgage, utilities, taxes, and insurance?

I respectfully and strongly recommend that the June 21 ordinance not apply to rent due after March 31, 2022 unless there is a pending application for rental assistance. Otherwise the ordinance is totally unfair to small time landlords like Ms. Farley who adhere in good faith to the requirements of state law and who depend on rental income for their survival. I will be pleased to suggest appropriate language if you wish.

I await your response.

Very truly yours,

Burton C. Allyn, IV

cc Marie Farley

BCA/ms