

April 24, 2020

Hon. Judge Veronica Henry, Chief Judge, First City Court
Hon. Judge E. “Teena” Anderson-Trahan, Chief Judge, Second City Court
Hon. Judge Monique Morial, Judge, First City Court
Hon. Judge Nadine Ramsey, Judge Pro Tempore, First City Court
First and Second City Clerks of Court Austin Badon and Darren Lombard
First and Second City Court Constables Lambert Boissiere, Jr. and Edwin Shorty, Jr.

First City Court
421 Loyola Avenue, Room 201
New Orleans, LA70122

Second City Court
225 Morgan Street
New Orleans, LA 70114

By Electronic Mail

Re: Request to Align First and Second City Eviction Court Procedures with the CARES Act Protections

Dear Honorable Judges, Clerks, and Constables,

Thank you for so quickly responding to the grave threat that eviction and homelessness pose during this pandemic and closing eviction court on March 13th. Your actions and deep experience responding to disasters made New Orleans a public health leader throughout the country. We write today to ask you to continue your leadership in responding to this crisis by committing to align the reopening of eviction courts with the deadlines established in the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act.

Our reality has changed rapidly over the past month and deadlines and suspensions have moved with it. The initial closure of court was to last until April 24th. It was then moved back to April 13th to align with the Governor’s first emergency order, but then in short notice it was extended to April 30th. Mayor LaToya Cantrell has now extended our local stay-at-home order until May 16th. And while the Governor has not done the same yet, he did recently mention that based on White House guidelines, Louisiana would not be among the first states to reopen.

As you know, the federal CARES Act also offers new protections to many renters. Covered renters include those who live in nearly all properties that participate in federal subsidy programs (including the properties that participate in the Housing Choice Voucher or “Section 8” program, public housing, Low Income Housing Tax Credit properties, Permanent Supportive Housing etc.), as well as renters who live in properties with federally backed mortgages. The CARES Act forbids owners of these properties from filing an eviction for nonpayment, charging late fees, or issuing a notice to vacate for any reason until July 25th. It also requires all notices to vacate to

provide 30 days before filing for eviction, which effectively prohibits eviction filings until August 24th.¹

For so many of our residents who have lost income and jobs and who were late on April rent, these protections are absolutely necessary to create some certainty and breathing room to apply for assistance and put a plan together to begin catching up on essential bills. This is especially true given that the early phases of reopening our city may still leave out many of the hospitality workers who are the backbone of our economy. Even if hotels, restaurants, and bars were to be fully staffed this summer, we would be reopening at precisely the slowest part of the season. Workers will have missed the most lucrative part of their year and will continue to struggle to catch up on back rent.

So while an eviction moratorium is key to protecting our majority-renter city, the CARES Act protections are somewhat incomplete and impractical. The eviction moratorium in the Act covers a tremendous amount of people, but it's obvious these protections should be universal. Based on federal databases we estimate it covers at least—and likely significantly more than—48% of all renters in New Orleans. The 48% only represents renters in buildings with five or more units covered by the Act as well as units that accept Housing Choice Vouchers (HCV).^{2,3} The real number is likely to be significantly higher because this doesn't include rentals in doubles, triples, and quads with federally backed mortgages and because the Act covers “any property that participates in” programs like the HCV program, suggesting that all units in a property that accepts HCVs are covered even if they are not all directly subsidized.⁴

Though it covers so many people, the protections are profoundly impractical because it is virtually impossible for a renter to look up their landlord's mortgage to see if it is owned by Fannie Mae or Freddie Mac, or otherwise federally-backed. While this data is publicly available for larger multifamily buildings it is still hidden in databases that are largely unknown to anyone but affordable housing practitioners and advocates. For renters who live in smaller buildings, the information is entirely unavailable because looking it up requires the last four digits of the property owners' social security number.

With Louisiana's economy recently ranked as the number one most exposed to fallout from the coronavirus, we desperately need a uniform policy that will provide some clarity and certainty to

¹ Coronavirus Aid, Relief, and Economic Security (CARES) Act, §4024 Temporary Moratorium on Eviction Filings, page 574-578.

² Federal databases for Fannie Mae, Freddie Mac, Low Income Housing Tax Credits, HUD Multifamily Loans, HUD Public Housing, and USDA loans suggest that roughly 25,000 units in multifamily buildings in New Orleans are covered by CARES Act protections. HANO also has 18,049 Housing Choice Vouchers, though some portion of them are being used in buildings already covered by their funding stream (LIHTC) or mortgage status. National estimates suggest that 12.9% of Housing Choice Vouchers are used in LIHTC buildings (see second footnote) and LIHTC buildings make up slightly more than half of the 25,000 covered multifamily units. Therefore, we should expect 24.9% of HCVs to be used in already covered properties, or 4,485 vouchers. That leaves 13,564 HCVs not accounted for. Taken together, these estimated 38,092 covered units are 48% of the 80,122 total renter-occupied units reported by the 2018 American Community Survey, 1 year estimates.

³ Climaco, Carissa, Meryl Finkel, Bulbul, Kaul, Ken Lam, Chris Roger. 2009. “Updating the Low-Income Housing Tax Credit (LIHTC) Database: Projects Placed in Service Through 2006.” Washington, DC: US Department of Housing and Urban Development, Office of Policy Development and Research.

⁴ CARES Act, pg. 575

renters and landlords.⁵ Though the federal government's COVID-19 response has been inconsistent, we have the ability step up at the local level and provide the protections our community needs.

A policy that extends the closure of eviction court to August 24th would also reduce the confusion and additional paperwork sure to ensue from allowing many landlords who are likely covered by the CARES Act to file evictions before the deadline. This seems particularly important, given that eviction cases before your courts are likely to disproportionately come from CARES Act-covered properties. Preliminary data from Jane Place Neighborhood Sustainability Initiative's Eviction Court Monitoring project shows that over 12 days of monitoring in the fall of 2019, the largest volume of cases came from six complexes, all of which were covered by the CARES Act.⁶

Should closure not be extended, in order to comply with the CARES Act, the Court will need to do individual research on each property where an eviction is filed to ensure that the property is not federally subsidized or subject to a federally-backed mortgage. In the alternative, courts will need to require landlords to provide documentation or certification that they are not covered by the CARES Act and potentially provide attorneys for all tenants to ensure the protections are being honored. This will create an enormous administrative burden for the courts until the CARES Act protections expire. Therefore we ask you to continue your leadership in responding to this crisis and simplify this process by extending the CARES Act protections to all residents through a closure of eviction courts until August 24th.

Thank you in advance for your review of this request and please let us know if you have any questions. Please direct any questions to Maxwell Ciardullo at (504) 708-8172 or mciardullo@lafairhousing.org. We look forward to hearing your decision soon given the rapidly escalating nature of the crisis.

Sincerely,

504HealthNet
American Civil Liberties Union of Louisiana
Broad Community Connections
Crescent City Community Land Trust
Disability Rights Louisiana
European Dissent
Greater New Orleans Caring Collective
Greater New Orleans Housing Alliance
Greater New Orleans Louis A. Martinet Legal Society
HousingNOLA

⁵ McCann, Andrew. "State Economies Most Exposed to Coronavirus." WalletHub, wallethub.com/edu/state-economies-most-exposed-to-coronavirus/72631/. Accessed 31 March 2020.

⁶ Those properties include Bienville Basin, Harmony Oaks, and Columbia Parc (all covered because of their status as public housing developments or participation in the Low Income Housing Tax Credit program) and Laguna Creek, Lagune Reserve, and Laguna Run (all covered because of their Fannie Mae-owned multifamily mortgages).

Institute of Women and Ethnic Studies
Jane Place Neighborhood Sustainability Initiative
Jewish Voice for Peace—New Orleans
Justice and Accountability Center of Louisiana
Lang Law LLC
Louisiana Budget Project
Louisiana Center for Children’s Rights
Louisiana Fair Housing Action Center
Louisiana Public Health Institute
Lower 9th Ward Homeownership Association
Music and Culture Coalition of New Orleans
New Orleans Family Justice Center
New Orleans Renters Rights Assembly
Orleans Public Defenders
Power Coalition for Equity and Justice
Puentes New Orleans
Ride New Orleans
Southeast Louisiana Legal Services
Southern Poverty Law Center
Step Up Louisiana
Tulane/Canal Neighborhood Development Corporation
United Way of Southeast Louisiana
UNITY of Greater New Orleans
VOTE
Women with a Vision

cc:

Mayor LaToya Cantrell
New Orleans City Councilmembers