



TACOMA HOUSING AUTHORITY

RESOLUTION 2020-10-28 (5)

Date: October 28, 2020

To: THA Board of Commissioners

From: Michael Mirra
Executive Director

Re: Continued Moratorium on Time Limit End of Participation Program Exits

This resolution would continue through December 31, 2021 the temporary suspension of the time limits on the assistance available through some of THA's rental assistance programs.

Background

THA has four tenant-based rental assistance programs that have time limits:

- Housing Opportunity Program (HOP)
- College Housing Assistance Program (CHAP)
- Child Housing Opportunity Program (CHOP)
- Family Unification Program for Youth (FUP-Y)

In June 2020, THA noted that COVID-19 and the resulting economic crisis was severely afflicting participants in these programs. This meant particularly grievous harm would result from loss of rental assistance because of the expiration of a time limit. The resulting displacement and perhaps homelessness would also pose public health risks. In response, THA suspended time limits through December 31, 2020. THA did this through an executive director's Executive Action, which the Board allowed the executive director to take without Board approval as an emergency response to the pandemic. The executive director did this with Executive Action 12.

This pandemic has now gone on much longer than expected with no true end in sight. This resolution seeks Board approval to revise the June Executive Action 12 to extend the time limit suspension through December 31, 2021. The executive director would memorialize the extension in an Executive Action 12.1. A copy is attached.

Below is a summary of what this resolution will do:

- THA will continue paying housing assistance payments (HAP) for households beyond their normal time limit through December 31, 2021.

- This applies to the Housing Opportunity Program (HOP), Child Housing Opportunity Program (CHOP) and tenant-based College Housing Assistance Program (CHAP). This applies to the Family Unification Program Youth (FUPY) as permissible by Housing and Urban Development (HUD) waivers.
- THA's final HAP payment for these extended households will be December 1, 2021.

About 70 households will benefit by remaining on their time-limited subsidies longer than originally allowed. This extension will not cost THA most money. Indeed, it will spare THA administrative work associated with transitioning participants off our programs and adding new ones. The main burden from this extension of the time-limits will fall on the households on THA's waiting lists waiting their turn to receive rental assistance. They will wait longer.

NOTE: While this resolution is based on the economic and housing needs that have resulted from the COVID-19 pandemic, staff have been analyzing the efficacy of time-limits on our Housing Opportunity Program (HOP). The Board will see this evaluation before the end of 2020. That evaluation may have us recommended longer term changes to that program.

Recommendation

Authorize THA's Executive Director to revise and implement the COVID-19 Executive Action 12.1 allowing for a continued moratorium on time limit-driven program exits through December 31, 2021.



TACOMA HOUSING AUTHORITY

RESOLUTION 2020-10-28 (5)

(Continued Moratorium on Time Limit End of Participation Program Exits)

WHEREAS, THA has four time-limited rental assistance programs: Housing Opportunity Program (HOP), Child Housing Opportunity Program (CHOP), tenant-based College Housing Assistance Program (CHAP) and Family Unification Program Youth (FUPY); and

WHEREAS, Each time-limited program has participants scheduled to reach the end of their program participation before December 31, 2021; and

WHEREAS, Program participants have been significantly impacted by the COVID-19 pandemic and need to receive rental assistance through 2021; now, therefore, be it

Resolved by the Board of Commissioners of the Housing Authority of the City Of Tacoma, Washington, that:

THA's Executive Director is authorized to revise and implement the COVID-19 Executive Action 12.1 allowing for a continued moratorium on time limit-driven program exits through December 31, 2021.

Approved: October 28, 2020


Stanley Rumbaugh, Chair



**Tacoma
Housing
Authority**

Executive Director
Michael Mirra

Board of Commissioners
Stanley Rumbaugh, Chair | Shennetta Smith, Vice Chair
Dr. Minh-Anh Hodge | Derek Young | Pastor Michael Purter

From: THA Staff
Date: October 28, 2020
Subject: Executive Emergency Action 12.1: Superseding Prior Actions re Residential and Commercial Tenant Rents, Rent Adjustments & Program Documentation, and Time Limits.

THA Board Resolution 2020-03-18(1) allows the Executive Director (or his designee) to take emergency actions during the COVID-19 pandemic that he deems necessary to ensure continued operations of Tacoma Housing Authority (THA) while protecting its employees, clients, vendors, partners and the community as a whole. The Board expressly authorized this Executive Action 12.1 by its Resolution 2020-10-28(5).

The purpose of this Executive Action is to update THA's policies to comply with state proclamations and to account for federal requirements detailed in the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The authorizations granted in this Executive Action supersede the following previous Executive Actions:

- Executive Action 3: Residential and Commercial Tenant Rent (Fees and Notices)
- Executive Action 11: Entering into Rent Repayment Plans with Commercial Tenants
- Executive Action 5: Emergency Coronavirus Hardship: Easing Rent Adjustments and Program Documentation
- Executive Action 9: A Moratorium on Time Limits for Voucher Participants
- Executive Action 12: Superseding Prior Actions

**1. TEMPORARY STATE & FEDERAL DIRECTIVES AND LAWS COVERING
EVICTIONS & RENT INCREASES**

This Executive Action seeks to comply with the following state and federal directives and laws:

1.1 State of Washington: Governor's Emergency Proclamation 20-19.2

As a response to the pandemic, the Governor of the State of Washington, exercising his emergency powers, issued Proclamation 20-19.2. It imposed and extended a moratorium on residential evictions and other housing related practices. A copy of Proclamation 20-19.2 is attached. Among other directives, it imposes the following restrictions and requirements until 11:59 PM on August 1, 2020:

- “Landlords, property owners, and property managers are prohibited from serving or enforcing, or threatening to serve or enforce, any notice requiring a resident to vacate any dwelling or parcel of land occupied as a dwelling, including but not limited to an eviction notice, notice to pay or vacate, notice of unlawful detainer, notice of termination of rental, or notice to comply or vacate. This prohibition applies to tenancies or other housing arrangements that have expired or that will expire during the effective period of this Proclamation. This prohibition applies unless the landlord, property owner, or property manager (a) attaches an affidavit attesting that the action is necessary to respond to a significant and immediate risk to the health, safety, or property of others created by the resident; or (b) provides at least 60 days’ written notice of intent to (i) personally occupy the premises as a primary residence, or (ii) sell the property.”
- Landlords may not assess late fees for nonpayment or late payment of rent during the State of Emergency;
- “Except as provided in this paragraph, landlords, property owners, and property managers are prohibited from treating any unpaid rent or other charges related to a dwelling or parcel of land occupied as a dwelling as an enforceable debt or obligation that is owing or collectable, where such non-payment was as a result of the COVID-19 outbreak and occurred on or after February 29, 2020, and during the State of Emergency proclaimed in all counties in Washington State. This includes attempts to collect, or threats to collect, through a agency, by filing an unlawful detainer or other judicial action, withholding any portion of a security deposit, billing or invoicing, reporting to credit bureaus, or by any other means. This prohibition does not apply to a landlord, property owner, or property manager who demonstrates by a preponderance of the evidence to a court that the resident was offered, and refused or failed to comply with, a re-payment plan that was reasonable based on the individual financial, health, and other circumstances of that resident; failure to provide a reasonable re-payment plan shall be a defense to any lawsuit or other attempts to collect.” (emphasis in original).
- Landlords may not increase rent for residential tenants.
- Landlords may not increase rent for commercial tenants (if impacted by the pandemic). This prohibition does not apply to commercial rental property if rent increases were included in an existing lease agreement that was executed prior to February 29, 2020.

1.2 Federal Law: The Coronavirus Aid, Relief, and Economic Security Act

The Coronavirus Aid, Relief, and Economic Security Act or the CARES Act imposed a federal eviction moratorium for participants in rental programs covered by VAWA (34 U.S.C. § 12491(a)). This includes all of THA's program participants. The federal eviction moratorium took effect on March 27, 2020 and extends for 120 days, until July 21, 2020.

The eviction moratorium restricts landlords during this period from filing new eviction actions for non-payment of rent, and also prohibits "charging fees, penalties, or other charges to the tenant related to such nonpayment of rent." Sec. 4024(b). The federal moratorium also provides that a landlord may not evict a tenant after the moratorium expires except on 30 days' notice—which may not be given until after the moratorium period.

The federal eviction moratorium does not prohibit evictions:

- that were filed before the moratorium took effect or that are filed after it sunsets;
- that involve non-covered tenancies;
- where the eviction is based on another reason besides either nonpayment of rent or nonpayment of other fees or charges.

2. EXECUTIVE ACTION

During the duration of the state and federal directives and laws, THA will do or not do the following:

2.1 Residential and Commercial Tenant Rent (Fees and Notices)

- THA waives all late fees for unpaid rent that became due after February 29, 2020.
- THA will not issue any termination notices based upon the nonpayment of rent that became due after February 29, 2020. All unpaid rent remains owing.

2.2 Commercial Tenants: Rent Repayment Plans

- Rents remain due and continue to accrue. THA will attempt to work with its commercial tenants who are experiencing rent hardships due to business closure or loss of income resulting from the pandemic and who have contacted their respective property management companies or THA staff seeking relief.

- THA will enter into repayment agreements with its commercial tenants to add a portion of the total outstanding rent to the future rent due under the lease.
- The portion to be deferred, the due date of the first payment and the duration of the repayment agreement will depend on the amount owing, the remaining lease term, and the tenant's financial capacity and ability to remain open or re-open under the Governor's directives.
- The repayment term agreement may not last beyond the shorter of the expiration of the lease term or five (5) years.

2.3 Residential Tenants: Rent Repayment Plans

- Rents and other charges not waived remain due and continue to accrue.
- Property Management shall use its regular protocol for repayment agreements to govern arrearages in rent and other charges not waived. That protocol directs the terms of the repayment agreements, including the eligibility criteria, amounts to be paid and schedule, and duration of the agreement.
- THA may seek to terminate a tenancy for failure to comply with a repayment agreement.

2.4 Residential Tenants and Rental Assistance Clients: Emergency Coronavirus Hardship Adjustments to Ease Rent and Program Documentation Requirements

The temporary rent and HAP adjustments permitted by Executive Action 5 will expire. THA will not pay hardship adjustments beyond August 1, 2020. This means THA will not process hardship adjustments beyond July 20th. Instead, eligible tenants and clients suffering a loss of income may seek rent relief through THA's normal change of circumstance policies, with the following changes to make it easier to get the adjustment:

- THA's normal change of circumstance policies require THA to reduce an eligible household's share of the rent only when they report an income loss greater than 20%. THA will waive the 20% rule and will process changes of any amount.
- THA will permit clients and tenants to self-certify income loss.
- For purposes of determining eligibility, rent subsidy levels and other elements of the program, THA will waive the requirement for clients to immediately furnish documentation provided by third parties. Such

documentation includes government issued identification, Social Security Numbers and documentation of eligibility for unemployment benefits.

2.5 Residential Tenants: Prohibition on Most Evictions

- THA will not serve any notice to terminate a tenancy for nonpayment of rent or other charge, unless it is for a failure to comply with a repayment agreement.
- THA will not serve any notice to terminate a tenancy or seek a writ of restitution for others reasons unless the eviction is necessary to respond to a significant and immediate risk to the health, safety, or property of others created by the resident. In such a case, the notice must attach an affidavit attesting to this necessity. Staff will confer with THA's attorneys to discuss and prepare such a notice and affidavit.

3. RENTAL ASSISTANCE CLIENTS: CONTINUED MORATORIUM ON TIME LIMITS

- THA will continue paying housing assistance payments (HAP) for households beyond their normal time limit expiration date to December 31, 2021. This applies to the following programs:
 - Housing Opportunity Program;
 - Child Housing Opportunity Program;
 - Family Unification Program Youth;
 - College Housing Assistance Program.
- THA's Final HAP payment for these extended households will be December 1, 2021.

This policy change is effective immediately and until further notice.