

CITY COUNCIL COMMUNICATION



MEETING DATE: September 29, 2020

ITEM NUMBER: 6.B

SECOND READING:

{{customfields.ResoOrdNumber}}

TYPE OF ITEM: Study Session

PRESENTED BY:

Karen Roney, Community Services Admin, Karen.Roney@longmontcolorado.gov

SUBJECT/AGENDA TITLE:

Temporary Prohibition of Rental Late Fees Due to COVID 19-Related Hardships

EXECUTIVE SUMMARY:

Earlier this year, the City and County of Broomfield adopted an ordinance that temporarily prohibited property owners from charging additional fees to tenants who are late with their rental payments due to COVID-related hardships. City Council directed staff to bring forward a similar ordinance for consideration. A draft ordinance is attached for Council review and direction, with the intent to bring back an ordinance on first reading for October 13, 2020, if directed to do so.

In brief, the draft ordinance mostly replicates Broomfield's ordinance; the following is a summary of Longmont's draft ordinance:

- Temporarily prohibits property owners from assessing fees for late rental payment due to a COVID 19-related hardship
- Suggests documentation that residents can use to establish hardship
- Prohibition ends with the expiration of the CDC Eviction Moratorium Order, which is currently set for December 31, 2020 unless extended, modified or rescinded, or when the Governor rescinds the declaration of a disaster emergency related to COVID-19 in the state of Colorado, whichever occurs first
- Penalty under this section shall be by fine only (suggested up to \$500)

Staff recommended a fine only, rather than default penalties for violation of Chapter 10 because this new section constitutes government intervention in a private contract. Staff would welcome input on proposed penalties or any other aspect of the draft ordinance.

Because of the short turn-around time to bring this proposed ordinance before City Council, staff wanted to note that this draft ordinance was prepared without further investigation into the extent of this problem for Longmont tenants, nor with input from Longmont property owners, tenants and other interested parties. Without this input and additional analysis, staff is concerned about unintended consequences associated with this draft ordinance. For example, staff is aware that some property owners are now requiring two month's rent up



front, in addition to a security deposit, as a result of extra costs they may now need to carry as a result of COVID 19 restrictions. As an option to prohibiting late fees in COVID cases, Council could consider a broader look at late fees as a form of liquidated damages for the additional expenses of the property owner, but place a cap on those fees. For example, late fees can be no more than 3% of the rent amount, and cannot be assessed until five days after the date rent is due (in other words, mandating a grace period and an opportunity for communication and resolution). This strategy recognizes that property owners (housing providers) and tenants both need to be able to thrive.

In addition, Governor Polis has appointed a new temporary task force within the Department of Local Affairs (DOLA) to examine housing instability due to COVID-19 in Colorado. The Special Eviction Prevention Task Force will work in partnership with the Division of Housing's Strategic Housing Working Group. The task force will present its findings and recommendations to the Executive Director of DOLA and to the Governor within thirty days of its first meeting, which means recommendations will be ready by mid-October. Some of the ideas being discussed thus far include: requiring property owners to provide information on available assistance at first missed payment; requiring property owners to apply for Property Owner Preservation assistance before they can evict for non-payment; and ensure all court materials are accessible to persons with limited English proficiency and persons with disabilities. As of this writing, restrictions regarding late fees has not yet been discussed, but staff understands that discussion is likely. There is value in addressing housing stability from a longer-term, comprehensive perspective: if not at the statewide, then at a countywide level. If each jurisdiction has its own rules and enforcement, it becomes much more complicated and difficult for all to navigate.

COUNCIL OPTIONS:

1. Provide staff direction about how to proceed.

RECOMMENDED OPTIONS:

Review draft ordinance, provide input to staff, and provide direction to staff about whether or not to proceed with introducing the ordinance on first reading.

FISCAL IMPACT & FUND SOURCE FOR RECOMMENDED ACTION:

To be determined.

BACKGROUND AND ISSUE ANALYSIS:

ATTACHMENTS:

Att 1 - Draft ordinance

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