

Adopted
06/09/20
Brotman/Kassakhian
Noes: Devine
Abstain: Najarian

RESOLUTION NO. 20-82

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GLENDALE,
CALIFORNIA, MODIFYING A PRIOR RESOLUTION ISSUING PUBLIC ORDERS
RELATING TO A MORATORIUM ON COMMERCIAL EVICTIONS UNDER THE CITY
OF GLENDALE EMERGENCY AUTHORITY REGARDING COVID-19; AND FOR
OTHER RELATED AND LAWFUL PURPOSES**

Whereas, international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by the Coronavirus Disease 2019 (COVID-19), a severe acute respiratory illness caused by a novel (new) coronavirus. Symptoms of the virus include fever, cough, and shortness of breath, and infected individuals have experienced a range of outcomes, from mild sickness to severe illness and death; and

Whereas, on March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for broader spread of COVID-19; and

Whereas, on March 4, 2020, the Los Angeles County Board of Supervisors and the Department of Public Health declared a local and public health emergency in response to increased spread of coronavirus across the country; and

Whereas, on March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

Whereas, on March 16, 2020, the City Council of the City of Glendale, pursuant to Glendale Municipal Code Chapter 2.84, declared the existence of a local emergency and ordered the closure of and limitation of access to certain public establishments; and

Whereas, on March 18, 2020, the Director of Emergency Services issued Public Order No. 3, which imposed a moratorium prohibiting the eviction of any residential and commercial tenant who is unable to pay rent due to a COVID-19 related reason, and such Order on March 24, 2020, was amended, ratified and extended by the City Council and added a 14-day written notice provision on the eviction moratorium; and

Whereas, on March 27, 2020, the Governor's issued an Executive Order (N-37-20), which extends the time for a residential tenant to respond to an eviction complaint if the tenant notifies the landlord in writing either before the rent is due or no later than seven days after it is due that the tenant is unable to pay the rent because of COVID-19. Under the Governor's Order, the tenant is only required to provide the landlord documentation of the COVID-19 related reason at the time of payment of back due rent, which has the legal effect of superseding the City's 14-day written notice requirement; and

Whereas, on April 6, 2020, the California Judicial Council (CJC)– the administrative authority over state courts – issued an emergency order prohibiting the issuance of a summons for an eviction action until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, unless the eviction

is necessary for health and safety and also continued any then-existing cases by at least 60 days; and

Whereas, on April 8, 2020, the Director of Emergency Services issued Public Order No. 6, which amended the Eviction Moratorium Orders by making them subject to the Governor's Executive Order on residential evictions and the California Judicial Council's order delaying eviction proceedings and also prohibiting landlords from charging or collecting late charges, fees, or interest on unpaid rent, or engaging in any harassing behavior in an attempt to collect deferred rent; and

Whereas, on April 14, 2020, the City Council by Resolution No. 20-41, ratified and expanded Public Order No 6 by extending the payback period on the Eviction Moratorium from 6 months to 12 months and extended the public order the Eviction Moratorium until May 31, 2020.

Whereas, such conditions of peril continue to exist, and necessitate extending the expiration deadlines of prior resolutions and public orders and adopt additional protections for the preservation of public health and safety.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GLENDALE THAT:

SECTION 1. The Emergency Public Order imposing a moratorium on commercial evictions, as authorized by Public Order No. 3, and as extended and amended by Resolution No. 20-33, Public Order No. 6, and Resolution Nos. 20-41, 20-54 and 20-61 (collectively, the "Prior Commercial Eviction Order"), is hereby amended as follows:

- A. For purposes of the Order Imposition a Commercial Eviction Moratorium, a Qualifying Commercial Tenant means a business that: Employed 99 or fewer employees in the city of Glendale as of March 16, 2020, or: Is a Formula Business.
- B. For purposes of the Order Imposition a Commercial Eviction Moratorium. For purposes of this Order, a Non-Qualifying Commercial Tenant means a business that: (i) employed 100 or more employees in the city of Glendale as of March 16, 2020, or: Is a Formula Business.
- C. As used in this Order, "Formula Business" means a type of business, such as a restaurant or retail chain, that has eleven or more locations in operation, or with local land use or permit entitlements already approved, located anywhere in the world. In addition to eleven establishments either in operation or with local land use or permit entitlements approved for operation, a Formula Business maintains two or more the following features: a standardized array of merchandise, a standardized façade, a standardized décor and color scheme, uniform apparel, standardized signage, a trademark or a service mark.

SECTION 2. If any provision of this Public Order or its application is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions, sections, or applications of the Orders or this Resolution which can be given effect without the invalid provision or application, and to this end each phrase, section, sentence, or word is declared to be severable.

SECTION 3. Any violation of the above Public Orders may be referred to the Office of the City Attorney for prosecution under Glendale Municipal Code Chapter 1.20, which provides for fines not to exceed \$1,000 or imprisonment not to exceed six months. Each individual officer should use his/her discretion in enforcing this order and always keep the intent of the order in mind. Violations may also be enforced by the provisions of Glendale Municipal Code Chapter 1.24, which shall provide, along with other enforcement mechanisms set forth therein, for fines of \$400 for the first citation, \$1,000 for the second citation, and \$2,000 for the third citation.

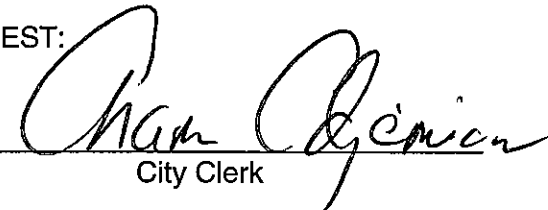
SECTION 4. This Resolution and the corresponding orders do not supersede any stricter limitation imposed by the County of Los Angeles or the State of California.

Adopted by the Council of the City of Glendale on this 9th day of June, 2020.



Mayor

ATTEST:

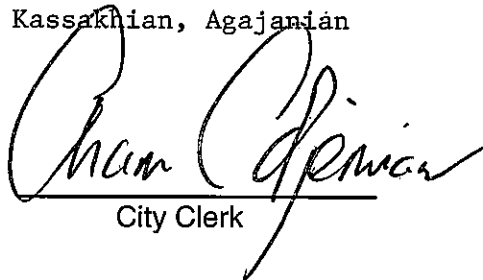


City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF GLENDALE) SS.

I, Aram Adjemian, City Clerk of the City of Glendale, hereby certify that the foregoing Resolution No. 20-82 was adopted by the Council of the City of Glendale, California, at a special meeting held on the 9th day of June, 2020, and that the same was adopted by the following vote:

Ayes: Brotman, Kassakhian, Agajanian
Noes: Devine
Absent: None
Abstain: Najarian



City Clerk

APPROVED AS TO FORM



CITY ATTORNEY

DATE 6/30/2020



**CITY OF GLENDALE, CALIFORNIA
REPORT TO THE CITY COUNCIL**

AGENDA ITEM

Report: Reconsideration of Requirement That Commercial Tenants Have Less Than Five Locations To Be Eligible for Six-Month Repayment Period Under the Commercial Eviction Moratorium

1. Resolution Amending Commercial Eviction Moratorium

COUNCIL ACTION

Item Type: Action Item

Approved for June 9, 2020 calendar

ADMINISTRATIVE ACTION

Submitted by:

Michael J. Garcia, City Attorney
Philip S. Lanzafame, Director of Community Development

Prepared by:

Michael J. Garcia, City Attorney
Philip S. Lanzafame, Director of Community Development

Reviewed by:

Michele Flynn, Director of Finance
Roubik R. Golanian, P.E., Assistant City Manager
Michael J. Garcia, City Attorney

Approved by:

Yasmin K. Beers, City Manager

RECOMMENDATION

That Council consider amending the Commercial Eviction Moratorium relative to the requirement that commercial tenants have less than 5 locations or offices in order to be eligible for the longer rent repayment period of six (6) months.

BACKGROUND/ANALYSIS

After the Council adoption of the revised Commercial Eviction Moratorium at the June 2, 2020 meeting that provides that business with 5 or more locations are not eligible for the longer six-month repayment period, the Mayor, Councilmembers, City Manager and staff received additional feedback from business owners. In consultation with the Mayor, the City Manager has placed this matter on the agenda for further consideration.

In adopting a policy on Tenant Evictions related to the Corona virus emergency, Council sought to give relief on the repayment of rent to small business that may not have the resources to weather the loss of income over a prolonged period of time by granting them a six-month "safe harbor" to repay rent. This would allow small business to negotiate rent repayment arrangements and or look for commercial financing to fund back-rent and reopening costs. Conversely, larger companies would be expected to use existing reserve resources to make landlords whole by beginning to pay back-rent as soon as the emergency was over; the policy calls for a large business in arrears to repay at least 33% of the amount owed each month to be fully repaid in three months.

In adopting this policy, Council sought to give advantage where it was needed and expect surplus to be used to meet exiting obligations as a means to balance fairness between commercial tenants and landlords. In determining the division of those that need help and those that can weather the storm, Council set standards based on whether the company was publically traded, the number of employees it had in Glendale and the total number of locations in one ownership. It was determined that five or more locations reflected a large company that was presumed to have sufficient reserves to meet its current obligations and remain viable going forward through recovery.

Following Council's adoption of those standards, staff has learned of several local mid-sized companies that have more than five locations but as a single entity, do not have sufficient reserves to use on current obligations; this is the nature of low margin businesses, especially those in the food service industry (restaurants). These narrow margins are exacerbated when the ownership entity remains a corporate entity and commits to a minimum living wage standard, salaried employees, health care for all employees and other benefits associated with corporate employment. Oftentimes, operators are compelled to open multiple units in close proximity to gain economies of scale among more units, not because they have too much cash on hand but rather in

order to preserve the level of benefits and salaries they provide. To maintain this level of compensation during an emergency such as COVID-19 can be devastating when there is no income for an extended period of time. In the current case, the civil unrest that has plagued our nation intensifies the situation forcing business to remain closed when they otherwise may have been able to start reopening. For those located in a mall or other multi-tenant property, they have little control over their ability to operate outside of limitations placed on their business by others. If the property ownership is a Real Estate Investment Trust (REIT) or other large corporate entity, they may have a weak or non-existent relationship with their landlord, especially if that entity is located out of the region.

There are many examples of mid-sized companies in Glendale that are family-owned, long-time tenants that do not have sufficient reserves to meet their current obligations in a relatively short period of time. The concern is those entities would be forced to close and either replaced by untried independent owners or national chain, credit tenants eroding the uniqueness of local retailers, restaurants and businesses. In the food industry where this situation is probably most prevalent, mid-sized Glendale businesses include:

- Massis Kabob (6 locations)
- DeSantis Restaurant Concepts (formerly the Original Pete's Pizza)(7 locations)
- Zankou Chicken (8 locations)
- Stone Oven (8 locations)
- Porto's Bakery (5 locations)

An example of the application of Glendale's order can be demonstrated using Massis Kabob. Massis Kabob is one of the first retail/food tenants of the Glendale Galleria establishing in the early 1970s. They have remained a constant in the mall for almost 50 years where they currently employ 30-40 people and have a current rent of \$40,000 per month. With their success has come growth, albeit modest, into other locations. The privately owned parent corporation, International Grill, is owned and controlled by three family members. Given their expansion over the years, Glendale's order categorizes them as a large business with the presumed ability to meet their current obligations and remain viable into the future. Those obligations include \$40,000 per month in rent, ongoing salaries of six managers and benefits for its 135+ total employees. In a four-month period of time (July - October), Massis would have to have surplus cash reserves of at least \$500,000 to expend in those four months just to meet their Glendale obligations with rent being the biggest expense. If they experienced some variation of this in all six locations, they would need cash reserves of \$2-\$3M just to reopen and

operate through the next quarter. As a low-margin business, Massis Kabob does not have that kind of cash reserve resource with which to operate.

If it is the Council's wish to revise its order to also provide some protection to these mid-sized businesses, staff would suggest either modifying the number-of-locations requirement to a higher number such as 11 or more, or remove it altogether. If the Council desires to keep the number-of-location requirements, staff also advises to exclude businesses that are "formula" or chain business such as chain restaurants or retailers as follows: "Formula business means a type of business, such as a restaurant or retail chain, that has eleven or more locations in operation, or with local land use or permit entitlements already approved, located anywhere in the world. In addition to having eleven or more locations either in operation or with local land use or permit entitlements approved for operation, a formula business maintains two or more of the following features: a standardized array of merchandise, a standardized façade, a standardized décor and color scheme, uniform apparel, standardized signage, a trademark or a service mark."

FISCAL IMPACT

There is no fiscal impact associated with this item.

ALTERNATIVES

1. The Council could amend the Commercial Eviction Moratorium by amending or removing the requirement that commercial tenants have fewer than five offices or locations to be eligible for the moratorium's 6-month repayment period.
2. The Council could choose not to amend the moratorium.
3. The Council could choose another alternative not selected by staff.

CAMPAIGN DISCLOSURE

N/A.

EXHIBITS

1. None