

Multifamily Muddle

RESIDENTIAL: Landlords say new rules promote lawsuits and non-payment of rent.

By **MICHAEL AUSHENKER** Staff Reporter

Since March, the state of California has sought to protect residential tenants from landlord abuse by imposing moratoriums on rent hikes and evictions as they navigate the coronavirus crisis. Meanwhile, there is no clear pathway for multifamily owners to receive government assistance as renters start to default on their rent.

"They think anyone who has an apartment building has a money tree," said **Mike Rosenthal**, who owns multiple apartment buildings in the Valley.

In the economic crisis caused by the coronavirus owners are being dragged and "nobody is doing anything about it," said **Daniel Yukelson**, executive director of the **Apartment Association of Greater Los Angeles**. "Instead, they're putting more and more burden on landlords."

Yukelson said that among his 10,000-member association, many "are having trouble paying their own personal expenses; they're living month-to-month."

New regulations

Since the stay-at-home orders and mass unemployment began ramping up in mid-March, the state of California and the city of Los Angeles have unfurled a succession of ordinances and regulations targeting apartments.

Even prior to the COVID-19 outbreak, Gov. **Gavin Newsom** signed a law which caps annual rent increases at 5 percent for any housing that is 15 years or older. Since the pandemic's onset, Newsom has issued an executive order freezing evictions of tenants based on COVID-19 impact. To qualify for the protections, renters must notify their landlord in writing about their inability to pay rent no later than seven days after their rent is due. Tenants must also provide documentation proving their default on payment stems directly from the pandemic.

In L.A. County, the ordinances have been more stringent, with a moratorium preventing property owners from evicting residential or commercial tenants has been extended through June 30. It applies to all unincorporated areas in the county, and under the moratorium, tenants have up to six months after the moratorium's expiration date to pay the back rent.

The city of L.A. has gone the furthest to protect tenants. Along with halting evictions and giving tenants up to 12 months after stay-at-home orders expire to pay missed rent, the L.A. City Council has voted to advance plans to freeze rent increases for a year for older apartments that are protected by the city's rent stabilization ordinance.

Additionally, Angeleno tenants will soon have the right to sue landlords who violate eviction restrictions under a law passed this month by L.A. City Council, and renters could potentially win penalties of up to \$10,000 per violation. Councilman **Bob Blumenfeld**, in a statement, described the move as "giving the tenants a big stick."

Yukelson does not see it that way.

"It gives renters greater avenues to sue landlords," said Yukelson, who believes that elected officials such as L.A. City Council members **Mike Bonin** and **David Ryu** are "pandering for renter votes."

Following this law's passage, Council President **Nury Martinez**, who commended the good landlords working with their tenants, said "I want the bad operators to know, today, the city of Los Angeles is putting you on notice."

Yukelson said that in most cases, the landlord's hands are tied.

"Under the governor's emergency order, you can't increase rent more than 10 percent, even on vacant units," Yukelson said.

Yukelson believes the deck is stacked against multifamily property holders and L.A.'s new ordinance gives tenants enhanced legal

options that only increases the opportunity for them to take advantage of current conditions.

If these lawsuits were pursued to the very end, "landlords will not be found culpable for these things," Yukelson continued.

However, owners are more likely to settle to avoid expensive legal fees, making such cases tantamount to extortion, he said.

Proof of impact

Rosenthal owns a string of large complexes strewn across the map in Toluca Lake, Sunland, North Hollywood, Santa Clarita and other neighborhoods. His smallest building has 30 units.

He said if a multifamily owner asks for forbearance, "the banks will say, 'No, thank you.'"

Even before the virus crisis exploded, owning and operating a multifamily property came with numerous burdensome regulations, building owners told the Business Journal.

"The whole environment is so hostile to the landlord," said building owner **Ash Joshi** of **Sherman Oaks' Capital Realty Solutions**, who owns a 15-unit apartment complex. "I would buy two or three more buildings if it were more friendly."

In particular, Joshi points to the law requiring expensive seismic upgrades to many apartment buildings, which cost about \$100,000, coupled with rent control, as a squeeze on landlords.

"You get a 60-, 70-, 80-year-old building requiring a huge injection of capital. When it's on its last legs, you just don't get the yield," Joshi said. "Essentially, you're buying a fixer. You buy a building and you have to prepare to put more money into it."

With escalating expenses, landlords can't recoup such costs in rents. And

Meanwhile, there is no reimbursement from renters, who have been known to call out owners.

"The tenant can call anytime for a violation even if there isn't one or not. If the housing people come out, they charge the landlord the cost of coming out," Joshi said. "The tenants know how to (game the system)."

With the virus crisis, Joshi continued, "It's made the situation more difficult for the landlord and skewed to the tenants who may abuse the system."

Paul Johnson agreed. Johnson, who with wife **Wendy**, owns and runs apartment buildings in Chatsworth, Northridge, Tarzana, Encino, Sherman Oaks and North Hollywood, told the Business Journal that rent-evading tenants do not have to do much to prove they have been impacted either financially or medically by the coronavirus.

"They're supposed to give written notice they're not going to be able to pay their rent," Johnson said. "Their word is supposed to be sufficient. We ask for documentation that may or may not be forthcoming."

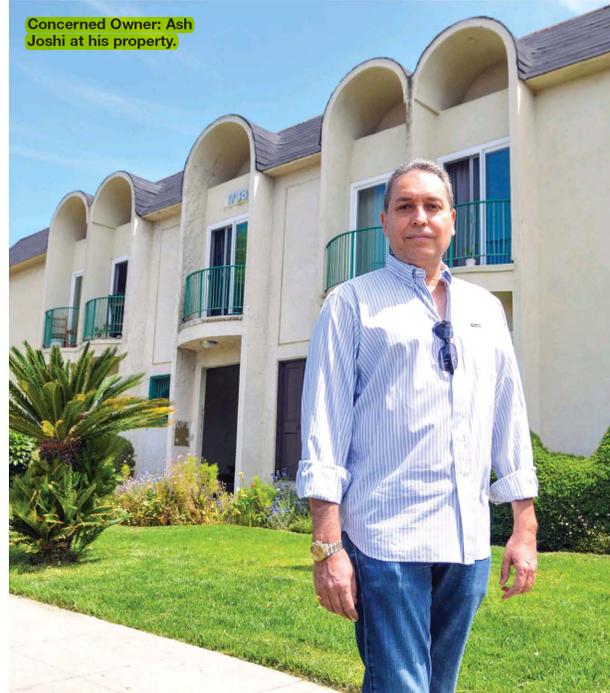
Yukelson is wary of the governmental construct to help tenants who may or may not be COVID-19 impacted.

"There's no obligation to show documentation (to prove they lost their jobs or are medically impacted by the virus)," he said, leaving landlords "in the dark about whether the tenants (are telling the truth)."

Under the current rules, "we can't evict someone for not paying rent," Johnson said. Contesting an eviction would be a four-month nightmare during normal times, he added, and now "there's no activity at the courthouse."

According to National Multifamily Housing Council's Rent Payment Tracker, 80.2 percent of apartment households in the United States made a full or partial rent payment by May 6 in its survey of 11.4 million units of professionally managed apartment units across the country.

This is a 1.5 percentage point decrease from May last year and compares to 78 percent that had paid by April 6.



Concerned Owner: Ash Joshi at his property.

PHOTO BY THOMAS WASPER

"Despite the fact that over 20 million people lost their jobs in April, for the second month in a row, we are seeing evidence that apartment renters who can pay rent are stepping up and doing so," said NMHC President **Doug Bibby**.

Anecdotally, landlords do not see the situation going down this path so smoothly.

Johnson, who runs his numbers through a management firm, saw rents 10 percent down in April and anticipates hardships for May.

Limited options

Associate Professor of Real Estate **John Loper**, who is based at the Sol Price School of Public Policy at USC told the Business Journal that lenders are the main source of relief for landlords.

"Historically, if there was a natural disaster, lenders would work with landlords with forbearance; allowing the borrower to reduce or stop making payments for a period of time and then pay back the money to the lender," Loper said. "A pandemic is a new situation and both lenders and landlords have no historical precedent to follow to construct pandemic forbearance agreements so some lenders are working with borrowers, some lenders are refusing to work with landlords and some lenders are overwhelmed."

Loper believes that the reasons tenants are more favored than landlords boil down to partisan politics and votes.

"Landlords tend to favor pro-business candidates and there are very few pro-business politicians in the state and city governments," Loper said. "The states that are more balanced or landlord friendly, such as Texas, tend to be Republican-dominant states versus California that for years have been more tenant friendly."

Loper added that if the landlord has an apartment mortgage that is guaranteed by Fannie Mae, the lender is offering up to a three-month forbearance plan with a 12-month repayment

program.

"The landlord must agree to suspend all evictions of tenants during the forbearance period," Loper continued. "This is an excellent tool."

"But there are really few options for landlords," he quickly added. "The federal stimulus program provided some potential help for commercial tenants but not for multifamily."

In the meantime, multifamily owners are trying their best to navigate through a confusing reality, and with 87 percent rent collection for April, Rosenthal does not know how long his own good fortune can hold out.

"May is worse because they're unemployed longer," Rosenthal said. "They're probably not going to go back to work so fast."

Even in the NMHC's relatively sunny report, Bibby admitted that multifamily operators could come up short on cash.

"Apartment owners have \$1.6 trillion in outstanding mortgage debt," Bibby said. "If they can't cover their debt, we might see a wave of multifamily foreclosures that could rival the single-family foreclosures that occurred during the Great Recession. In addition, apartment owners pay \$58 billion in property taxes that help support essential services such as schools, emergency services and other important local needs."

Rosenthal would like to see the state step in and provide financial assistance for deserving multifamily landlords.

"Either give it to the banks or give it to the landlord for rent," Rosenthal said.

Added Joshi: "The governor and (L.A. Mayor **Eric Garcetti**) have given us a very heavy-handed and muddled message. ... What tenants have heard is that you don't have to pay rent. There is no relief to the landlord at all. No relief in property taxes, with state taxes, the Franchise Tax Board. Is the state going to help me out?"