



# The Eviction Time-Bomb

How COVID-19 and corporate greed could devastate Latinx and Black renters and kick 40,000 families out of their homes

**WORKING  
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USA

Law  
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OF SILICON VALLEY

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# The Eviction Time-Bomb

How COVID-19 and corporate greed could devastate Latinx and Black renters and kick 40,000 families out of their homes

*July 2020*

## KEY FINDINGS

- An estimated **43,490 renter households in Santa Clara County are at the highest risk of eviction — roughly 16 times the typical number of** evictions filed in a whole year. These are households with people who have lost work, but do not receive unemployment or other income replacement.
- Those facing eviction are disproportionately likely to be **people of color, women-headed households, and families with young children.**
- Without the \$600/week supplemental unemployment benefits set to expire August 1, **thousands more families will likely no longer be able to cover rent,** resulting in many more evictions after the moratorium ends.
- Landlords will drive a surge in homelessness, pushing thousands more low-income families onto our streets unless policymakers provide additional tenant protections and/or a massive infusion of state or federal resources. The report looks at two conservative scenarios and finds **mass evictions could lead to between a 133-225% increase in Santa Clara County's homeless population.**

# Executive Summary

No matter our ZIP code or skin color, having a safe, stable place to call home is a basic human need, especially as we shelter in place during this pandemic. Yet COVID-19 has cost thousands of people in Santa Clara County — especially Black and Latinx people working in industries that pay low wages — the jobs and income they depend on to make rent.

Over 200,000 working people in Santa Clara County filed claims for Unemployment Insurance (UI) or Pandemic Unemployment Assistance (PUA) claims just between March 15 and May 30, 2020. Thousands more, including many of the estimated 95,000 undocumented workers in the county, have likely been ineligible or unable to access programs to replace their income.

Without wages, or relying on benefits that are insufficient to cover Silicon Valley's sky-high living costs, thousands of families have been unable to pay their full rent during this pandemic. While Santa Clara County's eviction moratorium means landlords cannot evict people currently, renters must still pay back any missed rent within one year after the county ends the moratorium. That bill that could run roughly \$7,000 for three months without income for the average renter household.

Before the pandemic, about half of all renter households in Silicon Valley paid more than 30% of their income to their landlord. For these already rent-burdened households, repaying three months of the median rent over a year (on top of their current rent) would take 66% of their monthly income. That's far more than many families could possibly afford.

Most at risk are the estimated 43,490 households with people who have lost work, but do not have unemployment or other income replacement. And for thousands more families facing long-term unemployment, federal UI and PUA benefits will be cut by \$600 a week on August 1 (unless Congress acts), leaving many more households without enough income to cover rent.

This impossible situation is the impending eviction time-bomb — when the back rent comes due, landlords (primarily big corporations and wealthy investors) could kick thousands of families out of their homes. Unless policymakers take action, we're facing a scenario of crushing debt, mass evictions, and a surge in homelessness.

Three months of back rent could cost roughly **\$7,000.**

Most at risk of eviction are the estimated **43,490 households with people who have lost work, but do not have unemployment or other income replacement.**



This outcome is a public health and racial justice disaster. As a consequence of racist housing and economic systems, Black, Latinx, and undocumented families are more likely to rent their homes, to have landlords that demand an unaffordable portion of their income, and to have lost their income during this pandemic. Combined, these factors put them at great risk of eviction and homelessness.

To diffuse this time-bomb, our elected leaders at all levels of government should:

- 1. Extend the moratorium throughout the state of emergency and permanently prohibit landlords from evicting tenants who are unable to repay back rent due to loss of income from COVID-19.** Instead, landlords could file a civil lawsuit seeking the back rent, which could harm the renter's credit and lead to wage garnishment or liens, but would ensure the family is not pushed out of their home. This protection would help families stay housed in their community where they've put down roots — near their jobs, schools, and support networks. Many cities in California have already included this protection, Santa Clara County should do the same.
- 2. Ensure every renter has access to legal assistance, education, and services to prevent displacement and homelessness.** Even with stronger protections, many tenants will need legal assistance to understand their rights and fight unfair evictions. A key step would be to create a Housing Collaborative Court, where tenants receive legal support and mediators help renters and landlords address root causes to work out agreements that prevent eviction.
- 3. Provide tenants most at-risk with relief to cancel rent debt and prevent evictions.** Even with stronger eviction protections, landlords can still file civil lawsuits that leave renters with crushing debt, negative credit scores, and wage garnishments — hurting the renter's ability to get a job, put food on the table, and pay rent going forward. Policymakers, especially at the state and federal level, should pass policies to cancel rent debt and provide financial relief to renters, unemployed workers, mortgage-holders, and landlords.

**Black, Latinx, and undocumented families** are at great risk of eviction and homelessness.

# Introduction

## COVID-19 has cost renters — especially Black and Latinx families — the jobs and income they need to make rent

Renters nationwide are feeling the pain from the economic fallout of the coronavirus, with Black, Latinx, and undocumented families hit the hardest. The COVID-19 pandemic makes clear that everyone needs a safe and healthy home to protect our public health. But the emergency has also amplified the racially-structured political and economic systems in our communities, putting people of color more at risk of losing their jobs, unable to make rent, and more likely to be infected by the virus. Housing justice is not only critical for addressing our public health crisis but for healing the wounds of racial injustice.

A history of inequitable public policy and discriminatory practices — from redlining to predatory lending to occupational segregation — has resulted in an economy that is increasingly tilted along racial lines, locking many Black and Latinx families out of the wealth and stability that comes with homeownership. As a consequence, Black, Latinx, and undocumented workers and their families are significantly more likely to rely on rental housing where landlords — overwhelmingly large corporations and out-of-town investors— demand they hand over unaffordable portions of their income every month for rent. In Santa Clara County, 56% of households overall own their home, but less than 40% of Latinx and Black families do so.

At the same time, COVID-19 related job losses have been concentrated in communities of color, particularly affecting Black and Latinx people with jobs that do not allow them to work from home during the shelter-in-place orders. In fact, Black and Latinx women are three times as likely to face job loss in California as white men.<sup>1</sup> Many renters are therefore falling behind on rent payments due to loss of income.<sup>2</sup> While landlords cannot currently evict renters impacted by COVID-19 because of the County’s eviction moratorium, over the long-term the burden of repaying that back rent (on top of already unaffordable rents) creates significant risks of eviction, displacement, and homelessness.

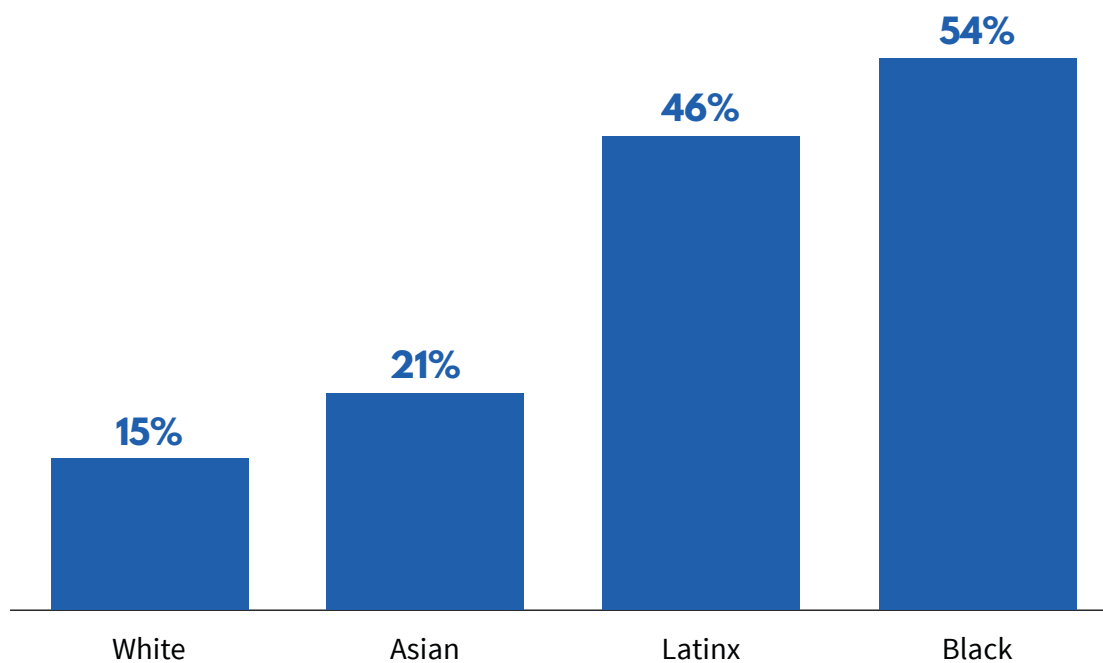
A household pulse survey from the Census Bureau conducted June 25 to June 30 found 63.2% of responding California renter households experienced at least one household member losing employment

Black and Latinx women are **three times as likely to face job loss** in California as white men.

income, and 16.9% of respondents report not making their rent payment last month.<sup>3</sup> Black and Latinx California renters are more than three times as likely to report being unable to pay their June rent (26.1% and 23.6% respectively) compared to white or Asian renters (6.5% and 7.8%).<sup>4</sup> When asked about their ability to pay the next month's rent, Black and Latinx renters are two to three times as likely (53.5% and 46.0%) to report having no confidence or only slight confidence in being able to pay their rent next month, relative to their White and Asian counterparts (14.7% and 21.1%).

## **MANY BLACK & LATINX RENTERS CAN'T PAY JULY RENT**

*Share of California Renters expressing no or only slight confidence in being able to pay July rent*

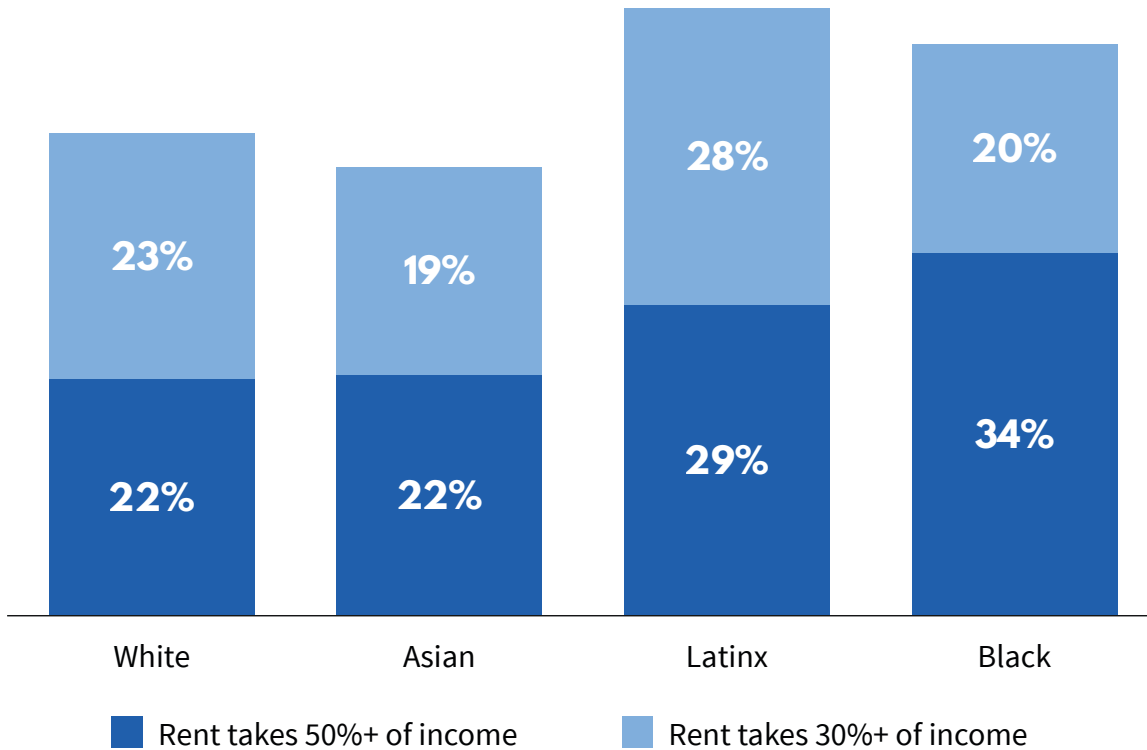


*Source: US Census Bureau Pulse Survey, June 25-30 2020*

Even before the COVID-19 pandemic, nearly half of all renters in Santa Clara County — especially Black and Latinx families — rented from landlords that charged them over 30% of their income for rent. Nearly three in 10 families had to pay more than 50% of their income every month to keep a roof overhead.

## SHARE OF RENTING FAMILIES WITH UNAFFORDABLE RENTS

Santa Clara County



Source: US Census Bureau

On March 24, the County of Santa Clara passed an eviction moratorium (since extended to August 31) to protect renting families that have been harmed by COVID-19 from being evicted for nonpayment of rent. While the ordinance protects families during the emergency, it does not prevent a landlord from evicting a tenant once that back rent comes due, starting six months after the County ends the moratorium. It also does not prevent a landlord from pursuing a civil lawsuit seeking to garnish wages for unpaid rent or to report unpaid rent to credit agencies, further harming tenants.

Santa Clara County's eviction moratorium **does not prevent a landlord from evicting a tenant once that back rent comes due.**



# Who's Most at Risk?

## Low-income and undocumented families are most likely to have lost work

Over 212,000 workers filed unemployment claims in Santa Clara County from March 15 to May 30<sup>5</sup> — one in every five workers across the County's labor force of over 1 million workers.<sup>6</sup> During the period from May 10 to May 30, claims were concentrated across Health Care & Social Services (15.7%), Accommodations and Food Service (13.7%), Retail (12.7%), Manufacturing (10.2%) and Construction (8.5%). These fields include a large number of low wage jobs, with average weekly wages below the County's overall average.<sup>7</sup> Combined, these are occupations where Black and Latinx workers are disproportionately represented in Santa Clara County.

It's important to remember that the number of unemployment claims underestimates the total number of people who have lost their jobs because many do not apply for Unemployment Insurance (UI) benefits. Those who do not apply include a portion of the estimated 95,000 undocumented workers in Santa Clara County (about 10% of the labor force) who are ineligible for UI benefits because of their documentation status.<sup>8</sup> Many of the sectors with the highest number of UI and PUA claimants in Santa Clara County also have the highest densities of undocumented workers.<sup>9</sup>

Additionally, the number of unemployment claims may not include workers who have lost income in the informal economy. These workers would be ineligible or unable to document their loss of income to apply for UI or the Pandemic Unemployment Assistance (PUA) program, which Congress created to assist self-employed workers and independent contractors. Furthermore, there are a number of reasons a worker may not qualify for unemployment assistance, including not working enough hours. For certain workers paid minimum wage, meager UI benefits may not be worth the effort of the cumbersome application process, especially if they are not aware of the opportunity to receive the additional \$600 per week in Federal Pandemic Unemployment Compensation (FPUC) benefits.

Many workers who qualify for unemployment insurance run into challenges when filing their claims and getting approval, creating a delay of weeks or months without income replacement. With bills piling

Many of the sectors with the highest number of UI and PUA claimants also have the highest densities of **undocumented workers.**

up during these delays, many renters will rack up additional back rent debt. For instance, nearly one in 10 households lack internet at home in Santa Clara County, which could create a hurdle to applying for benefits. The COVID Assistance Navigation (SCC CAN) program connected with 9,600 county residents from March through June 3. Many residents reported struggling to apply for UI or PUA and expressed concerns about their ability to pay rent. Initial analysis showed roughly 40% of all residents connecting with SCC CAN came from households in five zip codes in East San José — 95116, 95112, 95122, 95111, and 95127. These are roughly the same areas with the highest incidence of COVID-19 and are neighborhoods with large Latinx and Vietnamese populations.<sup>10</sup>

40% of all residents connecting with SCC CAN came from **five zip codes in East San José.**

## Tenant households not receiving UI or PUA are at the highest risk of future eviction

Households who cannot or do not receive UI or PUA will face the largest rent debt and highest risk of eviction. While it's difficult to know for certain what percentage of workers are ineligible or will choose not to apply, "if one assumes the unemployed apply to UI benefits roughly at the same rate as during the Great Recession, the underlying total increase in the rate of unemployment could be one-and-a half times as large as the total fraction of UI claimants of the labor force."<sup>11</sup> Applying this historical factor to Santa Clara County claimants through May 30, we could assume a workforce of 106,086 workers may be unemployed but are not receiving income replacement through unemployment insurance.<sup>12</sup>

To estimate how many tenant households are impacted, one would need to determine first how many of these workers without UI or PUA rent their home, and second how they are distributed across renter households:<sup>13</sup>

1. 43.3% of households in Santa Clara County live in rental housing.<sup>14</sup> If we assume a similar proportion of the unemployed workforce without access to UI lives in rental housing, then roughly 45,935 workers live in rental homes.
2. Assuming the number of workers in working households and the probability of additional workers in a given household also having lost jobs and lacking access to income replacement is similar to the overall distribution of such workers in Santa Clara County, we could assume roughly 43,487 renter households have one or more workers who lost income and are not receiving unemployment insurance,

which is roughly 15.8% of all households who rent.<sup>15</sup> A similar recent analysis in Los Angeles County by UCLA Law Professor Dr. Gary Blasi forecasted 365,000 renter households at “imminent risk of eviction,” roughly 19% of LA County’s renter households.<sup>16</sup>

By the time of publication, Santa Clara County's shelter-in-place order will have lasted over four months. It’s difficult to determine exactly how much rent these households have been able to pay over that time or how long they will go without work going forward. However, if these workers were unable to pay an average of three months of rent (assuming an average rent of \$2,280), they could have accumulated nearly \$300 million in rent debt, or about \$99 million per month.<sup>17</sup>

These households are the most likely to be at risk of eviction for being unable to repay back rent when the County’s eviction moratorium expires if local, state, and federal legislators do not take further action to protect them.

## **Even with UI or other assistance, many more households may also struggle to pay rent**

Even if workers have access to unemployment insurance, Silicon Valley’s sky-high housing costs mean some of these families may also be behind on at least a portion of their rent payments. The Turner Center analyzed renters by occupation using American Community Survey data to identify how many households were likely to have at least one worker impacted by COVID-19 related income loss. In the San José-Sunnyvale-Santa Clara, CA Metropolitan Area of 296,200 renter households, they found 43% (126,200) had at least one worker likely affected by the economic impact of the pandemic.<sup>18</sup>

Of these households, 51,500 were already handing more than 30% of their income to their landlord before COVID-19. In fact, the median monthly rent for these families is \$2,100 — more than half the median income of this group (\$47,900 annually, or \$3,992 per month).

Per the Turner Center’s analysis, thanks to the FPUC’s \$600/week of additional assistance to workers receiving unemployment insurance under the CARES Act, the minimum assistance a worker can receive in California is \$2,560/month and the maximum assistance is \$4,200/month.<sup>19</sup> So even with the maximum assistance, the median tenant would have to pay 54% of their income to cover the median rent. At the minimum level of assistance, the median household would

**43% of renter households** had at least one worker likely affected by COVID-19 income loss.

51,500 households were already handing **more than 30% of their income to their landlord** before COVID-19.

be paying 89% of their income for rent. Given the high cost of other expenses in Santa Clara County (health care if they lose insurance, food, transportation, utilities, and other debt), it's likely that some renters who rely solely on unemployment insurance for income are unable to make their full rent payments. Additionally, some households may have seen delays in receiving assistance that would make them more likely to be unable to pay some portion of their rent.

Some renters may be able to call on savings or other assets to pay rent. But even when the economy was strong in 2019, the Federal Reserve reported that 38% of Americans couldn't cover a \$400 emergency expense, much less the thousands of dollars to pay months of rent.<sup>20</sup> Additionally, it may be hard to call on family members or friends for help because the pandemic has impacted so many people. News reports highlight that tenants across the nation are borrowing from their retirement, putting expenses on credit cards, selling cars, signing loans, and taking other economic risks to make rent.<sup>21</sup>

Assistance from charity is another potential avenue for making rent. Silicon Valley Strong has raised \$25 million for rental assistance from public and private resources, providing up to \$2,000 per household. This amount is less than a month of rent for the median renter. Similarly, Governor Newsom's Disaster Relief Assistance for Immigrants, a fund administered locally by Catholic Charities to help undocumented workers, will only deliver \$500 per adult, for a maximum of \$1,000 per household. While receiving one or both of these forms of assistance would help tenants cover some of their rent, such limited assistance will likely leave significant unmet needs.

## **The end of supplemental UI benefits would put another group of families at high risk of evictions**

At the end of July, the additional \$600 weekly FPUC payments provided under the CARES Act will end, creating a significant risk for tenants if the County of Santa Clara or other jurisdictions do not pass additional eviction protections for tenants who owe back rent. If Congress does not extend the supplemental payments, Santa Clara County is likely to see another large group of tenant households at risk of eviction.<sup>22</sup>

While some workers receiving UI or PUA are likely to be recalled to their jobs, some will remain unemployed beyond when FPUC is set to expire. State and Santa Clara County Public Health orders which continue to keep certain indoor retail, bars, fitness, food, and personal

Families receiving the minimum unemployment benefits would have to **pay 89% of their income** to cover the median rent.

If Congress does not extend the supplemental payments, Santa Clara County is likely to **see another large group of tenant households at risk of eviction.**

service businesses closed mean that many workers will continue to face unemployment past the end of July.<sup>23</sup>

According to the California Policy Lab, 81.6% of workers with UI or PUA claims March 15 to May 30 believe they will be recalled to their work. As pandemic-related layoffs began during the week of March 21 to March 28, 91% of claimants statewide believed they would be recalled. More recently (May 17 to May 30), that number dropped to 71.8% statewide. Since March, the economic shocks of the pandemic have officially sent the economy into recession, and now independent analysts like the Congressional Budget Office predict double-digit unemployment is likely to continue in the United States until 2021.<sup>24</sup>

If unemployed workers' estimates of their probability of being recalled were accurate, 39,000 workers in Santa Clara County who filed claims March 15 to May 30 are unlikely to be recalled and may need to rely on UI or PUA longer-term as they search for new jobs. If Congress does not extend the supplemental program past July, UI and PUA payments will revert to a maximum of \$450 a week.<sup>25</sup> At that rate, renter households with only one earner on UI or PUA would likely be unable to afford the median rent even with 100% of their income, putting thousands more families at risk of eviction.

Over 39,000 workers who filed unemployment claims are unlikely to be recalled. When supplemental benefits run out, a household with one earner **couldn't pay rent even with 100% of their income.**

# The Impact: Evictions, Homelessness and Public Health Risks

## Back rent may lead to insurmountable debt for many households

Even for households who return to work, paying off back rent will be increasingly hard. On June 9, the Santa Clara County Board of Supervisors amended the County's eviction moratorium to give tenants one year to repay unpaid back rent, with half of that unpaid rent due six months after the moratorium ends. While this was a significant improvement from the previous policy, which required repayment in 120 days, many tenants will likely still struggle to repay back rent.

For nearly half of tenants, paying just one month of back rent (at the median rent of impacted households estimated by the Turner Center) over 12 months, on top of their regular rent, would be pushed into or become even more rent burdened (paying 30% of their income on rent). For already rent-burdened families, the situation is even worse. Repaying even one missed month of the median rent would force these already burdened tenants to pay 57% of their income on housing. The more back rent due, the deeper the burden.

The likely struggles of thousands of low-income, rent-burdened tenants will require additional protections to prevent an explosion of evictions when accrued back rent becomes due. Without a massive influx of aid from the state or federal government, it's unlikely that tenants who already were paying more than half of their household income to rent would be able to afford three months (\$6,300) of back rent, equal to an additional \$525 each month.

Unless the County takes action to extend and strengthen its eviction moratorium to prevent unnecessary evictions (see recommendations below), landlords could begin filing thousands of evictions on March 1, 2021, when the first half of all back rent is due under the current County ordinance.



## IMPACTS OF BACK RENT ON RENT BURDEN, BY MONTHS OF BACK RENT DUE

	Renter households with at least one worker likely impacted	Already rent burdened (rent takes 30%+ of income) households with at least one worker likely impacted
<b>Total Households</b>	126,200	51,500
<b>Median Household Income</b>	\$102,000	\$47,900
<b>Median Monthly Rent</b>	\$2,280	\$2,100
<b>Share of Income on Rent</b>	27%	53%
<b>One Month Back Rent</b>		
<b>Adjusted Median Rent</b>	\$2,470	\$2,275
<b>Share of Income on Rent</b>	29%	57%
<b>Two Months Back Rent</b>		
<b>Adjusted Median Rent</b>	\$2,660	\$2,450
<b>Share of Income on Rent</b>	31%	61%
<b>Three Months Back Rent</b>		
<b>Adjusted Median Rent</b>	\$2,850	\$2,625
<b>Share of Income on Rent</b>	34%	66%

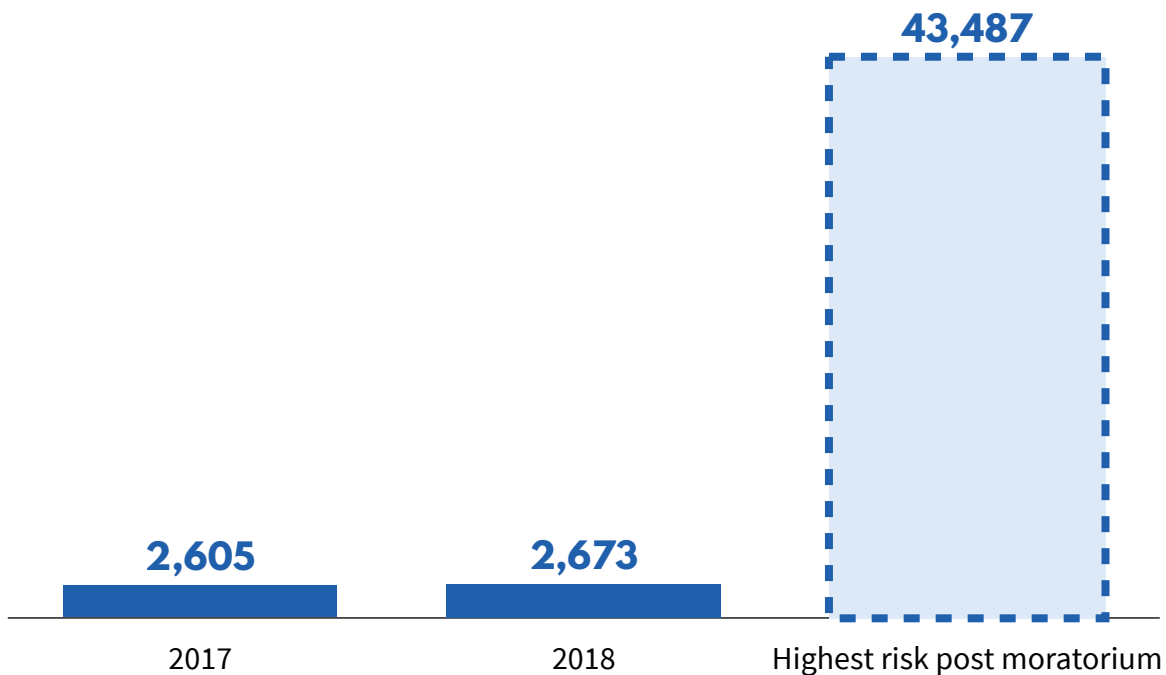
Source: WPUSA analysis of Turner Center, Appendix-COVID-19 Renters Impact

Note: This dataset includes the entire San José-Santa Clara-Sunnyvale MSA, of which Santa Clara County represents roughly 96.5% of total renter households. Adjusted Median Rent includes the previous monthly rent plus any back rent accrued during the emergency, assuming such payments are made over a 12-month period, in line with Santa Clara County's eviction moratorium at the time of publishing.

If all 43,487 renter households identified as high risk of eviction were to face removal from their homes, the courts could see more than 16 times the average number of evictions filed in previous years in Santa Clara County.

## **43,487 RENTER HOUSEHOLDS ARE AT HIGHEST RISK OF EVICTION — 16 TIMES THE TYPICAL NUMBER OF EVICTIONS IN A YEAR**

*Past eviction filings in Santa Clara County, compared to projected highest-risk group*



*Source: Law Foundation of Silicon Valley analysis of Santa Clara Superior Court records; analysis of highest risk group by Working Partnerships USA and the Law Foundation of Silicon Valley.*

Additionally, thousands of tenants facing stints of extended unemployment, which continue past the moratorium, could see evictions as well. While some tenants may choose to vacate their homes when landlords first file a notice of termination, courts will undoubtedly see a significant increase in the volume of filings. As a result, the number of families at risk of displacement or homelessness will rise significantly.

Many tenants, particularly those without legal assistance, will struggle to defend themselves in the face of an eviction proceeding. Those with legal assistance may be able to find legal defenses to prevent eviction. For example, a landlord's violations of habitability standards may

make a judge consider requiring rent reductions.<sup>26</sup> Data suggests in the absence of legal assistance, the vast majority of tenants facing eviction will not prevail in court. A 2004 study by Dr. Gary Blasi looked at a random sample of 151 eviction cases in the Los Angeles Superior Court and found no tenant without legal representation prevailed in court.<sup>27</sup>

## Foreclosures create longer-term risks

Homeowners paying large proportions of their income for their mortgage and housing expenses, especially homeowners in communities of color, face the risk of foreclosure. While federally-backed mortgage lenders are currently offering generous forbearance and other support to mortgage holders, not every impacted homeowner will benefit.

As recent data from the Urban Institute suggests, in past economic downturns, disproportionate economic harm and foreclosures on communities of color have worsened the homeownership gap between white people and people of color.<sup>28</sup> They hypothesize, "...structural barriers producing wide and persistent disparities in homeownership also make homeowners of color more vulnerable to loss of home and wealth. At the same time, they are less able to participate in the recovery afterward because their overall wealth is concentrated in their home, and they are less likely to return to homeownership if they became renters."

Even in Santa Clara County, foreclosure is among the factors listed by homeless residents in the County's biennial point-in-time homeless counts and could be an additional source of homelessness.<sup>29</sup>

## Evictions would harm public health & worsen COVID-19

Public health experts estimate that it could be many months until a vaccine is available and deployed at any scale to prevent COVID-19 infections. Meanwhile, families at risk of eviction or foreclosure could face periods of increased risk of homelessness and COVID-19 exposure. According to the Bay Area Regional Health Inequities Initiative (BARHII):

"Ensuring housing stability is essential to protect the health of Bay Area residents as the region responds to and recovers from the COVID-19 crisis. Loss of stable housing—through eviction, foreclosure, natural disaster, or other causes—poses numerous significant health risks, both for the individuals directly affected

A UCLA study found that **no tenant without legal representation** prevailed in eviction court.

and for the larger population.

Loss of housing disrupts a family's ability to "shelter in place" and practice "social distancing," while increases the likelihood of disease transmission. For example, renters who lose their housing must travel to seek out alternative housing arrangements or may stay with friends and family in overcrowded conditions. Similarly, those facing eviction may need to attend an eviction court to participate in proceedings. These actions increase potential for exposure and conflict with recommended "social distancing" practices."<sup>30</sup>

Even before COVID-19, the trauma of evictions and displacement presented a public health risk in our communities. The stress and impacts of an eviction can lead to a host of health risks — for example, poor birth outcomes, increased incidence of drug use, poor diet, and cardiovascular disease.<sup>31</sup> Research has highlighted the connection between housing instability, stress, and mental health. In the year following an eviction, mothers are more likely to experience depression.<sup>32</sup> Among children, evictions and frequent moves can lead to high levels of behavioral and emotional problems, increased levels of depression, and a reduced continuity of health care.<sup>33</sup>

Data suggests racial and gender inequality deeply affect who is most likely to face eviction and need legal assistance in Santa Clara County. Of the roughly 1,700 calls received by the Law Foundation of Silicon Valley since the shelter-in-place orders started until the end of June, two-thirds of tenants needing legal assistance are Black (5%) or Latinx (62%.) Nearly two-thirds of tenants calling for assistance are women (62%), speaking to the vulnerability of women-headed households.

Children are also likely to be present in households facing eviction. In neighboring San Mateo County in 2016, legal service agencies found 70% of households seeking legal aid for help with an eviction had children, suggesting significant risks for young families.

While data is not available for the demographics of the unemployed population in Santa Clara County, unemployment claims statewide for Black (28.2%), Asian (27%) and Latinx workers (23.6%) represent a larger share of their respective labor force than for white workers (21.9%) from mid-March. Similarly, the number of claimants who are women (28.4%) outnumber men (22.3%) as a proportion of their respective labor forces.

**Two-thirds** of tenants needing legal aid were Black or Latinx.

## Evictions could push more people into homelessness

Evictions also increase the risks of homelessness at a time when the County is already experiencing a homelessness crisis. Since January 23, 2018, the County of Santa Clara has been in a declared shelter crisis.<sup>34</sup> For those in the County who experience a temporary stint of homelessness, there are no shelters available on a walk-in basis across the entire County. For high-risk households, there may be even fewer options available today to cope with temporary housing instability.

While there is no definitive model for how many families are likely to experience a period of homelessness as a result of eviction or unemployment, recent survey data in Santa Clara County highlights that many of our homeless community have experienced these events. Even when unemployment rates were near all-time lows, the 2019 Santa Clara County Homeless Census & Survey reported that 44% of those surveyed said an eviction or a job loss was the primary event that led to homelessness.<sup>35</sup> For families experiencing homelessness, those numbers increase to 57% (32% due to job loss and 25% due to eviction).

Furthermore, in a survey conducted by the Legal Aid Society and CLESPA in 2014, 17.6% of tenants in San Mateo who defended evictions in court proceedings reported being homeless at the time of the survey.<sup>36</sup>

According to BARHII, homelessness presents an even greater challenge amid the COVID-19 pandemic as people experiencing homelessness face increased barriers to remaining healthy:<sup>37</sup>

For example, many people experiencing homelessness live in environments that are conducive to a disease epidemic, including lack of regular access to basic hygiene supplies and showering facilities, all of which could facilitate virus transmission. They also face serious health issues due to their inability to isolate, quarantine, and recover. The homeless population is also disproportionately older—in California, roughly half are 50 years and older—and live with chronic underlying health conditions, which are critical risk factors for contracting COVID-19 and suffering more severe outcomes.<sup>38</sup> Governor Newsom has estimated that 60,000 homeless Californians could contract COVID-19 over [the first] eight weeks [of the pandemic].<sup>39</sup>

In 2019, 44% of those surveyed said **an eviction or a job loss was the primary event that led to homelessness.**

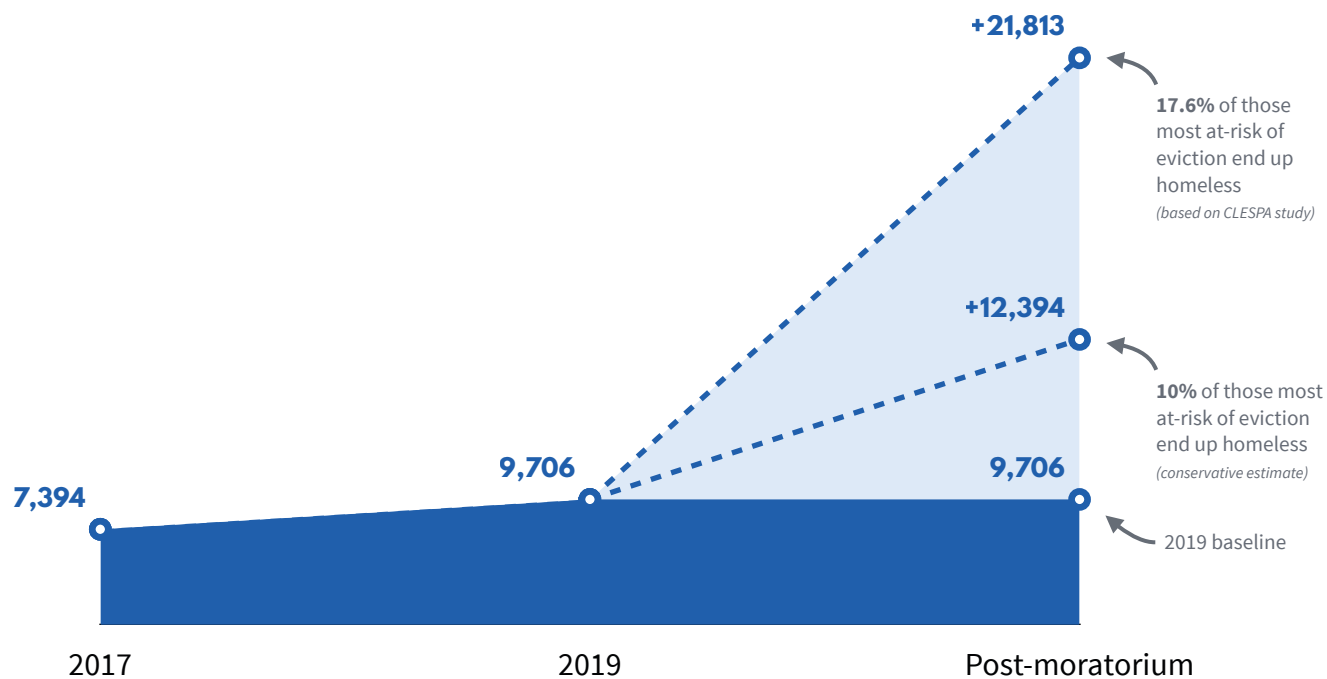
In a recent paper, UCLA Law Professor Gary Blasi developed plausible scenarios for how many LA County renters he analyzed as being at “imminent risk of eviction,” may experience homelessness.<sup>40</sup> In an optimistic scenario, he estimated 10% of households may face homelessness, around 36,000 families.

If we estimate 10% of the number of COVID-19 impacted renter households in Santa Clara County most at risk of eviction (those 43,487 households with at least one job loss without UI or PUA) become homeless for some time, the number of homeless residents in the County would increase by 133%.<sup>41</sup>

Given the high cost of housing and low vacancy rates in Santa Clara County, this estimate is conservative. If the rate of renters who were evicted and experiencing homelessness looked more like the numbers referenced in CLESPA’s 2014 study (17.6%), the County could see a nearly 225% increase in homelessness.<sup>42</sup>

## LANDLORDS EVICTING TENANTS FOR UNPAID BACK RENT COULD DOUBLE OR TRIPLE SANTA CLARA COUNTY’S HOMELESS POPULATION

*Past homeless counts compared with two scenarios when back rent comes due*



Source: 2019 Homeless Census and Survey, County of Santa Clara; Analysis by Working Partnerships USA and the Law Foundation of Silicon Valley.



Such a rapid increase in homelessness could have significant financial consequences for the County at a time when revenues have led to a reported deficit of \$285 million.<sup>43</sup> County-sponsored research in 2015 suggested the County spent roughly \$520 million a year between 2007 and 2012 to provide services to 100,000 individuals experiencing homelessness. Potential increases in homelessness, as described above, could lead to further unanticipated costs, which could be even greater than the amount of rent debt families owe.

## Unlike many tenants, many landlords have options for relief

Through the recent federal stimulus packages and tax measures, landlords (especially large corporate landlords) have plenty of options for assistance or tax relief to alleviate losses suffered during the pandemic.

- The Paycheck Protection Plan allows landlords to apply for the equivalent of eight weeks of payroll and other expenses.
- Recent action by Government Sponsored Entities (GSE), which own roughly half of all multi-family mortgage debt, allows landlords with federally-backed mortgages who suffer losses from COVID-19 to potentially reach generous forbearance agreements to delay payments until the end of a mortgage or at sale. For rental property owners, this means that even as they demand rent payments from tenants, they themselves are not making payments on their mortgages until the end of their loan period.<sup>44</sup>
- The CARES Act allows businesses like real estate trusts — commonly used by Santa Clara County landlords — to carry back losses for five years from 2018, 2019, and 2020, potentially resulting in immediate tax refunds.<sup>45</sup> According to the Congressional Joint Committee on Taxation, owners of pass-through businesses will receive \$170 billion in tax benefits over the next 10 years. According to the Tax Policy Center, real estate firms will be among the biggest beneficiaries.
- The 2017 Tax Cuts and Jobs Act gave nearly \$29 billion in tax cuts to pass-through business income, a huge benefit to many landlords. The bill also allows landlords to deduct all of their interest payments on mortgages for their properties.<sup>46</sup>

Some landlords can **demand rent even as they are not making payments** on their mortgage.

Notably, small landlords and nonprofit housing organizations may not benefit from many of these provisions, especially those where large percentages of their tenants may be experiencing income loss and delaying payments. They may need additional assistance. Still, it's important to remember that large, often out-of-town landlords own much of the rental housing in our County. In San José, for example, 76.7% of all multi-family rental housing units are owned by companies owning more than 40 rental units.<sup>47</sup>

Income loss during the emergency may also push some landlords to consider selling properties to larger corporate landlords and speculative investors. During the 2008 economic crisis, large institutional investors took advantage of rising foreclosures, decreasing property values, and low-interest financing to acquire large numbers of rental properties. In the process, private equity firms like Blackstone and real estate investment trusts became some of the largest landlords in the country, consolidating corporate ownership of the rental market.

In Santa Clara County, the emergency presents a risk of more speculative investors acquiring “naturally affordable housing” (typically older, less desirable apartments) with plans to remodel and increase rents. As the economic recovery begins post-COVID, policymakers should consider what they can do to prevent the kind of land grabs experienced after the Great Recession.

77% of all multi-family rental units in San José are **owned by companies with over 40 units.**

# Policy Recommendations

To prevent a surge of evictions and homelessness in Santa Clara County, all levels of government will need to take action. Below we detail some of the critically-needed solutions:

## **Permanently prohibit evictions for tenants who are unable to pay rent during the state of emergency due to loss of income from COVID-19**

Eviction moratoriums in Santa Clara County and cities of San José, Santa Clara, and Mountain View have prevented mass evictions from loss of income related to COVID-19 so far. However, many tenants will be unable to pay back the rent debt they have accrued while relying on the protections of the eviction moratorium. Under the County and City of San José's moratoriums, if a family is unable to pay half of their back rent by six months after the moratorium ends (and the remaining half six months later), they could face eviction. And of course, tenants will have to repay what they owe in addition to resuming their regular monthly rent payments, a huge challenge given the high rents demanded by many Silicon Valley landlords.

Even with 12 months to pay back rent, many families will be unable to do so, resulting in a large number of landlords filing evictions to remove residents. Specific solutions to prevent mass evictions could include:

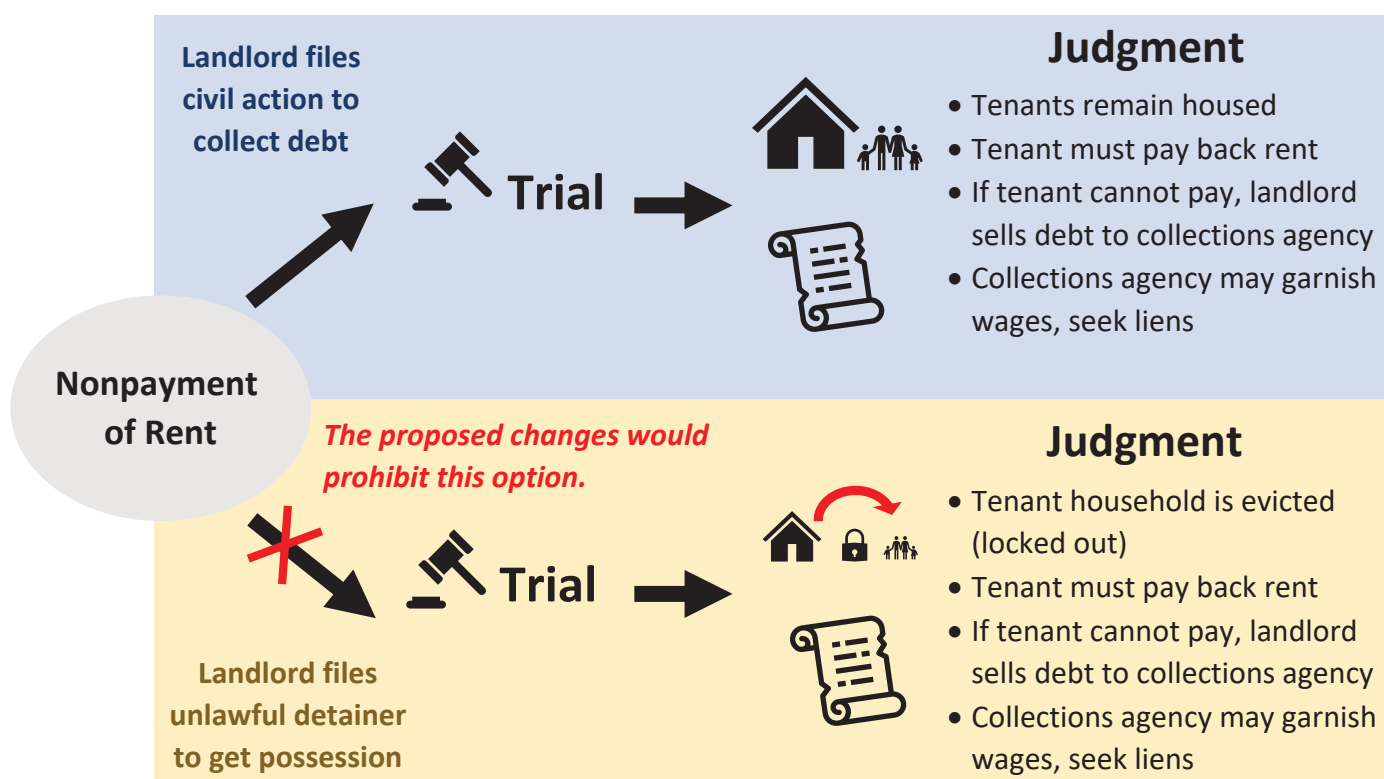
### **Amend Eviction Moratorium to permanently prohibit eviction for nonpayment of rent due during the emergency**

*(COUNTY OR CITIES)*

The County of Santa Clara has the authority to prevent this wave of evictions and protect public health by keeping families housed safely. The Board of Supervisors should amend its eviction moratorium ordinance to permanently prohibit the removal of tenants unable to pay rent because of COVID-19 impacts resulting in income or job loss. Cities like San José, Mountain View, or Santa Clara, which have their own eviction moratoria, could pursue similar protections, but the County is best positioned to quickly protect families in Silicon Valley facing risks of eviction.

This protection would help families stay housed and in their community, near their jobs, places of worship, schools, and existing social networks. A stronger eviction moratorium would prohibit landlords from filing an eviction case for unpaid back rent. Landlords would still have an avenue to seek unpaid rent through a civil lawsuit. This option could result in a judgment against the tenant household that may impact their credit and lead to wage garnishment or liens, but it does not displace the family. Just like in an eviction case, the landlord still needs to go to court to get a judgment before taking additional steps to collect the rent debt.

## COMPARISON OF EVICTION AND CIVIL DEBT PROCESSES



Source: Law Foundation of Silicon Valley.

Landlords must file a lawsuit (and if necessary, seek legal assistance or retain an attorney) and secure a judgment to collect unpaid rent regardless of whether they also want to recover possession of the home. In the situation where a landlord files an eviction case, but the tenant moves out before the case is decided, the landlord's only option to pursue the back rent is to convert the lawsuit into civil legal action.

Protecting tenants from eviction for nonpayment of rent accrued during

the emergency will not limit the ability of landlords to seek payment. However, it will protect families from eviction, homelessness, and the associated adverse health, economic and social impacts of housing instability. Preventing unnecessary evictions, especially if a tenant can pay rent moving forward, could help protect the public health and fiscal wellbeing of our families and our County.

A growing number of jurisdictions have included such protection in their eviction moratoriums including the City and County of San Francisco, Alameda County, Solano County, Oakland, Berkeley, Agoura Hills, Arcadia, Commerce, Hawaiian Gardens, Lawndale, Maywood, South Gate, and West Hollywood. This report lists examples of ordinance language in the Appendix.

### **Pass AB 1436 to permanently prohibit eviction of tenants for nonpayment of rent due during the emergency, prevent foreclosures**

*(STATEWIDE)*

In addition to County and cities, the State of California could pass additional eviction protection for tenants at risk of eviction. Assemblymember David Chiu has proposed AB 1436, which would prohibit landlords from evicting tenants impacted by COVID-19 until either April 1, 2021, or 90 days after the termination of the state of emergency. The bill further prohibits landlords and other entities from allowing unpaid rent during the emergency to be reported to credit agencies. Additionally, the bill would require landlords to be transparent about any loan forgiveness or benefits they received and pass on the benefits of those programs to tenants through rent reduction. The bill also includes protections for mortgage holders (both landlords or homeowners) to prevent foreclosures for nonpayment of mortgage payments by owners who were economically impacted by COVID-19.

### **Ensure every tenant facing eviction has access to legal assistance, education, and services to prevent displacement and homelessness**

Even with eviction protections in place, many tenants will need legal assistance to protect and exercise their rights. Additionally, the economic recession may mean tenants who lost their job due to the shelter-in-place orders will likely face greater financial challenges

even when more of the economy reopens, increasing their chances of facing eviction. Despite the severe consequences of evictions, only an estimated 4.4% of tenants facing eviction proceedings in Santa Clara County are represented by an attorney.<sup>48</sup> The data is pretty clear that without legal representation, tenants have little chance of fending off an eviction in court.<sup>49</sup>

## **Create a Housing Collaborative Court in County of Santa Clara Superior Court**

*(COUNTY)*

In response to the anticipated eviction surge and the lack of fair legal representation for these thousands of at-risk tenants, the County of Santa Clara should establish a Housing Collaborative Court (HCC). Together with Santa Clara County Superior Court, legal aid providers, and nonprofit community partners, the County can create a new model for eviction court, where tenants can access free legal services, education on their rights, financial assistance, and access to mediators.

The Housing Collaborative Court is modeled from similar collaboratives in other places such as Ramsey County, Minnesota.<sup>50</sup> In Ramsey, County and court officials, philanthropy, and legal services organizations collaborated to create a successful new model for eviction court. Since its founding, this collaborative court model has helped tenants and landlords work out arrangements that prevent eviction, including payment of back rent and agreements to expunge the eviction filing if the tenant meets the settlement terms. By bringing together specialized services and empowering judicial officers to address the root causes of what brought a person to court, tenants and landlords can resolve problems more quickly and prevent crises.<sup>51</sup>

Santa Clara County and the Superior Court have already partnered with other stakeholders to develop other collaborative court models, namely for juvenile justice and family court. The risks of mass evictions and homelessness now faced by the County present a strong case for bringing this approach to housing court.

The HCC would prevent homelessness by providing sufficient resources to help settle cases that would lead to keeping tenants housed or getting them enough time and resources to move into replacement housing. Volunteer attorneys would assist and represent tenants in a limited-scope Mandatory Settlement Conference, which provides an opportunity to settle their cases before going to a more adversarial



trial. Other aspects of the Homeless Prevention System, the County's system of care for preventing homelessness, will be brought in as needed to settle eviction cases, including rental assistance and case management. Similar settlement conference models in other cities led to a 86% settlement rate of cases.<sup>52</sup>

Even with stronger eviction protections, the economic recession will make it harder for working families to retain jobs and continue paying rent even after the County lifts the moratorium. Additionally, if landlords are successful in seeking civil judgements against tenants unable to pay back rent, wage garnishments could leave tenants at risk of future evictions. A collaborative court model could ensure all tenants have access to legal counsel, an opportunity at a fair outcome in court, and less risk of homelessness or other long-term consequences of eviction.

### **Provide tenants with financial assistance, education on their rights, and access to legal support**

*(CITIES)*

Cities could also find ways to contribute to such a collaborative system and strengthen financial support for tenant legal assistance, education, outreach, and homeless prevention. This support could include additional funding for the County's Homeless Prevention System, which can provide legal assistance to tenants at risk of homelessness, or as a direct increase in financial support for legal service providers.

Additionally, cities could support efforts to educate tenants on their rights through direct outreach or contracting with community-based organizations. In San José, the recently passed Measure E real estate transfer tax may provide additional resources to contribute to such efforts. Supporting a right to legal counsel for tenants facing eviction, exploring a collaborative court model, and improving outreach and tenant rights education are among the recommendations listed in the Community Strategy to End Displacement in San José Report, developed by city staff and community organizations.<sup>53</sup>

## **Provide additional resources in the State Budget for tenant legal assistance, education, and outreach**

*(STATE)*

The State of California should support additional legal services for tenants facing eviction activities as well. Currently, a coalition of housing justice organizations, Housing Now!, are working to push the state to provide additional support for tenant legal services and tenant education and outreach as part of the State's Budget process and pending budget trailer legislation. Such resources could help enforce state and local tenant protections, including AB 1482, and prevent unnecessary evictions and homelessness.

## **Provide tenants most at-risk with relief to cancel rent debt and prevent evictions**

Even if a household receives eviction protections described above, landlords still could seek civil judgements on the payment of back rent. Such judgements could lead to economic impacts like wage garnishments or negative credit scores, which impacts a worker's ability to earn an income and pay rent going forward. This is why it's critical to focus governmental resources on eliminating rent debt, whether through rent cancellation or rent relief, particularly for those residents most at risk.

According to our estimates, Santa Clara County families who rent and lost work or have not received income replacement could face roughly \$300 million in unpaid back rent for the first three months of the pandemic's shelter-in-place order. This rough estimate does not account for households that were delayed in accessing UI or PUA or tenants who could use their savings, loans, or other assets to pay for some of their missed rent. The estimate provides an illustration of the scale of the challenge likely facing renter families, many of whom are low-income workers from communities of color. Eliminating the debt faced by these households, especially those with very low- and extremely low-income, should be the focus of federal, state, and local policies.

With the \$600/week additional federal FPUC payments that are keeping many households afloat set to end in August, the need for government action is clear. Without action, thousands of additional Santa Clara County households with workers who are unlikely to be called back to work or find a new job will face the risk of eviction.

Eliminating back rent debt and providing tenants facing longer-term unemployment access to resources to pay with rent moving forward will take leadership from all levels of government — first and foremost from the federal government. Still, state and local governments can and must take action if we hope to avoid mass evictions. There are a number of potential routes to eliminating rent debt, some more favorable than others for tenants, but the following is a list of important steps towards this goal:

## **Pass HR 6515 (Rep. Ihlan Omar) the Rent and Mortgage Cancellation Act**

*(FEDERAL)*

The Rent and Mortgage Cancellation Act is a framework to suspend rent and mortgage payments, evictions, and foreclosures to primary residences for a period lasting until 30 days after the termination of the federal emergency declaration. Rather than making it incumbent on tenants to prove income loss, this bill would place the need to apply for relief on landlords. The bill would establish funds to provide relief to impacted landlords who agree to additional tenant protections, including transparency on the ownership of rental housing, a rent freeze for five years, preventing tenant discrimination, and just cause eviction protections. The bill would also assist lenders that suffer economic harm related to suspended rental payments.

## **Pass HR 6800 (Rep. Nita Lowey) the HEROES Act and HR 7301 Emergency Housing Protections and Relief Act**

*(FEDERAL)*

The HEROES Act, which passed the U.S. House on May 15, includes \$100 billion in emergency rental assistance, \$15 billion to support shelters and to prevent outbreaks among the houseless, and a 12-month moratorium on evictions for non-payment of rent. Additionally, the bill would provide \$1 billion in emergency rental vouchers, \$5 billion in CDBG grants, and \$750 million in HUD project-based rental assistance. Unfortunately, there are no requirements for landlords to accept any of these forms of payment. The bill could be improved by placing such requirements on landlords. On June 29, Financial Services Committee Chair Maxine Waters's bill the Emergency Housing Protections and Relief Act (HR 7301), which largely echoed the housing relief and protections of the HEROES Act, passed the U.S. House.

Additionally, the bill would extend \$600 weekly supplemental FPUC payments for workers on UI or PUA until January. This extension would prevent thousands of Santa Clara County households from the likelihood of evictions if payments reverted to \$450 a week, which would leave renters unable to pay rent, much less afford other essentials. Without this extension, FPUC payments will stop at the end of July. Lastly, the HEROES Act would bring large scale, much needed assistance to state and local governments, totaling \$1 trillion. This level of support could free up additional resources at the state and local level to address needs like affordable housing.

As of publication, neither of these proposals have received support in the U.S. Senate. As Congress and the White House continue to debate the next round of stimulus, mass financial relief to cancel the rent debt of low-income tenants and an extension of FPUC payments will be critical to preventing mass evictions in our region and across the nation.

## **Pass legislation to cancel rent and provide relief to tenants and landlords**

*(STATE)*

There is still an enormous need for wide-scale rent cancellation or rent relief at the state-level in California. While, fiscally, the federal government is best suited to take action, Washington's inaction puts hundreds of thousands of California families at risk of eviction. Despite budget constraints, the state can still take action.

Optimally, the State of California should pass legislation to eliminate debt for renters who are unable to pay rent during the COVID-period and establish a fund for landlords with economic hardship, including small landlords and non-profit housing operators, to provide partial assistance for lost income from non-payment of rent. Such a program could offer assistance to landlords in exchange for providing basic tenant protections: capping rent increases, preventing evictions, and requiring transparency on ownership of housing and any relief benefits received. Housing Now! estimates such a fund could be created for roughly \$4 billion statewide to cover the rental payments of those who have been unable to pay during the disaster. Unfortunately, no such proposal has emerged in the legislature.

One proposal, which at least includes some portion of rent relief, SB 1410, would offer landlords the option of receiving tax credits for unpaid rent and transfer the liabilities of that unpaid rent to be paid to the state

between 2024-2034, free of interest or late fees. Certain low-income tenants could apply to have some or all of their rent forgiven. However, the current policy bases eligibility for reductions based on median state income rather than area median incomes, limiting who in Santa Clara County is likely to benefit.

The bill would also extend eviction protections for tenants who enter into an agreement with their landlord for extended repayment. While the State of California under such a policy would offer certain tenants — particularly very low- and extremely low-income tenants — some rent reduction, it would only do so for qualifying tenants whose landlord offered them such protection. It's unclear whether many landlords, especially smaller property owners and nonprofit housing organizations, would be willing to accept a tax credit. Additionally, the bill's limited eviction protection could still leave tenants vulnerable to eviction eventually, as opposed to the much stronger protection of AB 1436.

### **Provide unemployed undocumented workers access to wage replacement**

*(STATE)*

Additionally, a proposal from Assemblymember Ash Kalra and 13 other legislators would close a hole in California's safety net by providing on-going weekly income support for undocumented workers and their families. Such a policy could support thousands of households in Santa Clara County and provide another critical route to providing working families with financial assistance that could help to prevent future evictions. While Governor Newsom has taken action on providing a one-time payment to a limited number of undocumented workers, developing a policy to bring undocumented workers into the State's safety net will be critical to stabilizing families who are among the most likely to face eviction.

### **Prioritize use of any additional resources to prevent eviction and homelessness and strengthen local assistance programs**

*(CITY AND COUNTY)*

Since the beginning of the pandemic, local governments (including the City of San José and County of Santa Clara) and philanthropic

contributions have created a \$25 million local economic relief program, Silicon Valley Strong, led by Destination: Home and Sacred Heart Community Services, organizations which have led the County's Homeless Prevention System. The program gives impacted residents direct cash assistance, but the amount is limited to \$2,000 per household. In its most recent phase, the program focused on extremely low-income households (\$47,350 for a family of four) who have at least one worker who has lost income and has not received other federal assistance, like UI. This includes undocumented workers. Even under this limited assistance, which will likely not cover even one month of rent, thousands of households are still on waitlists to receive assistance.

Between Silicon Valley Strong and other programs like the Homeless Prevention System, the City of San José has put aside \$24 million dollars for various rent relief programs. Still, the need for rent relief far exceeds the funding available locally.

Big questions remain on what future revenue receipts look like for the County and cities amidst the economic recession and continued impacts of pandemic. Even more questions remain about future federal assistance that could positively impact the fiscal outlook of local jurisdictions and whether federal funds will be earmarked for rent relief and homeless prevention.

The County of Santa Clara may consider a November 2020 ballot measure for a  $\frac{5}{8}$  cent sales tax increase to address COVID-19 recovery needs. This could bring \$200-250 million in revenue to the County, some of which could be used for rent relief and homelessness prevention.

The County of Santa Clara, which operates the region's Continuum of Care, should begin to prepare for the possibility of further local, state, or federal assistance for tenants. By working with current rental assistance providers to learn from the experience of the Silicon Valley Strong program, the County's Homeless Prevention System, and the COVID-19 Assistance Navigation program, our County can determine how to support these systems to scale up and provide rental relief to thousands of additional households, particularly renters from communities of color and those who have not had access to income replacement.

# Appendix

## Examples of Permanent COVID-19 Eviction Protections in Other Jurisdictions

**City and County of San Francisco:** “Provided, however, that subsection (a)(1) shall not apply with respect to rent payments that initially became due during the time period when paragraph 2 of the Governor’s Executive Order No. N-28-20 (as said time period may be extended by the Governor from time to time) was in effect, and where the tenant’s failure to pay (i) arose out of a substantial decrease in household income (including, but not limited to, a substantial decrease in household income caused by layoffs or a reduction in the number of compensable hours of work, or substantial out-of-pocket expenses; (ii) that was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19; and (iii) is documented. The types of documentation that a tenant may use to show an inability to pay due to COVID-19 may include, without limitation, bank statements, pay stubs, employment termination notices, proof of unemployment insurance claim filings, sworn affidavits, and completed forms prepared by the Rent Board. A tenant shall have the option, but shall not be required, to use third-party documentation such as a letter from an employer to show an inability to pay. The provisions of this subsection (a)(1)(D), being necessary for the welfare of the City and County of San Francisco and its residents, shall be liberally construed to effectuate its purpose, which is to protect tenants from being evicted for missing rent payments due to the COVID-19 pandemic. Nothing in this subsection (a)(1)(D) shall relieve a tenant of the obligation to pay rent, nor restrict a landlord’s ability to recover rent due;

(E) Notwithstanding any lease provision to the contrary, a landlord may not impose late fees, penalties, interest, liquidated damages, or similar charges due to a tenant’s nonpayment of rent, if the tenant can demonstrate that it missed the rent payment due to the COVID-19 pandemic as set forth in subsection (a)(1)(D). A landlord may not recover possession of the unit due to a tenant’s failure to pay late such charges when subsection (a)(1)(D) applies. The foregoing sentence shall not enlarge or diminish a landlord’s rights with respect to such charges when subsection (a)(1)(D) does not apply;”

**County of Solano:** “A lessor of a residential (including mobile homes) or commercial property shall not commence an action for unlawful detainer under California Code of Civil Procedure section 1161(2) on the basis of rent which became due during the State of Emergency declared by the Governor and for a period of 90 days afterward if the lessee or tenant was unable to pay such rent because of a substantial reduction in household income or substantial increase



in expenses resulting from the Coronavirus pandemic.”

**County of Alameda:** “In any action to recover possession of a Residential Unit from a Tenant based on nonpayment of rent, it shall be an affirmative defense that the rent became due during the effective periods of Sections 3.A. or D. or 4.A. or D. of this ordinance. This defense may be raised at any time, including after the end of the Local Health Emergency and after the expiration of this ordinance stated in Section III. ... If a Tenant does not repay the rent that became due during the effective periods of Section 3 or 4 within twelve (12) months from the date the rent became due, a Landlord may collect the back rent as any other consumer debt. Such back rent may not be collected through the unlawful detainer process.”

**Oakland:** “No Residential Eviction for Nonpayment of Rent that Became Due During the Local Emergency. In any action for unlawful detainer filed under Oakland Municipal Code 8.22.360.A.1, it shall be a defense that the unpaid rent became due during the Local Emergency and was unpaid because of a substantial reduction in household income or substantial increase in expenses resulting from the Coronavirus pandemic.”

Berkeley: “This Chapter applies to eviction notices and unlawful detainer actions based on notices served or filed on or after the effective date of this Chapter through the end of the local State of Emergency. With respect to delayed payment covered by this Ordinance, a landlord may seek such rent after the expiration of the local State of Emergency, pursuant to Section 13.110.040, but may not file an action pursuant to Code of Civil Procedure sections 1161 (2) et seq. based on the failure to pay rent during the term of the local State of Emergency for a Covered Reason for Delayed Payment.”

**Agoura Hills, Arcadia, Commerce, Hawaiian Gardens, Lawndale, Maywood, South Gate, West Hollywood:** “Nothing in this Order shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after expiration of the local emergency period and the tenant must pay within six months of the expiration of the local emergency. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this Order; nor may a landlord seek rent that is delayed [f]or the reasons stated in this order through the eviction process.”

## Endnotes

- 1 Anderson, Alissa, "Women and People of Color Take Biggest Hits in California's Job Losses", California Budget and Policy Center, June 2020, <https://calbudgetcenter.org/resources/women-poc-take-hits-in-californias-job-loss/>
- 2 Gould, Elise, "Not everybody can work from home", March 19, 2020 <https://www.epi.org/blog/black-and-hispanic-workers-are-much-less-likely-to-be-able-to-work-from-home/>
- 3 US Census, Household Pulse Survey: June 25 - June 30, 2020, Table 1b: Last Month's Payment Status for Renter Occupied Housing Units, by Select Characteristics, [https://www2.census.gov/programs-surveys/demo/tables/hhp/2020/wk9/housing1b\\_week9.xlsx](https://www2.census.gov/programs-surveys/demo/tables/hhp/2020/wk9/housing1b_week9.xlsx)
- 4 US Census, Household Pulse Survey: June 25 - June 30, 2020, Table 2b: Confidence in Ability to Make Next Month's Payment for Renter Occupied Housing Units, by Select Characteristics, [https://www2.census.gov/programs-surveys/demo/tables/hhp/2020/wk9/housing2b\\_week9.xlsx](https://www2.census.gov/programs-surveys/demo/tables/hhp/2020/wk9/housing2b_week9.xlsx)
- 5 Hedin, Thomas et al, "An Analysis of Unemployment Insurance Claims in California During the COVID-19 Pandemic", California Policy Lab, June 11, 2020 <https://www.capolicylab.org/wp-content/uploads/2020/06/June-1st-Analysis-of-CA-UI-Claims-During-the-COVID-19-Pandemic.pdf>
- 6 Ibid
- 7 Ibid; According to EDD's Quarterly Census of Employment and Wages, in the 2nd Quarter 2019 the average weekly wage of a worker in Santa Clara was \$2,715 but private sector jobs in Accommodations and Food (\$587), Retail Trade (\$918), Health Care and Social Assistance (\$1,329) and Construction (\$1,723) were much lower.
- 8 According to the American Community Survey 2012-2016 5 year estimates, Santa Clara County had 938,545 in civilian employed population. Migration Policy Institute estimates, using the same ACS data set, Santa Clara County had 95,000 undocumented workers, representing roughly 9.4 percent of the County's total workforce.
- 9 According to the Migration Policy Institute, Accommodations, Construction, Manufacturing, Retail and Health Services and Social Assistance account for 68 percent of jobs held by unauthorized immigrants in Santa Clara County in 2016. Combined these jobs account for about 60 percent of EDD claimants, and roughly 49.2 percent of jobs overall in Santa Clara County. Migration Policy Institute, Estimates of the Unauthorized Immigrant Population in Santa Clara County, CA by Industry of Employment, 2016; Hedin, Thomas et al June 11, 2020; American Community Survey 2012-2016 5 year estimates
- 10 The zipcodes with the highest total of COVID-19 cases are located in East San José (with the exception of one zip code in South County, 95020): 95116, 95122, 95111, 95127, 95020, and 95112. COVID-19 Dashboard. "Cases by Zipcode and City", County of Santa Clara, as accessed on 7/6/2020 <https://www.sccgov.org/sites/covid19/Pages/dashboard-cases-by-zip-code-and-city.aspx>
- 11 According to the California Policy Lab, "The application rate to UI among the unemployed can be measured in surveys or inferred from data. In 2018, a survey found that only 26% among the unemployed in the U.S. applied for UI (<https://www.bls.gov/news.release/pdf/uisup.pdf>), largely because the unemployed thought they were not eligible. UI application rates may be higher in recessions, when fewer unemployed may expect to get jobs. At the peak of the Great Recession, the fraction of unemployed ultimately receiving UI benefits (the so-called "reciency rate") in the U.S. was 40%. The reciency rate is equal to the product of the application rate times the fraction of claims that are paid. Since past experience suggests 70% of UI claims

ultimately receive benefits (either because they are not found to be eligible, get a job, or do not take up benefits for other reasons), a reciprocity rate or 40% implies an application rate of 57%. Since the reciprocity rate in CA is typically somewhat higher than the national rate, the application rate could be somewhat higher as well. If the unemployed applied for UI benefits at the same rate as the Great Recession during the COVID-19 crisis, the implied rise in the unemployment rate would be approximately 1.43 times the fraction of total initial claims among the labor force.” Thomas J Hedin, et al, May 2020

- 12 Applying this historical factor, 50 percent of Santa Clara County’s 212,171 EDD claimants since mid-March, according to California Policy Lab, would equal an estimated 106,086 unemployed workers who did not receive unemployment assistance.
- 13 The following analysis borrows methods from a recent paper by Gary Blasi, “UD Day: Impending Evictions and Homelessness in Los Angeles”, May 28, 2020 <https://escholarship.org/content/qt2gz6c8cv/qt2gz6c8cv.pdf?t=qazxp6&v=lg>
- 14 This is likely a conservative estimate. For instance, 70 percent of undocumented residents, who likely make up a large part of these workers, are renters according to Migration Policy Institute. [https://data.census.gov/cedsci/table?q=Owner%2FRenter%20%28Tenure%29&hidePreview=false&t=Owner%2FRenter%20%28Tenure%29&tid=ACSST5Y2018.S2503&g=0500000US06085&vintage=2018&layer=VT\\_2018\\_050\\_00\\_PY\\_D1&cid=S2502\\_C01\\_001E](https://data.census.gov/cedsci/table?q=Owner%2FRenter%20%28Tenure%29&hidePreview=false&t=Owner%2FRenter%20%28Tenure%29&tid=ACSST5Y2018.S2503&g=0500000US06085&vintage=2018&layer=VT_2018_050_00_PY_D1&cid=S2502_C01_001E)
- 15 Santa Clara County ACS 2018 5 year Estimates “Household Size by Number of Workers in Household” shows 48.2 percent of working households in Santa Clara County have 1 worker, 39.7 percent have 2 worker and 12.1 percent have 3 or more workers. If workers without UI were similarly distributed, and we assume the probability of additional workers in a multi-worker household also having lost jobs and not received unemployment assistance was equal to the probability of workers overall in the County facing such circumstances (about 10 percent), then 22,137 would reside in single worker households, 18,217 in two worker households (16,386 households) and 5,581 workers in three or more worker households (4,964 households). In total, 43,487 households would have workers who had lost work without UI. In total the County has 274,867 renter households, with 15.8 percent being at high risk of eviction.
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128 percent from the total counted during the 2019 Homelessness Census, 9,706.

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# WORKING PARTNERSHIPS

USA

Working Partnerships USA is a community organization bringing together the power of grassroots organizing and public policy innovation to drive the movement for a just economy.



The Law Foundation of Silicon Valley advances the rights of underrepresented individuals and families in our diverse community through free legal services, strategic advocacy, and educational outreach.

