



Eviction Moratorium Ordinances

A number of jurisdictions are considering residential and commercial eviction moratoriums. NAIOP San Diego has been actively engaging these jurisdictions to make sure property owners are considered and that the “system” that is commercial real estate is understood. We’ve also made it clear that property owners are working with their tenants, particularly those that are most directly impacted by this crisis and the health orders being issued by government agencies. The key provisions we’re asking for should a jurisdiction decide to move forward include:

- Communication of non-payment occurs prior to the date rent is due
- Proof of hardship is required
- Reasonable deadlines for providing proof of hardship to the landlord (1 week)
- That the ordinance expires when the official emergency expires per government order
- Rent is required to be paid back (e.g. the obligation is not waived)
- Payment plans worked out between the property owner and tenant are allowed

Property Taxes

Many property owners who have not already paid their second installment of property taxes are seeking relief to help bridge the gap during this crisis. With April 10 quickly approaching, at the local level we are advocating to the San Diego County Treasurer-Tax Collector that he issue a blanket waiver for late fees and penalties for at least 90 days if the second installment can’t be made due to income loss resulting from the COVID-19 crisis. At the state level, NAIOP California has asked the Governor to waive late fees and penalties for late payment of property taxes. They have also been working with the Lieutenant Governor, Treasurer and other state officials. While there are provisions for waivers to be requested, both at the local and state level, we’re looking to make that automatic and extend the late due date to at least July 15, 2020.

Legislative Bills

NAIOP California has identified over 500 bills of concern to commercial real estate. The collective commercial real estate groups will convene on April 9th to discuss these measures, set priorities for support/oppose positions and discuss amendments to some of these measures. Currently, all bills have been set to the side with both the Senate and Assembly focused on COVID related activity. Additionally, the legislature has adjourned from session until April 13th. Nevertheless, legislative staff can still amend bills, so NAIOP CAL is trying to stay on top of it, even with calls from some legislators, when the legislature does come back, are asking

for only a focus on COVID related measures. It's unlikely the legislature will completely eliminate consideration of non-COVID related measures, so we will remain vigilant. On two specific issues:

- Dual Agency - the dual agency bill, being considered Senator Stern, is still potentially pending. NAIOP CAL and many local members have been in contact with the Senator's office, and while their interest has subsided, they are still considering pursuing a measure.
- It is anticipated that from a commercial real estate front, the near term focus of some in the legislature is on potential legislation to address evictions, foreclosures, service worker layoffs, etc. NAIOP CAL is working with the Governor's office to address this from the executive branch, and also with legislative staff, including direct association discussion with the interested potential authors, to address issues and craft language.

Split Roll

There is already one qualified measure on the ballot for this November. The backers of the first, following continued poor polling, have been attempting to qualify a second measure to replace the first. The coalition opposed to split roll believes the second measure that was being circulated has enough signatures to qualify and the backers will likely be turning in those signatures soon. Our coalition, being led by Rex Hime from the California Business Properties Association, of which NAIOP California is a member, have prepared drafted a release in anticipation and the campaign has transition to the new organization "Californians to Protect Prop 13 and Stop Higher Property Taxes". Fundraising continues and will be critical as the current economic situation caused by the COVID-19 crisis may further embolden split roll advocates to find more revenue at any means.

Federal Stimulus

NAIOP Corporate has been working, along with the other members of the Real Estate Council, on the now passed Senate stimulus measure, as well as the House vote scheduled for today. Coupled with **steps taken by the Federal Reserve**, these unprecedented actions are meant to stabilize and prevent any further damage the economy. The legislation is expected to take the following actions important to the commercial real estate industry:

- Provides a technical correction to the Qualified Improvement Property (QIP) depreciation drafting **error** from the 2017 Tax Cuts and Jobs Act that resulted in a 39-year depreciation period for QIP, rather than making it eligible for immediate expensing. This correction is a top NAIOP federal priority and its inclusion is a result of our efforts over the last two years.
- Allows 5-year carryback of net operating losses (NOL) for non-REIT businesses for 2018, 2019 and 2020.
- Increases the limitation on deductible business interest from 30% to 50% of EBITDA (earnings before interest, taxes, depreciation, amortization) for 2019 and 2020. Excludes from income the cancellation of debt related to new, emergency small business loans.
- Provides small businesses, many of whom are your tenants, with \$367 billion in loan assistance so they can keep employees on payrolls and continue paying obligations.

Additionally, the legislation would provide direct payments to many individuals and families, extend unemployment insurance and shore up social safety net programs.

More information will become available on how to access these benefits, including more specificity on commercial real estate, both for property owners and tenants, in the coming days following passage, which hopefully occurs today. In the meantime, NAIOP Corporate is suggesting people contact their lenders since most of the loan money is supposed to be administered by SBA-approved lenders. Information is also available through the link below, which will be updated following passage.

<https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources>