



URGENT – State Legislature gets back to business and introduces **CONTROVERSIAL RENT and LEASE related bills** – the California State Senate and Assembly are now back in session, and bill packages are being paired down to focus on COVID and budget related measures. Two significant and controversial measures have been introduced that would have a dramatic impact on both residential and commercial real estate. Both measures are purportedly an extension/clarification of the Governor’s eviction moratorium declaration.

- **SB 939 (Weiner)**

- Senator Scott Weiner (D-SF) is proposing to introduce a measure that would significantly alter contractual law between a commercial tenant and lessor. It would specifically allow for the tenant to defer rent and allow for payback over more than a year. It would also prevent requirements for proof of hardship, and, more significantly, allow the tenant, within 30 days, to cancel their lease **without penalty**. If the tenant were to cancel their lease, it would still require payback of the previous rent due. NAIOP CAL, along with numerous members of the California Business Properties Association are strongly opposed to this constitutionally challenged measure.
- **IF YOU ARE OPPOSED, AND WISH TO EXPRESS YOUR OPINION TO THE AUTHOR, you can find a sample letter [HERE](#).**

- **AB 828 (Ting)**

- Assemblymember Phil Ting (D-San Mateo) has introduced a measure that proposes to reduce rent for residential tenants by 25% for 12 months without being required to show financial hardship. It also changes the burden of proof and pushes any challenges to the courts. Many organizations are opposed to this, including NAIOP CAL. The opposition effort is being led by the California Rental Housing Association.
- **For more on how to take action to oppose, please click [HERE](#).**

NEW – State of CA allows for **FURTHER Stage 2 Reopening** – the Governor earlier this week that a broader Phase 2 reopening has been allowed and it was confirmed by the County of San Diego that they would follow the Governor’s amended reopening order. The order basically **allows non-essential office-based businesses to reopen**, but with protocols (remote working to the maximum extent possible, physical distancing inside the business, masks on and worn when within 6 feet of others, and enhanced sanitation measures, etc.). Additionally, shopping malls, including strip and outlet malls are also allowed to reopen, but **ONLY** for curbside pick-up service (with no customers allowed in the store). Car washes, pet grooming, landscaping and gardening businesses are also allowed to reopen, as are outdoor museums. You can find industry specific guidance from the state for safe reopening [HERE](#). Many of these businesses were still operating, but they are now allowed to do so legally. Those who choose to reopen (and are not considered "essential businesses") under these amended orders still need to complete, provide to employees and post the County’s Safe Reopening Plan (SRP) - find it [HERE](#):

NEW – **County of San Diego Updates Public Health Order; Clarifies rules on health screening & facial coverings at work** – The County updated and posted its written Health Order, this past weekend, effective May 10th, which includes the new clarified provisions for either temperature checks OR health screening when equipment isn't available, as well as the facial covering provisions for businesses WHEN you're within six feet of someone else noted above. You can read the Health Order [HERE](#):

NEW – **SOME Counties allowed to move forward faster in Stage 2** – The Governor announced last week that under certain circumstances, the State would allow Counties who met six specific criteria, including no COVID related deaths for 14 consecutive days, to move forward with broader reopening. The interested counties would need to submit their reopening plan, as well as the indicated health metrics for consideration. **The Counties who have now been allowed to move forward faster are: Butte, El Dorado, Amador, Calaveras, Colusa, Glenn, Lassen, Nevada, Mariposa, Placer, Plumas, San Benito, Shasta, Sierra, Tehama, Tuolumne and Yuba-Sutter.** For these counties, for example, sit down restaurants will now be allowed to reopen, again, with protocols that include social distancing, closing areas where customers congregate or touch food, and stop setting tables with shared condiments. Menus must be disposable and table-side food preparation is no longer allowed. Find specifics on the County variance standards [HERE](#).

NEW – **City/County of San Diego pursue “variance” to reopen faster** – Mayor Kevin Faulconer and County Board of Supervisors Chair Greg Cox announced yesterday they will continue to pursue changes to the State County Variance program that would allow urban counties, like San Diego, to reopen faster. Both the Mayor and Supervisor Cox noted that the specific metrics the Governor is using are unachievable for urban counties. To read more, go [HERE](#).

NEW – **Governor announces MAY REVISE budget** – The Governor announced yesterday a historic budget deficit and noted that absent additional federal support, there would be notable and significant cuts to key state funded programs, including schools. More on the May revise can be found [HERE](#). The Governor noted there is a \$41 billion drop in revenue from January projections, resulting in a projected deficit of more than \$54 billion.

NEW – **City of SD Council Committee forwards 30-foot height limitation removal for Midway District for further consideration** – The San Diego City Council Rules Committee is forwarding the proposal to remove the height limitation in the Midway District by Councilmembers Campbell and Cate to the City Attorney for drafting. The proposal was approved 4-1 (Councilmembers Gomez, Kersey, Montgomery and Ward in Support; Councilmember Bry opposed) and will come back for committee review on June 10th. The limitation of 30-feet was approved by voters in 1972 for properties west of the I-5 freeway. Because of the alignment of the freeway, it allowed for areas like the Midway District to be included when they are clearly outside the “coastal” area. The proposal would allow for height to be increased consistent with the underlying zoning in the community plan (see plan [HERE](#)) which would limit heights depending on the property between 30 – 100 feet. The hope is to use this change, along with the pending RFP for the redevelopment of the City owned Sports Arena site to catalyze change to an area that most agree, including the Planning Group, needs a significant upgrade. For more information on the RFP, please go [HERE](#). For information on the height proposal, go [HERE](#).

REMINDER – **County has extended “stay at home” order indefinitely** – the County Department of Public Health has indefinitely extended the County-wide “stay at home” order ([HERE](#)).

REMINDER – High-risk groups, INCLUDING essential infrastructure workers, can be tested for COVID-19 – the County has expanded their recommendations for testing in San Diego, including for “high-risk” groups. ***This includes anyone in an “essential infrastructure” occupation (more information [HERE](#))***. In order to get tested at a hospital, health care provider or one of the County’s testing sites, individuals who fall into any of these expanded testing categories should contact their doctor or call 2-1-1.

REMINDER – City of San Diego COVID-19 construction site protocols – effective April 24, 2020, the City of SD is requiring all active construction sites within the City follow new safety protocols to protect the health and safety of construction workers. The protocols include guidance on tenant improvement projects based upon input from NAIOP and other commercial real estate construction experts. The key rule is social distancing with a minimum separation of 6-feet. Construction industry employers must develop a comprehensive COVID-19 “exposure control plan” which includes social distancing, symptom checking and reporting, hygiene, decontamination procedures and training. Additionally, gatherings of 10 or more people are prohibited at any time on the job site. Click [HERE](#) to view the new protocols.

REMINDER – County of San Diego Health Orders STILL in effect AND being enforced – Please continue to follow the County of San Diego’s health orders ([found HERE](#)), including the “stay at home” orders for those not in an essential business or newly opened non-essential businesses. These orders include the requirement for facial coverings in public or at work and within six feet of another person not in your family. The County’s health orders, also require that ***essential*** businesses complete and post their checklist (see link [HERE](#)) AND ***non-essential*** businesses that can operate must create and post a ***DIFFERENT*** “Safe Reopening Plan” or SRP. A downloadable version of the SRP template can be found [HERE](#). If you are an essential business, you do NOT need to complete, distribute to employees and post an SRP, but you do need to complete a “Social Distancing and Sanitation Protocol” checklist linked above.

REMINDER – County of San Diego mandates FACIAL COVERINGS in public and at work starting MAY 1st (when you’re within in six feet of someone) – the County of San Diego has mandated that facial coverings be worn when in public and within six feet of another person not in your immediate household. This includes when you’re working in either an essential job or a job in a non-essential business that has been allowed to open, again, when you get closer than six feet to another person who is not a member of your direct, household family. The requirements can be found [HERE](#).

REMINDER – San Diego Superior Court services remain CLOSED until an estimated re-opening on May 26th. Until then, nearly all court services, except for some criminal case processing and ***consideration of temporary restraining orders*** are suspended.

REFERENCE LIST:

State of California Resilience Roadmap Page (including industry specific guidance and checklists) – LINK [HERE](#)

County of San Diego Essential Business *Social Distancing and Sanitation Protocol* Template – LINK [HERE](#)

County of San Diego *Safe Reopening Plan (SRP)* Template for NON-ESSENTIAL businesses – [LINK HERE](#)

City of San Diego COVID-19 Construction Safety Protocols - [LINK HERE](#)

County of San Diego COVID-19 Resource Page – [LINK HERE](#)

City of San Diego COVID-19 Resource Page – [Link HERE](#)

US Federal Government COVID-19 Resource Website – [Link HERE](#)

US Small Business Administration COVID-19 Resource Page – [Link HERE](#)

US Federal Reserve COVID-19 Resource Page – [Link HERE](#)

State of California COVID-19 Resource Website – [Link HERE](#)

Essential Services – There has not been any further change to either the definitions or the rules for “essential services” as previously defined by [Governor Newsome’s Executive Order](#) (EO) to “stay at home” issued on March 19, 2020. The EO provided guidance on “Essential Critical Infrastructure Workers” and pointed to the [federal guidance](#) on “essential critical infrastructure workforce” contained within the EO by reference. That was updated on March 28th but did not change the applicability for commercial real estate. Find the updated CISA document [HERE](#).

For now, at the local, state and federal levels, NAIOP Corporate and NAIOP CAL, in addition to our local team, are working to make sure our members continue to be seen as essential, since our services include economic resiliency and sustainability. We are also working to make sure that local government operations related to our members’ needs, like planning, permitting and inspections also continue.