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Court Upholds San Diego's Eviction Moratorium

Lawsuit challenged measures taken to protect public from COVID-19 pandemic

City Attorney Mara W. Elliott today announced that a federal judge dismissed a legal challenge to the City's temporary eviction moratorium as part of a ruling that upheld actions taken by three levels of government to protect the public from the COVID-19 pandemic.

The ruling by U.S. District Judge Barry Ted Moskowitz found no legal basis for claims by plaintiffs JD Bols, a landlord, and Amy Mullins-Boychak, a hair salon operator, that COVID-related Executive Orders issued in 2020 by then-Mayor Kevin Faulconer violated their rights, including their "right to liberty under the California Constitution."

"This ruling affirms that our City has taken appropriate and legal steps to protect the public from COVID-19," City Attorney Mara W. Elliott said. **"The City has a legitimate interest in guarding the public's health by preventing the spread of a pandemic and it has handled that responsibility correctly."**

The lawsuit unsuccessfully challenged executive orders issued by the City, the County of San Diego, and the State of California. The City Attorney's Office defended three City orders, one closing non-essential food-serving establishments to the public, one placing a temporary moratorium on evictions for nonpayment of rent by tenants directly impacted by COVID-19, and one extending the eviction moratorium. The moratorium will expire on September 30.

The court found that the City's eviction moratorium, which is temporary and limited in scope, did not interfere with contractual relationships, amount to a government taking, or violate due process. The court quoted from the Emergency Ordinance enacting the moratorium, which stated "in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary housing displacement during the emergency and to prevent housed individuals from falling into homelessness."

In addition to winning the case on its merits, the City successfully argued that neither defendant had standing to bring claims against the City.

The court agreed that Bols lacked standing because the moratorium affected two corporations of which he was a member but not him personally and that Mullins-Boychak lacked standing because her hair salon was not forced to close by the City. The City did not order the shutdown of hair salons and a rule prohibiting gatherings of 50 or more persons did not affect Mullins-Boychak's salon.

Two co-plaintiffs, hair salon operator Mandy Millius and nail salon operator Leia Gadow, were voluntarily dismissed from the case in August 2021.

The case was litigated for the City by Deputy City Attorney Elizabeth Atkins and Deputy City Attorney Matthew Zollman.

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