

May 4, 2020

Hon. Chief Justice Bernette J. Johnson  
Hon. Justice William J. Crain  
Hon. Justice Scott J. Crichton  
Hon. Justice James T. Genovese  
Hon. Justice Marcus R. Clark  
Hon. Justice Jefferson D. Hughes III  
Hon. Justice John L. Weimer

Louisiana Supreme Court  
400 Royal St.  
New Orleans, 70130

*By Electronic Mail*

**Re: Request to Align State Eviction Court Procedures with the CARES Act Protections**

Dear Honorable Chief Justice Johnson and Associate Justices of the Louisiana Supreme Court,

Thank you for so quickly responding to the grave threat that eviction and homelessness pose during this pandemic and closing state eviction courts on March 16<sup>th</sup>. Your actions and deep experience responding to disasters made Louisiana a public health leader throughout the country. We write today to ask you to continue your leadership in responding to this crisis by committing to align the reopening of eviction courts with the deadlines established in the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act.

Our reality has changed rapidly over the past month and deadlines and suspensions have moved with it. The initial closure of court was to last until April 13<sup>th</sup> to align with the Governor's first emergency order, but it was extended to May 4<sup>th</sup>. Governor John Bel Edwards has now extended the stay-at-home order until May 15<sup>th</sup>, while you have rightly ordered that jury trials will not proceed until June 30<sup>th</sup> to protect the public's health. As you know, many eviction courts, including those in New Orleans First and Second City Courts, often accommodate as many as 50 people, sitting in close quarters as well.

The federal CARES Act also offers new protections to many renters. Covered renters include those who live in nearly all properties that participate in federal subsidy programs (including the properties that participate in the Housing Choice Voucher or "Section 8" program, public housing, Low Income Housing Tax Credit properties, Permanent Supportive Housing, etc.), as well as renters who live in properties with federally backed mortgages. The CARES Act forbids owners of these properties from filing an eviction for nonpayment, charging late fees, or issuing

a notice to vacate for any reason until July 25<sup>th</sup>. It also requires all notices to vacate to provide 30 days before filing for eviction, which effectively prohibits eviction filings until August 24<sup>th</sup>.<sup>1</sup>

For so many of our residents who have lost income and jobs and who were late on April or May rent, these protections are absolutely necessary to create some certainty and breathing room to apply for assistance and put a plan together to begin catching up on essential bills. This is especially true given that the early phases of reopening our state may still leave out many of the service and hospitality workers who are the backbone of our economy. Even if hotels, restaurants, and bars were to be fully staffed this summer, we would be reopening at precisely the slowest part of the season. Workers will have missed the most lucrative part of their year and will continue to struggle to catch up on back rent.

If courts were to reopen before the August 24<sup>th</sup> date stipulated in the CARES Act, eviction cases before First and Second City Courts in New Orleans and other Justice of the Peace and city courts throughout the state will disproportionately come from CARES Act-covered properties. Preliminary data from an Eviction Court Monitoring Project in New Orleans show that over 12 days of monitoring in the fall of 2019, the largest volume of cases came from six apartment complexes, all of which were covered by the CARES Act.<sup>2</sup>

It is difficult to project the exact number of properties covered by the CARES Act, however, estimates based on federal databases suggest that at the very least, the majority of New Orleanians who rent and one-third of renters throughout the state are covered.<sup>3,4</sup> The real share is likely to be significantly higher because the estimates don't include rentals in single-family homes, doubles, triples, or quads with federally backed mortgages and those smaller scale rental buildings make up the largest share of our rental market throughout the state. Additionally, the estimates do not account for the fact that the Act covers "any property that participates in"

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<sup>1</sup> Coronavirus Aid, Relief, and Economic Security (CARES) Act, §4024 Temporary Moratorium on Eviction Filings, page 574-578.

<sup>2</sup> Jane Place Neighborhood Sustainability Initiative's Eviction Court Monitoring Project found the largest volume of eviction cases from Bienville Basin, Harmony Oaks, and Columbia Parc (all covered because of their status as public housing developments or participation in the Low Income Housing Tax Credit program) and Laguna Creek, Lagune Reserve, and Laguna Run (all covered because of their Fannie Mae-owned multifamily mortgages).

<sup>3</sup> Federal databases for Fannie Mae, Freddie Mac, Low Income Housing Tax Credits, HUD Multifamily Loans, HUD Public Housing, and USDA loans suggest that roughly 25,000 units in multifamily buildings in New Orleans and 157,000 units statewide are covered by CARES Act protections. New Orleans also has 18,049 Housing Choice Vouchers, while the state has 55,920 vouchers, though some portion of them are being used in buildings already covered by their funding stream (LIHTC) or mortgage status. National estimates suggest that 12.9% of Housing Choice Vouchers are used in LIHTC buildings (see second footnote). LIHTC buildings make up slightly more than half of the 25,000 covered multifamily units in New Orleans and 27% of the 157,000 covered multifamily units in the state. Therefore, a conservative estimate would expect 25% of HCVs in New Orleans and 47% across the state to be used in already covered properties, or 4,485 vouchers in New Orleans and 26,316 statewide. That leaves 13,564 and 29,604 HCVs not accounted for in the city and state, respectively. Taken together, these estimated 38,092 covered units in New Orleans are 48% of the 80,122 total renter-occupied units reported by the 2018 American Community Survey, 1 year estimates. Statwide, the estimated 186,257 covered units are 31% of the total 599,696 renter-occupied units reported for 2018.

<sup>4</sup> Climaco, Carissa, Meryl Finkel, Bulbul, Kaul, Ken Lam, Chris Roger. 2009. "Updating the Low-Income Housing Tax Credit (LIHTC) Database: Projects Placed in Service Through 2006." Washington, DC: US Department of Housing and Urban Development, Office of Policy Development and Research.

programs like the Housing Choice Voucher Program (“Sec. 8”), suggesting that all units in a property that accepts vouchers are covered even if they are not all directly subsidized.<sup>5</sup>

Though it covers so many people, the Act will be incredibly difficult to enforce or educate the public about without ensuring protections are universal. That’s because it is virtually impossible for a renter to look up their landlord’s mortgage to see if it is owned by Fannie Mae or Freddie Mac, or otherwise federally-backed. While this data is publicly available for larger multifamily buildings it is still hidden in databases that are largely unknown to anyone but affordable housing practitioners and advocates. For renters who live in smaller buildings, the information is entirely unavailable because looking it up requires the last four digits of the property owners’ social security number.

Most renters won’t know these protections exist and the Courts will need to do individual research on each property where an eviction is filed to ensure that the property is not federally subsidized or subject to a federally-backed mortgage. In the alternative, courts will need to require landlords to provide documentation or certification that they are not covered by the CARES Act and potentially provide attorneys for all tenants to ensure the protections are being honored. This will create an enormous administrative burden for the courts until the CARES Act protections expire.

With Louisiana’s economy recently ranked as the number one most exposed to fallout from the coronavirus, we desperately need a uniform policy that will provide some clarity and certainty to renters and landlords.<sup>6</sup> Though the federal government’s COVID-19 response has been inconsistent, we have the ability step up at the state level and provide the protections our community needs.

Therefore we ask you to continue your leadership in responding to this crisis and simplify this process by extending the CARES Act protections to all residents through a closure of eviction courts until August 24<sup>th</sup>.

Thank you in advance for your review of this request and please let us know if you have any questions. Please direct any questions to Maxwell Ciardullo at (504) 708-8172 or [mciardullo@lafairhousing.org](mailto:mciardullo@lafairhousing.org). We look forward to hearing your decision soon given the rapidly escalating nature of the crisis.

Sincerely,

504HealthNet  
Acadiana Legal Services  
American Civil Liberties Union of Louisiana  
Broad Community Connections, New Orleans  
Central Louisiana Interfaith

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<sup>5</sup> CARES Act, pg. 575

<sup>6</sup> McCann, Andrew. “State Economies Most Exposed to Coronavirus.” WalletHub, [wallethub.com/edu/state-economies-most-exposed-to-coronavirus/72631/](https://wallethub.com/edu/state-economies-most-exposed-to-coronavirus/72631/). Accessed 31 March 2020.

Crescent City Community Land Trust, New Orleans  
D.A.R.T (Domestic Abuse Resistance Team), Ruston  
Delta Interfaith  
Disability Rights Louisiana  
European Dissent, New Orleans  
Family Violence Program of St. Bernard  
Greater New Orleans Caring Collective  
Greater New Orleans Housing Alliance  
Greater New Orleans Louis A. Martinet Legal Society  
Housing First Alliance of the Capital Area  
HousingNOLA  
Institute for Indian Development  
Institute of Women and Ethnic Studies, New Orleans  
Inter-Tribal Council of Louisiana  
Iris Domestic Violence Center, Baton Rouge  
Jane Place Neighborhood Sustainability Initiative, New Orleans  
Jewish Voice for Peace—New Orleans  
Justice and Accountability Center of Louisiana  
Lang Law LLC  
Lift Louisiana  
Louisiana Budget Project  
Louisiana Center for Children’s Rights  
Louisiana Coalition Against Domestic Violence  
Louisiana Fair Housing Action Center  
Louisiana Partnership for Children and Families  
Louisiana Public Health Institute  
Lower 9th Ward Homeownership Association, New Orleans  
Mid City Redevelopment Alliance, Baton Rouge  
Music and Culture Coalition of New Orleans  
Musicians’ Council on Fair Wages, New Orleans  
New Orleans Democratic Socialists of America  
New Orleans Family Justice Center  
New Orleans Renters Rights Assembly  
North Louisiana Interfaith  
Operation Restoration  
Orleans Public Defenders  
Power Coalition for Equity and Justice  
Puentes New Orleans  
PUNCTUATE, a project of Shana griffin, New Orleans  
Ride New Orleans  
Safe Harbor, Mandeville  
Southeast Louisiana Legal Services  
Southern Poverty Law Center  
Step Up Louisiana  
The Hub: urban ministries, Shreveport  
Together Baton Rouge

Together Louisiana  
Together New Orleans  
Total Community Action, Inc., New Orleans  
Tulane/Canal Neighborhood Development Corporation, New Orleans  
United Way of Southeast Louisiana  
United Way of Southwest Louisiana  
UNITY of Greater New Orleans  
VOTE  
Westside Sponsoring Committee, Iberville, West Baton Rouge, and Point Coupee  
Women with a Vision, New Orleans

cc:

Governor John Bel Edwards  
Keith Cunningham, Louisiana Housing Corporation