COVID-19 Housing Policy Response

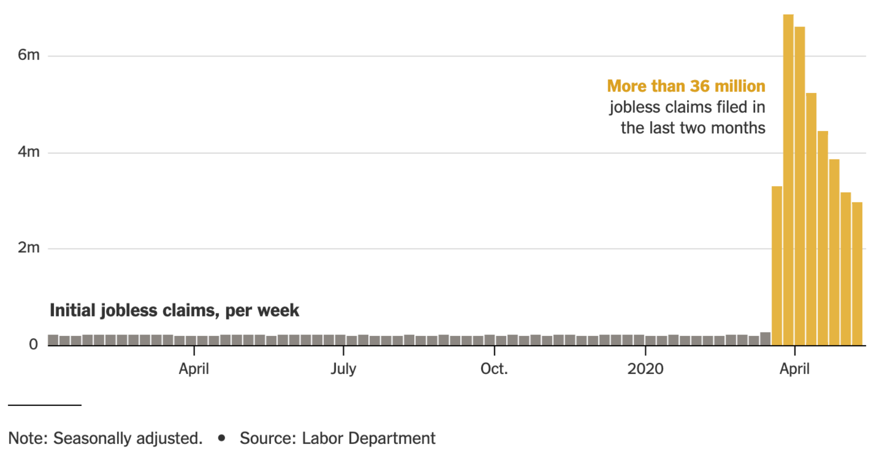
Background

In the first few months of 2020, COVID-19 has led to unprecedented loss of life and economic shutdowns in the United States and around the world. More than 36 million Americans have lost their jobs and have filed for unemployment (Cohen & Hsu, 2020). The economic impacts of the virus are disproportionately felt by low-income families and people of color. These groups are more likely to work in industries that are a direct risk for negative economic impact, or job loss (UC Berkeley Labor Center, 2020). Additionally, low-income Americans and people of color are more likely to be rent-burdened (paying more than 30% of their monthly income towards rent) (Currier and Pew Charitable Trusts, 2018). When creating policy responses to the COVID-19 emergency, policymakers must keep these inequities in mind and take into account how the economic impacts of the pandemic and unintended consequences of response measures may drive more people into homelessness.

This brief outlines the current housing and relief measures being enacted at the federal, state, county, and city levels along with gaps in those policies and lessons from the 2008 financial crisis. It concludes by making recommendations for modifying existing policies and providing additional relief to stabilize the housing insecure and ensure that the COVID-19 policy response does not leave behind those currently at risk of falling into homelessness.

Unemployment Claims as of April 2020

Source: Cohen & Hsu, 2020. New York Times



Key Takeaways:

- Eviction moratoriums, which are in place in many states including California, are helpful in preventing evictions in the short term, but aren't enough to help families recover lost income and pay back rent in the long term.
- Eviction moratoriums must be accompanied by a multi-faceted plan that considers the fact that many renters may not have the resources to pay back rent once the pandemic subsides.
- Mortgage forbearance programs that last as long as the rent repayment period could reduce the burden on landlords and therefore lessen the amount of Ellis Act evictions or vacancies from defaulting on a loan.

Background

During the week of April 13th, 5.2 million Americans applied for unemployment, seven times the number of claims filed during the worst week of the 2008 recession (Reinecke, 2020). The virus is directly impacting all Americans, but the economic impact is felt disproportionately by low-income households and people of color. A Pew Research survey found that 52% of low-income American households (making under $37,000 for a family of 3) have lost a job or taken a pay cut due to the outbreak compared with 32% of upper-income families (making more than $112,600) (Parker et al., 2020). The same study found that Black and Latinx Americans have lost jobs at a disproportionately high rate compared with White Americans.

In California, the sharp increase in unemployment is of particular concern for renter households in an already high cost housing market. As of 2018, 53% of renters in the state were paying more than 30% of their monthly income towards rent, while 27% were paying more than half of their incomes towards rent. Research shows that rent-burdened households have higher eviction rates, less money in the bank, a higher risk of entering homelessness, and higher usage rates of public programs and welfare (Currier and Pew Charitable Trusts, 2018). Additional research on the impact of evictions on low-income households suggests that getting evicted significantly increases the probability of experiencing homelessness in the two years after the eviction (Collins & Reed, 2018).

The UC Berkeley Labor Center recently estimated that approximately 3.2 million workers in California are employed by industries most at risk of direct economic impact due to COVID-19.[1] California workers in these high risk industries disproportionately identify as people of color and are significantly more likely to be low income, with an average annual pay of $34,000 compared to $68,500 for workers across all industries in the state (UC Berkeley Labor Center, 2020). In Los Angeles County, 67% of workers in high risk industries were renters as of 2018 (ACS, 2018).[2] Because of these inequalities, policy responses to the COVID-19 emergency must consider how the economic impacts of the pandemic and unintended consequences of response measures may drive more people into homelessness.

Federal, State, and Local COVID-19 Housing Policy Response

Federal Government

On March 18, 2020 the Department of Housing and Urban Development (HUD) placed a two-month moratorium on both foreclosures and evictions for single family homeowners unable to pay Federal Housing Agency (FHA) backed mortgages due to COVID-19 (Merle & Jan, 2020). The FHA also announced that homeowners with loans backed by Fannie Mae and Freddie Mac, accounting for almost half of all mortgages in the country, will receive the same relief (Merle & Jan, 2020). Moreover, under orders from the FHA, Fannie Mae and Freddie Mac are establishing a forbearance program that allows borrowers impacted by COVID-19 to skip mortgage payments for up to a year (Merle & Jan, 2020).

[1] Industries included restaurants and bars; retail (excluding gas, hardware, and online); hotels and other lodging; amusement, gambling and recreation; personal care services; performing arts and spectator sports; air transportation; other passenger transportation; and museums and parks

[2] Analysis included workers ages 18 and older employed in the industries listed above. Relatives of the head of household (such as older parents and adult children) were not included in the worker population.

In addition to single family homes, Fannie Mae and Freddie Mac are also extending mortgage forbearance to multifamily property owners so long as they promise to not evict any residents. Fannie Mae and Freddie Mac hold 39% of multifamily loans across the country (Westbrook, 2020). The Federal Housing Commissioner, Brian Montgomery, also suggested that this forbearance period may be extended beyond the current two-month period (Westbrook, 2020). In an effort to provide similar relief to renters, HUD is encouraging public housing authorities to not evict tenants who fail to make payments due to COVID-19 and is seeking authorization to prohibit public housing programs from enforcing such evictions. However, aside from the action of Fannie Mae and Freddie Mac, the federal government has taken no additional actions to prohibit private landlords from evicting residents impacted by COVID-19.

On top of these housing measures, the federal government is supplementing state unemployment efforts through the CARES Act by providing an additional $600 per week in addition to state unemployment payments (Smith, 2020). However, these payments are set to expire at the end of July and there is currently no plan for how to further supplement unemployment benefits.

California

On March 25, 2020, Governor Newsom worked out a deal with Citigroup, JP Morgan, Chase, U.S. Bank, Wells Fargo, and nearly 200 state-chartered banks, credit unions, and servicers to provide a 90-day grace period on mortgage payments for borrowers economically impacted by COVID-19 (Pender, 2020). This policy shields borrowers from any negative credit effects from forbearance and prohibits mortgage-related late fees or CD withdrawal fees (Pender, 2020).

On March 27, 2020, Governor Newsom issued an executive order prohibiting evictions for renters affected by COVID-19, effective immediately. It bans landlords from seeking evictions on tenants who fail to pay their rent and prohibits police departments and the courts from enforcing any evictions (Executive Order N-37-20, 2020). It requires that tenants inform their landlords in writing no more than 7 days after they miss a rent payment that they could not pay the full or partial amount due to COVID-19 (Executive Order N-37-20, 2020). Those qualifying reasons include:

- Unable to work due to suspected case of COVID-19 or caring for sick household or family member with suspected case of COVID-19
- Layoff, loss of hours, or other income reduction due to COVID-19, the state of emergency, or other government response
- Unable to work due to taking care of child whose school was closed due to COVID-19

However, the tenant must still make full repayment in a “timely manner” and could still face eviction after the moratorium is lifted on May 31, 2020 (Executive Order N-37-20, 2020). Moreover, tenants must keep documentation to support their reason for nonpayment and provide it to landlords upon at the time of repayment (Executive Order N-37-20, 2020).

Los Angeles County

Los Angeles County elaborated on the Governor’s eviction moratorium and passed additional measures aimed at preventing evictions and helping to preserve housing stability. The County established an affirmative defense on all no-fault evictions, except those necessary for health and safety (Housing Rights Center, 2020). This essentially provides a legal defense for tenants who have eviction civil proceedings brought against them, functioning very similarly to a moratorium by deterring landlords from pursuing enforcement of evictions. However, since landlords can still seek proceedings, it still places the burden on tenants to defend themselves in court. The details of the affirmative defense are largely similar to the Governor's Executive Order, however, it specifies a 6-month period for repayment and that landlords are not prohibited from imposing late fees (Housing Rights Center, 2020).

In addition to the affirmative defense, the Los Angeles Superior Court has suspended all unlawful detainer and eviction proceedings and the Sheriff's Office is not executing lockouts, even on evictions decided prior to the state of emergency (Housing Rights Center, 2020). Moreover, The Los Angeles County Development Authority extended its deadline for housing assistance recipients and applicants to turn in documents related to their eligibility and the County is encouraging utilities to not implement shutoffs (Housing Rights Center, 2020).

Cities

A more detailed moratorium on evictions has been issued in 29 of the 88 cities in Los Angeles County. For each city's specific eviction moratorium, please refer to this chart from the Housing Rights Center (Housing Rights Center, 2020). This brief outlines below the most notable ways in which these city-level policies differ from the tenant protections provided by Governor Newsom's Executive Order:

- Multiple cities specify the types of evictions as one or more of the following: (1) non-payment of rent, (2) no-fault, or (3) unauthorized occupants, pets, or nuisance related to the pandemic. For example, the City of Los Angeles's moratorium applies to all three categories. Multiple city policies only cover evictions for non-payment of rent, some cover both non-payment and no-fault, while very few other than the City of Los Angeles specify all three eviction types.
- Multiple cities allow longer time periods to provide notice to landlords, usually within 30 days of the first non-payment. The City of Los Angeles allows 90 days.
- Multiple cities specified an actual period for repayment, usually 6 months, as opposed to the executive order's "timely manner" phrasing. For instance, Gardena and Whittier allow up to 120 days for repayment, while the City of Los Angeles and the City of West Hollywood allow up to 12 months.
- Multiple cities banned the charging of late fees or interest on those making repayments.
- Multiple cities specify that evictions for the purposes of public safety will be allowed to proceed.
- The City of Los Angeles banned utility shut-offs.

Gaps in Current Policies

While eviction moratoriums and mortgage forbearance immediately delay the worst case scenario of housing displacement, these measures do nothing to help individuals and families recover lost income, and households are still required to pay a large lump sum after the repayment period expires. A 2017 study found that after paying rent, the average U.S. household in the bottom quintile of the income distribution has less than $500 per month remaining to cover all other household expenses including food, clothing, childcare, transportation and healthcare (Larrimore & Schuetz, 2017). This budget constraint leaves households at highest risk of economic impact due to COVID-19 with no room to save for backlogged rent or mortgage repayments even if they had 6 or 12 months to do so. Further, while the one-time $1,200 subsidy provided through the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act may help renters in lower cost areas

of the country cover one or two months of rent, in Los Angeles County, the subsidy doesn't fully cover a single month of rent for the smallest sized apartment (studio/efficiency) at fair market rent (HUD 2020). Additionally, CARES Act subsidies can be used for whatever purpose is deemed necessary by the recipient, which provides no certainty for landlords that they will receive rent payments. A recent UC Berkeley Terner Center (2020) blog post called for a program by which landlords can apply for rental assistance vouchers on behalf of their tenants. This idea, inspired by the existing "project-based" rental assistance that attached rental subsidies to a unit of housing instead of a tenant, would help to reduce paperwork and ease strains on already vulnerable tenants.

Some form of additional rent relief, like short-term emergency assistance vouchers that can only be used for housing costs, would provide more certainty and stability. However, the policy options for rent relief measures are relatively few. Traditionally, there are many more protections and options for property owners, then there are for renters, despite the fact that property owners tend to be disproportionately wealthy compared to renters (Bach & Waters, 2008). Most of the policy levers for protecting renters are long term: increasing funding for Section 8 vouchers, strengthening rent control regulations, increasing public housing operating subsidies; but there are few options for emergency short-term measures to protect renters in times of crisis. American tax laws currently favor homeowners, and provide numerous tax relief measures, but nothing to help renters, who are more likely to be low-income than homeowners. Bach and Waters (2008) suggest adding a housing supplement for renters to the federal earned income tax credit, but this takes time and would likely not be implemented until next tax season at the very earliest, providing little relief for renters in the short term.

Eviction moratoriums may also disproportionately hurt property owners and landlords, resulting in a loss of jobs and risking an increase in Ellis Act evictions[3]. Under the eviction moratoriums, landlords are still liable for their bills, including mortgages, utilities, insurance, taxes, and payroll for staff and contractors (Capps, 2020). If these measures force landlords to bear a disproportionate amount of the burden, they risk landlords laying off their own workers and contractors, missing mortgage or bill obligations, and forfeiting their ownership of the property (Capps, 2020). Faced with these constraints, landlords may resort to evicting tenants through other methods, including by shutting off utilities or taking units off the market through the Ellis Act. As such, eviction moratoriums and forbearance relief must be designed in a way that avoids placing undue burden on property owners and protects tenants from alternative pathways to displacement.

Lessons from the 2008 Recession and Previous Disasters

There is some precedent for emergency rent-relief for renters in past disasters. After the Northridge earthquake in 1994, 60,000 housing units in Los Angeles were destroyed or majorly damaged (Comerio, 1997). FEMA provided three forms of rental assistance to families who were displaced due to the Northridge Earthquake. The majority of households received checks that would cover 2-3 months rent, some households received temporary (18 month) Section 8 vouchers which would cover most of the rent (after deducting 30% of monthly income), and the remaining households were

[3] The Ellis Act is a 1985 California state law that allows landlords to evict tenants in order to get out of the rental business. Landlords can take advantage of the Ellis Act to evict tenants when they convert an apartment building into condominiums, hotels, or even retail space.

given permanent Section 8 vouchers (Comerio, 1997). However, due to the nation-wide impact of COVID-19, there is no precedent for how FEMA could duplicate this type of response on a national scale.

Outside of Los Angeles, there are numerous examples of FEMA stepping in with temporary housing subsidies for people displaced by disasters, including Hurricane Katrina in 2005, Hurricane Sandy in 2012. In the immediate aftermath of Hurricane Katrina, FEMA offered two different types of housing assistance to displaced individuals and families: temporary housing units like hotel rooms and trailers, and emergency housing assistance payments that went directly to landlords (HUD, 2013). Two years after the hurricane, there were still people living in temporary housing, which prompted the creation of the Disaster Housing Assistance Program – Katrina (DHAP-Katrina), which authorized HUD to provide these individuals and families with time-limited, declining rental subsidies and mandatory case management services (HUD, 2013). The program had no-income limit, and the provisions were intended to gradually transition participants out of temporary housing and into permanent housing. A HUD (2013) evaluation of the report found that while many DHAP-Katrina participants successfully transitioned from temporary housing to the Housing Choice Voucher (HCV) program, many other former DHAP-Katrina participants remained at risk of housing instability.

In the aftermath of Hurricane Sandy in 2012, FEMA created another Disaster Housing Assistance Program (DHAP-Sandy), which provided monthly rent subsidies, security deposit assistance, and utility deposit assistance eligible New York State residents displaced by the hurricane. The program also authorized a grant to New York State's Office of Homes and Community Renewal (HCR) to administer up to a year's worth of rental assistance payments on behalf of eligible families to participating landlords (HUD, 2013). Whereas DHAP-Katrina began two years after Katrina, DHAP-Sandy was administered within five months of, and terminated just over two years after, the hurricane (Congressional Research Service, 2019).

Other disasters, like Hurricane Harvey in 2017, did not result in the creation of a DHAP program, and instead relied on local housing authorities provide rental vouchers to displaced tenants (FEMA, 2019). Especially when FEMA funding for immediate temporary housing units ran out, challenges arose with this approach, including a disconnect between the amount that renters received and the actual price of rent, and the inability of local housing authorities to return tenants to the neighborhoods from where they were displaced (Cobler, 2018). Local authorities in the New Orleans and New York City areas faced similar challenges, including insufficient rental vouchers, when attempting to transition displaced persons out of temporary housing, even with existence of DHAP-Katrina and DHAP-Sandy (Navarro, 2013; Sewan, 2006). Additionally, FEMA faced legal challenges in the form of lawsuits on behalf of individuals and families in temporary housing when attempting to end the funding for immediate relief programs (Navarro, 2013; Dewan, 2006). Due to the scale of the COVID-19 pandemic, it is likely that similar issues could arise with emergency housing assistance efforts currently underway.

In addition to national disasters, lessons learned from responses to 2008 Recession could be useful when planning for the impact of the COVID-19 pandemic on housing. According to a recent blog post by the Terner Center for Housing Innovation at UC Berkeley (2020), one of the shortcomings of the government response to the 2008 financial crisis was that it did not include enough funding

for the federal government or community organizations to purchase foreclosed homes. This allowed hedge funds and speculative developers to buy up foreclosed properties and then flip them into market-rate properties. The Terner Center recommends that, in the midst of the COVID-19 pandemic, the federal government incentivize "mission-driven" entities like affordable housing developers and community development corporations to aggressively purchase potential rental properties instead of speculators. In addition, local governments can practice land-banking by buying up vacant land and saving it for future affordable projects.

Another lesson from the 2008 Recession was the housing market crisis negatively affected the value of Low-Income Housing Tax Credits (LIHTC). In the aftermath of the Recession, it became increasingly difficult for affordable housing developers to finance projects because the decrease in the value of LIHTCs made for greater risk for investors. Additionally, the economic downturn in 2008 made soft-financing, or below-market-rate debt from government lenders, less available, which had previously been a reliable source of funding for affordable housing. LIHTC prices are again falling during the current economic downturn, and soft financing is again becoming less available, which could signal that new affordable housing development will be scarce in the aftermath of the pandemic. In order to safeguard against this, the federal government should offer more below-market-rate loans to mission-driven entities, and reform the LIHTC system so that the value of the credits remains stable even in times of economic uncertainty.

There are lessons at the state level that could also help property owners, such as the two California foreclosure prevention policies implemented in the aftermath of the 2008 recession: SB-1137 and the California Foreclosure Prevention Act (CFPA) of 2009. SB-1137 required that lenders wait 30 days after informing homeowners of potential foreclosure to issue Notices of Default, and mandated that those repossessing vacant properties they foreclose on must upkeep the property, which effectively increased the costs for lenders to foreclose on properties. The CFPA extended duration and increased the costs of the foreclosure process to discourage lenders from foreclosing. A 2017 study estimated that these California Foreclosure Protection Laws reduced real estate owned foreclosures by 16%, preventing 124,000 Californians from losing their homes (Gabriel et al., 2017). Similar laws implemented for this current crisis could be effective in limiting the amount of people who lose their homes due to loan foreclosures.

Homelessness Prevention

The threat of increased foreclosures and renters not being able to pay back rent is substantial given the scale of economic loss from the COVID-19 pandemic and could lead to a spike in people experiencing homelessness. Homeless prevention programs could be used to provide one-time cash payments and case management services to those who are most at risk of falling into homelessness. Yet, implementing homelessness prevention strategies is still difficult because falling into homelessness is a rare and often hard to predict outcome. In Los Angeles, each year, only 1% of people living in poverty and utilizing services will fall into homelessness (Rountree, California Policy Lab, 2020). With limited resources, it is difficult for homelessness prevention programs to determine who will become homeless and who will not. The California Policy Lab is implementing predictive models and screening tools to better identify those most at risk of becoming homeless. Their analyses has found that people who are "doubled-up" with friends or family and asked to vacate the residence, as well as people who are paying out of pocket to stay in a hotel but are no

longer being able to sustain the unit fell into homelessness at comparatively high rates (Rountree, California Policy Lab, 2020).

Despite the challenges with predicting who is likely to fall into homelessness, there are many programs through LAHSA and the City of Los Angeles that could help prevent further homelessness. Programs like the Angeleno Card Program provide additional cash assistance during the COVID-19 crisis to low-income families living in Los Angeles (City of Los Angeles, 2020). The city is also announcing an Emergency Renters Assistance Subsidy Program, launching in July, which would directly pay the landlords of tenants who were not able to afford their rent, further preventing evictions and potentially decreasing the odds of falling into homelessness. If these programs are utilized to their fullest extent, or better yet expanded, they could hopefully lessen the rise in homelessness due to the pandemic.

Recommendations

Eviction moratoriums should be accompanied by mortgage forbearance on commercial loans to avoid placing undue burden on landlords. Allowing property owners the same window of relief could reduce the risk that they default on properties or seek to remove units from the market through the Ellis Act. The state should expand its forbearance program to include all financial institutions and ensure that it lasts as long as the repayment period for overdue rent.

In addition to mortgage forbearance policies, there is a need for a multifaceted workout plan that considers the fact that many renters will not have the resources to pay back rent once the pandemic subsides. When considering policies that expand the length of eviction moratoriums, local officials must account for the fact that paying multiple months of back rent could result in irreparable financial strain on large swaths of households. Therefore, there is a need for a plan that simultaneously avoids both evictions and personal bankruptcies while allowing for some mortgage forbearance for landlords as needed.

For questions about the Homelessness Policy Research Institute, please contact Elly Schoen at ebschoen@usc.edu.

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