

Centers for Disease Control and Prevention Extends Temporary Moratorium For Sixty Days

August 4, 2021

As you may recall, last month the United States Supreme Court denied a group of landlords' request to vacate the temporary moratorium on certain residential evictions in the United States during the COVID-19 Emergency as imposed by the Centers for Disease Control and Prevention ("CDC"). In a concurring decision, Justice Kavanaugh indicated that this decision was based, in part, on the short period of time in which the existing moratorium was to expire. Justice Kavanaugh's opinion went further, indicating that clear and specific congressional authorization would be necessary for the CDC to extend the moratorium past July 31. At that time, the CDC had announced that the "final" extension of moratorium, which was initially enacted in September of 2020, and extended several times since, would last through July 31, 2021. However, citing to the changing landscape of the current public health crisis and the rising surge in cases related to the transmission of the coronavirus Delta variant, the CDC has, again, extended the moratorium through a new and narrower order.

The CDC's new temporary moratorium, available at <https://www.cdc.gov/coronavirus/2019-ncov/communication/Signed-CDC-Eviction-Order.pdf>, is in place through October 3, 2021 and will apply to any "covered person" in counties with "substantial" or "high" transmission rates of COVID-19. The CDC defines these counties using two metrics: counties with a transmission rate of new cases per 100,000 persons in the past 7 days and a percentage of positive SARS-coV-2 diagnostic nucleic acid amplification tests in the past 7 days. In Massachusetts, this means the new moratorium presently applies in every county except Franklin and Hampshire counties. These conditions and designations can and will, of course, evolve over time and can be tracked on through the CDC's website at <https://covid.cdc.gov/covid-data-tracker/#county-view>.

As a result of this new order, any housing authority or municipal entity that acts as a landlord should be aware that under the CDC order, a "covered person" cannot be evicted from a residential owner's property until the new order expires or upon the expiration of any CDC extension of that order. Absent further legislative or judicial action, upon the expiration of the new CDC Order, certain state law requirements regarding the process for residential evictions will be triggered. For more information in this regard, please see our prior eUpdate, which can be found [here](#). To avoid challenges it will be important to approach any eviction efforts carefully, tracking closely which counties which are designated as having "substantial" or "high" rates of transmission.

We will, of course, continue to keep you apprised of new developments. In the meantime, should you have questions, please contact your KP Law attorney or e-mail us at coronavirusinfo@k-plaw.com.

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