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Honorable Annale Taylor
General Counsel
Office of Mayor Greg Fischer
527 West Jefferson Street, 4th Floor
Louisville, KY 40202

RE: Mayor Greg Fischer's Authority to Declare an Eviction Moratorium on Residential Rental in Louisville/Jefferson County Metro Government

Dear Annale,

You have asked the Jefferson County Attorney's Office whether Mayor Fischer has the authority to issue a local moratorium on residential evictions during the state of emergency for the COVID-19 pandemic. The emergency powers in KRS § 39A.100(2) and KRS § 39B.070 do not authorize Mayor Fischer to issue a moratorium on residential evictions.

In construing statutes, courts must give effect to the intent of the legislature. The first source courts turn to for legislative intent is the plain and ordinary meaning of the language used in the enacted statute. KRS § 39A.100(2) enumerates the powers given to the local chief executive officer during an emergency. KRS § 39A.100(2) authorizes Mayor Fischer to declare an emergency, and then, subject to any superseding order addressing the emergency from the Governor's office, to enforce all laws and administrative regulations relating to emergency response.¹ These powers do not include the authority to issue an eviction moratorium. The legislature did not confer such an emergency power on the mayor, a power tantamount to the taking of a citizen's property, nor should one be read into the statute when the legislature has plainly spoken.

Looking to KRS §§ 39B.070(2) and (6), Mayor Fischer may appropriate and expend funds, make contracts, and enact cost-recovery ordinances to address an emergency. But these provisions

¹ KRS § 39A.100(2)(b),(c),(d) and (e) empower the local chief executive officer to exclude people from the scene of an emergency, declare curfews, procure goods and services without regard to procurement codes or budget requirements, and request emergency assistance, respectively.

describe how to execute power, as opposed to KRS § 39A.100, which confers emergency powers to the office of the Mayor. However, the plain language of neither statute provides authority to extend a moratorium that affects private property rights.

The relationship between a landlord and tenant in Louisville is governed by KRS § 383.500, *et seq.*, the Uniform Residential Landlord Tenant Act ("URLTA"). This statute precludes localities from issuing additional regulation that would further govern the relationship between a landlord and a tenant after a jurisdiction has enacted URLTA.² The General Assembly intended to occupy the field and preempt localities from further regulating this area. KRS § 383.500 states "[i]f adopted, these provisions shall be adopted in their entirety and without amendment. No other ordinance shall be enacted by a city, county or urban-county government" Additionally, URLTA provides a process by which a landlord gives notice of nonpayment to a tenant and can seek eviction through the court system. *See* KRS § 383.660. The Mayor's powers in KRS § 39A.100(2) and KRS § 39B.070, *et seq.*, simply do not convey the authority to declare an eviction moratorium for the residential rentals in Jefferson County.

Sincerely,

*Jason D. Fowler / dsb
w/ permission*

JASON D. FOWLER
Assistant Jefferson County Attorney

² Metro Council adopted URLTA in LMCO Chapter 151.