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Co-Chairs Courtney and Kotek
Joint Special Committee on First Special Session
State Capital
Salem, OR 97301

RE: Statewide Foreclosure Moratorium

Dear Co-Chairs Courtney and Kotek and Members of the Committee,

Thank you for taking the time to consider this important piece of legislation amidst a complicated and rapidly evolving moment. More importantly, thank you for your public service; the impact of having leaders committed to the entire community is evident as our state confidently manages through the ramifications of COVID-19.

Ethos Development is a Portland based real estate development firm with over 1,000 residential units in some stage of development. We are an organization committed to developments that are environmentally, socially, and economically sustainable. Ethos employs general contractors and architects based in Oregon and are committed to providing both the well-paid jobs and housing the region desperately needs.

The executive orders which put a stay on commercial and residential rent were justified and humane. A global pandemic is so far outside of an individual's control that it is fair for the community at large to share the burden. We believe this so whole heartedly that we enacted these measures prior to the executive order and publicly advocated for others to do the same.

Unfortunately, one negative ramification of late, reduced, or missed rent is that commercial properties cannot make their debt payments. Commercial properties often operate at a 1.1 debt service coverage ratio, meaning that the loan is sized based on the assumption that the property has a cash-flow that is 1.1 times the debt service. That is not a large margin and just one month of foregone rent will cause the property to be unable to meets its obligations to the lender and will therefore be in default. It is worth noting that even if the ownership group steps in to fund the shortfall, the property could still be in default due to the reduced cash flow. A default can quickly lead to foreclosure proceedings or aggressively renegotiated loan terms. The executive orders in response to COVID-19 produced meaningful rent shortfalls, which translated directly into reduced income for property owners beginning in April. Commercial loans do not have foreclosure protections similar to residential loans, like what one would have on a single-family home. Banks can initiate foreclosure proceedings very quickly upon default. Property ownership groups vary greatly from owner-occupied businesses to developer led syndications. What they all have in common is that they are not the largest and most financially secure party with an interest in the real estate, that is always the lender. Further, as we saw in the last recession, banks are beneficiaries of public assistance in times of crisis.

In our experience, lender responses to this crisis have been inconsistent. We have received some relief from a local credit union, but only after going through a process more laborious than initiating the loan in the first place. A large multinational lender offered words of support with no corresponding action. And on a small portfolio of single-family homes financed with traditional mortgages, the lenders offered 6 months of forbearance by checking a box in their web portal. To us, this underlines both the difference between residential vs. commercial loans and local vs. national/multi-national lenders.

I'm certain that it was not the intent of our legislature to squeeze local property and business owners between large multinational banks, but that is effectively the result of well-meaning tenant protections.

We strongly advocate for a foreclosure moratorium for properties where financial distress is directly tied to emergency declaration orders. A moratorium would push a much needed "pause button" on the economic consequences of COVID-19, enabling business tenants and property owners to plan for recovery with confidence and in collaboration. What is needed is a safe harbor for Oregon property owners and our tenants, so that we can weather this economic storm together.

We support these key elements of LC 45 (and duplicate drafts):

- The foreclosure moratorium defines a foreclosure as beginning with the declaration of default, because that is the point at which permanent harm can be inflicted on a property owner.
- The foreclosure moratorium avoids punitive costs, such as fees and penalties at the end of the period of emergency.
- The foreclosure moratorium requires workable repayment plans, such the ability to add unpaid mortgage to the end of the loan timeframe at the same monthly payment amount.

The length of the foreclosure moratorium should be at least 30 days longer than the eviction moratorium. These two policies are inextricably linked, and the foreclosure moratorium needs to account for the lagging effect of non-payment of rent.

Absent a backstop, property values could start to freefall which would have a profound effect on our region and set back much of the progress made over the last decade. If measures are not put in place to curb foreclosures, predatory equity funds and multinational lenders will benefit at the expense of local property and business owners, this is not a fair outcome of a global pandemic.

Thank you for all your work to help Oregonians in these challenging times.

Best,

Paul Del Vecchio
Founding Principal