

CDC Eviction Moratorium Vacated and Stayed

Alabama Association of REALTORS®, Georgia Association of REALTORS®, *et al.* v. HHS, *et al.* (U.S. Dist. Ct. D.C., Case No. 1:20-cv-03377-DLF, filed November 20, 2020)

May 6, 2021

NAR has always maintained that the best solution for all parties was rental assistance to cover the rent, taxes, and utility bills for tenants struggling during the pandemic. This prevents two crises—one for tenants, and one for mom-and-pop housing providers who do not have a reprieve from their bills.

With rental assistance secured, the economy strengthening, and unemployment rates falling, there is no need to continue a blanket, nationwide eviction ban. Our focus now is on the swift and full implementation of rental assistance as we aim to regain stability and normalcy in America's housing market.

On May 5, 2021, the U.S. District Court for the District of Columbia [struck down](#) the Center for Disease Control's (CDC) nationwide eviction moratorium set to expire at the end of June, concluding the moratorium exceeds the limits Congress placed on the CDC's authority.

The Department of Justice (DOJ) quickly [filed a notice of appeal and a motion for an emergency stay](#) of the order pending its appeal. In response, the D.C. District Court issued a temporary administrative stay on its order vacating the moratorium pending resolution of the DOJ's motion, *meaning the CDC eviction moratorium remains in place across the country pending further action by the court.*

BACKGROUND:

The Alabama and Georgia Associations of REALTORS®, two housing providers, and their property management companies filed the lawsuit this past November challenging the CDC's authority to issue the eviction moratorium on a number of statutory and constitutional grounds¹, and in defense of the millions of mom and pop housing providers across the country whose livelihoods have been in danger of financial ruin following months of lost income due to unpaid rent as a result of the moratorium. These housing providers rely on the rental payments to pay the mortgage on the properties, taxes, and general upkeep to maintain the properties' safety and livability.

In holding for the plaintiffs, the court decisively rejected the CDC's position that it has unlimited authority to regulate the nation's economy during a pandemic. The court held that Congress never granted the CDC such unlimited power and vacated the CDC order nationwide.

Housing providers want to *keep* tenants, not evict them, and hope that the rental assistance provided by Congress will help keep individuals in their homes, while also preventing rent to continue to go unpaid. The slow deployment of the rental assistance funding is a serious problem for housing providers that must be addressed in order to avoid instability in the rental housing market for housing providers and renters alike.

NEXT STEPS:

- **Housing providers should continue to monitor the case, as the CDC's eviction moratorium remains in effect nationwide given the D.C. District Court's temporary administrative stay.** A decision by the D.C. District Court on the DOJ's emergency motion for a stay pending its appeal is

¹ The plaintiffs challenged the CDC's authority under the *Public Health Services Act*, the *Administrative Procedures Act*, and *Regulatory Flexibility Act*, as well argued that the Order constituted an unconstitutional taking under the Fifth Amendment, and a violation of due process.



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anticipated in the next two weeks. If the D.C. District Court denies the DOJ's request, the DOJ will likely elevate its request for an emergency stay to the D.C. Circuit Court of Appeals.

- **If an emergency stay is granted, the current moratorium would remain in effect through its current expiration date of June 30th, as well as any extensions issued by the Administration, and until the appeal is resolved. The appeal could take several months.**
 - It is also possible that the D.C. Circuit Court might stay the order *except with respect to the plaintiffs*. In that case, the CDC eviction moratorium would remain in effect nationwide, including through any extensions issued by the Administration, except as to the plaintiffs in this case.
 - The [CFPB's interim final rule](#) also remains in effect during the temporary stay, which requires debt collectors seeking eviction for nonpayment of rent to provide clear and conspicuous written notice to tenants of their rights under the CDC's eviction moratorium.
- **Housing providers should keep in mind that some state and local governments may have their own eviction moratoria that are not affected by the D.C. District Court's rulings.** (See more [here](#).)
 - In addition, some state court systems adopted policies barring or disfavoring the filing of eviction proceedings in light of the CDC eviction moratorium, which may not be automatically lifted once the stay is lifted and the D.C. court's ruling is upheld.

NAR ADVOCACY:

NAR remains focused on ensuring the effective deployment of rental assistance to protect tenants and avoid the ongoing financial burdens unfairly placed on housing providers. NAR continues to work closely with the Administration, as well as a large coalition of industry partners on these efforts so that tenants and housing providers alike can meet their financial obligations and to stabilize the housing market.

Stay tuned to [nar.realtor](https://www.nar.realtor) for the latest information.

ADDITIONAL RESOURCES:

[The U.S. District Court for D.C.'s Decision](#)

[State by State Eviction and Foreclosure Moratoriums](#)

[NAR's Coronavirus Housing Providers FAQs](#)

[Emergency Rental Assistance Program](#)

