

FOR THE EXCLUSIVE USE OF KBD@KBDLLC.COM

From the St. Louis Business Journal:

<https://www.bizjournals.com/stlouis/news/2020/09/22/ferguson-landlord-challenges-eviction-moratorium.html>

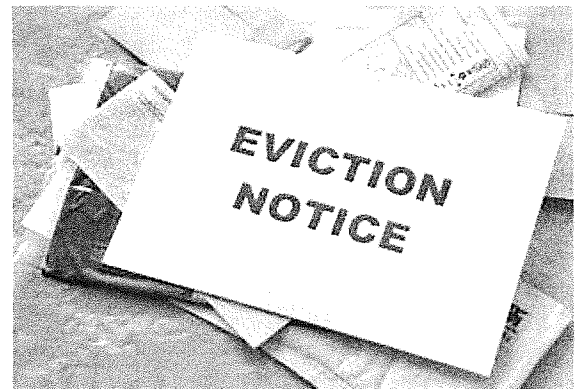
Ferguson landlord challenges Covid moratorium on evictions

Sep 22, 2020, 1:02pm CDT **Updated: Sep 22, 2020, 1:26pm CDT**

The property manager for a Ferguson home has asked an appeals court to allow the eviction of its tenants, mounting a challenge to a St. Louis County moratorium on evictions put in place as the pandemic took hold.

JKC Property Management Co. LLC, whose registered agent is Janis Comensky, on Monday filed a petition for a writ of mandamus, or court order, with the Missouri Court of Appeals, Eastern District, arguing that St. Louis County Presiding Judge Michael Burton didn't have the authority to suspend evictions in a pair of orders, made in March and August. A writ of mandamus is an order by the court requiring an official to do something that he is already required to do by law.

The St. Louis County Circuit Court has indefinitely suspended the execution of writs, the process by which the St. Louis County Sheriff's Office evicts tenants. In making the move, Burton wrote that it's likely sheriff's office employees "would be harmed if they came into regular close contact with members of the general public at this time."



PETER DAZELEY/GETTY IMAGES

JKC's petition, though, says the orders violate the state's law and constitution, and asks Chief Judge Robert Dowd to require Burton and another county judge, John Lasater, to issue a writ of execution to the sheriff's office.

The management company in February sued its tenants after they didn't pay monthly rent of \$850 for January or February, according to the lawsuit. JKC then got a consent judgment and default judgment entered against them. The tenants were to surrender the Ferguson property March 22, but didn't, according to court documents. But the county court clerk never issued an execution for possession, leading JKC to file a motion seeking one. Lasater denied the motion Sept. 3, citing Burton's orders.

Kathie Davis, principal with Davis & Travaglini LLC who's representing JKC, said her client obtained judgments prior to court shutdowns put in place to slow the transmission of Covid-19.

"Singling out housing providers, property owners, telling them you don't get to have your judgment enforced, is shifting the economic burden to one group of people," Davis said.

In response to a request for comment, a county court spokeswoman said that "judges are ethically prohibited from commenting on pending legal matters."

Davis said the county orders are particularly problematic because they require that evictions cannot begin again until the court enters a so-called phase two. The county court, which this week moved to phase one after long being in phase zero, does not move to a new phase until, in part, there have been no Covid-19 cases in the court facility within a 14-day period.

That facility includes two jails and a large number of employees, Davis said.

"We kept having random people here and there who would test positive, many of them detainees," she said. "We felt grim about there being several

weeks in a row" with no positive tests.

Davis said it's also noteworthy that the sheriff's office continues to serve process, in which parties to lawsuits are delivered official notice. "Those deputies are seeing a lot more people in a day," she said, adding that with masks and other precautions, "evictions can be accomplished with very little risk."

Davis also expressed doubt about local governments' efficiency in distributing rental aid from federal CARES Act money. A spokesman for St. Louis County Executive Sam Page couldn't immediately provide information about whether the county had provided any such aid. The city of St. Louis has said it will distribute \$7.4 million for that purpose. A spokesman for St. Louis Mayor Lyda Krewson said providers working with the city have so far processed \$544,000 to landlords, on a timeline he characterized as "very much on schedule."

"The processing of applications, to make sure it's legitimate and eligible, takes three weeks or so," said the city spokesman, Jacob Long. He said nonprofits working with the city must collect detailed information from applicants, and that sometimes residents do not show up to meetings scheduled for that purpose.

The city's eviction moratorium was put in place "as it is not in the interest of public health to displace persons from their homes during this Covid-19 emergency," according to the administrative order. It's effective through Oct. 2, though it carves out exceptions for commercial property and drugs and other criminal activity.

Jacob Kirn

Economic Development Editor
St. Louis Business Journal

