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Bryan Says Local Eviction Moratorium Remains in Place Until Successfully Challenged

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Governor Albert Bryan said Monday that the local eviction moratorium put in place as part of an executive order in light of the Covid-19 pandemic, would remain in place unless successfully challenged, telling the Consortium that the U.S. Supreme Court's [decision to throw out](#) the Biden administration's moratorium had little relevance locally.

The U.S. Supreme Court in a ruling late Thursday lifted the federal ban on evictions that was extended by the Biden administration through the Centers for Disease Control and Prevention because of the Covid-19 pandemic.

"The Supreme Court rejected the president's mandate, they didn't reject mine," Mr. Bryan said. "They rejected that premise on the powers due to the president of the United States and the CDC."

The Virgin Islands is governed by the [Revised] Organic Act [of 1954] — the powers due to the governor under the executive privilege of a state of disaster or emergency."

Mr. Bryan added, "So the current order in place in the Virgin Islands is under the mandate of the governor of the Virgin Islands, which restricts [landlords] from evicting tenants that are past due on their rent if they have a valid application at the Rental Assistance Program. That's what the mandate here says. No one has challenged that mandate in court so it stands."

Also on Monday, the governor said the Emergency Rental Assistance Program, or ERAP, was finally seeing some progress as the V.I. Housing Finance Authority has started issuing payments to landlords. Mr. Bryan said the program has been difficult to implement not only locally but nationwide because of the requirements of implementation, including authorization and rules provided by the federal government and the requirement to create a local program to distribute the funds.

On the Supreme Court's ruling, the governor said the local moratorium was narrower than that of the Biden administration. "They made a ruling on the mandates of the CDC that is not as specific as ours, whereas we're saying it's only valid if you have an application into the [Emergency Rental Assistance Program].

"So if you're evicting a tenant because they smoke in their apartment or they have pets, or they make too much noise or they violated how many people could be on the lease, that's perfectly legal; you could evict them for that," Mr. Bryan stated, giving examples of how landlords could evict tenants if those tenants violate portions of a contract. "But all we're saying now is for people who have applications in, that [landlords] are barred from evicting those people. Until that's challenged and overturned by some court, the rule stands."

In the Thursday ruling, the Supreme Court's conservative majority opined that the order imposing the eviction moratorium exceeded the CDC's authority to fight communicable diseases, and that it placed the cost of the pandemic on landlords. Three liberal justices dissented.

"The moratorium has put...millions of landlords across the country at risk of irreparable harm by depriving them of rent payments with no guarantee of eventual recovery," the court said. "Many landlords have modest means. And preventing them from evicting tenants who breach their leases intrudes on one of the most fundamental elements of property ownership—the right to exclude."

White House press secretary Jen Psaki, standing with the Biden administration, stated, "As a result of this ruling, families will face the painful impact of evictions, and communities across the country will face greater risk of exposure to Covid-19."

In their dissent, the Supreme Court's liberal justices said the statute invoked by the CDC (Public Health Service Act of 1944) to impose the moratorium contemplated even more stringent measures, among them quarantines. The liberal justices further stated that the hardships on landlords would only be temporary as distribution of rental assistance is underway.

The moratorium "targets only those people who have nowhere else to live, in areas with dangerous levels of community transmission. These people may end up with relatives, in shelters, or seeking beds in other congregant facilities where the doubly contagious Delta variant threatens to spread quickly," wrote Justice Stephen Breyer, joined by Justices Sonia Sotomayor and Elena Kagan (via the Wall Street Journal). "The public interest is not favored by the spread of disease or a court's second-guessing of the CDC's judgment," he wrote.

Prior to the Biden administration's decision to extend the expiration date to Oct. 3, the CDC had indicated it would allow the previous expiration date of July 31 to stand. However, as the end date drew nearer, with Covid-19 cases escalating because of the Delta variant, President Biden [called on Congress](#) to take action aimed at protecting tenants. Congress did not, and Mr. Biden unilaterally extended the moratorium even as he questioned whether there were legal grounds to do so.