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SAN DIEGO PORT TENANTS ASSOCIATION

December 7, 2020

Port Chair, Ann Moore and Board of Port Commissioners
 San Diego Unified Port District
 3165 Pacific Highway
 San Diego, CA 92112

Dear Port Chair Moore and Board of Port Commissioners,

Subject: Emergency Rent Relief Needed for Hospitality, Tourism, Convention, and Related Percentage Rent Tenants

Dear Chair Moore and Commissioners:

The SDPTA has consistently urged the Port to waive Minimum Annual Rent and have tenants in the hotel, restaurant, marine hospitality, sportfishing, tourism (museums), and marina/yacht club industries pay only applicable percentage rent. We have made these requests with supporting logic and forecasts in five letters from March 20th to September 8th.

The Port's response was a rent deferral program, now lapsed, and an offer to engage in case-by-case lease restructuring negotiations.

- As we have consistently pointed out, the rent deferral program was totally inadequate – only deferring a ticking time bomb of rent due to an uncertain future for the tenant, with the Port made whole in the end.
- The offer of lease restructuring which held out the potential for waiving of Minimum Annual Rent in excess of applicable percentage rent was encouraging. However, in practice the process the Port has imposed is cumbersome and the relief offered has appeared illusory. The Port's approach is to limit any relief offered only to tenants that can prove an existential threat and then the terms offered again make the Port whole in the end.

Of course, tenants are not made whole in the end. Revenues lost during the pandemic are lost forever, not deferred. And, there is a further asymmetry. While the pandemic has crushed demand for these industries, State and County regulations have further decreased demand and social distancing has drastically reduced capacity to serve whatever demand remains. This is devastating to these tenants, yet another State-created entity, the Port, assumes no responsibility and seeks to enforce Minimum Annual Rent lease terms that have little logical economic underpinning in our currently dislocated economy.

We are now in an emergency situation. The County's Purple Tier 1 status creates a crisis. The State's new Stay-at-Home order, effective December 6th, could well be the fatal blow for restaurants (take out or delivery only), hotels (can only host guests from critical infrastructure sectors), marine hospitality (all dining cruises now closed), museums (closed), and sportfishing (closed).

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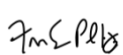
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We urgently request an emergency response from the Port, an urgent action similar in importance to the relief given to communities ravaged by the fire aboard the *USS Bonhomme Richard*. **We request the Port waive Minimum Annual Rent and require tenants to pay only applicable percentage rent for the duration of the Stay-at-Home order, plus an additional 60 days to provide time for business reopening and stabilization.** We believe this is not inconsistent with the spirit of Section 58 of the San Diego Unified Port District Act, Suspension of Rules and Regulations in Emergencies, Emergency Regulations.

We thank you for prompt consideration of this emergency request.

Sincerely on behalf of the San Diego Port Tenants Association Board of Directors,



Frank Plant
Chairman



John Laun
Vice Chairman



Sharon Cloward
President

CC: Port of San Diego Executive Leadership Group
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