**EVICTION MATTERS**

**Earlier this week, the CDC issued what is considered an exceedingly rare order regarding eviction matters pursuant to its limited authority under 42 USC 264**.  **As explained more fully below, Stern & Eisenberg will proceed with evictions as scheduled unless you, our clients, wish us to take a different course of action or our courts provide direction.**

During the current pandemic, it has been clear that the Federal Authority to act in connection with Foreclosures and Evictions has been limited to regulating those matters that are tied to federally backed financing and agencies, such as FHFA, VA, FHA, USDA and other federal agencies.  At no point has the Federal Government sought to interfere with state governed laws because it does not have the general authority to do so.  At some point, the powers of the federal government are actually limited by the Constitution.  Amendment X provides that those powers and rights not delegated to the Federal Government by the Constitution remain with the States.  Foreclosures and evictions are matters that have long been the province of State Law and remain an issue of State law.  The CDC order seems to stray well beyond the limits of the CDCs and Federal Government’s authority under 42 USC 264.

The attempt to wholesale prevent evictions on a national basis appears to be well beyond the limits of federal authority and seeks to interfere in the operations of state judicial systems under which state eviction (and removal laws) are enforced.  Again, the edict seems to stray well beyond the boundaries of the limited authority provided by 42 USC 264.  Additionally, 42 USC 266 is a wartime provision; while we have become used to the term “war on \_\_\_\_”, section 266 has no application to the current pandemic.  We do not believe the sweeping attempt to regulate state law from the CDC is appropriate and we will continue to proceed under state law as guided by our court systems.

The United States and each State was established with three wings of government in order to protect the rights and interests of all citizen, including property rights.  Again, the Federal Government is of limited authority as provided under the Constitution and the remaining rights not addressed under the Constitution belong with the States.  It is our belief that the CDC order does not truly seek to regulate nor control interstate movement and it certainly does not address international movement; those are the items specifically referenced in 42 USC 264.  It is up to our judicial system to determine the legality of the various laws passed by our legislature and to determine the legality of the various actions of our executive branch in exercising the laws passed by the legislature.

At this time, Stern & Eisenberg, will proceed with all valid eviction (and other possessory) orders issued through our state judiciary systems.  We will continue to monitor how our courts are handling this unusual edict; and we will also update our clients and colleagues