

**GUIDANCE FOR TENANTS SEEKING
RENT RELIEF DUE TO THE CORONAVIRUS SHUT-DOWN**

April 1, 2020

With businesses shut down in the fight to defeat the Coronavirus pandemic, some tenants may need some rent relief. These are some guidelines for tenants who think they might need rent relief.

1. Don't wait! Pursue all resources now!

If you need rent relief, talk to your landlord *now*. Talk to your bank *now*. There are programs coming that will help you make payroll and pay rent, and those programs will be administered by SBA lenders. Let your landlord know that you are talking to your banker and that you are pursuing resources that will come from the Phase 3 Stimulus Package once those programs are operating.

2. You and your landlord are mutually dependent.

You may not have thought about it this way, but at some level, every landlord invests in every one of her tenants' businesses, and every tenant invests in his landlord's real estate. That means your landlord does not want you to close and will likely be willing to work with you to manage cash flow to avoid it.

Likewise, you need to be willing to work with your landlord. Realize she probably has a mortgage payment. Ask if the bank is giving her any relief. If not, realize she may be in a bind. You don't want your landlord to go through a foreclosure, and that may be a real threat that some landlords will face in the coming months. You have a better relationship with her than you will ever have with any bank that ends up owning the property after a foreclosure. The worst landlord is still a better landlord than any bank, receiver, or trustee.

3. Your landlord likely has multiple tenants that need help.

You are probably not the only tenant asking for relief.

- a. **Standard Approach:** Your landlord may need to establish standard approaches for all tenants. Be willing to try to work within that standard approach as much as possible.
- b. **Tailored Approach:** On the other hand, your landlord may need to extend specific help to another tenant that he may not be able to extend to you. Be willing to work out a plan with your landlord that may not be as attractive as the plan another tenant gets.
- c. **Confidentiality:** Keep your plan confidential. Do not discuss it with other tenants. If your plan works well enough for you, it really should not matter what another tenant gets. There are many factors at play, and those factors may affect each situation differently.

4. Plan to catch up any deferred rent.

Whatever rent you propose to defer, propose a plan to catch it up. For example, if you need a month with half rent, propose paying 110% for 5 months. If you need a month without rent, propose paying 125% rent for 4 months. Some landlords may agree to add additional term to the lease, for example, giving 4 months of half rent now in exchange for 2 months added to the end of the lease.

5. **Consider the long-term.**

If you know now that you need two or three months, ask for them now. If you are going more than a month, be willing to try to pay something – half, 30%, or 20% – during those months that you need help. Your landlord likely has hard costs like building services, utilities, etc., that your rent usually covers. Paying some portion will help with those costs.

6. **Define contingencies.**

You might propose some contingencies that match your situation, but be sure they are specific, measurable, and objective with a clear timeline for starting, stopping, and milestone dates. For example, if you think your business will run at 25% of its typical revenue until people are back at work, then you could propose paying 25% of rent from the next payment due until local schools start meeting regularly again, and then rent will be 125% until the deficiency is caught up. You might also offer to abandon the plan and catch up deferred rent immediately if you receive sufficient stimulus funds.

7. **Review your lease.** Make sure the relief plan is consistent with the lease.

8. **Get something in writing.**

A letter agreement signed by you and the landlord should be fine in most cases, but check with your attorney. You may need a more formal amendment. Be specific about exactly what months' rent payments are being deferred and how the deferral works, and when you will catch those payments up and how.

9. **Check with your attorney.**

Nothing here is legal advice. You should consult with your attorney and let her know what you are trying to do and how.

10. **We are all in this together.**

Finally, as far as coronavirus is concerned, we are all in this together, and ***we are all*** going to experience financial pain. Do NOT exploit this situation. Your landlord's employees, vendors and bankers all need him to have revenue just like yours do, and your landlord needs your rent payment just like you need the revenue from your clients and customers. Do not ask for relief you do not absolutely need.

The context for what we are all experiencing is fluid. No one knows how long we will be operating under Coronavirus, social-distancing protocols. The Treasury Department designed the Phase 3 Stimulus to address three months of economic disruption and has indicated that they will propose more if more is needed. Communication and cooperation with your landlord will be key to getting through this disruption, regardless of how long it lasts.

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