



Commercial Real Estate Guidance During Coronavirus Uncertainty

Unfortunately no portion of our community, including commercial real estate, is unscathed by the ongoing pandemic (COVID-19). Reinhart's Real Estate Team is actively responding to questions from clients involved in all sectors of commercial real estate to help them provide an effective COVID-19 response. Unsurprisingly, we have found that most real estate agreements provide little guidance to our clients on either the legal responsibilities or moral obligations presented by COVID-19, and we have a number of threshold tips to help with the process of addressing CRE-related challenges caused by the coronavirus.

A handful of threshold items can help all of our commercial real estate clients focus on how they can begin implementing an effective COVID-19 response at their properties. We are finding that our commercial tenant clients are generally concerned about protecting their employees, and they want clear, transparent, and timely communication of any COVID-19 related event at their place of business from their landlords and service providers. Similarly, our owner, operator and landlord clients are implementing enhanced procedures to keep properties clean and safe, and they are responding to requests by their tenants and other users for transparent and timely communication. In addition, all of our real estate clients are concerned about complying with the terms of existing agreements, following governmental health directives and mitigating the damage of COVID-19 to their properties and businesses.

The following steps are just the start of how our real estate clients can begin the process of implementing a COVID-19 response:

First, because the situation is evolving rapidly, it is paramount that we all continue to review and follow government directives, laws and orders issued by federal, state and local authorities (Health Directives). Health Directives may override, through the force of law, what a given contract dictates or provide government aid for taking recommended measures. Reinhart attorneys are continuously reviewing the evolving Health Directives and are providing counsel to clients on impacts to private agreements.

Second, begin to establish on-site management plans in consultation with property managers to follow Health Directives. Depending on the asset type, these plans will need to understand existing tenant lease rights, employee

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obligations, and notification processes for individuals who both test positive for COVID-19 and those interacting with individuals testing positive. While it is unlikely that a lease will require, or prohibit, providing general information or notifications of COVID-19 instances, some landlords and tenants are proactively implementing such procedures. Reinhart attorneys are assisting these clients in crafting procedures complying with existing private and public confidentiality obligations as well as required notifications of new Health Directives.

Third, enhance cleaning access and responsibilities. Clients should be consulting with cleaning contractors to understand processes such cleaning services are implementing to assure coverage with anticipated employee absences, reviewing existing agreements regarding access to properties for cleaning (especially public areas), and considering restricting hours or access to public areas or amenities. Reinhart attorneys are leading efforts for clients to clarify cleaning policies, review and revise agreements, and provide closure notifications to facilitate a COVID-19 response.

The above actions are only first steps in devising a general COVID-19 response plan for commercial real estate properties. This rapidly evolving event will require more frequent updates about additional topics and situations we are confronting on a daily basis such as forced closures, assisting self-quarantined multi-family tenants, addressing delays in performance through force majeure provisions, rent withholding by tenants, COVID-19 measures expense recovery, and COVID-19 impacts on loan documents and financial covenants.

COVID-19 is presenting both novel situations to address and ones analogous to past economic and world events, and the Reinhart Real Estate Team is here to draw upon our depth and experience to assist.

If you have a question about how the coronavirus impacts your business, please call your Reinhart attorney.

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