

Landlord Rent Relief Checklist

Alert

03.27.2020

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In these unprecedented times where the businesses of many tenants are affected by the COVID-19 virus, landlords may be approached for rent relief. This short checklist is a reminder of some of the issues to be addressed when considering and/or granting such relief.

Is A Pre-Negotiation Email Or Letter Required?

- Emphasis on there is no deal until there is a written document executed by landlord and tenant and neither party is bound in the interim

How Rent Relief Can Be Underwritten and Documented?

- Obtain updated financial and operating statements; evaluate security deposit, letter of credit or other security
- Free or reduced rent for a short period; consider an equivalent extension of the lease term
- Free or reduced rent for a short period with a re-amortization of the relieved rent in later years
- Does the free or reduced rent amount bear interest?
- Recoup free or reduced rent through profit sharing or percentage rent methods
- Condition free or reduced rent on tenant's participation in federal/state assistance programs

Is Lender Approval Required?

Loan issues to consider:

- Is there a debt to income ratio or other debt service coverage metric that could be triggered by the rent abatement?

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- What financial information of landlord and tenant operations are required to be given to the lender?
- Are tenant estoppels or other documents required?

Additional Key Questions to Consider:

- If the tenant later defaults, can the rent relieved be included in the damages claim?
- Is there rent loss insurance coverage?
- Is there a continuous operation clause that could be relaxed to achieve the rent relief?

Other Issues Surrounding COVID-19 Relating To Leases:

- Is there a claim of breach of quiet enjoyment due to landlord's action/inaction?
- Has a force majeure event occurred as a result of the pandemic?
- Does the lease contain a rent withholding clause if a landlord is not providing required services or the tenant cannot access its premises?

CONTACT

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