

Coronavirus Issues for Commercial Real Estate Owners

Owners of commercial and multifamily residential real estate (CRE) occupied by tenants need to be prepared for the impact of the coronavirus epidemic on their tenants and on their businesses. Owners must plan for contingencies arising from the impact of the virus on their own internal staff, their vendors, and their tenants. While most buildings have not seen any real impact from the epidemic so far, the CDC and the National Institutes of Health are predicting widespread impacts from the virus.

Every CRE owner should already have an emergency response plan in place to deal with natural disasters, such as earthquakes, floods, and fires. Those plans should include communication plans and protocols for responding to urgent medical needs of persons within the owner's property.

In light of the unique aspects of the current epidemic — which most CRE owners have never had to address — it makes sense to revise the emergency response plans to deal with the epidemic.

Resources

Owners should immediately become familiar with the resources offered by CRE trade groups for each type of commercial real estate. Here is a listing of the guidelines published by various CRE trade groups:

BOMA: [Emergency Preparedness](#)

National Association of Realtors: [Coronavirus: A Guide for Realtors](#)

NAIOP (WA and MA): [COVID-19](#)

Institute of Real Estate Management (IREM): [Coronavirus](#)

National Apartment Association: [Dealing with Coronavirus](#)

ICSC: [Coronavirus Information and Resources](#)

NAHB: [Coronavirus Preparedness](#)

NAREIM: [Domestic Travel Bans on the Rise as Managers Respond to the Coronavirus](#)

Emergency Plans

Owners of apartment buildings and office buildings with large concentrations of tenants and visitors need to be prepared to deal with the consequences of an infected visitor, vendor, or tenant in the building. Owners should publish a plan to their tenants notifying the tenants of the protocols that will be followed in dealing with the epidemic if an infected person comes on the premises.

Communications

Frequent communications by owners to tenants will help assure tenants that the owners are aware of the risk and are taking appropriate actions to protect the tenants as the epidemic spreads.

Vendors

Owners should arrange in advance to contract with their janitorial and security companies to assure that there are trained personnel available when needed to clean and sterilize the building common areas where infected individuals have been.



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CRE owners need to review their vendor contracts and the vendor emergency protocols to make sure that the owner is given notice of any illness among the vendors' employees who may have exposed the building and its tenants to the virus. Owners should also make sure the building's vendors are aware of the building's Emergency Response Plan and agree to comply with the plan in performing their services.

Visitors

Owners of mixed-use properties will need to address the implications of retail operations in their properties that are more likely to have large numbers of visitors to the building. Owners should consider whether temporary limitations should be imposed on access to upper floors in a building from visitors to the retail tenants. The increased likelihood of tele-working by professional firms and tech firms means that large office buildings will likely see a reduced number of occupants during the epidemic. This will impact the financial performance of small retailers/lunch counters, and other businesses that depend on a large number of people being in the building. Owners should be prepared to deal with the fallout from the hardship on these businesses.

Leases

Finally, each CRE owner should review its leases with tenants to determine what rights and obligations the owner may have if it needs to temporarily close a building that has been infected by the virus. CRE leases generally include a force majeure provision that may be applicable if the closure is ordered by a governmental authority, but which will likely not be applicable to a decision by the owner that is not required by law or governmental authority. The leases will determine whether the closure of the building could lead to potential exposure by the owner to its tenants for interference with their business operations. Owners should consider modifying their form leases to include epidemics as a force majeure event if the existing definition does not already include epidemics.
