

MSF CLIENT ALERT

Meister Seelig & Fein LLP | 125 Park Avenue New York, NY 10017 | 212.655.3500 | meisterseelig.com

Lease Obligations in the Face of New York's Non-Essential Business Shut Down

New York state's closure of all non-essential businesses is creating untold financial hardships. Many New York businesses no longer have sufficient revenue to pay their rents.

Our real estate team has reviewed many lease clauses that may apply to the unprecedented situation created by the novel coronavirus. These clauses include forces majeure, utility and service shut-downs, and damage and destruction clauses. While each lease should be reviewed, and every businesses situation is unique, certain general guidelines apply. For example, while force majeure clauses generally excuse the inability to perform, they often exempt the payment of rent and monetary obligations. The failure of utilities and services clauses typically address the landlord's failure to provide services and utilities, and are usually directed toward building failure, not civil orders closing business. Damage and destruction clauses also are generally limited to physical damage to the leased premises and it remains unclear if courts will consider the presence of the coronavirus on the premises as physical damage.

Our experience is that nearly all tenants are asking their landlords for rent deferral and offering to amortize the abated rent, without interest or penalty, across the remaining lease term. Some short-term tenants are offering to extend their lease term. Many landlords are pro-actively offering such options to tenants that have otherwise performed and are not in default under their leases. These landlords understand that they are facing a choice of providing a tenant relief or losing the tenant.

We are assisting tenants in making rent abatement requests, and are also assisting landlords in establishing rent deferment programs.

Let Us Know How We Can Help

We encourage both landlords and tenants to seek our counsel with these novel and complicated issues by contacting members of our leasing team.



Robin L. Topol
Partner | Real Estate
(212) 655-3507 | rt@msf-law.com

Additional COVID-19 Resources		
MSF Coronavirus Guidance Hub	New COVID-19 Protections for New York Employees signed on March 18, 2020	Coronavirus Guidance - Real Estate
Coronavirus Guidance -Corporate	What Every Employer Needs To Know	Coronavirus Guidance – Taxation & Estates
Coronavirus Guidance – Paid Sick Leave		

MSF CLIENT ALERT

Meister Seelig & Fein LLP | 125 Park Avenue New York, NY 10017 | 212.655.3500 | meisterseelig.com