

Landlord Considerations for Rent Relief During COVID-19

COVID-19 is changing life as we know it – affecting the way we live, work and play. As the pandemic continues to impact commercial real estate, tenants are exploring the possibility of rent relief and deferral. When these discussions and requests arise, Cushman & Wakefield’s agency leasing professionals encourage investors to consider the below checklist in preparation.

These issues are lease and fact-specific and are also subject to interpretation under individual state law and certain federal laws; and as such, consulting with your attorneys, insurers, tax consultants, risk managers, and other advisors will help you to best understand and protect your rights.

1 Request & Collect Tenant Information

- Specific written request for Landlord action
- Explanation of request for any governmental assistance being sought or already granted
- Evidence of business continuity insurance and defined coverage amounts
- Description of tenant’s ownership structure including organization chart
- The last three years of audited financial statements and tax returns, current financial statement and current balance sheet

2 Be Prepared with Information in Hand

- Lease abstract
- Current rent price and any past due balances
- Security deposit amount, letter of credit and amounts, personal or corporate guarantees
- Existing options such as renewal, expansion and termination rights
- Confidentiality agreement to understand tenants’ financial statements and any work out terms

3 Think Ahead: Tenant Relief Ideas

- Partial or full rent abatement for a limited time (e.g., 30-90 days, waived base rent but cover operating expenses)
- Defer rent for the next 30-90 days with rent to be amortized in future periods (e.g., calendar year 2021)
- Abatement in return for lease extension, modification or elimination of certain lease clauses (e.g., termination, renewal options, etc.)
- Applying a security deposit or letter of credit to be replenished at a later agreed upon date
- Tenant to waive certain legal rights if future defaults occur