



SIERRA

TIPS FOR RENEGOTIATING COMMERCIAL RENT

Check Your Lease and Your Insurance Policy: Does your lease contain a force majeure clause, or any language having to do with suspending rent during an emergency or natural disaster? Does your insurance policy have any language covering business interruption? Does your insurance policy specifically exempt pandemic from the list of covered perils? Consult with your attorney or consult with legal aid regarding covered perils.

Communicate With Your Landlord: Communicate politely, quickly, clearly and regularly with your landlord regarding your circumstances. Document your conversations by communicating in writing or by taking contemporaneous notes of your conversations and following up with electronic communications.

Be Empathetic: For many commercial real estate owners this is their major investment, life savings and retirement plan, and they are feeling the pinch just as much as you are. Missing multiple rent payments could trigger foreclosure and loss of their life savings. Be sure to communicate this empathy for their situation and express a sincere desire to reach a mutually beneficial resolution.

Know The Financial Aid Available To You: Be prepared to communicate with your landlord all of the financial aid available to you as a small business owner and update them on the actions you have taken to apply for that financial aid. Include federal, state and local opportunities for aid.

Be Prepared To Tell Your Story: Are you open, partially open, or closed? Did you use your extra cash to pay employees, vendors, utilities before the rent? Are you currently paying your employees? Do you have a plan for reopening? Do you have a viable financial plan for catching up in rent payments?

Leverage Your Track Record: If you have been a long term tenant in good standing, have made substantial tenant improvements that improve the value of the property, or have referred tenants in the past be prepared to make the case that you bring more than the value of your rent to the table.

Make the Case That You Are In this Together: Remember that every month the rented space goes vacant is equivalent to an 8.3% decrease in the rental income for the landlord. It is in your mutual self-interest for the space to be occupied and retaining the potential to pay rent, even if deferred. If you are forced to close your doors right now there likely are not any tenants to fill the space for many months. Your landlord also faces the prospect of a very different commercial real estate market post-pandemic.

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Questions for Your Landlord or Property Management Company:

- Are they offering rent deferral for the next month(s)?
- Has your landlord checked their insurance policies to see if their business interruption insurance covers losses?
- Is the landlord willing to consider a partial rent abatement of 75%, 50%, 25% of rent until you reopen? If your landlord is willing to work with you, you need to adjust your terms in writing with a modification to your lease.
- Is the landlord willing to go month to month at a reduced rate and then extend your lease for the original term?
- Is the landlord willing to defer the entire rent and place the deferred amount of rent on the last year of your lease and amortize the balance of the deferral for the remaining 12 months?
- Is your landlord willing to offer you a deferral for a certain period of time in exchange for adding that time to the tail end of your lease at an increased rate of 3%-5%?
- Is your landlord willing to negotiate a reduction in their mortgage in order to accommodate a reduction in your rent?

Tips for the Future

- **Clean Up Your House:** This crisis should be a wake-up call that to survive a well-run business has constant day to day understanding of their budgets, P&L's, Operating Expenses, Inventory, Cash Flow and financial position. It is not enough to think you know; your 'position' must be documented and readily accessible at all times.
- **Reevaluate Your Business Model:** With social distancing measures in place, are you able to do the same amount of business? If you project less sales, begin adjusting operations or consider subletting a portion of your space. Be honest with yourself about whether your business model still works. If not plan now for how you can change your business model, Crisis may be an opportunity for innovations and reinvention of your business.
- **Create a Realistic Timeline:** Is April-May-June enough time to get going again or will you need six months? If so, discuss with your landlord whether you can extend your lease with their help deferring six months to reopen.
- **Be Open to Change:** Is it better to walk away and reopen in a different location? Moving to a new location may be in your best interest, with lower rent, and a new business model built for success with social distancing.

For further assistance, contact:

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