

What do I do if my business can't pay its rent?

We are receiving inquiries regarding this issue every day. The Covid-19 pandemic, government mandated shutdowns and the effects on businesses have created a systemic financial stress no one anticipated. Office, retail, and restaurant tenants are facing the perfect storm of unexpected expenses and little or no revenue. Tenants have suppliers, employees, rent to pay, and families to feed and care for. For many, the future is uncertain. Prudent managers are looking for ways to manage cash flow to ensure the survival of their businesses.

As bad as it seems today, our country has faced frightening and difficult times before. We are strong, we are resilient, and we will get through it.

Many business tenants are, wisely, contacting their landlords to discuss options and request relief. We encourage you to make contact with your landlords. Do not be surprised, however, if your landlord is unable to provide an immediate response. In most cases, landlords have debt on their properties to banks or other lending institutions. Commercial mortgage documents often impose very specific cash flow requirements on the landlord. Most also include language that require the landlord to obtain permission from the lender or bank before making financial or other changes to the lease with their tenants. Banks are subject to regulation and may need guidance from their regulators before allowing a landlord to grant changes or relief to a tenant.

Our advice to tenants is parallel to our advice to landlords. Clear, thoughtful, and civil communication will yield the best outcomes. Tenants should consult with their own legal counsel, accounting, real estate, and lending professionals as part of this preparation. If asking their landlord for help or relief, the tenant should be prepared with financial information about their business, the specific help the business needs, and a plan to ensure that the business will be successful when things return to normal.

This information may also be passed on to the landlord's lender for comment and approval before the tenant receives a response. Be patient. The good news is that we are hearing from our tenant, landlord, legal, banking, government, and compliance colleagues that landlords and lenders are working together to create the conditions necessary to enable landlords to offer rent relief. In times like these, if we all step up and tap into our common humanity, each of us and our community will be stronger for it.

Paul D. Fulmer is a real estate professional with NAI Commercial Partners, part of the NAI Global consortium. He is licensed in Pennsylvania and New York. He and his team provide commercial real estate brokerage and consulting services to individuals and businesses locally and globally. www.fulmergroup.com *Each business situation is unique and the advice contained in this letter may not be applicable under your circumstances. We encourage you to communicate with your professional advisors for further direction.*