

THINGS TO KNOW PERTAINING TO ALL AIR LEASES DURING COVID-19

Can Lessor demand financial statements from Lessee under the AIR CRE Leases?

In light of COVID-19 closures, many Lessees are requesting rent relief from their Lessors, in the form of deferral or abatement. Lessors are more curious than ever to understand the financial situation of Lessees.

In most cases request of financial statements are only in connection with a sale, finance, or refinance by Lessor. In such cases, Lessee is required to provide financial statements "reasonably required" by the lender or purchaser.

If Lessee wishes to obtain rent relief from Lessor for circumstances relating to COVID-19, Lessor may attempt to condition any relief on Lessee providing financial statements, even though Lessor is not refinancing or selling the Premises.

Does the "Force Majeure" event of COVID-19 excuse rent payment under AIR CRE Leases?

Does the closure of a business as a result of COVID-19 constitute a "Force Majeure" event under the AIR CRE Leases that excuses payment of Rent?

No. There is no Force Majeure provision in the AIR CRE Leases. Force Majeure provisions in many custom Leases would also not excuse (or even delay) the obligation to pay Rent.

Does Lessee lose its extension option if it did not pay rent during COVID-19 pandemic?

Many businesses did not pay rent or paid partial rent because of the COVID-19 pandemic. Many Lessees wonder if the failure to pay rent cause for the Lessee to automatically lose any option to extend.

No, there is no automatic forfeiture of the Option To Extend for failure to pay rent. If Lessee becomes current at the time of exercise, it retains its ability to exercise an Option.

FOR MORE INFORMATION, CONTACT

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