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City Councillor
Beaches—East York, Ward #19

COVID19 and Commercial Leases: crowdsourced advice for small businesses and landlords

Since the COVID-19 pandemic started to affect daily life, I have been in constant communication with members of the community. I have been hearing from a lot of local businesses under serious strain, their biggest concern has been rent. Through hundreds of survey responses and phone calls, here is some crowdsourced advice for small businesses and landlords to work together to weather this situation.

Getting started early:

- Open all lines of communication. One thing is clear from my hundreds of contact-points: there is a lot of shared-understanding during COVID-19.
- Knowing the facts about the supports available (and not currently available) will help have an informed discussion. More on this below.
- Deferrals won't fix things, but it is a helpful first step. As governments at all levels prepare to get dollars flowing to Canadians, we're relying on deferrals to give us time until longer-term fixes can be found.

Creative/interim solutions:

- Consider using last month's rent for April and make a payment plan to top it up again
- See if your utilities provider will refund part or all of your deposit to free up cash for rent or bills
- Use the City of Toronto's 60-day tax deferral to make a partial payment on April rent.

Know the facts and understand concerns on all sides:

- Commercial leases are more like contracts than residential leases. They are not legislated in the same way as residential leases in Ontario under the Residential Tenancies Act.
- Many commercial leases have a personal guarantee which is a particular concern for small businesses.
- The City has deferred property tax and utility bill payments for 60 days. Automated payments are being put on hold.
- The Province has published its list of [essential workplaces here](#). All other businesses are mandated to close, with enforcement now taking place in the City of Toronto.

Insurance and legal clauses in leases

- Many businesses are telling us that insurance policies have not been covering COVID-19 under the *force majeure* (“acts of god”) clauses in leases.
- The impacts of the State of Emergency declarations are still being worked out with respect to using these clauses.
- There are similar challenges interpreting ‘interruption of business’ clauses in insurance policies at the moment.
- Further legislation or legal opinion is needed before these protections might be used.

Mortgage impacts

- Many landlords are not getting mortgage deferrals for commercial properties.
- There is a lot of information in the news that mortgages are being deferred. This is not currently government-mandated and is mostly led by the Big Six banks for residential mortgages.
- The City has deferred property tax and utility bill payments for 60 days. Automated payments are being put on hold.
- For some commercial mortgages, banks are also paying the property tax so landlords may still need to make payments including property taxes to their bank.

Access to loans and grants:

- Many tenants, especially small businesses, are struggling to access emergency funding through the Federal government.
- Many small and local businesses do not qualify for BDC loans either due to their size, the type of business or the type of loan which can come with double-digit interest rates.
- We are still in relatively early stages for implementing measures with direct cash transfers. It may be weeks before funds are made available to individuals and businesses, making April rent especially challenging.
- Under the Canada Emergency Response Benefit announced by Prime Minister Trudeau, small-business owners could qualify for up to \$2,000 per month support for four months. This funding is not expected to flow until early April.

Don't forget:

- You are not invisible – local government is hearing the concerns of small businesses.
- This is uncharted territory. The best tool at all our disposal is collaboration.
- Visit my website for a consolidated, easy-to-follow list of resources [here](#).
- The Mayor's [Economic Support and Recovery Task Force](#) is working to find made-in-Toronto solutions for small businesses in this global pandemic.

Feel free to use the comment tool on this document to leave questions or provide additional feedback or complete this [survey](#). For the latest updates on the COVID-19 response at the City and in Ward 19, sign up for my regular updates at bradbradford.ca/newsletter. Please note this document is not legal advice and is meant as a community resource.