

# 10 Answers EVERY TENANT NEEDS TO KNOW IN TODAY'S UNCERTAIN ENVIRONMENT About the COVID-19

You have enough to worry about already—COVID-19 doesn't have to be all lemons.

The Keyser team came together to help you create lemonade out of lemons and to get out in front of the commercial real estate challenges that the COVID-19 virus is creating.

Below are the top questions that Commercial Real Estate Tenants are asking us during this crisis, including how they can secure immediate rental relief from their landlords.

## Questions

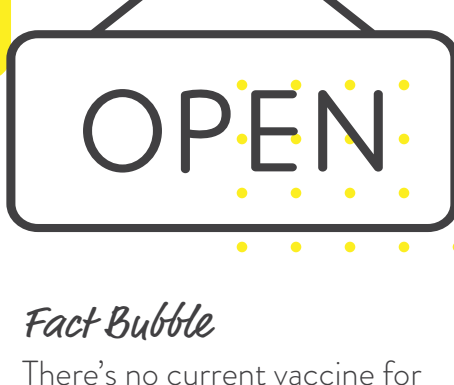
**1**  
My revenue has already dropped by 30-40% and I anticipate more pain to come. If this virus is expected to last a while, how can I get short term rental relief since my revenue has dropped but my real estate expenses have not?

## Answer

The good news is that you are not alone. Most landlords understand that tenants are experiencing significant difficulties, and most of them are expecting some sort of outreach from their tenants. The most common types of immediate relief opportunities tenants are requesting are:

- Free rent for a specified number of months
- Deferred rent (adding rent deferred today to the end of the lease)
- Blend & Extend Lease Extension (renegotiate and extend for relief today)
- Pay only CAM / Operating Expenses (allows the landlord to at least pay bldg. expenses)

HOW you request this relief matters, so contact your favorite Keyser broker today to get your rent relief strategy figured out.



## Fact Bubble

The COVID-19 spreads through human interaction. One can be infected when in close contact with someone who is sick. The CDC recommends keeping a distance of at least 6 feet from an infected person.

## Questions

**2**  
What steps should I take if I can't pay my rent on time?

## Answer

- Most importantly, you need a strategic plan
- Communicate early and often with your landlords: Consult with your commercial real estate advisor to understand the dos and don'ts of broaching this topic with your landlord. If you've already reached out to your landlord, we would still advise getting advice from your commercial real estate advisor.
- Fully vet your alternatives,
  - Subleasing
  - Short-term relief
  - Rightsizing
  - Blend & extends
- Demonstrate to your landlord that you will be a going concern
- Fully vet your relief and assistance programs



## Fact Bubble

There's no current vaccine for the COVID-19 that is safe and effective in human beings. However, scientists have been developing one and are hopeful.

Need help determining the best course of action for your business? **Contact your favorite Keyser Advisor to get additional assistance.**

**CONTACT AN ADVISOR**

## Questions

**3**  
Does the current market situation constitute an "Act of God", thus triggering the Force Majeure clause in my lease?

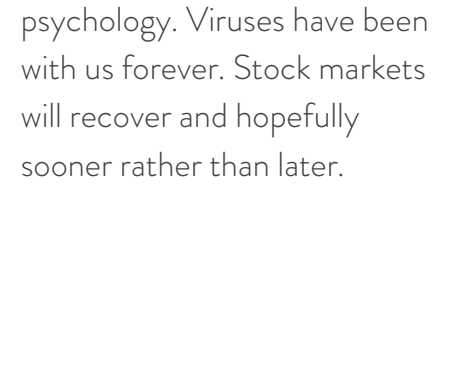
## Answer

The vast majority of good Landlord Attorneys will carve out the payment of rent from force majeure events.

For example: **"Wherever there is provided in this Lease a time limitation for performance by Landlord or Tenant of any obligation, including but not limited to obligations related to construction, repair, maintenance or service, (other than obligations requiring the payment of money), the time provided for shall be extended for as long as and to the extent that delay in compliance with such limitation is due to accident, unavailability of employees, strikes, lockouts, riots, an act of God, governmental control or other factors beyond the reasonable control of Landlord or Tenant."**

That said, we are in unprecedented times, and the answer depends not only upon your lease language as referenced above but on your landlord, your geography and government interventions. Ultimately, this will be litigated and, like after 9/11, the courts will likely ultimately decide.

To have a professional review your Force Majeure clause to see if it creates an opportunity for you, please contact your favorite Keyser advisor today for a free lease clause review.



## Fact Bubble

There will be economic damage from the virus itself, but the real damage will be driven mostly by market psychology. Viruses have been with us forever. Stock markets will recover and hopefully sooner rather than later.

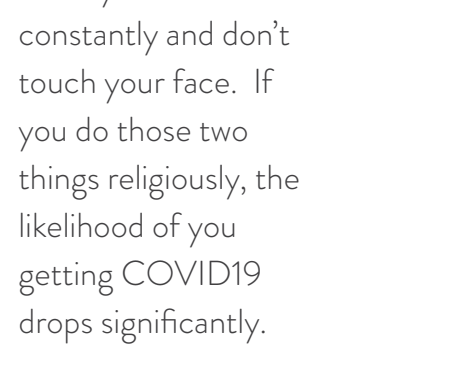
## Questions

**4**  
Is now the right time to re-negotiate my lease?

## Answer

The short answer is that it depends because every situation is different. No one knows how long this will last and how much commercial building values and rents will drop. Tenants certainly have more negotiating leverage today than they did over the last 7 years, but uncertainty for both landlords and tenants remain quite high.

It is important to understand how much your tenancy matters to your landlord, how desirable your space could be to subsequent tenants and subtenants, and how to best approach them. The key is to be very thoughtful and strategic about optimizing market timing for your business.



## Fact Bubble

Wash your hands constantly and don't touch your face. If you do those two things religiously, the likelihood of you getting COVID19 drops significantly.

Contact your favorite Keyser Advisor to get additional assistance. If you have spoken to your landlord, you can still reach out to us to discuss strategies, free of charge.

**CONTACT AN ADVISOR**

## Questions

**5**  
I've signed a lease and construction is underway...how does this affect me?

## Answer

There are a number of things that as a tenant you need to be very thoughtful of:

- Revisit the construction timelines and obligations within your lease
- Minimize your out of pocket costs as much as possible
- Expect delays. Many permitting departments and title companies are closed
- Avoid holdover at your current facility by proactively communicating with both your current and new landlords, as applicable
- Look out for landlords invoking or planning as applicable Force Majeure clauses regarding TI's. You may want to consult with a real estate attorney to address whether your landlord is within their rights to invoke force majeure
- For leases not yet signed, negotiate to place tenant improvement allowances in Escrow



## Questions

**6**  
I'm currently in the middle of negotiating a lease...what should I do?

## Answer

Well...it depends upon whether your business is significantly challenged or whether it is somewhat unaffected.

**If challenged**, make sure that you reassess your needs in today's market, do your homework on potential landlords, understand how much you matter to your current landlord, and use this time to gain more favorable terms.

**If your business is unaffected or even enhanced**, make sure you maximize your negotiating leverage, understand how your landlord is and what their financial position is, reassess your alternative options as new options are hitting the market daily, be strategic in your negotiations, and don't rush as time is your ally. Keep in mind that the uncertainty in the market can be harnessed to secure extremely favorable terms for tenants.



## Fact Bubble

S&P 500 could see a negative growth rate of 15% to 20% in 2020 if this crisis continues into the 3rd quarter.

## Questions

**7**  
What happens if I miss a rent payment?

## Answer

As a tenant, you are subject to late penalties (typically 5%-10%) as well as interest on the past due amount. A late payment is considered an Event of Default until cured and can trigger other punitive clauses throughout the Lease. For instance, some Leases can have clauses that allow for Landlords to collect an equal dollar consideration for abated rent months that were an incentive for the Tenant at the start of the Term but are recoverable by a Landlord in an Event of Default. These penalties can often be avoided if you commence negotiations.



## Fact Bubble

While the long-term effects are still unknown, COVID-19 is a respiratory virus that causes severe pneumonia.

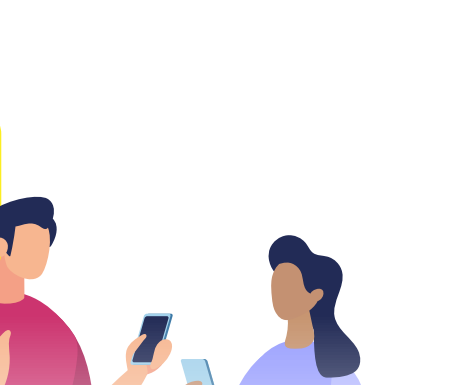
## Questions

**8**  
How does a volatile stock market affect commercial real estate?

## Answer

All else being equal, volatility in the stock market will hurt the commercial real estate industry. While outcomes can vary, short term pressures include weaker commercial real estate prices due to less investment, slowing transaction volumes, fewer financing options, and longer-term pressures involving downsizing and bankruptcies.

Given the high level of uncertainty at present, the best thing tenants can do is to stay informed by understanding the current landscape surrounding the economy, their region, their building, and the real estate possibilities as it pertains to their existing business.



## Fact Bubble

The COVID-19 has a mortality rate on average of up to 2%, heavily weighted towards the elderly and immune-compromised.

## Questions

**9**  
What happens if my landlord gives the keys back to the lender?

## Answer

If this occurs, beware, because your tenancy may be at risk. As witnessed in the last two downturns, a significant number of properties went back to the lender and a significant number of tenants found their occupancy at risk when that occurred.

It is critical that you stay apprised of the financial position of your landlord, find your lease and review carefully your SNDA clause. Expect indecision and delays and be sure to prepare immediate contingency plans.

Reach out to Keyser today for an expert review of your situation, to understand your options, and create a strategic plan to address them.



## Fact Bubble

Global GDP growth rate is one of the lowest in 30 years at around 2%.

## Questions

**10**  
How in the world do I make real estate plans when no one really knows how long this crisis will last and what will happen?

## Answer

Make decisions based upon the best information you have today, and secure flexibility at all costs in your real estate commitments so that as things change, you have the ability to maneuver and adapt. Have a well thought out plan, and be strategic and thoughtful. Communicate, communicate, communicate, and make sure that you are looking for win-win solutions.

Finally, please remember that we are all in this together. Everyone is being impacted in some way and no one knows what the end looks like, so we need to work together as a community to get through this. Landlords, tenants, lenders, employees, brokers, vendors, and other stakeholders are all being impacted, so work together.



## Fact Bubble

There will be economic damage from the virus itself, but the real damage will be driven mostly by market psychology. Viruses have been with us forever. Stock markets should fully recover in the 2nd half of the year.

The uncertainty in today's marketplace doesn't have to be limiting, and in fact it will create significant opportunities for many in the marketplace.

The key is being proactive, strategic, thoroughly communicative, and to not be afraid to ask for what you really want. The world has changed. The concern of negative PR will not play so prominently in many companies' decision-making, so keep a clear head, and do what needs to be done to survive in this market. Hopefully, recovery is not too far around the corner.

If you would like some professional real estate advice or you are looking for guidance at Keyser are here for you. Contact any of our advisors today to take advantage of a free lease review and strategy session to help you create and execute upon the very best plan of action for your business. In other words, let us help you make some lemonade.

**CONTACT YOUR FAVORITE KEYSER ADVISOR TODAY**