



Requesting Rent Concessions in Response to Coronavirus

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Need Rent Help? Start with Your Landlord

Beyond making payroll and other employee-associated costs, one of the next biggest financial obstacles being encountered by [business owners during the COVID-19 outbreak](#) is the potential inability to pay the rent. While landlords we have spoken to since the onset of this crisis are certainly understanding of the circumstances, at the end of the day, most landlords are also running a business (i.e., the rental of property) and have their own obligations to employees and lenders that must be satisfied. As such, you can expect that any request for rent concessions will be met with a measured – but hopefully rational – response.

How to Speak to Your Landlord About Rent Concessions

Here are some keys to a productive conversation with your landlord about rent help:

1. Requests for relief should be made at the appropriate time when the risk of non-payment becomes real, but not after you are already late. Discussions that take place too early or too late will not be productive and are unlikely to yield meaningful results. Waiting until you are in dire straits is the worst thing you could do.
2. You should directly contact the landlord. Doing so will make the request seem more genuine and make it harder to reject outright than if made by a third party or through a brokered transaction.
3. Be fully transparent about your financial situation and outlook. Landlords are quickly getting inundated by requests to lower or defer rent and will

themselves go out of business if relief is granted to every tenant. As a business requesting assistance, you will want to explain ([via financial reports](#) if possible) your cash flow situation and why your cash flow will not allow you to pay rent at this time (or at least not pay the rent in full).

4. When making a request, be sure to ask for the specific relief you are seeking. The most common type of relief is either (a) asking for a rent reduction or forgiveness or (b) a rent abatement or a deferral until things get better. To the extent the request can reasonably be tied to your cash flow projections, this will be better received than simply making a request for a rent concession without sufficient support. In addition, to the extent you can show you are reaching into reserves or otherwise sharing the burden (e.g., pulling funds down on a bank line of credit or applying for an [SBA Loan](#)) the landlord should be more willing to consider your request.
5. All relief requests should be for the shortest period of time possible and support the notion that this is a temporary situation until you can get back on your feet. For example, if you are a restaurant currently closed by a state shelter-in-place order, but it appears that you will reopen by April 15, a request to defer April's rent should be understandable. If you ask to defer rent until September, however, your request will be much easier for a landlord to flat out reject.
6. Be prepared to be creative if the landlord responds negatively to rent reduction or rent abatement requests. For example, you could ask for abatement but agree that any amount of rent abated would be paid as additional rent amortized over the 24 months following the expiration of the abatement period. The closer you can get to making the landlord whole, the more likely they are to have a favorable response.

Taking the Landlord's Perspective

Any landlord response to a rent adjustment request is likely to be measured, taking into account the long-term viability of the tenant and the tenant's payment and operational history. A landlord's perspective on the current crisis will also play a role in their response to the request. If the landlord believes that this will be a relatively short-term crisis, she may believe that tenants generally may not

require rent help. It is also important to realize that because of certain obligations to lenders or investors, some landlords may not be able to provide rent concessions (at least without third-party approval).

Most landlords are realistic entities and will only take legal action against a tenant if they believe that will yield a better result. One would hope that, to the extent permitted, landlords adopt a long-term view and make short-term rent concessions to help ensure their tenants remain viable. This is especially true in light of that fact that, in most sectors, finding replacement tenants may be a difficult task. Your job is to convince the landlord that investing in you in the form of concessions will provide a better return than if they replace you. That being said, it is possible that your landlord (and landlords generally) will not get similar accommodation from their lenders. In such circumstances, landlords who have a history of being reasonable with their tenants might become just the next businesses looking for concessions or a bail out.

The current environment has created circumstances where deals will be made between landlords and tenants that would not previously have been considered. Because most people will usually act in a financially rational manner (even in times of crisis), in most instances, sticking with a current tenant is going to be the best bet for landlords. When approaching your landlord, be honest and respectful of their situation, and ask for a reasonable amount of relief.

About Jeremy Waitzman

Jeremy chairs the Corporate Group at the Sugar Law Firm (Sugar Felsenthal), a national boutique serving the affluent and the companies they own or otherwise control. He advises his clients on significant transactions and operational issues in their businesses. Described by clients as "an essential business advisor" and "a partner in the success of my business," Jeremy has substantial experience representing businesses of all types and sizes from inception, guiding them through significant growth, and often through ownership's exit. His clients include privately-held middle market and emerging growth companies, family offices/funds, investors, C-level executives, boards of directors, family-owned businesses and entrepreneurs. Jeremy counsels clients in the areas of corporate law, mergers & acquisitions, private placements, and general contract law. He represents individuals, closely held businesses, start-up companies and serves as outside counsel to several large corporations. His work with companies often includes strategies for the creation of enterprise value.

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