Tenant Defaults in Light of Commercial Eviction Moratoriums

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Throughout the pandemic, commercial eviction moratoriums (at the state and local levels) have left commercial landlords with few options when their tenant(s) cannot afford rent. Tenant reliance on force majeure provisions to excuse the

payment of rent and negotiating rent deferments and abatements have been the main course of action. However, where the tenant has not paid rent, it may still prove beneficial for commercial landlords to serve a notice of default and file an unlawful detainer complaint where permitted, even though the action will not be heard until the moratoriums are lifted. Even while the moratoriums remain in place, the notice of default may help terminate the commercial lease, prevent the tenant from exercising certain rights that are conditioned on the absence of an event of default, and serve as a clear point in time when the default occurred to aid in calculating late fees and interest owed. If anything, the pandemic has clearly shown that there is no singular solution for these types of issues, and the varying approaches and requirements from jurisdiction-to-jurisdiction require careful review. A prudent approach would be to contact legal counsel to review your specific situation to determine the best path forward.

Legal Disclaimer:

Nothing in this blog is intended to constitute legal advice and your interactions with this blog do not result in the formation of an attorney-client relationship. All matters are different and, as such, nothing in this blog is intended to guarantee, warrant, or predict a specific outcome.

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