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UPDATE 1.0: COVID-19 guidance for owners and managers of multifamily residential properties

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Breaking news — new CDC guidance

As we were finalizing this update for publication, we learned that over the weekend, the Centers for Disease Control and Prevention (“CDC”) published [guidance for preventing the spread of the covid-19 virus at retirement communities, independent living facilities and other housing for older adults](#). The guidance also includes a checklist of steps that these facilities can take to prepare for an outbreak of the virus. This is the first housing-related guidance from the CDC and while the guidance is focused on housing for older adults, much of its advice may be useful to owners of multifamily housing generally.

Challenges

Across the country, owners, managers, and other providers of multifamily housing are facing challenges on multiple fronts in responding to the COVID-19 virus and the resulting economic and health-care fallout. As we finish what seems to be the first week on national quarantine, or something like it, we wanted to provide an update to assist housing providers as they respond to these issues.

Be proactive

The first thing to do is to be proactive and think in advance about how to respond to the challenges you may shortly face. Here are some things housing providers should be doing right now.

Sanitize your property and enforce social distancing

You do not want your property to be a petri dish for the virus. The best way to reduce the presence of the virus is to maximize efforts to keep your property healthy. Specifically, do the following on a regular, constant basis.

- *Sanitize, sanitize, sanitize.* If you can obtain hand sanitizers, do so, and post sanitizer stations/dispensers in the public places on your property (at entry doors, elevator doors, etc.).
- *Disinfect surfaces religiously.* That means using disinfectants to wipe down entry door handles, elevator buttons, buzzer buttons, counters, railings, and other surfaces that are

touched often (including surfaces in property management offices). If possible, this should be done several times a day. Make sure your maintenance staff focuses on decontaminating surfaces and make gloves and other protective gear available to minimize their exposure. Direct them to wash their hands frequently, including after they take off their gloves. These people are your first line of defense — keep them healthy.

- *Close common use rooms, such as party rooms, common spaces, and exercise rooms.* There are simply too many places where the virus can spread in such spaces, so any public gatherings must be minimized.

Keep tenants informed

Successful messaging is critical to maintaining hygiene at multifamily properties. Again, be proactive. Let tenants know that you are taking active precautions, but that the health of everyone in the building is the duty of each resident.

Advise tenants that everyone's health comes down to each individual acting aggressively to stop the virus from spreading

Back in the 1960s, public service ads urged people to “Drive defensively,” meaning the best way to avoid an accident was to drive consciously to avoid accidents, as if other drivers were hazards on the road. The same approach should apply here — everyone should act as though they preserve their health by being personally responsible for stopping the virus. By “Living defensively,” they will help to stop the virus, and promote their own health and the health of their loved ones.

Post signs and notices available on the CDC website (CDC.gov)

CDC has developed multiple posters and notices that can be placed strategically around the property to alert them about steps residents and staff can take to minimize the presence of the virus.

Establish ways to communicate with your tenants in advance

This would include the ability to post notices in prominent places around the property. In addition, establish a means to communicate with tenants by email or other media.

Keep your business operations resilient

You need to keep your business operating at maximum efficiency. Among other things:

- Create remote work options for office staff.
- Encourage residents to use telephone, text, and email options for contact staff.
- Encourage use of electronic payments for rent and other charges.
- Verify your supplies are adequate and your supply chain is functioning.

Employees who report an illness should be sent home

Employees who report exposure to or are confirmed to have coronavirus, or are known to be in either category, should be sent home on sick leave or at least to work remotely.

Become familiar with reliable local sources of public health information

There are a lot of trained public health experts in the country. Follow their advice. This is no time to second-guess the experts. By all means, avoid following or sharing non-medical sources purporting to provide information about things they plainly know nothing about.

Follow other housing-related guidance from public authorities

Several public agencies may be developing housing-related guidance. For example, we have received feedback that New York and Pennsylvania may consider your housing services to be essential to keep open even in the broader shutdown.

Senior housing

As noted above, the CDC issued new guidance over the weekend to prevent the spread of the covid-19 virus at housing for older adults. While some of the advice is directed to facilities that also provide health-related services, much of it will be useful to anyone who operates housing with a large population of elderly persons — and indeed, to anyone who operates multifamily housing in general. You should review the CDC guidance and the accompanying checklist as you make plans to prepare for and cope with a covid-19 outbreak.

What to do if you learn that a resident is carrying the virus, is sick, or is quarantined

This is one of the most-difficult questions a housing provider is likely to face, because it raises completely understandable worries about how other tenants will respond and about the privacy of anyone who is ill. A recent article on ESPN.com reported that Brooklyn Nets player Wilson Chandler was told to stay out of common areas of his apartment building after four members of the Nets tested positive. The article noted Chandler's negative reaction, as well as the concerns reported at the building. It is possible that someone in your building will become ill, and you have to prepare for how you will respond in advance. There is no one correct answer, but here are some things to think about.

Make sure that information is accurate

Some tenants are likely to notify their housing providers if they are sick — for example, by asking for assistance with food deliveries. And of course, some tenants may feel unwell but not actually know they are sick. Before taking any action, you should attempt to verify information concerning a tenant's health status with the tenant or, if that is unsuccessful, with a public health agency. Do not respond to rumors.

If you become aware that someone in your property is carrying the virus, is sick, or is quarantined, you should promptly notify the other tenants by posting notices and sending out electronic notifications

Medical experts advise that while some tenants may respond adversely, most will welcome this information and take additional steps to minimize their exposure. That may, in turn, make it easier for you to take additional protective action and encourage other tenants to redouble their efforts.

If you have warned people in advance to take active measures to protect themselves, the impact of an actual case may be lessened

Again, the message should be that minimizing the risk from the virus is everyone's responsibility and rather than worry excessively, now is the time to step up precautions.

If you become aware of that someone is sick or quarantined, contact the local health agency to get instructions

Local practices vary widely. Make sure you obtain reliable information from public health agencies about actions you should take if someone in the building is sick.

Do not disclose the identity of any sick or quarantined people unless required to do so by public health agencies

People who are ill have a right to privacy, and federal law mandates that their illness should not be disclosed to other residents. However, local practices for quarantine procedures vary widely and in some instances, more-specific notice provisions may be required. Contact your local health agencies in advance, if possible, to understand any additional procedures that they may require.

If someone is not cooperating with a quarantine order, contact the local public health agency

The agency may have its own enforcement practices and is in the best position to invoke law enforcement if necessary.

What about residents asking for rent accommodations?

Confirm employment-related needs

Residents are already appearing in management offices to report loss of employment. It is not always clear whether they have been fired, laid off, or furloughed, so the first step is to get some confirmation of the temporary or permanent nature of the change in employment.

Assess options

Management should review the tenant's file and balance considerations of a rent repayment plan versus alternatives. You should think about adopting a policy of providing rent discounts to all tenants or entering into rent forbearance agreements with tenants that allow you to collect any deferred amount later. You should consult with local counsel about the terms of any such agreements.

Evictions

You may find that local or state governments are imposing eviction moratoria or that local courts are not hearing eviction cases during the coronavirus outbreak. At some point, there may be a limitation on evictions under the specific federal or Fannie/Freddie program applicable to your property. Even if eviction is an alternative for tenants struggling with rent, please consider the costs of turning the unit, ability to clean and refurbish the unit, and current limitations and issues with finding replacement residents who can make the rent payments.

What to do if/when subsidized residents of affordable properties want to recertify rents (to reduce their tenant portion)

HUD has issued procedures for addressing rent recertification and subsidies. See our alert, "[HUD issues updates to FAQs for owners of multifamily assisted housing on dealing with COVID-19 and legal guidance for closing transactions.](#)"

We will continue to provide additional guidance to housing providers as new information becomes available. For more information about the content of this alert, please contact our [Coronavirus Response team](#), your Nixon Peabody attorney, or:

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