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MARCH 16, 2020



## **Covid-19 guidance for owners and managers of multifamily residential properties**

By Harry J. Kelly

Owners and managers of multifamily housing properties face the same challenges that all business owners face from the Covid-19 virus—“How do I insure I can keep my business running?”—but also face unique concerns because they provide housing to persons, including elderly persons, who live in close quarters. Providing advice in this area is difficult because, as a legal matter, the specific duties that housing providers owe to residents vary from jurisdiction to jurisdiction, different facts require different advice. However, it is in every housing providers’ interest as a practical matter to take proactive steps now. Below we have topics that housing providers should consider as they make their plans.

### **Make sure you have assessed your firm’s resilience in light of the virus**

Housing providers are like all other businesses, and you need to make sure that you can continue operations if things worsen. That includes making arrangements for remote working (to the extent possible—it is hard to see how on-site property managers can work remotely but there may be ways to lessen contact there too), encouraging sick workers to stay home, and making sure that supply lines are fully stocked and reliable (and if they are not, what steps can be taken to make them more reliable at this point). This should go for any serious cold or flu as well as the coronavirus.

### **Take active steps to sanitize your properties as much as possible and encourage healthy behavior for staff and residents**

Increase cleaning and sanitizing of surfaces, and make sure that refuse is picked up and that any maintenance issues are addressed promptly. Provide hand sanitizers and encourage staff and residents to use them and to wash their hands often. The CDC website (see below) has a variety of charts and posters that can be put up on entries, elevator doors, and other locations to promote good habits. Stopping the spread of the virus is going to depend on individuals taking precautions and housing providers have a strong interest in encouraging good behavior.

## **Stay on top of the best expert guidance available**

While the CDC has come in for a lot of criticism, it remains the best source of guidance (at [cdc.gov](http://cdc.gov)) and they seem to be adding to the list of targeted guidance topics (workplaces/colleges and universities/etc.) as time goes along. State and local governments also are putting out a lot of information and will likely have the best information available about specific precautions to take locally. Also, HUD published this list of links to information sources (although many of these go back to CDC sources):

- [What you need to know about Coronavirus Disease 2019 \(COVID-19\)](#);
- [Stop the Spread of Germs](#);
- [Symptoms of Coronavirus Disease 2019](#); and
- [What to do if you are sick with Coronavirus Disease 2019 \(COVID-19\)](#).

## **Reasonable accommodations**

This is still an open issue but generally, having an infectious disease is not itself a disability that would require a reasonable accommodation. Having said that, many people with existing disabilities (respiratory disease, HIV, diabetes, etc.) may be particularly susceptible to Covid-19, and an owner or manager may receive requests for some sort of accommodation. It is hard to know what sort of accommodation would be requested, but it may involve helping to make arrangements for delivery of food or supplies to persons who are sick. The point is that your staff needs to know that any such request—including a verbal request—might be deemed to be a request for a reasonable accommodation and they should be prepared to treat it as such. More than that, beyond legal obligations are practical steps—even if not legally required, granting simple requests may save staff time and resolve conflicts with residents. Just follow the rule that if you do something nice for one person, you may need to do it for everyone.

## **Restrict interactions between residents and with staff**

Advice suggests that “social distancing” will be key to reducing impacts from the virus. Obviously, it’s hard to put a lot of distance between people who live near each other in an apartment property (especially if it is a high rise). Still, chances of spreading the virus are lowered if people reduce their interactions with others. So, to the extent possible, we’d recommend that housing providers take active steps to reduce interactions between residents and with staff. This could include posting signs indicating that people should avoid gathering in places (like the lobby) where the virus can spread. Advise residents about the ability to communicate with staff by email and to pay rent electronically (as opposed to face-to-face meetings). Housing providers should seriously consider limiting access to or closing public spaces, such as community rooms, gyms, and entertainment rooms—especially if there is evidence of the virus in the local community.

## **Responding to sick tenants and quarantines**

One related issue is what to do if you become aware that a resident has the virus and/or is subject to quarantine. As a housing provider you may well not be the first to know. The first step is to contact local authorities about instructions, plans, and resources. Notifying other tenants that someone in the building is sick is likely to raise anxieties and will have limited practical benefit to other residents—and identifying who that person is would raise many privacy concerns. Posting signs telling people that if they do become sick, they should stay in their apartments, minimize contacts with other people, and follow the advice of their doctors and local public health agencies are good

steps to take now. Again, staying informed about what local authorities recommend with respect to quarantine issues is good advice.

## **HUD assisted/insured housing properties**

HUD's Office of Multifamily Housing has recently published [FAQs for owners and managers of HUD assisted housing](#). Not surprisingly, many of the FAQs reference CDC guidance that is not specifically tailored to housing owners and managers, but can still provide useful information. While much of the HUD FAQs is focused on issues that assisted owners may encounter, owners of market-rate properties may find some of the responses useful. A few takeaways pertinent to affordable properties:

- HUD encourages owners to adjust rent payments and enter into forbearance agreements for tenants impacted by the virus, but states that “no additional subsidy funding has been made available.” FAQs at 3.
- Owners and managers can access property operating accounts for emergency funds needed for Covid-19 response. Owners should obtain prior HUD approval before making owner advances. Follow Handbook 4350.1 to access reserve for replacement funds for eligible items; prior HUD approval is needed to access reserve for replacement funds for non-eligible uses. FAQs at 3.
- Owners should consider offering tenants who are quarantined extra time to complete income recertification. FAQs at 4.
- Owners should process income recertifications for residents who report a decrease in income that will last more than one month. FAQs at 4.
- The FAQ says that HUD may adjust REAC inspections and management and occupancy review schedules to reflect guidance from local health officials. FAQ at 4. Late news indicates that HUD has suspended all REAC inspections.
- HUD has previously published guidance on emergency management issues in Chapter 38 of its “HUD Asset Management Handbook” (Handbook 4350.1 REV-1). While much of the guidance there is focused on weather-related emergencies (hurricanes, tornadoes, etc.), some of it may be relevant to dealing with any emergency situations.

Continue to check HUD's website for updates. Here's a link to a more [detailed discussion of the HUD guidance for persons focused on affordable housing](#).

## **Elderly and senior housing/housing for older persons**

Properties that house elderly and senior populations, whether market-rate or affordable housing, are likely to experience the most significant impacts of the virus. This population in particular is likely to need additional assistance and are more likely to make accommodation requests. This group will be challenged to practice “social distancing”—interactions with other residents, friends, and family (in particular grandchildren) are an important part of maintaining a positive mental outlook for older persons. Nevertheless, such interactions are likely to accelerate the spread of the virus among these groups in particular. At some point, it may be necessary to prohibit admission of all visitors to these properties in order to maximize protection for residents. If nursing homes in your area are restricting visits, you should consider doing the same. Again, pay attention to guidance from local health authorities on other steps that may be needed.

Basically, anything you can do to plan ahead will be beneficial. Narrowing the list of “known unknowns” is the goal and will make everyone feel more confident that they are prepared to deal with whatever contingencies arise.

For more information on the content of this alert, please contact our [Coronavirus Response team](#), your Nixon Peabody attorney, or:

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