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Rehab-in-place in the age of COVID-19: Considerations for owners of multi-family housing

By Louis E. Dolan, Jr. and Brian P. Donnelly

Owners renovating multi-family housing properties often use a “rehab-in-place” strategy, which involves the temporary relocation of tenants to other units in the same property while their existing units are updated. While rehab-in-place minimizes revenue loss to owners and disruption to tenants’ lives, owners who wish to use the strategy during the current public health emergency must take extra precautions, both to protect against the spread of COVID-19 and to protect themselves from liability. That is especially true for owners of affordable housing developments, whose residents often include the elderly and other groups at especially high risk from the novel virus.

As a foremost measure, owners should ensure that any rehabilitation work complies with the latest Centers for Disease Control and Prevention (CDC) guidelines for preventing person-to-person transmission, including social distancing and regular handwashing. They also must ensure compliance with emergency state and federal executive orders, many of which prohibit more than a specified number of people from gathering in the same space, and some of which prohibit all non-essential personnel from working outside their own homes.

Prevention should not stop there. Although the CDC has reported no documented cases of surface-to-person transmission, COVID-19 can survive on certain surfaces for up to three days, according to the latest study from the National Institutes of Health. That means that based on what we know currently, tenants who are relocated to a unit in which an infected person was present within the previous three days are potentially at risk of contracting the virus. To protect against that risk, before relocating tenants, temporary units should either be closed to any human entry for at least three days or thoroughly cleaned and disinfected according to current CDC protocols and any applicable state and local guidelines. Owners should note, however, that experts’ understanding of COVID-19 continues to evolve, and precautions must continue to evolve along with it.

Tenants also potentially risk transmission from infected moving personnel, who could leave the virus behind when transporting previously sterile furniture and personal effects between units. Conversely, movers risk contracting the virus when they move exposed items from units of infected tenants. To mitigate both of those risks, any items to be moved between units should be thoroughly cleaned and disinfected or left dormant for at least three days both *before and after*

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being moved. Again, these measures are based on the information currently available about COVID-19, and owners should monitor the latest developments and adjust their precautions as appropriate. As always, owners should require tenants to complete an inventory of personal items and furnishings before anything is moved, both to guard against fraud and to allow for the implementation of verifiable cleaning procedures.

These precautions are likely to create unavoidable delays to renovation work and added disruption to tenants' lives, as well as additional costs. Owners who do not wish to employ thorough cleaning and disinfecting protocols should consider giving tenants an option to sign a written waiver of liability or to agree to a dormancy period, which may require the interim relocation of tenants to sterile pre-furnished units, hotels, or other temporary housing. The enforceability of liability waivers varies widely by jurisdiction, so owners wishing to use them should involve experienced legal counsel. Owners should also consider asking third-party moving personnel to indemnify them from virus-related liability or to accept responsibility for cleaning and disinfecting, or both. Owners might also consider incorporating COVID-19 testing into their rehab-in-place procedures if and when tests become readily available. Of course, before beginning any renovation work, owners should check with local building authorities to ensure they will be able to obtain any necessary permits and inspections amidst the ongoing public health emergency.

While none of these solutions is perfect, owners who wish to proceed with rehab-in-place renovations during this public health emergency must nonetheless put comprehensive plans in place to protect their tenants and workers from exposure to COVID-19, and to protect themselves from liability.

Laws and guidelines concerning COVID-19 are changing daily. For more information on the content of this alert, please contact our [Coronavirus Response Team](#), your Nixon Peabody attorney, or:

- Louis E. Dolan, Jr. at ldolan@nixonpeabody.com or 202-585-8818
- Brian P. Donnelly at bdonnelly@nixonpeabody.com or 202-585-8191