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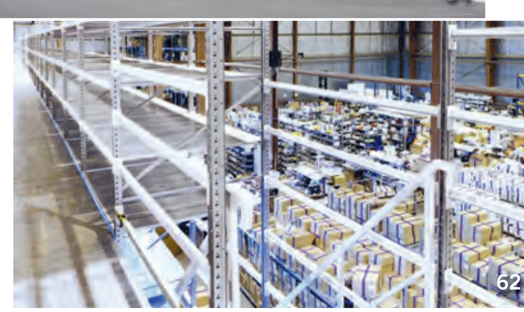




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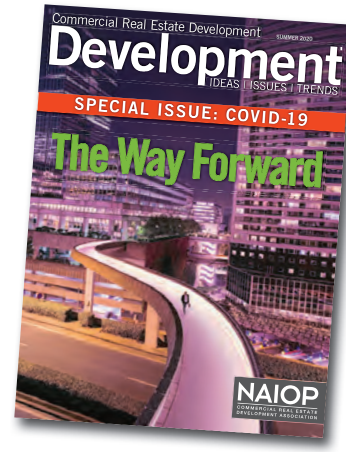


*Getty Images*

**The coronavirus pandemic could upend many longstanding ideas about the use of space and the value of commercial real estate.**

### THE CORONAVIRUS AND CRE




**Development®**

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# A Note From the Editor

## A New Direction for CRE

As I wrote the letter for the previous issue, the industry was cautiously optimistic. Although pandemics are not necessarily outliers, I don't think many of us could have predicted the events of the past months.


Jennifer LeFurgy

NAIOP is dedicated to helping its community of members more than ever. During this period of change, we will provide you with more information on how to stay safe, healthy and a vital part of this new journey we are on together.

Stay safe,
**Jennifer LeFurgy, Ph.D.**
Editor-in-Chief

### Most Popular From Spring 2020

1. **"Prologis Labs: An Experiment in Innovation"** (www.naiop.org/20prologis, page 16)
2. **"From Horizontal to Vertical: Industrial Intensification Grows Up"** (www.naiop.org/20vertical, page 74)
3. **"The Rise of Real Estate as a Service"** (www.naiop.org/20reaas, page 54)
4. **"WeWork and Airbnb: A Tale of Two Disruptors"** (www.naiop.org/20disruptors, page 44)
5. **"The Cold-Storage Market is Heating Up"** (www.naiop.org/20cold, page 10)

**The coronavirus pandemic** that emerged in China in late 2019 has been a gut punch to the global economy and the commercial real estate industry, and its effects could be widespread and long lasting. (Page 36)

**The retail and hospitality industries are reeling from shutdowns** that were imposed by the coronavirus pandemic. It might take years for these sectors to recover, and many small businesses might never reopen. (Page 54)

### From the President

**"I'm very proud to report that NAIOP as a trade association is built for handling these types of uncertainties. We know that in times of crisis, relevant, timely information is critical for our members' success. Please be assured that we are working tirelessly to provide answers to the many questions that you have. We recognize that content is king, and NAIOP is rapidly creating and disseminating information on a variety of platforms."**

*— Thomas J. Bisacquino, NAIOP president and CEO (see more on page 10)*

**The office sector could emerge** from the coronavirus pandemic relatively unscathed economically, but teleworking and social-distancing concerns have the potential to change the way space is utilized. (Page 46)

**Research directors from major commercial real estate firms and academia answer** some of the most important questions regarding the pandemic's wide-ranging effects on the economy, property types, markets and individual projects. (Page 70)

**Amazon has seen sales rise rapidly during the COVID-19 crisis** as stay-at-home orders forced more people to use e-commerce. The retail behemoth's success could show how industrial development can be part of a resilient supply chain. (Page 62)

**Amid the hardships** generated by the coronavirus pandemic, many commercial real estate companies have found ways to give back to their affected communities and customers. (Page 88)

**As businesses reopen**, a major focus on building operations will be cleanliness and sanitation. A look at some new (and old) technologies that workers and customers might see as operations come back online. (Page 28)

**In early spring, the federal government opened the floodgates of economic relief** in response to the coronavirus pandemic. Many of these unprecedented measures provide much-needed help for the commercial real estate industry. (Page 76)

**Most states declared construction to be "essential"** during the COVID-19 crisis, but the uncertainty generated by the pandemic put many projects on hold. It could take many months before activity returns to 2019 levels. (Page 20)

**What happens when tenants can't pay their rent** because their businesses have been forced to close because of the coronavirus pandemic? (Page 18)

**Here are five issues landlords should consider** before negotiating concessions with commercial tenants during the coronavirus pandemic. (Page 16)

**Mortgage lenders are offering forbearance agreements** and other loan modifications to borrowers so they can avoid defaults during the pandemic, but what do they entail? Here are some strategies that borrowers should follow when engaging with lenders. (Page 32)

**Property owners should be aware** that business-interruption insurance might not be a panacea during the coronavirus pandemic. (Page 26)

**Force majeure clauses in real estate agreements** don't always provide remedies during events such as pandemics. That's why it's important to regularly review these crucial documents. (Page 24) ■

## Former NAIOP Chairman Jim Neyer Retires

**Jim Neyer**, the executive vice president of capital and investments with Cincinnati-based Al. Neyer, retired from his position on May 1 after 23 years with the firm. Neyer served as NAIOP's national chairman in 2018.

He is among the fifth generation of Neyer family members to lead the company, which was established in 1894. In 2014, the family-owned firm transitioned to an Employee Stock Ownership Program (ESOP). Today, Al. Neyer has more than 100 employee-owners.

"It's been really rewarding to play a part in growing the company and see the ESOP become a reality for our employee-owners," Neyer said in a statement. "I am proud of the vast accomplishments that we have achieved and the team we have built. I am heading into retirement with confidence that the Neyer legacy of integrity and perseverance lives on."

In addition to his time as NAIOP's national chairman, Neyer has served as the association's national board vice chair; Ohio board past president and treasurer, and Cincinnati Chapter past president and governmental relations chair. He also serves on the editorial board of Development magazine.

In 2013, he received the prestigious NAIOP Impact Award.

Jim Neyer

NAIOP would like to thank Jim for his leadership and congratulate him on a job well done. ■

# COVID-19: An Unprecedented Situation Demands an Extraordinary Response

**NAIOP rises to the challenge.**

By Thomas J. Bisacquino

By the time you read this, hopefully our nations and industry are beginning to recover from the unprecedented challenges presented by the coronavirus pandemic. Overnight, this crisis not only shut down the world's economies but may have also fundamentally impacted our behaviors regarding how we work, shop and play.

For the commercial real estate industry, it raises many critical questions about the future of the products in which we develop and invest. We are likely witnessing a generational shift in many consumer patterns that will have a profound impact on all aspects of our industry.

**"This issue of Development magazine was literally revamped overnight to provide you with the most current and important insights and perspectives on not only dealing with the immediate challenges facing us today, but also on how to be positioned to take advantage of future opportunities as our markets inevitably recover."**

*— Thomas J. Bisacquino, NAIOP president and CEO*

Thomas J. Bisacquino, president and CEO of NAIOP.

I'm very proud to report that as a trade association, NAIOP is built to handle these types of uncertainties. We know that in times of crisis, relevant, timely information is critical for our members' success. Please be assured that we are working tirelessly to provide answers to the many questions that you have. We recognize that content is king, so NAIOP is rapidly creating and disseminating information on a variety of platforms.

This issue of Development magazine was literally revamped overnight to provide you with the most current and important insights and perspectives on not only dealing with the immediate challenges facing us today, but also on how to be positioned to take advantage of future opportunities as our markets inevitably recover. I highly commend Development's editorial staff for their ability to change direction at a moment's notice.

NAIOP is also working at the federal, state, local and provincial levels to ensure that our public policy makers fully understand the critical role that this industry plays in healthy U.S. and Canadian economies. With trillions of public dollars at stake being debated in a fast-paced legislative environment, it's more important than ever that we are at the legislative table for you.

Our research team is laser focused on re-examining trends, demographic data and CRE demand forecasts to identify the changes that have occurred as a result of this unexpected economic firestorm. We will draw from leading real estate practitioners and academics to help us interpret this data and identify its implications for our industry's future.

I am confident that by working together we will be able to navigate through these difficult times. NAIOP is steadfast in its commitment to provide its members with exceptional support so that we all may enjoy a brighter future. ■

**Thomas J. Bisacquino** is the president and CEO of NAIOP.


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# CRE Loan Defaults: A Brief Guide for Lenders and Borrowers

**The coronavirus pandemic could create a lot of distressed assets.**

By Clayton Gantz, Steve Edwards and Tom Muller

After the COVID-19 pandemic forced many U.S. businesses to go dark, the inevitable effects on the economy are highlighting new risk considerations. Notwithstanding the many federal, state and local initiatives to limit the damage, commercial real estate is clearly facing many challenges. As the industry turns to managing CRE loan defaults, it is helpful to revisit lessons learned from past real estate downturns from the lender and borrower perspectives.

## Advice for Lenders

**Prepare your team now, and not just the workout officers.** Given that it's been nearly a decade since the last real estate recession, it is safe to assume that lenders' workout teams have decreased both in number and experience. This presents a great opportunity to train loan officers in the strategy, law and economics of workouts and the exercise of remedies. Transitioning from origination mode to workout mode can be difficult for relationship-based loan officers, but it is extremely valuable training.

> **The first thing to emphasize is the need to enter into pre-negotiation (sometimes "pre-workout") agreements before any material negotiations regarding a loan in default or likely to end up there. This ensures that candid discussions and early optimistic statements don't come back to bite the lender.**

The first thing to emphasize is the need to enter into pre-negotiation (sometimes "pre-workout") agreements before any material negotiations regarding a loan in default or likely to end up there. This ensures that candid discussions and early optimistic statements don't come back to bite the lender. (**See related story, page 32**)

**Make sure files are in order.** Too often, a review of lenders' asset files reveals problems that decrease the value received in asset resolution. Missing an original copy of the note, other key documents or instruments such as the title policy? That's not good to discover while heading into court for foreclosure or attempting to sell the defaulted loan. Make sure files are in order, especially those for the loans expected to default soon. Organized and complete files convey an impression of good order that is well received by judges, regulators and potential asset purchasers, while missing documents can prevent the exercise of remedies or result in reduced valuations.

Work hard to get up-to-date property information. It's important to collect the quarterly and annual borrower and property financial statements required under the loan documents. Up-to-date information is even more important. Without it, the lender, the regulators and the loan purchasers will have to assume the worst. That can lead to overly pessimistic valuations.

Even worse are situations where the property's operating income is being diverted by the borrower without the lender's knowledge. Trigger cash traps where agreements provide for them, and demand evidence that project revenues are being applied to project costs and, to the extent available, debt service. If reliable information isn't provided quickly, consider starting foreclosure to immediately seek a rent receiver to protect whatever cash flow there is.

**Develop an asset-disposition strategy.** In addition to improving their balance sheets, financial institutions can reduce costs associated with servicing and carrying distressed assets, improve overall portfolio quality (with resulting positive impacts on stock price and market perception), and free up time and attention to focus on more profitable assets. A seller of distressed assets has several possible distribution channels, including a private sale to targeted buyers, online auctions or one-off single-asset sales.

Properly executed bulk sales allow the lender to mix desirable assets with less desirable ones and avoid selling the cherries and getting stuck with the pits. On the other hand, bulk sales are typically the most highly negotiated, time-consuming and difficult (read "expensive") transactions to execute.

Online auction sales provide a fast and economically efficient way to dispose of assets, at least when considered on a cost-per-asset basis, but they often result in the lender retaining the least desirable assets.

**Consider a (former) friends and family program.** This is a program to accept discounted payoffs from, or make asset sales to, the defaulting borrower. Obviously, it's emotionally difficult for a lender to grant a benefit to a borrower who is not paying a loan, but in many cases it can achieve the best economic result in the shortest time.

Compared to arm's-length buyers, the borrower is inherently far more invested in and optimistic about the future value of its project and doesn't have to discount as deeply to protect itself against unknown or unpredictable risks. Borrowers don't need to diligence the property, so the process is much more streamlined than a typical sale to an arm's-length buyer.

**Look critically at each asset — is it worth investing new capital to preserve it, or could it be let go in a worst-case scenario? While it is incredibly difficult to sacrifice projects that have come to fruition through a lot of hard work, focus attention and capital first on the assets most salvageable and worth saving.**

### Advice for Borrowers

**Triage.** Look critically at each asset — is it worth investing new capital to preserve it, or could it be let go in a worst-case scenario? While it is incredibly difficult to sacrifice projects that have come to fruition through a lot of hard work, focus attention and capital first on the assets most salvageable and worth saving.

**Review loans and loan documents.** First, get a clear-eyed understanding of recourse exposure. Which assets are fully recourse to a creditworthy party (particularly individuals)? Which assets have limited or no recourse? While putting the portfolio through triage, it's important to understand which loans can take down the whole company, and which properties can be sold without further damage.

Even with "nonrecourse" loans, pay particular attention to carve-outs from the nonrecourse provisions in loan documents and guarantees. These carve-outs are supposed to exempt items that would make the nonrecourse agreement look stupid — unpaid property taxes, environmental issues, misdirected rents, unpaid insurance premiums — because they detract from the value of the underwritten collateral.

Lenders and their lawyers, though, are constantly trying to expand the carve-outs by slipping in carve-outs for broad "indemnities" and other matters that have no relevance to the collateral and can make the loan effectively recourse. Bottom line: be sure recourse isn't inadvertently tripped on a nonrecourse loan.

Finally, for the same reasons, look for loans that are cross-defaulted or cross-collateralized.

**Look for documentation issues from the lender's perspective.** It is always useful to try to understand how a lender (or its lawyers) views the loan documentation. Are signatures missing? Is the promissory note correctly described in the deed of trust? Is the deed of trust recorded against the right property? Consider consulting with a lawyer experienced in representing both borrowers and lenders in distressed-asset situations to see whether flaws in the documents might provide any useful leverage. However, don't be overly aggressive. There is usually just one shot at a negotiated resolution, and adopting a hardball approach at the start is not the best way to get there.

**Come up with a plan and communicate proactively.** Once the loan documents are in order, consider the benefits of proactive communication with lenders. Let them know that the business is being run as well as it can be run right now, issues are being addressed and there is a plan.

In previous recessions, borrowers were rewarded for being prepared and proactive when their properties wouldn't fully pay debt service or could not justify loan refinancing. When tenants start failing, rents start dropping and values start sliding, come up with a plan to maximize long-term revenues and minimize costs. That allows a borrower to present solutions to a lender.

Lenders, and particularly special servicers of securitized loans, are quickly swamped in a major economic downturn, especially one that starts as quickly as this one did. As a result, they are often unable to muster experienced personnel to evaluate their many new problems, let alone come up with creative solutions.

Showing candid good faith and presenting the best approach to a bad situation is much more likely to get a lender's attention and forbearance than the borrower who just waits for the lender's call when the monthly debt service payment fails to show up. Governmental regulators have gone to some lengths to encourage lenders to work with borrowers affected by COVID-19, and in particular borrowers in industries that have been especially hard hit by the economic downturn.

While things may look bleak now, thoughtful and creative work and planning will minimize the impact on businesses, leaving savvy operators stronger than their competitors when the economy returns to health. ■

The authors are attorneys with Manatt, Phelps & Phillips, LLP. **Clayton Gantz** is a partner in the San Francisco office. **Steve Edwards** is a partner in the Orange County (California) office. **Tom Muller** is a senior counsel in the Los Angeles office.

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# Five Issues Landlords Should Consider Regarding a Pandemic's Impact on Commercial Tenants

**Many tenants need rent relief, but what are the best ways to go about providing it?**

By Michael Stewart

As state and local governments rolled out measures to prevent the spread of the novel coronavirus in March, commercial landlords began getting calls for help from tenants. In an environment where social distancing has taken hold and more customers are staying home, retailers and other consumer-facing businesses are feeling the impact of decreased demand, supply-chain interruptions, and in some cases, mandatory closures.

In light of this rapidly evolving situation, here are five issues landlords should consider before negotiating concessions with commercial tenants.

**Loan documents could limit tenant relief.** Before agreeing to any reduction in rent or other modifications to a lease, owners should carefully review their project's loan documents. Many documents include financial covenants that must be maintained during the term of the loan. Owners should ensure that aggregate rent reductions will not reduce net operating income to a point where financial covenant tests are tripped, triggering a default or other lender protections (such as cash management) under the loan documents. Additionally, owners need to confirm whether their loan documents permit the modification or termination of a lease, or acceptance of less rent than stipulated. (**See related story, page 18**)

> **Before agreeing to any reduction in rent or other modifications to a lease, owners should carefully review their project's loan documents. Many documents include financial covenants that must be maintained during the term of the loan.**

**Identify opportunities.** Tenants that were in financial trouble before the COVID-19 pandemic will most likely not see improvements in their condition. Assistance from the courts and law enforcement in the eviction of tenants may be limited due to COVID-19, so landlords should consider a mutual early lease termination instead of eviction. For these tenants, applying a security deposit against past due rent in accordance with the terms of the lease may make sense.

**Deferment and not abatement of rent.** If a landlord agrees to accept reduced rent from a tenant, it should be documented in a lease modification or forbearance agreement. This agreement should defer, not abate, the rent for a defined period. Request financial information from the tenant before agreeing to any deferral of rent. Any deferred rent and landlord costs (such as attorneys' fees) should be repaid by the tenant in the future, either in one or more lump-sum payments or by having the deferred rent repaid over the balance of the term. Deferred rent should be accelerated and payable in full upon any default, notwithstanding the landlord's existing remedies in the lease. Consider requesting that the tenant (or a creditworthy parent) sign a promissory note for the deferred rent. Additionally, this

> **Tenants that were in financial trouble before the COVID-19 pandemic will most likely not see improvements in their condition.**

is a good time to revisit tenant-friendly provisions in the lease that may cause problems with the ongoing operation of the project during this crisis, such as exclusive-use rights, co-tenancy and prohibited uses. Until an agreement has been signed permitting a tenant to defer the payment of rent, landlords should send default notices reserving their rights to tenants that fail to pay rent in breach of their leases.

**Co-tenancy concerns.** While most state and local governments mandated the closure of gyms and health clubs, movie theaters, bars and restaurants in the early days of the COVID-19 crisis, many retailers were already voluntarily closing stores or reducing hours. Co-tenancy provisions in retail leases provide a tenant with certain rights (including reduction or abatement of rent or termination) if a certain percentage of tenants, or certain specific tenants, are not open and operating for a specified period. Reduced hours also could trigger a co-tenancy violation. Closures for certain events, including force majeure, often do not immediately result in co-tenancy violations. However, some leases will require that landlords provide notice to tenants within a certain period of time following a force majeure event as a condition to claiming force majeure. Landlords should be mindful of co-tenancy provisions in negotiating rent reductions with tenants.

**Understand effects of force majeure.** Most lease agreements include a force majeure provision that suspends performance by a party upon the occurrence of certain specified events outside of a party's control, such as a war or natural disasters. Some force majeure provisions include catch-all language for events outside of either party's control. Courts in most jurisdictions strictly construe these provisions, so unless the provision specifically addresses pandemic or disease, a court may not agree to suspend a party's performance absent a catch-all provision. Also, many leases specifically exclude the payment of rent or other monetary amounts under a lease from performances that may be excused due to force majeure. Landlords should consider whether force majeure clauses can provide protection from construction and delivery delays due to the COVID-19 pandemic, co-tenancy violations and the provision of services under the lease. (**See related article, page 24**)

While landlords must protect their interests in a commercial project, the time following the COVID-19 response gives them an opportunity to strengthen their relationships with tenants by providing creative solutions that help them weather the storm. As is the case in any unforeseen event — such as a fire, tornado or earthquake — landlords, tenants and lenders must work together to achieve their common interest. That will position the project for success when business resumes. ■

**Michael Stewart** is a member at Bass, Berry & Sims in Nashville.

**While landlords must protect their interests in a commercial project, the time following the COVID-19 response gives them an opportunity to strengthen their relationships with tenants by providing creative solutions that help them weather the storm.**

# Negotiating with Tenants During a Major Economic Disruption

**Flexibility is a must, but document everything as specifically as possible.**

By Ron Derven

All the legal precedent in the world won't solve the problem of tenants who cannot pay their rent, such as restaurants or a businesses forced to lay off all their employees because they have no revenue in the aftermath of coronavirus-related shutdowns.

"It is impossible for lawyers to predict how courts are going to rule on these issues in the future as defaults from COVID-19 situations begin to work through the judicial process," said attorney **George Pincus** of Stearns Weaver Miller, P.A., in Fort Lauderdale, Florida, during a recent NAIOP webinar.

Pincus said many large national retail tenants are informing landlords that they are not going to pay rent for the foreseeable future and claiming impossibility of performance and force majeure (unforeseeable circumstances that prevent someone from fulfilling a contract). Pincus said if a landlord receives such a letter, they must assert their rights immediately.

> **"It is impossible for lawyers to predict how courts are going to rule on these issues in the future as defaults from COVID-19 situations begin to work through the judicial process."**
>
> *— George Pincus, attorney, Stearns Weaver Miller, P.A.*

## Questions and Answers

Attorney **George Pincus** answered several questions concerning tenant issues during a recent NAIOP webinar.

**Q: Regarding tenants that were delinquent on their rent prior to the COVID-19 pandemic, do landlords have a right to evict during this time?**

**A:** You have the legal right to evict. That being said, how will you sue them if the courts are on hiatus? Work with legal counsel to properly document everything that is going on. It's important that you do not take or fail to take any actions that will waive your rights, especially if the courts are on hiatus.

**Q: What legal position will landlords have in tenant bankruptcies for unpaid rents?**

**A:** You're going to have the same position you have under the bankruptcy code [as it exists now]. Looking into the future, however, it is unknown how bankruptcy laws will be affected by the COVID-19 pandemic.

**Q: If a landlord is proposing deferring rent but not extending the terms, should a lease amendment still be completed?**

**A:** Yes.

**Q: Would you recommend that a landlord create a policy to cover rent deferment or should each tenant be handled on a case-by-case basis?**

**A:** You have to do this on a case-by-case basis.

**Q: Is there any liability to keeping buildings open regardless of government closure?**

**A:** Yes, there is. Do not do it. Close it down; comply with the law.

**Q: My ownership is deferring rent and encouraging tenants to help themselves with loans and insurance coverage. When this is all over and the tenant says they cannot pay, how do we protect ourselves?**

**A:** These are all things that you should be covering in detail in your defer-and-extend amendment. If you are going to work with the tenant as they apply for an SBA loan or some other government aid, there has to be an agreement that when the money comes in that they will share that with you to pay part of the rent. This is a good time to get a personal guarantee from the tenant.

**Q: If the tenant does not pay rent on the first of the month, does the landlord need to put the tenant in default to protect his rights in the future?**

**A:** Yes. Everything you do needs to be documented, and everything you do must have a no-waiver provision in it.

**Q: Are you advising your clients about any standard deferral or extension terms for leases?**

**A:** Yes. I say let's give them three months. That is not an industry standard; it is something I have advised on a number of occasions recently. ■

### What Can Landlords Do?

Pincus suggested that landlords take three actions. First, respond to and dispute the tenant's claim for not having to pay rent. Second, state the legal basis for the dispute (impossibility of performance and force majeure do not excuse payment of rent). Third, state with specificity that the landlord is not waiving any rights and remedies under the lease or the law.

It could turn into a war of attrition, Pincus said, with some tenants defaulting on rent and vacating the premises.

"Perhaps the goal of building owners should be to work out the best deal they can with tenants, not waive any rights and hope for the best when the world stabilizes again," he said.

This requires the landlord to defer and extend lease amendments. Pincus said landlords must state with specificity the amount that will be deferred in rent payments. He advised that unless the landlord is forgiving rent, the word "abatement" should never be used under any circumstances, because it has a different legal meaning than deferment of rent.

Be specific as to what can be done regarding base rent as well as additional rent (taxes, insurance and common-area maintenance or CAM). If only base rent is deferred and the tenant is going to keep paying taxes, insurance and CAM charges, then state that specifically. The arrangement should never be open-ended: state the period of time, such as three months. If need be, extend it further down the road. Put it all down on paper and send a letter. Never do it by e-mail or fax.

Tenant improvement (TI) could become an issue going forward, according to Pincus.

"Look carefully at the conditions that require funding TI allowances," he said. "You do not want to throw good money away on completing a build-out for a tenant that may not take occupancy. Have a forthright and open conversation with your tenant about delaying the process and then, if you can reach an agreement, document it with specificity."

Pincus said any defer-and-extend terms with a tenant should trigger a phone call to the lender.

"Most loan documents have covenants regarding modifying leases, which under certain circumstances may require lender approval," he said. "Typically, these covenants provide that 'material' modifications to a lease require lender approval. Deferring rent and changing the term of the lease are more likely than not going to be construed as 'material.'" ■

**Ron Derven** is a contributing editor for Development magazine.

> **"Perhaps the goal of building owners should be to work out the best deal they can with tenants, not waive any rights and hope for the best when the world stabilizes again."**
>
> — *George Pincus, attorney, Stearns Weaver Miller, P.A.*

# Construction Considerations During the COVID-19 Pandemic

**An open, collaborative mindset is important in these unprecedented times.**

By Marie Ruff

Getty Images

**In December 2019, an annual survey by AGC of America showed that there would be an increase in the dollar value of projects available to bid across all market segments. That outlook has radically changed in the aftermath of the coronavirus pandemic.**

The COVID-19 pandemic has radically impacted how development and construction firms operate. The industry is currently navigating rapidly changing governmental orders concerning business closures, many of which vary state by state, as well as major disruptions of ongoing projects. Now is the time for these business to think ahead about how they will deal with delay claims and claims for additional compensation once the full extent of the pandemic is known.

During a recent NAIOP webinar, Duane Morris LLP attorneys **Meghan DiPerna** and **Kenneth Lazaruk**, along with **Brian Perlberg**, senior counsel for construction law and contracts with Associated General Contractors (AGC) of America, discussed contractual force majeure provisions and other challenges arising from the pandemic.

### A Force Majeure Event?

"We are in unprecedented times," said Perlberg. "The first question we have is, 'Is this a force majeure event?' "

Perlberg explained that force majeure (which literally means "superior force") is a risk-allocation principle that is best interpreted as "It's nobody's fault; how are we going to handle this?"

While not every contract calls it "force majeure," most contracts do feature a force majeure clause, Perlberg said, which usually provides an extension of time for performance. The pivotal questions to consider are: How are you going to deal with the added costs, and what insurance products might you have?

Notably, Perlberg said, contracts with force majeure clauses require prompt written notice, and the clause doesn't take effect automatically — you have to show causation. It's important to consider increased costs for construction as well as liquidated damages.

**The coronavirus pandemic is raising questions about the roles owners can play with regard to safety. Should they be able to tell contractors how to operate safely? Do owners have a role in scheduling and ongoing construction operations?**

### Notice of Delay Letters

When building owners receive a notice letter, their responses can vary, said Lazaruk. Some letters might have language that refers to force majeure or contemplated delay clauses. Others might refer to circumstances, such as the contractor reserving their rights under the contract because the state has shut down the job.

That's exactly what happened in New York, both the state and the city. Lazaruk said his law firm has responded to some of these letters by saying, "Yes, we acknowledge that there is a stoppage and we ask that you reduce your forces on the job to what is necessary and close down the job according to the New York Department of Buildings regulations. You keep it secure, and you

## COVID-19 Clouds Construction's Crystal Ball

By Ken Simonson

**Contractors had been looking forward** to 2020 as a year with plenty of work, not plenty of woe.

An annual survey by AGC of America released in mid-December found that respondents, on balance, expected there would be an increase in the dollar value of projects available to bid on in each of 13 market segments, including multifamily, office, and a combined retail/warehouse/lodging category.

Census Bureau figures on construction spending on projects underway in the first two months of 2020 ("value put in place") were more mixed. Private office construction inched up just 0.4%, following a full-year increase of 6% in 2019. And lodging construction slumped 8%, compared to a 2019 gain of 7%.

In contrast, warehouse construction, which had eked out a 0.5% gain in 2019, jumped 15% in January and February compared to the same months of 2019. Perhaps even more surprising was that spending on retail structures slipped only 1% in January and February compared to the first two months of the previous year. That dip compared favorably with the 23% plunge in retail construction spending in 2019.

### Coronavirus Hits Hard

Then the pandemic upended the entire economy, with specific impacts on construction.

Most projects that broke ground in those first two months of the year are likely to be completed. However, contractors have been encountering numerous impediments, even in locations where most construction was deemed exempted from stay-at-home orders. Items ranging from terrazzo flooring to elevator components that come from Italy and other hard-hit countries in Europe may be delayed indefinitely. There may be shortages of key personnel, including not just craft workers but also government inspectors and permitting officials. Limits on proximity and numbers of people in a space may stretch out construction times.

For the remainder of 2020, it appears likely that new construction will decline sharply as projects finish up. Some previously funded infrastructure and public building contracts may be awarded. But few private owners are going to have the inclination, funding or permission to start new buildings, unless they can demonstrate an urgent connection between their projects and fighting the pandemic — or preparing for the next one.

### No Easy Recovery

As the economy begins to regain its footing, construction will probably lag — just as it did in the first years after the 2007-09 recession. However, a couple of segments are likely to revive more quickly.

First, there will be an even greater demand than previously for distribution centers, particularly "last-mile" or "last-hour" facilities serving nearby customers. Demand will also strengthen still more for data centers and other telecommunications structures. These hot spots are a result of the needs and habits that homebound workers and families are quickly acquiring.

On the flip side, many brick-and-mortar retail businesses will not reopen, following the double blow of lost sales during the shutdown and an accelerated shift to online purchases. There will be enough vacant retail space to keep retail construction depressed for years.

In addition, many employers will have learned to get by without as many onsite workers in expensive office towers. Some long-term spaces may be converted to coworking or surge-employment offices, but not enough to remove the downward pressure on rents and new projects.

Demand for lodging is harder to predict. While many individual hotel operators will not recover from the near-total shutdown of their properties, it remains to be seen if overall demand for rooms resumes. Once businesses get back on their feet — and the road — and families are willing to start taking vacations, lodging demand could return to the robust levels of the past few years.

In sum, the outlook for commercial construction has gone from sunny to very dark. The sun will come out, but not necessarily tomorrow, and not to the same extent for all sectors. ■

**Ken Simonson** is the chief economist for the Associated General Contractors of America. He may be reached at ken.simonson@agc.org or simonsonk@agc.org.

reduce your manpower down to what is necessary to keep that job secure."

DiPerna said construction contracts usually include strict time frames that the contractor has to comply with to submit a claim. However, there is usually no mandatory time frame for the owner to respond or risk waiving the right to object to the claim. Every contract is different, she said, but from an owner's perspective it's very difficult to assess these claims given that we don't yet know the full impact of the pandemic or duration of these job stoppages.

"What owners have to be thinking about right now — if you're located in a state where your job is shut down — is that you need to be communicating to your contractors what has to be done in terms of wrapping up the project and securing the site," DiPerna said.

For jobs that are allowed to continue, it's essential to make sure the contractor has a plan in place for complying with any requirements such as ongoing safety inspections or required reports, DiPerna said. In some states, projects related to health care or other critical infrastructure can continue; however, a COVID registration number is required.

"If you're going to continue operations, which is essentially a permission slip from the government, you have to do it right," Perlberg said.

### Managing Ongoing Operations

The coronavirus pandemic is raising questions about the roles owners can play with regard to safety. Should they be able to tell contractors how to operate safely? Do owners have a role in scheduling and ongoing construction operations?

"As an owner, you still want to act responsibly, especially in these times," Lazaruk said. "You don't want to be someone who is pushing a job that will incur problems," citing the example of a project that would have to shut down for containment and cleaning if a worker tested positive for coronavirus. "I don't think the owner is going to create a job site that is going to encourage an unhealthy place to work."

"I've also seen some contractors looking to owners after there has been a confirmed coronavirus exposure on-site because there are requirements to do these extensive disinfecting and cleaning procedures," DiPerna said. "There are costs that can add up, and generally they haven't been built into contract pricing. So I have seen some contractors go to the owners and ask for a split on the cost of some of these new procedures that have to be complied with."

"The phrase 'we're all in this together' can sometimes change when you start talking about money," Perlberg said. "If we're going to come through this, we have to work together."

### Insurance Considerations and Communications

Turning to insurance issues, Perlberg asked what considerations owners should keep in mind in their communications and whether building owners could expect insurance to cover the current situation.

"I've already seen some letters go out from owners with certain commentary and use of terminology such as 'unforeseen' and 'unprecedented' — and even the term 'force majeure' — and these terms do have meaning under the law," DiPerna said. "I think you do have to be measured and think about what you're saying in these communications that are often on the fly, going by e-mail, and not necessarily being checked, given how quickly everything is moving here."

Many insurance policies have exclusions for virus-related damage, DiPerna said. There is legislation in the pipeline in New York that may negate exclusions such as that, so this is an unresolved question, she said.

**Most projects that broke ground in those first two months of the year are likely to be completed. However, contractors have been encountering numerous impediments, even in locations where most construction was deemed exempted from stay-at-home orders.**

## Six Steps to Take Right Now

**Shane Brown** and **Laura Claeys** of professional services firm Plante Moran, writing for AGC's Constructor magazine, highlight six steps construction firms should take to help smooth the impacts of the coronavirus.

**Step up best practices.** "Review all of your non-essential expenses, from office supplies to planned conference attendance, to see what can be eliminated or delayed. Have a solid plan in your back pocket for different scenarios, including workforce reassignment or reduction, if a site shuts down tomorrow."

**Inventory your contracted work.** "Drill down into every current contract to fully understand your obligations, options and potential costs. … You should have an intimate understanding of your notice requirements, liquidated damage clauses and force majeure clauses."

**Understand what "essential" really means.** "Get professional advice about what constitutes 'essential' work in a lockdown. … You should draw up contingency plans for site closure and document sites with pictures, videos, submittals and project notes."

**Assess your backlog.** "Given the radical change in outlook, you should re-assess the probability of work going ahead and adjust your budget as things become clearer. An important part of this re-assessment is looking at your clients' vulnerability to an economic slump. Being honest about your backlog will set the company up for success when things do normalize."

**Stay informed.** "Make it part of your daily routine to stay informed about the evolving government measures to help workers and businesses."

**Re-assess your subcontractors.** "As labor availability has tightened in recent years, there's been a temptation to loosen pre-qualification standards on subcontractors. Now's the time to re-visit your pre-qualifications." ■

*Adapted from "Six Steps Construction Companies Can Take to Ride Out the Coronavirus Shock," published April 15 by AGC's Constuctor magazine.*


Getty Images

Despite construction being declared an "essential" business in most states, many projects are on hold across the country amid the coronavirus pandemic.

## 'Be Proactive Right Now'

The experts closed with their recommendations for navigating this ongoing situation.

"The best legal advice I commend to all of you is to take that approach with all of your contracts going forward," Perlberg said. "Have those communications; try not to have a 'winner take all' mentality, because that often leads to litigation, claims and things that make everyone a loser. A more collaborative, fair and balanced approach seems to get better results."

"Be proactive right now," DiPerna said. "Think about reallocating resources, planning, assessing the schedule, documenting … all of these are things that need to be done now, to ensure that when life gets back to normal and jobs resume on a regular basis, the process goes as smoothly as possible."

This is a problem affecting construction all over the world, said Lazaruk.

"The jobs that are stopped will continue — I don't think anyone should lose faith in that," he said. "People will have to cooperate." ■

**Marie Ruff** is communications senior manager at NAIOP.

# Force Majeure During a Pandemic: What You Need to Know

**It's crucial to review contracts during uncertain times.**

By Grace Winters and Timi Anyon Hallem

As global markets, economies and governments marshal their resources to respond to the COVID-19 pandemic, real estate professionals must assess their options to address and absorb the impact. A critical and time-sensitive activity is analyzing the force majeure provisions in important agreements and preparing to make creative arguments to achieve the most favorable outcomes.

## What is Force Majeure?

A well-written force majeure provision broadly excuses nonperformance of contractual obligations when there are unavoidable events outside the party's control that were not reasonably foreseeable, either when the contract was written or in the exercise of due care. Typical clauses include "acts of God" (such as earthquakes, floods or other natural disasters), actions — or inactions (such as unanticipated governmental action, delay or restraint, terrorism and wars), and usually some version of a catch-all provision referring to "other events outside of the control of the parties." Many force majeure provisions specifically exclude increases in the cost of labor, fuel or materials; labor shortages; economic hardship; and transportation delays, unless they are affecting a wide area beyond the property in question.

**While pandemics or epidemics are not often identified as force majeure events, it is possible to craft a successful argument regarding the applicability (or inapplicability) of force majeure protections to the COVID-19 pandemic.**

Force majeure provisions frequently limit the remedies available. For example, it may be limited to granting additional time for performance (for example, additional time to complete a project), while excluding remedies for cost overruns or losses. Sometimes the maximum time extension is specifically limited. Often an effort to mitigate losses is a prerequisite to claiming a force majeure defense.

However, there are many variations on typical contractual language. While pandemics or epidemics are not often identified as force majeure events, it is possible to craft a successful argument regarding the applicability (or inapplicability) of force majeure protections to the COVID-19 pandemic.

It is also crucial to consider the appropriate timing for making a force majeure claim. Most contracts require notice within days following the event that triggers force majeure protections. In some instances, it may be worthwhile to send a notice ahead of any actual delay or loss to preserve rights regarding any such claim.

## Practical Implications of Force Majeure Provisions

Evaluating force majeure clauses in a contract can have significant practical implications and potential benefits. For example, development and construction contracts often link the contractor's or developer's fees to completing a project on time and on budget. Force majeure events may allow for a suspension of performance timelines or expansions of the budget to cover extra costs generated by such events.

Similarly, leases with force majeure clauses may protect landlords from damages resulting from delays in delivering the premises or failure to comply with continuous-operation clauses after an adverse event. In very limited cases, they can provide tenants with rent relief during a force majeure event. Construction loan agreements typically require delivery of the project and reaching specific thresholds of occupancy and income within specified periods of time. Failing to achieve these allows the lender to exercise its remedies. Operating covenants often have force majeure exceptions to performance.

A timely and appropriate force majeure claim could stop a loan or contract default and prevent the counterparty from terminating the contract. In each context, a careful interpretation of the force majeure provisions will be necessary to evaluate a party's options and will be a major factor in making a successful argument for (or against) excused nonperformance.

## Is Nonperformance Excused?

Local, state and federal governments shut down major events, schools and other public interactions and, in some cases, mandated lockdowns to promote social distancing. Because of that, nonperformance in certain contexts is inevitable. However, the critical question will be who bears that risk? The answer depends in large part on whether such nonperformance is excused by the COVID-19 pandemic as an event of force majeure.

**A well-written force majeure provision broadly excuses nonperformance of contractual obligations when there are unavoidable events outside the party's control that were not reasonably foreseeable, either when the contract was written or in the exercise of due care.**

### Sample Force Majeure Clause

**Here is an example** of a force majeure clause from Legal Dictionary, an online resource for legal information:

"A party shall not be held liable for failure of or delay in performing its obligations under this Agreement if such failure or delay is the result of an act of God, such as earthquake, hurricane, tornado, flooding, or other natural disaster, or in the case of war, action of foreign enemies, terrorist activities, labor dispute or strike, government sanction, blockage, embargo, or failure of electrical service. The non-performing party must make every reasonable attempt to minimize delay of performance. In the event force majeure continues longer than 120 days, either party may terminate the Agreement, repaying the full amount of the deposit within 10 days of termination notice." ■

In the absence of specific language putting pandemics on the list of force majeure events, excused nonperformance will be open to interpretation and creative lawyering. Working with legal counsel to evaluate agreements and prepare arguments can help to avoid litigation and minimize the likelihood of costly repercussions such as defaults. ■

**Grace Winters** is a real estate partner in the Orange County office of Manatt, Phelps & Phillips, LLP, and **Timi Anyon Hallem** is a real estate partner in the law firm's Los Angeles office.

# Property Owners Must Prepare for Potential COVID-19 Liability Issues

**During a pandemic, business-interruption insurance may not be a panacea.**

By Ron Derven

As the COVID-19 crisis continues to affect the U.S., commercial property owners need to prepare for potential liability issues arising at their buildings, according to attorney **George Pincus** of Stearns Weaver Miller, P.A., in Fort Lauderdale, Florida, during a recent NAIOP webinar.

He offered these tips to protect properties, tenants and landlords from liability:

**Communicate with tenants.** A primary way to mitigate potential liability is by always being a "reasonable and prudent" commercial property owner and operator. That is one who conducts business with "skill, diligence, care, prudence and foresight," according to Law Insider's legal definitions dictionary. Establish and frequently use communications channels with tenants (including those working remotely) such as e-mail, websites or written notices. Ask them to agree that these are the ways you will communicate through the crisis. Update tenants frequently on the status of the building. Provide as much information as possible. This includes hours and services, and building access procedures. If the building's janitorial services are not equipped to perform decontamination or extraordinary disinfecting, explain why. Provide reminders that tenants should review and institute procedures for cleaning requirements.

> **"It is too soon to determine how the courts are going to interpret COVID-19 social distancing and government shutdowns of private property as being casualty events within the language of the insurance policy. Case law is all over the place. I don't know how it will be resolved, but I am not optimistic."**
>
> *— George Pincus, attorney, Stearns Weaver Miller, P.A.*

**Comply with all laws/regulations.** Remind tenants on a regular basis that you will comply at all times with city, county, state and federal laws, rules and regulations regarding access to commercial properties, and, if the government declares that the building must be shut down, you will shut it down. Work with an attorney regarding "essential services" that are exempt. Determine which tenants qualify as essential services, Pincus said.

## What If There's a COVID-19 Case in Your Building?

**Pamela Westhoff**, a partner in the real estate, land use and environmental practice group with the Sheppard Mullin law firm's Los Angeles office, told attendees during another recent NAIOP webinar that it's crucial for building owners and managers to be as transparent as possible to tenants regarding any possible coronavirus exposure in their facilities.

"You have a duty of care to your occupants," she said. "You need to tell people that there was a danger and what's been done about it. You have to balance that with the privacy laws — and there are a lot of them — that protect a person who has a health condition. So our general advice has been that you do need to tell the people in the building that there has been a case." ■

**Document, document, document.** Have a consistent incident report procedure in place with the management and maintenance team to handle COVID-19 cases in your buildings. Train staff to prepare a detailed written report. This should include which tenant is reporting the issue, who are the people involved, when it occurred, what happened and steps that the property owner is taking to disinfect the affected areas of the building. Retain copies of the incident reports and send copies to your attorney as well.

**Get in touch with CGL carrier.** Contact your commercial general liability (CGL) carrier when an incident occurs, even if you will not make a claim at that time, Pincus said. While you are not making a claim, use the information to report to your CGL carrier that there was an incident at the insured property. Next, submit the incident report and detail the remedial steps you took. Make sure you ask the CGL carrier what other reasonable steps it wishes you to take. However, don't give the carrier a coverage defense where it can say that you did not do what it wanted you to do in response to the event.

**Know what's covered/what's not in your insurance policies.** Business-interruption insurance policies should be reviewed for coverage, but ask yourself if you have an insurable loss that will give you access to your business-interruption coverage. Second, is there an exception in your policy that the COVID-19 disaster falls under?

A key problem is that for a business-interruption claim, insurers are looking for physical damage to the building, such as from a fire or hurricane. Pincus said get an attorney who specializes in insurance coverage to review the policy to make this determination.

"It is too soon to determine how the courts are going to interpret COVID-19 social distancing and government shutdowns of private property as being casualty events within the language of the insurance policy," he said. "Case law is all over the place. I don't know how it will be resolved, but I am not optimistic."

What's worse, he said that many policies in effect exclude damage due to virus or bacteria. ■

**Ron Derven** is a contributing editor for Development magazine.

# COVID-19 Could Lead to Cleaner, Healthier Buildings

**Expanded sanitation processes and improved HVAC systems could become standard in the years ahead.**

By Trey Barrineau

The coronavirus pandemic is forcing building owners and tenants to consider something they may not have given much thought to in the past — how clean their facilities really are.

The good news is that most property managers were well prepared for the outbreak. A survey conducted in March by Appfolio found that 90% had already set up strategies for dealing with coronavirus, including revised sanitation policies.

"Within our company and all the properties, we established a communications system to track on a daily basis cleaning supplies and sanitation supplies at every property," said **Barry Blanton**, senior vice president with Blanton Turner, during a recent NAIOP webinar. (Blanton Turner is based in Seattle, an early COVID-19 hot spot.)

Continuing those policies after the pandemic subsides could pay off, too. **Larry Lander**, a principal with Texas-based design firm PDR, recently told Loopnet that building owners who can demonstrate a commitment to things such as improved HVAC systems and regular deep cleaning could stand out as the market recovers from the pandemic.

Getty Images

According to real estate experts, an intense focus on cleaning and sanitation will greet workers as they begin to return to the workplace. High-touch areas such as door handles should get special attention.

## Current Industry Observations

**Gregory May**, executive vice president and West Region market leader for Newmark Knight Frank, said he observed landlords sanitizing their buildings and prominently displaying social-distancing reminders and public health information before they were forced to close in the early days of the pandemic.

"We'll see a lot more of that as we get back to work," he said during a recent NAIOP webinar.

**Susan Freeman**, a partner in the real estate department of London-based law firm Mishcon de Reya, agrees that sanitation will be a prominent issue in the workplace in the months ahead as restrictions are lifted and people return to their jobs.

"There will be a lot more attention to cleanliness and the need to be a lot more careful about high-touch surfaces in buildings," she said during a recent online panel discussion between real estate professionals in the U.S., the U.K. and France.

> **"There will be a lot more attention to cleanliness and the need to be a lot more careful about high-touch surfaces in buildings."**
>
> *— Susan Freeman, a partner in the real estate department of London-based law firm Mishcon de Reya*

**Pamela Westhoff**, a partner in the real estate, land use and environmental practice group with the Sheppard Mullin law firm's Los Angeles office, said she was working in a building where someone tested positive for COVID-19 before widespread closures began. The building owners put in measures to ensure a clean and safe work environment.

## Facility Cleaning After COVID-19 Exposure

**The COVID-19 pandemic** could remain a threat for up to a year or more. Because of that, it's important for building owners to understand U.S. Centers for Disease Control and Prevention (CDC) cleaning procedures for facilities as they reopen. This information is from the CDC's website: www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html

### If a Suspected/Confirmed COVID-19 Case Has Been in the Facility

- Close off areas visited by the ill persons. Open outside doors and windows and use ventilating fans to increase air circulation in the area. Wait 24 hours or as long as practical before beginning cleaning and disinfection.
- Cleaning staff should clean and disinfect all areas such as offices, bathrooms, common areas, shared electronic equipment like tablets, touchscreens, keyboards, remote controls and ATM machines used by the ill persons, focusing on frequently touched surfaces.

#### Hard (Non-porous) Surfaces

- If surfaces are dirty, clean with a detergent or soap and water before disinfecting.
- For disinfection, most common EPA-registered household disinfectants should work. Follow the manufacturer's instructions for concentration, application method and contact time, etc.
- Additionally, diluted household bleach solutions (at least 1000ppm sodium hypochlorite) can be used if appropriate for the surface. Follow manufacturer's instructions for application, ensuring a contact time of at least 1 minute, and allow proper ventilation during and after application. Check to ensure the product is not past its expiration date. Never mix household bleach with ammonia or any other cleaner.

  Prepare a bleach solution by mixing 1/3 cup of bleach per gallon of water or 4 teaspoons of bleach per quart of water.

#### Soft (Porous) Surfaces

- For soft (porous) surfaces such as carpeted floor, rugs and drapes, remove visible contamination if present and clean with appropriate cleaners indicated for use on these surfaces.
- After cleaning, if the items can be laundered, launder items in accordance with the manufacturer's instructions using the warmest appropriate water setting for the items and then dry items completely.
- Otherwise, use products that are EPA-approved for use against the virus that causes COVID-19 and are suitable for porous surfaces.

### Electronics

- For tablets, touchscreens, keyboards, remote controls and ATM machines, remove visible contamination if present.
- Follow the manufacturer's instructions for all cleaning and disinfection products.
- Consider wipeable covers for electronics.
- If no manufacturer guidance is available, consider alcohol-based wipes or sprays containing at least 70% alcohol to disinfect touch screens. Dry surfaces thoroughly to avoid pooling of liquids.

#### Linens, Clothing and Other Items That Go in the Laundry

- To minimize the possibility of dispersing virus through the air, do not shake dirty laundry.
- Wash items in accordance with the manufacturer's instructions. If possible, launder items using the warmest appropriate water setting for the items and dry items completely. Dirty laundry that has been in contact with an ill person can be washed with other people's items.
- Clean and disinfect hampers or other carts for transporting laundry according to guidance above for hard or soft surfaces. ■

"There was hand sanitizer everywhere," she said during a recent NAIOP webinar. "Everybody going near the elevator bank was freaked out about touching the elevator buttons, so they actually had facilities staff with gloves pushing them. Until we figure out immunity and get a vaccine, things like that are going to be essential as we return to the office."

### HVAC Systems

Indoor air quality could become a critical concern in the workplace in the aftermath of the COVID-19 pandemic. "Fresh air was a major focus in the 1980s 'sick building syndrome' era," Lander told Loopnet. "Building owners and developers will increasingly look to expand upon those efforts."

Lander said air-filtration technologies used in health care facilities could start to show up in commercial buildings, a view that was echoed by **Spencer Levy**, chairman of Americas research and senior economic advisor for CBRE.

"What's the best example I can give you? Medical office buildings," he said during a recent webinar for NAIOP Maryland members. "They have a higher standard of care regarding things like better HVAC. You may see that type of thing become more standard in offices going forward."

While the main source of the disease's transmission is via droplets exhaled by people in close contact with one another, there is evidence that the virus can linger in the air and move through HVAC systems.

"If viruses that are viable are in those droplets that you're producing, some of them will be small enough that they will stay airborne for a long time," said **William Bahnfleth**, founding director of the Indoor Environment Center at Pennsylvania State University, in a recent interview with Air Conditioning, Heating and Refrigeration News. "So, it's not impossible that infectious particles in the air could stay aloft long enough to be collected, say at the return grille of an HVAC system, go through a duct, and infect someone in a different space."

A study published in April by the U.S. Centers for Disease Control and Prevention showed that a single infected diner at a windowless 1,500-square-foot restaurant in Guangzhou, China, sickened nine other customers in January. Researchers said coronavirus-laden breath droplets were dispersed in the air by the building's HVAC system.

While viruses are microscopically tiny, some air-filtration systems can block them. According to an April article from Wirecutter, air purifiers with high-efficiency particulate air (HEPA) filtration can capture particles the size of the coronavirus.

Ultraviolet germicidal irradiation can also kill viruses and bacteria in HVAC systems. An ultraviolet light is either placed in proximity to the airstream to kill pathogens as they move into occupied space, or beamed onto the interior parts of HVAC systems (cooling coils, drain pans) to keep them free of contagions.

Getty Images

**While plumbing is not considered a major coronavirus threat, plumbers are being urged to wear extensive personal protective equipment when making repairs.**

Adjusting the humidity of the indoor air is another strategy. A recent study from researchers at Yale shows that higher humidity can reduce the airborne mobility of the coronavirus.

"The cold, dry air of winter clearly helps SARS-CoV2 — the virus that causes COVID-19 — spread among people," the Yale researchers said in a statement. "But as humidity increases during spring and summer, the risk of transmission of the virus through airborne particles decreases both outside and indoors in places such as offices."

"Ninety percent of our lives in the developed world are spent indoors in close proximity to each other," said Yale immunobiologist **Akiko Iwasaki** in the statement. "What has not been talked about is the relationship of temperature and humidity in the air indoors and outdoors and aerial transmission of the virus."

According to the researchers, mice exposed to air with a relative humidity between 40% and 60% are substantially less likely to transmit viruses to non-infected mice.

"That's why I recommend humidifiers during the winter in buildings," Iwasaki said.

Finally, the CDC recommends a low-tech way to help keep the air clean — open the windows. An April report on COVID-19 from the Department of Homeland Security found that increasing air exchanges, either through the HVAC system or opening windows, could reduce the indoor aerosol risk of the virus.

**"There was hand sanitizer everywhere. Everybody going near the elevator bank was freaked out about touching the elevator buttons, so they actually had facilities staff with gloves pushing them. Until we figure out immunity and get a vaccine, things like that are going to be essential as we return to the office."**

*— Pamela Westhoff, a partner in the real estate, land use and environmental practice group with the Sheppard Mullin law firm's Los Angeles office*

### Plumbing: A Possible Area of Concern

Reports from China indicate that the coronavirus is present in the feces of patients and has the potential to spread through a building if the waste piping is broken. This happened in Hong Kong during the 2003 SARS outbreak, when more than 300 infections and 42 deaths were linked to faulty plumbing in one Hong Kong high-rise apartment building. While there is no evidence at this time that anyone has been infected with COVID-19 through plumbing, in March the International Association of Plumbing and Mechanical Officials said in a technical guide for its members that "it should be assumed by anyone working on a sanitary drainage system that the virus is present." The association urged plumbers to use proper personal protective equipment (PPE), including shields and gloves.

However, buildings closed for several weeks by the COVID-19 pandemic could face another health risk — Legionnaires' disease. According to an April report from Reuters, low water use in shuttered buildings could create perfect conditions for the bacteria that causes the pneumonia-like infection to thrive because of a lack of chlorinated water flowing through pipes.

"It's a worldwide problem, one that can be solved with precautions," British microbiologist **Susanne Surman-Lee** told the news agency. "Most major corporations with consultants are likely to be aware of the stagnant water systems issue, but this is going to be a challenge for smaller retail-style shops, health clubs and hotels."

According to Reuters, Canada's Public Services and Procurement agency issued a warning about the risk on April 6, saying that pipes should be thoroughly flushed for at least 30 minutes in buildings that have been closed for at least a week.

Legionnaires' disease first emerged during a 1976 American Legion convention in Philadelphia. The outbreak, which spread from the cooling tower of a hotel's air conditioning system, sickened 182 people and killed 29. According to the CDC, about 50,000 people came down with Legionnaires' disease between 2000 and 2015. Symptoms include cough and fever, which are similar to those caused by COVID-19. ■

**Trey Barrineau** is the managing editor of Development magazine. NAIOP Senior Communications Manager **Brielle Scott** contributed to this report.

# COVID-19 Challenges: Approaching a Mortgage Lender for Help

**Important advice for borrowers who own buildings where tenants are in trouble.**

By Trey Barrineau

The COVID-19 crisis shut down many businesses, reducing cash flows for building owners. That, in turn, is making it difficult for them to pay their mortgages. Mortgage lenders are offering forbearance agreements and other loan modifications to borrowers so they can avoid defaults, but what is involved?

During a recent NAIOP webinar, attorney **George Pincus** of Stearns Weaver Miller, P.A., outlined strategies that borrowers should follow when engaging with their mortgage lenders.

## Pre-Workout Agreements

Most lenders won't begin talking with a borrower until a pre-workout agreement is in place. Pincus noted that most of the time, lenders will present the borrower with a pre-workout agreement letter that covers these topics. He urged borrowers to review it with their attorneys.

He then described the elements of a pre-workout agreement and how borrowers should best respond to each.

First, lenders want to know if the borrower agrees that the loan documents are in full force and effect. Additionally, don't label any part of the workout talks a waiver, modification or forbearance.

"This is a significant issue," Pincus said. "There's a lot of case law out there that talks about when parties are negotiating certain agreements and one party relies on the other to their detriment. The party that made a representation or a promise that's not finalized yet could be subject to a waiver claim, modification or forbearance."


Getty Images

**When reworking a loan, it's important to have a formal, written agreement documenting everything. E-mails won't do.**

Pincus emphasized that while the pre-workout agreement is critical, the negotiations to reach it can't be used in any legal proceeding anywhere in the U.S. He said there is a strict rule of evidence in all 50 states and under the federal rules of civil procedure and evidence that settlement negotiations are not admissible in court.

Next, Pincus highlighted the importance of confidentiality in all negotiations.

"You have to take this seriously," he said. "I've been to too many industry events and you're standing around the coffee stand and people say 'oh, I got such a great deal from my bank the other day.' So it's really important that you as a borrower not tell everyone in your network about the great deal that the lender gave you to work out your loan transaction."

Pincus then pointed out that if the lender accepts either partial or full debt service payments, it can't be considered an agreement to the terms of the negotiations. Only a final, definitive agreement will control that.

Borrowers should think carefully about any claims they may have against the lender.

"For example, you have a construction loan, and you've been bickering with your lender about the fact that the lender hasn't fully funded the construction draw," Pincus said. "But now things have come to a grinding halt, and you've got to make a decision as to how important it is to pass up your

> **"There's a lot of case law out there that talks about when parties are negotiating certain agreements and one party relies on the other to their detriment. The party that made a representation or a promise that's not finalized yet could be subject to a waiver claim, modification or forbearance."**
>
> — *George Pincus, attorney, Stearns Weaver Miller, P.A.*

claim against the lender for the unfunded draw vs. getting to the conversation about a forbearance agreement."

In the past, Pincus said he's helped get the lender and the borrower to quantify and describe the basket of issues that they disagree on, put those aside and continue negotiations over the forbearance agreement.

"So if you have any other claims against the lender, you've got to balance them against what you're up against right now if you're facing a potential payment default on your debt service because you don't have any tenant revenues coming in," he said.

It's vital to have an upfront, detailed conversation with the lender about who will pay for costs and expenses related to a forbearance agreement. Get cost estimates and a budget, then ask for updates as things proceed.

## Realistic Objectives

After signing the pre-workout agreement, the borrower has to figure out their goal. According to Pincus, it should be the preservation of the asset above any other considerations.

"Hang on to the property," he said. "Do what you can to keep it running."

Obviously, that is difficult when tenants can't pay rent because the pandemic has shut down their businesses.

"You're going to have a significant interruption in cash flow that's going to impair your ability to pay for taxes and insurance and maintenance on the property, pay debt service, make distributions to investors, and get paid on fees and promoter interest," Pincus said. "In order to preserve your asset, you're going to have to determine what priorities you have and what you need from the lender to get that done."

At that point, borrowers have to worry about additional capital contributions. They should expect that the lender will want the borrower to put some money into the deal to fund it. At the same time, it would be a mistake to view that payment as a debt paydown to resolve a breach of the debt service coverage ratio (DSCR), which measures the cash flow available to pay current debt obligations.

If the borrower is in a joint venture structure, this is a good time to pull out the documents and look at the capital call provisions.

"None of you ever thought this was going to happen," he said. "While you're looking at the lender, keep your joint venture partners in the back of your head. Think about how you're going to talk with them and get help from them and deal with their issues."

Finally, Pincus said it's important for the borrower to avoid additional personal recourse. If that's unavoidable, he said a limited-recourse guarantee is better than a full-recourse guarantee.

## What is the Borrower Asking for From the Lender?

The right to undertake material lease modifications is the most important thing that borrowers are seeking right now.

"Tenants can't pay rent," Pincus said. "You have to evaluate those tenants and either defer rent for a couple of months or extend the lease for a couple of months. I've been doing a lot of defer-and-extend amendments."

Most loan documents require lender consent for material lease amendments, so it's important to examine the paperwork carefully.

**"Tenants can't pay rent. You have to evaluate those tenants and either defer rent for a couple of months or extend the lease for a couple of months. I've been doing a lot of defer-and-extend amendments."**

*— George Pincus, attorney,*
*Stearns Weaver Miller, P.A.*

After lease modification, borrowers should ask lenders for temporary payment forbearance. With little or no money coming in, borrowers must prioritize payment for items that will protect the asset. These include taxes, insurance, building maintenance, debt service and running the property.

Forbearance comes in many shapes and sizes. There's interest-only, principal and interest reductions or forbearance, complete suspension of payments, adding suspended payments to principal, and interest-rate adjustments.

As for financial covenants, borrowers should ask lenders to ease up on them.

"I spend a lot of time negotiating loan documents for clients, and I always try to focus them on DSCR, loan-to-value (LTV) ratios, liquidity covenants, all of that," Pincus said. "They need to be looked at really carefully, because these are the types of technical defaults that come up a year or two into the loan term."

A typical remedy for DSCR problems is paying down the loan to bring it back into balance. However, that requires capital, and the borrower may have to pay down the loan out of their own pocket.

Along those lines, it can be really important to have a detailed operating budget for the upcoming months that takes into account the reduced cash flow from tenants who can't pay rent. That way, the lender sees that whatever money is coming in will go to preserve the asset and the lender's collateral.

"Make sure that real estate taxes and insurance are at the top of the list," Pincus said. "If you do have to pay down the loan, and the loan documents impose any prepayment penalty, be sure to ask to be excused from it."

Because of reduced cash flow, it might be difficult for the borrower to perform maintenance on the property. However, loan documents have covenants that require upkeep or capital improvements to the property.

"You've got to look really carefully at it and figure out exactly what it's going to cost to do the minimum maintenance to the property," Pincus said.

Finally, prepare a leasing plan for when the coronavirus crisis ends so that any vacant space can be filled.

## Documenting the Deal

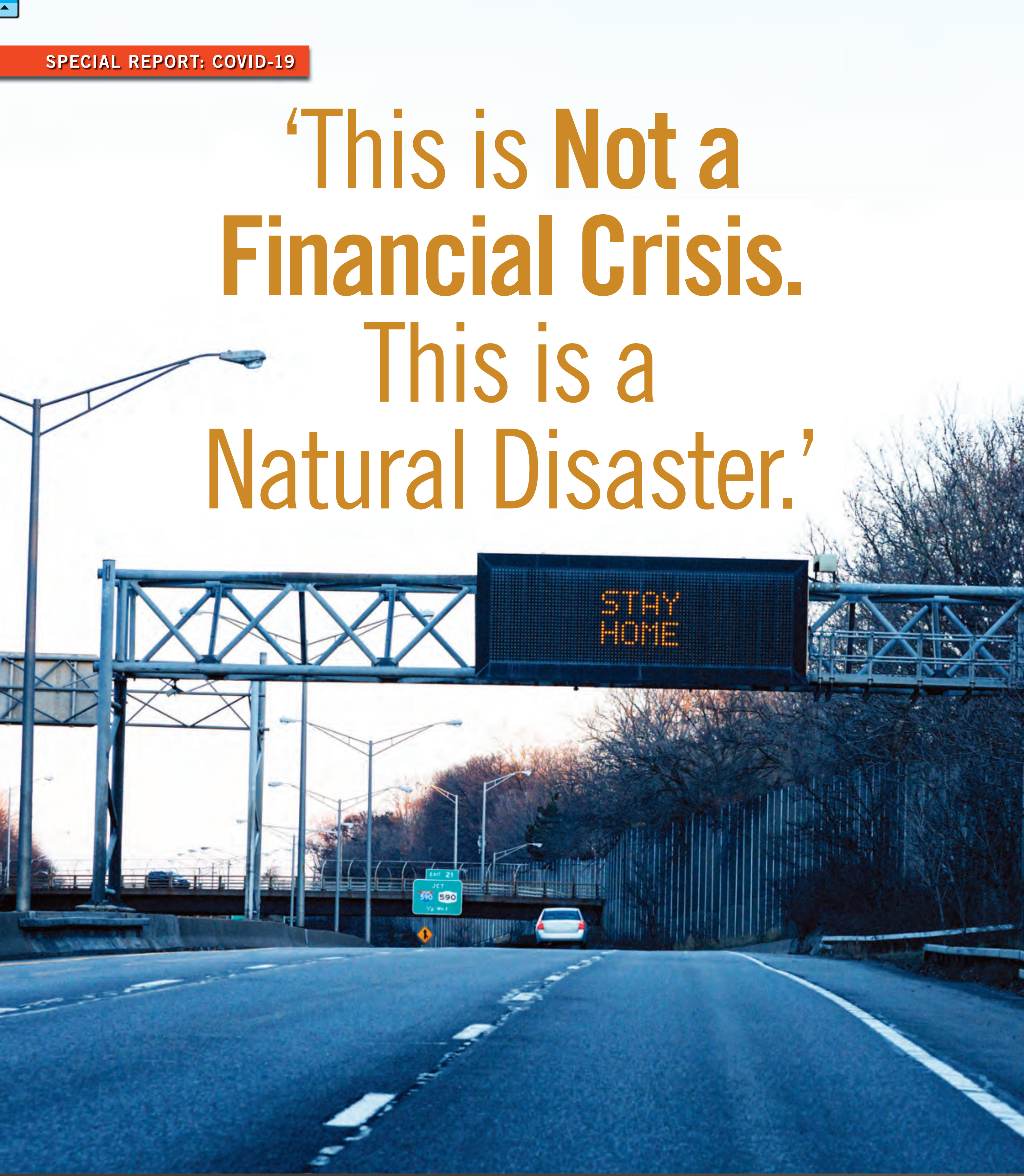
When it comes to making the deal official, don't do it by e-mail. Both the lender and the borrower want a formal, written agreement documenting everything.

Pincus warned that the lender may try to include a lot of waiver language in the agreement and set parameters that, if not met, could allow the lender to sue and foreclose on the property. To avoid that, it's important to stay focused on the deal.

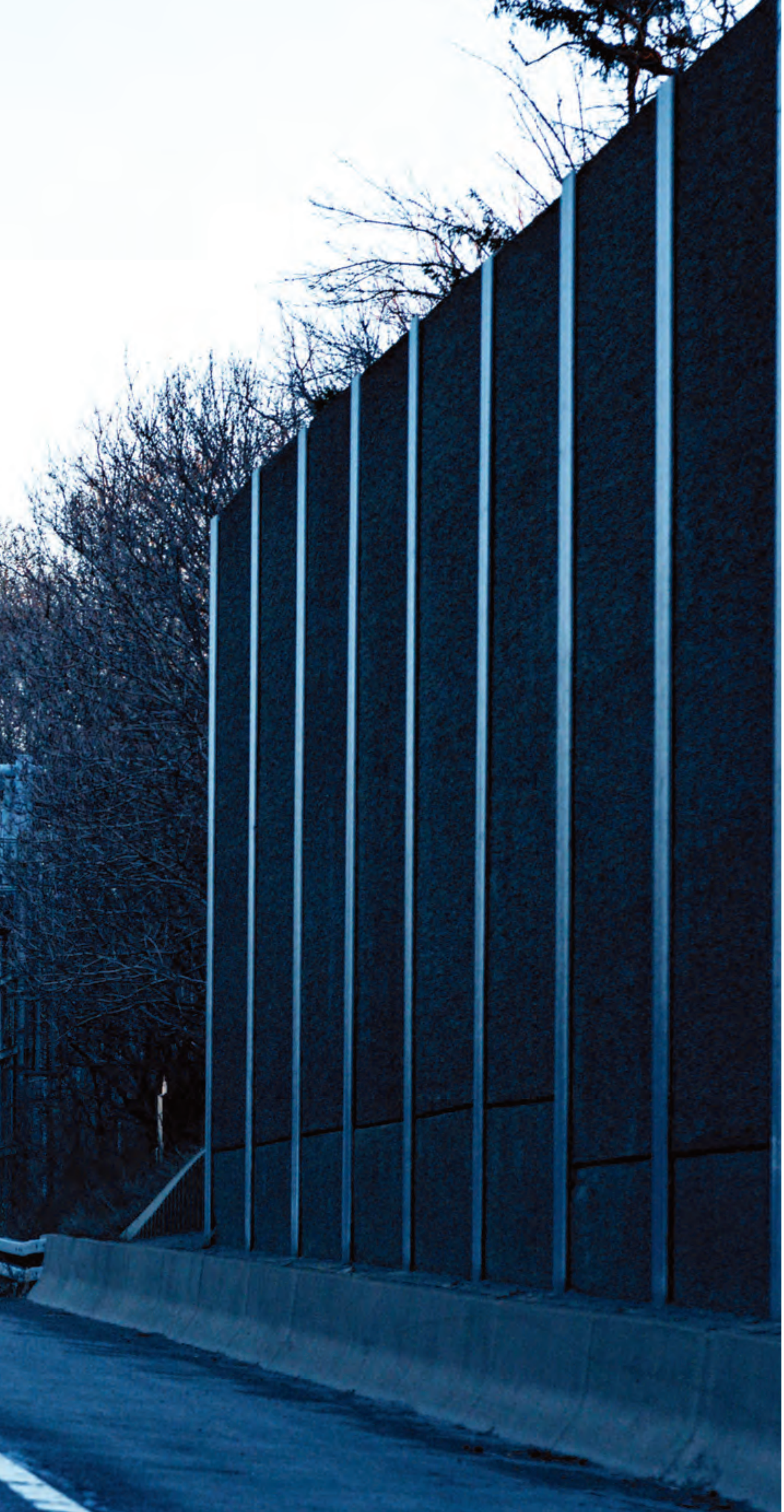
"Get clarity on forbearance," he said. "How much? How long? How does the amount in abeyance get repaid? What interest is the borrower paying on the amount in abeyance?" ■

**Trey Barrineau** is the managing editor of Development magazine.

# ‘This is **Not a Financial Crisis.** This is a Natural Disaster.’




Governments at all levels took unprecedented actions to slow the spread of the coronavirus in the U.S. These included stay-at-home orders that effectively shut down much of the economy.



Getty Images

# The coronavirus hit the economy and commercial real estate like a hurricane.

By Shawn Moura, Ph.D. and Trey Barrineau

The coronavirus pandemic that first erupted in China late in 2019 has now spread around the world, causing thousands of deaths and straining the capacity of health care systems in many countries.

Currently, there are only experimental treatments for COVID-19, the respiratory disease caused by the novel coronavirus, and a vaccine likely won't be available until at least 2021. While the disease's progression appears to be slowing thanks to extraordinary public health measures taken by governments and individuals, many


Beginning in March, governments across North America ordered non-essential businesses to close to help reduce the spread of the coronavirus.

*Getty Images*

infectious-disease experts fear that a second wave will strike in the fall.

But illness and loss of life aren't the only disastrous effects of the coronavirus. In the U.S. and around the world, the pandemic's economic aftershocks brought an end to a long bull market and abruptly plunged the U.S. economy into a deep downturn as entire states mandated business closures and "social distancing" to control the spread of COVID-19. Those shutdowns and unprecedented job losses, in turn, threaten the commercial real estate industry, which depends on thriving businesses that can pay rent for the space they occupy.

"This is unlike anything we've ever experienced," said **Hessam Nadji**, CEO of Marcus & Millichap, during an interview with Bloomberg P&L. "Most of our clients and everyone participating in our industry is first and foremost concerned about the health of their employees and their families. But it's very difficult to separate the emotional component of that with the business component of that, which is unusual."

**Timothy H. Savage** of NYU's Schack Institute of Real Estate, who is the author of NAIOP's office and industrial demand forecasts, compared the pandemic's effects to a catastrophe such as a hurricane — but one that hits everywhere at once.

"We have to recognize that this is not a financial crisis," Savage said during a recent NAIOP webinar. "This is a natural disaster. It's a natural disaster in which it is not the physical capital that is being affected — it is the human capital. It is each one of us essentially isolating ourselves, and that directly impacts the economy."

## Before COVID-19 Hit

**John Chang**, national director of research services with brokerage and investment services firm Marcus & Millichap, said the U.S. economy was strong before the coronavirus

**"This is unlike anything we've ever experienced.** Most of our clients and everyone participating in our industry is first and foremost concerned about the health of their employees and their families. But it's very difficult to separate the emotional component of that with the business component of that, which is unusual."

*— Hessam Nadji, CEO, Marcus & Millichap*

### A Negative Outlook from Business Leaders

**A YPO Chief Executive COVID-19 Global Survey** of 3,534 CEOs in 109 countries that was conducted in April shows the impact of the coronavirus pandemic on business leaders' outlooks for the coming year:

- The majority of chief executives (61%) expect a U-shaped recovery curve — a sharp recession with a longer rebound period. About 22% anticipate a W-shaped curve — a double-dip recession and recovery.
- Chief executives in hospitality/restaurant (41%), aerospace/aviation (30%), education (19%), and retail and wholesale sales (19%) are the most likely to say their businesses are at risk of failing.
- Almost two-thirds of business leaders (64%) anticipate negative effects on revenues for at least a year. About 43% of chief executives expect revenue to fall more than 20%. ■

crisis began accelerating here in early March.

"Job creation, corporate profits, the unemployment rate, consumption levels, interest rates and inflation were all in a very good position," he said during a recent NAIOP webinar. "We had 113 months of continuous job gains through February."

**Anirban Basu**, chairman and CEO of Baltimore-based economic consultants the Sage Policy Group, noted during a recent webinar for NAIOP Maryland that the U.S. added 22 million jobs during the long recovery from the Great Recession. Thanks to the exceptional job-creation performance of large metropolitan areas in the U.S., unemployment had held below 4%, a 50-year low.

According to NAIOP's "Economic Impacts of Commercial Real Estate, 2020 Edition," published in February, the U.S. economy grew 2.3% in 2019 and rose 2.9% in 2018. The report noted that the positive momentum was the result of "the combination of continuing stimulus from the Tax Cuts and Jobs Act of 2017, increased federal government spending, rising consumer spending, and strong job and personal earnings growth."

## An Economic Gut Punch

And then the pandemic hit in March. As deaths and hospitalizations skyrocketed, state and local governments ordered social-distancing measures and business closures. Millions of white-collar employees began working from home. Universities banned students from campuses and instituted distance learning, and primary and secondary public and private schools followed suit. Collegiate and professional sports teams canceled their seasons. Travel and business activity ground to a halt. Fueled by the massive economic uncertainty surrounding the pandemic, the Dow

Getty Images

**The revival of shuttered retail districts will play a crucial role in the overall economic recovery from the coronavirus pandemic.**

Jones Industrial Average, which almost reached 30,000 in February, plunged to 18,591 on March 23 after days of record losses.

"This is a planned, organized, partial shutdown of the U.S. economy in the second quarter," **James Bullard**, president of the St. Louis Fed, told Bloomberg News. "It is a huge shock, and we are trying to cope with it and keep it under control."

Some data points illustrate the impact of the unprecedented shutdown.

Box Office Mojo, which analyzes movie ticket sales in the U.S., reported that box office totals fell from $120 million for the week of March 6-12 to just $5,179 for the week of March 20-26. And an analysis of transaction data by Womply, a provider of software and business services, shows that during the week of March 25, hotel revenue fell 78% from the previous year, restaurant revenue declined 59%, and revenue for bars and lounges dropped 52%.

"The economic carnage is severe," **Stuart Gabriel,** director of the Richard S. Ziman Center for Real Estate at UCLA, said during a recent webinar. "It is unlike anything that we have ever seen or known, and it is outside of any statistical range."

Those losses, as well as others across many service industries, sent jobless claims skyrocketing to more than 30 million in April, the largest figures since the U.S. Department of Labor began reporting claims in 1967. Unemployment spiked to 14.7% in the U.S.

In late April, the Commerce Department reported that the U.S. gross domestic product (GDP) fell 4.8% in the first quarter, the sharpest decline since the global financial crisis in 2008. Many economic experts predict a much steeper GDP decline in the second quarter. For example, **Spencer Levy**, chairman of Americas research and senior

> "We have to recognize that this is not a financial crisis. This is a natural disaster. **It's a natural disaster in which it is not the physical capital that is being affected — it is the human capital.** It is each one of us essentially isolating ourselves, and that directly impacts the economy."
>
> *— Timothy H. Savage, NYU's Schack Institute of Real Estate*

economic advisor for CBRE, told attendees at a NAIOP webinar that he sees second-quarter GDP shrinking by 20%; it could end up down 3% for the year. Goldman Sachs sees a 24% GDP decline for the second quarter, and Morgan Stanley predicts it will fall 30%. The Congressional Budget Office is forecasting a drop of 39.6% in the second quarter and a decline of 5.6% for the year.

The massive slowdown in business activity is also affecting tax revenues at the state level. Urban Institute Senior Researcher **Lucy Dadayan** told Axios in May that collections would be down between 20% and 50%, depending on the state. California is facing a $54.3 billion budget shortfall through 2021. New York state is projecting a shortage of $13.3 billion.

## Government Gets Moving

In response to the crisis, the federal government took aggressive action in March to help shorten a recession and mitigate its effects on workers, consumers and the commercial real estate industry. (**See related story, page 76**)

The Federal Reserve cut interest rates to zero, made large bond purchases to shore up credit markets and took additional measures to backstop commercial lending. The Federal Reserve began using the Term-Asset Backed Loan Facility to purchase agency-backed CMBS (mostly comprised of multifamily mortgages) in March and subsequently expanded these purchases to non-agency CMBS in April. In late March, several mortgage REITs reported that banks were submitting margin calls on non-agency CMBS-backed repurchase agreements, impairing the REITs' liquidity and leading them to freeze issuance of new debt. The Federal Reserve's actions may help to restore liquidity in the CMBS market.

"They're going to do whatever it takes to maintain the liquidity of both the financial markets and backstopping businesses with lines of credit," Chang said. "That includes large businesses, small businesses, municipal bonds and credit facilities for sectors of the economy that are most at risk."

Chang said these unprecedented actions by the Fed demonstrate the lessons learned from the global financial crisis of 2008.

"At that time, they were very tactical in their approach," he said. "They tried to surgically backstop certain pieces of the economy. This time around, they're unleashing everything in the very beginning, and they're continuing to make all the resources available that the economy will need to sustain itself through this shock."

Legislation to expand sick leave and a $2.3 trillion stimulus bill that includes loans to adversely affected industries and small businesses, support for health care systems and local governments, supplements to unemployment benefits and direct payments to individuals could keep vital services operating and help workers and businesses weather the recession.

Levy said that U.S. authorities are pumping the equivalent of four times the expected second-quarter decline into the system. For perspective, the stimulus bill passed in response to the 2008 global financial crisis was about $800 billion.

"They're not just trying to assist individuals and households," Chang said. "They're also trying to protect the businesses as well. When we get through this, it's going to be very important that we have those businesses in place with staff in order to support a recovery and growth cycle. The government is

"Ultimately, who are we counting on? Regeneron. Gilead Sciences. Merck. Pfizer. Bayer AG. That's who's going to solve this economic problem. **It's not going to be solved in a bank or in a brokerage or on the trading floor of the New York Stock Exchange. It'll be solved in a laboratory. The brilliant minds that work in global life science, they're going to save the day."**

*— Anirban Basu, Sage Policy Group*

being very aggressive about getting out in front of the situation as opposed to trying to respond after things have already hit a tough patch."

Nadji told Bloomberg that the most important part of the stimulus package from the perspective of the commercial real estate industry is the hundreds of billions that have been set aside for small-business loans and to help large companies.

"As much help as can be delivered to companies to stay afloat during the worst of this health crisis in order to limit employee layoffs, because that has to do with tenants, and tenants have to do with occupancies of commercial real estate," he said.

Savage said one major difference between the coronavirus pandemic and the recession of 2008 is how rapidly equity and labor markets reacted to the bad news.

"During the height of the global financial crisis, we were losing about 800,000 jobs a month," he said. "Recent job losses dwarf that figure. So on the fiscal side, if you look at the core elements of the stimulus bill that has been passed, it is addressing those sorts of issues. It is addressing things like unemployment insurance, the duration of unemployment insurance, the amount people are compensated for having lost jobs in order to provide income in what is a short-term disruption to labor markets."

But no matter how large the government's intervention, the speed and shape of an economic recovery will depend on how widely the virus spreads and how long it takes to contain the pandemic.

"Ultimately, who are we counting on? Regeneron. Gilead Sciences. Merck. Pfizer. Bayer AG," Basu said. "That's who's going to solve this economic problem. It's not going to be solved in a bank or in a brokerage or on the trading floor of the New York Stock Exchange. It'll be solved in a laboratory. The brilliant minds that work in global life science, they're going to save the day."

## Effects on Commercial Real Estate

Commercial real estate is a critical part of the U.S. economy. According to NAIOP's "Economic Impacts of Commercial Real Estate, 2020 Edition," it contributes $1.14 trillion to GDP, generates $396.4 billion in personal earnings and supports 9.2 million jobs.

Most sectors of the commercial real estate industry are better positioned to endure the current crisis than they were during the recession that accompanied the 2008 financial crisis. However, the outbreak and its effects will differ sharply across product types and geographic markets. (**See related stories, pages 46, 54 and 62**).

Trepp, a provider of information, analytics and technology to the commercial real estate market, predicted in March that the overall default rate across all commercial mortgages could rise from 0.4% to 8%. The default rate in lodging could approach 35%, and retail could climb to 16%. However, office, industrial and multifamily are expected to see much lower numbers.

In addition to potential risks to existing real estate assets, the outbreak has disrupted new development deals and may pose a risk to ongoing construction projects. **Matt Burke** and **Cathy Cunningham**, writing for Commercial Observer, note that lenders are still lending and investors are still making deals, but all parties are being more conservative than they once were and real estate is being repriced at lower values.

Levy said most of the bidders who have fallen off have been institu-

## 'Location, Location, Liquidity': An Economist Weighs In On the Pandemic

**During a recent webinar** for NAIOP National Forums members, economist **Mark Dotzour** shared his thoughts on how the coronavirus pandemic will affect the economy and commercial real estate. Here's a sample of his comments:

"We've all heard that phrase 'location, location, location.' I'm going to modify that for the 2020s and say it's 'location, location, liquidity.' You can make the perfect location decision and make a bad decision with liquidity, and it changes your whole outlook."

"The Wall Street Journal recently reported that 900 firms are looking to enter the distressed-asset space with almost $300 billion ready to go. There's going to be a lot of dry powder coming into this business, so if there is any downward pressure on pricing, it's going to be mitigated by an overwhelming response from people wanting to mop up the mess."

"Right now, real estate prices are unknown. I don't think it's proper to say that real estate prices have dropped a lot. … All I see right now is nobody can predict far enough in the future in terms of cash flow to put a value on a building right now. That will change over time. … It's going to be a while before we get enough transactions to know what has happened to property values."

"The biggest question in my mind is how long is it going to be before we feel comfortable to do anything like go to a restaurant, go to a convention, take a vacation or go to a basketball game? Another issue is, can our government force us to abandon our businesses every year? If we have another go-round of COVID next fall, will we have to close again?"

"I'm bullish on warehouse space. This idea of just-in-time manufacturing, where you have just a bare-bones amount of inventory that has to be refilled every couple of weeks, I think people are going to start reconsidering that, and they're going to start having more warehouse space with more inventory so they don't get caught off guard."

"Cap rates are going to be up and down. Short-term interest rates could stay near zero for at least five years. The 10-year Treasury will be lower for longer. There's going to be a huge search for yield that's going to cause people to want to own real estate. A 5% yield on some kind of real estate opportunity is going to look like a gold mine compared to the bond market. All this volatility in stocks and bonds makes people more nervous and directs more of their enthusiasm toward real estate. That's the upside. The downside is a government-sanctioned rent holiday for all kinds of real estate that throws an additional piece of risk into every kind of real estate. Every piece of real estate in America has a slightly higher risk component to it because of the rent holiday and the threat the government might shut down businesses who are your tenants again."

"I will say that I'm more bullish on commercial real estate investment in secondary and tertiary markets because the yields are higher. The big markets got overshot and the yields got too low, so I'm still bullish on secondary and tertiary markets. The urban vibe has lost its luster. I could see some additional demand for people moving to smaller cities. … I also feel like there's more demand for open spaces in the suburbs."

"I think the supply chain is getting ready to change big time. I've been saying for the last five years that China is a subcontractor for America. Sure, they're a big global power, but they're a big global power because we chose to buy all our stuff from them. We have financed their big global power move. But the problem is when you make a decision to have one supplier and it's in trouble, then you're in trouble. This was already happening last fall. Businesses were starting to reposition parts of their supply chains to other countries, and that's going to continue. That's going to change the port structure, too. Not just L.A. and Long Beach coming in from China; there's going to be goods and production redistributed around the world. That will open up more demand. If you live in a city in the South like Charleston or Savannah, the chances are you're going to have more business there going forward."

"Americans do not tolerate deferred gratification. We'll either conquer this virus or get used to it. Americans don't hide in their houses for very long." ■

Dr. Mark G. Dotzour served for 18 years as chief economist of the Real Estate Center at Texas A&M University. He has given more than 1,600 presentations, and his research findings have appeared in the Wall Street Journal, USA Today, Money Magazine and Business Week.

> "The biggest risk factor out there is called a double dip. **It means we get the all-clear notice from the authorities, and then they have to reshut the gates again soon after when the infection is clearly not under control."**
>
> *— Spencer Levy, chairman of Americas reasearch and senior economic advisor for CBRE*

tional, not private. Institutional investors are pulling back because their portfolios are suffering losses.

Levy said he's seeing banks taking on more forbearance for mortgages for many property types. Levy also said CBRE has seen an increase in the number of requests for price reductions, also known as repricing asks or retrade asks.

"Those accelerated in [late March]," he said. "Many of them were above 5%. About 50% of our deals are asking for this 5%-plus retrade."

While Levy thinks that repricing activity won't be worse than in other periods of market distress, he said he's seen a lot of deals completely collapse. They've either fallen out of contract, or folded when "material adverse change" clauses were invoked.

The coronavirus may also increase costs and risks for all types of commercial construction, particularly for projects that rely on materials or equipment shipped from China. In its H1 2020 Construction Outlook, JLL notes that the U.S. imports between one quarter and one third of all construction products from China.

Illnesses and quarantines could also disrupt the construction labor supply in areas affected by the virus, resulting in significant project delays. According to Construction Dive, although a few localities like Boston have ordered a halt to all construction, ongoing construction projects continue to operate largely unaffected by government restrictions across most of the U.S. However, as widespread construction bans take effect, they could bankrupt many construction firms, according to Association of General Contractors CEO **Stephen Sandherr**. (**See related story, page 20**)

Rising construction costs and labor disruptions could be particularly painful for projects that are operating on thin margins. Even developers with conservatively financed projects in otherwise healthy sectors may benefit from working proactively with lenders, contractors and tenants to develop contingency plans for disruptions related to the outbreak.

## When — and How — Will Markets Recover?

Levy said it's not useful to compare the coronavirus pandemic to past market crashes such as the 2001 post-9/11 tech bubble or the 2008 global financial crisis, which both led to recoveries that took years to play out.

"I think a good comparison could be the SARS period in 2003 in Asia," he said.

During the SARS outbreak, economies in Asia saw a six-month material drop in transaction activity and a fall in values, followed by a rapid bounce-back because there were no fundamental flaws in the economy. Citing a Goldman Sachs analysis of GDP changes during the 2003 SARS outbreak in China, Hong Kong and Canada, Basu said there is almost always a sharp contraction in activity during pandemics, then a strong rebound. He said it's possible that could happen during this cycle. Low interest rates and the amount of government stimulus money in the pipeline will be a big help.

"I'd characterize this as short and vicious," he said. "But the short part will be a public health issue — how quickly we can flatten the curve."

But in April, Basu warned the Baltimore Business Journal that the initial rebound probably won't be a complete recovery, either.

"I liken it to a game of musical chairs," he said. "When the economy was good, there were a lot of chairs. In this crisis, a lot of the chairs were removed, and it's going to take some time to get back to the number of chairs we had."

Levy predicted that a recovery could begin in the third quarter of the year.

Getty Images

**Masks could become ubiquitous in North America's public spaces as businesses open back up and citizens take measures to protect themselves from the coronavirus.**

"It'll be the worst second quarter in the history of the United States, but with a rapid bounce-back thanks to the massive monetary and fiscal stimulus," he said. "That will give rocket fuel to businesses to come back."

Savage echoed those sentiments, citing the 1957 flu pandemic that killed 1.1 million worldwide and 116,000 in the U.S. In the fourth quarter of 1957, the U.S. economy contracted by about 4%. It shrunk by 10% in the first quarter of 1958, but fully recovered by the end of the year.

"It was very much a V-shaped recovery in a pandemic that is barely mentioned in the history books but is recorded in the data," Savage said. "The coronavirus is not the global financial crisis. Remember, that arose in a situation of considerably more private leverage than we have today, and the protracted recovery required a fair amount of time for that leverage to work through the system. This is a very different situation."

However, there is a risk for a much longer U-shaped recovery, especially if the economic impacts of extended shutdowns and high unemployment linger. A worse scenario would be a W-shaped recovery. That's where the economy makes a rapid initial rebound as businesses start to come back online, but then plummets again if a second wave of coronavirus hits.

"The biggest risk factor out there is called a double dip," Levy said in reference to a possible W-shaped recovery. "It means we get the all-clear notice from the authorities, and then they have to reshut the gates again soon after when the infection is clearly not under control. That would be a disastrous scenario." ■

**Shawn Moura**, Ph.D., is research director at NAIOP. **Trey Barrineau** is managing editor, publications, for NAIOP.

# Will Teleworking **Change the Future** of the Office?

As workers begin to return to their offices, they might see fewer open layouts to accommodate social distancing.

# The COVID-19 pandemic might not have a massive economic effect on the office sector, but it could spark big new ideas on the use of space.


Getty Images

By Shawn Moura, Ph.D., and Trey Barrineau

The office sector appears to be less vulnerable to disruptions associated with the coronavirus pandemic than retail or hospitality, but it's not entirely immune to an economic downturn — or the acceleration of changes in the ways people have been working during the crisis.

Mandatory closures and other social distancing measures have taken a toll on firms that are closely tied to the consumer economy, such as the British airline Flybe, which went bankrupt in March after travel bookings plummeted in the wake of the coronavirus pandemic. Businesses that cannot conduct most of their business remotely are also in peril. On the other hand, many companies have learned that they can run their operations without anyone physically in the office, a trend that has the potential to depress demand for traditional office leases.

"High-priced office space, and new construction in particular, is going to see a hit," said **Anirban Basu**, CEO of Baltimore-based economic consulting firm the Sage Policy Group, during a recent webinar with NAIOP Maryland. "People are going to be thinking about what kinds of commitments they're going to make, and cash is king right now. If you're trying to preserve cash, that doesn't take you into A-plus office space necessarily. And if you do use A-plus office space, you'll probably try to rent less of it. You'll have more people telework if possible."

## A Turn to Teleworking?

Remote work got a prominent plug in April when Morgan Stanley CEO **James Gorman** told Bloomberg Television that he believed the $60 billion investment bank could operate with "much less real estate" in the aftermath of the coronavirus pandemic.

"We've proven we can operate with effectively no footprint," he said of the firm, which has more than 500 locations around the world. "Can

Getty Images

The open-office concept, which is used in about 70% of U.S. offices, could decline in the aftermath of the coronavirus pandemic.

I see a future where part of every week, certainly part of every month, a lot of our employees will be at home? Absolutely."

CNBC reports that Nationwide is permanently transitioning to a hybrid work model following its positive experience with remote work arrangements. Food and beverage company Mondelez is also exploring transitioning more employees to alternative work arrangements as a way to reduce costs in a recession. And **Jes Staley**, CEO of Barclays, believes companies may permanently move away from centralizing large numbers of staff in a single building: "The notion of putting 7,000 people in a building may be a thing of the past."

Many office workers and managers would welcome these changes. A March 30 poll by Gartner of 317 finance leaders and CFOs indicated that 74% of them plan to permanently shift some of their workforce to teleworking. Additionally, a recent poll by career planning site Zippia.com shows that 51% of workers would prefer a full-time work-from-home arrangement.

However, the same Zippia.com survey found that nearly 60% of those workers didn't think teleworking would become permanent. Many commercial real estate professionals tend to agree.

"I think the office is here to stay," said **Gregory May**, executive vice president and West Region market leader for Newmark Knight Frank, during a recent NAIOP webinar. "But I also think there's definitely going to be a percentage of people who will work remotely permanently."

Prior to the pandemic, about 4% of U.S. workers were able to work from home at least half the time, according to a Global Workplace Analytics analysis of 2018 American Community Survey data from the U.S.

“While we might want the flexibility of telecommuting, we’re all learning that we miss our communities of colleagues. **There is a very strong counterweight to the idea that we’re all going to work from home in the future.** Certainly the flexibility to do so is increasing, but it’s a little early to say.”

*— Al Pontius, national director of office and industrial for Marcus & Millichap*

Census Bureau. A national survey by MIT during the first week of April showed that 34% of former commuters were working from home.

**Al Pontius**, national director of office and industrial for Marcus & Millichap, believes there is a real appeal to telework, but he doesn’t see demand for office space falling off a cliff in the near future.

“I see a counterpoint that’s equally strong,” he said during a recent NAIOP webinar. “While we might want the flexibility of telecommuting, we’re all learning that we miss our communities of colleagues. There is a very strong counterweight

## The Six-Feet Office

**In response** to the coronavirus pandemic, Cushman & Wakefield recently unveiled a new office setup called the Six-Feet Office. It’s based on the social-distancing rule to keep six feet of space between yourself and other people to prevent the spread of the coronavirus.

In a Six-Feet Office, “transparent shields divide desks, markers direct foot traffic and disposable desk pads catch germs and can be discarded when a worker leaves for the day,” according to an April article in the Wall Street Journal.

Here are the elements of the Six-Feet Office, according to a post on Cushman & Wakefield’s website.

*Cushman & Wakefield*

**Cushman & Wakefield’s Six-Feet Office features concentric circles on the carpeting around desks, a visual reminder to stay six feet away from other workers.**

**6 Feet Quick Scan:** “A concise but thorough analysis of the current working environment in the field of virus safety and any other opportunities for improvement.”

**6 Feet Rules:** “A set of simple and clear workable agreements and rules of conduct that put the safety of everyone first.”

**6 Feet Routing:** “A visually displayed and unique routing for each office, making traffic flows completely safe.”

**6 Feet Workstation:** “An adapted and fully equipped workplace at which the user can work safely.”

**6 Feet Facility:** “A trained employee who advises on and operationally ensures an optimally functioning and safe facility environment.”

**6 Feet Certificate:** “A certificate stating that measures have been taken to implement a virus-safe working environment.”

to the idea that we're all going to work from home. Certainly the flexibility to do so is increasing, but it's a little early to say."

**Spencer Levy**, chairman of Americas research and senior economic advisor for CBRE, also doesn't see a secular shift after the pandemic is over in which most workers abandon their offices.

"Even though we believe that more people now see that working from home is doable, every survey we had done prior to the coronavirus crisis showed that working in the office is much more productive," he said during a recent webinar for NAIOP Maryland. "We think that's not going to change."

## New Designs for Offices?

May says that when people do return to the office, the spaces might look a little different for reasons related to health and safety.

"There might be some density issues where they want to be separated a little more," he said. "That could change the layout of offices."

Levy also sees office densification changing in the wake of social distancing.

"The average square footage for an average person in an office, which had gone so dense, we believe that pendulum will swing back to adding more square footage," he said. "That comes directly out of my conversations with some of the largest occupiers in the world."

According to Robin, a Boston-based office technology company, North

*Getty Images*

**In China, many office elevators now have tape on the floor to ensure that passengers follow social-distancing guidelines.**

American offices average about 150-175 square feet per person. Open office spaces, which have grown in popularity in recent years, average roughly 125-175 square feet per worker. (**Christian Beaudoin** of JLL told the New York Times in February that 70% of U.S. offices have some form of open plan.)

While popular, open office designs can allow viruses to spread more easily than traditional office layouts. Without walls or a cubicle divider, droplets from a sneeze or cough can spread farther. Offices that use unassigned desks — a common practice in coworking — can also make it easier for a virus to spread as new desk occupants come into contact with infected surfaces. In the face of the coronavirus outbreak, these design features are now a concern, as was demonstrated by an outbreak in March at a crowded open-floorplan call center in South Korea. According to a study published by the U.S. Centers for Disease Control and Prevention, 94 of 216 workers came down with the coronavirus. Almost all of them sat in close proximity to each other.

> **"The average square footage for an average person in an office, which had gone so dense, we believe that pendulum will swing back to adding more square footage.** That comes directly out of my conversations with some of the largest occupiers in the world."
>
> *— Spencer Levy, chairman of Americas research and senior economic advisor for CBRE*

Getty Images

The pandemic has led to a huge rise in teleworking, which could reduce demand for office space.

Offices in China, where COVID-19 first struck, are coming back online, but many of the social distancing and hygiene measures that began at the height of the pandemic are still in place. Masks, hand sanitizer stands and spot temperature checks with handheld digital thermometers are ubiquitous. Some commercial facilities use infrared cameras to scan people for fevers before entering. **Eunice Yoon**, CNBC's Beijing bureau chief, reported in March that elevators in China's capital use tape to mark where passengers should stand for proper spacing.

However, limiting the number of passengers on elevators in high-rise offices with thousands of workers could create long waits in lobbies. For example, global marketing company Interpublic Group told the Wall Street Journal in May that if only two or three of its staff at one of its locations could ride an elevator at one time, it would take two or three hours for them all to reach their offices.

"How many people can work in the building if you limit the number of people in an elevator to two at a time?" Staley asked in a recent interview with the Financial Times.

## What's Ahead?

As restrictions lift across the country, look for a gradual phase-in of workers, possibly with staggered schedules or shifts.

"There could be A teams and B teams working different days," **Scott Rechler**, the chief executive and chairman of RXR Realty, told the New York Times in April.

Concerns about clean surfaces could lead to the deployment of new technologies. For example, the South China Morning Post reported in March about Easpeed, a company in China that has developed "no-touch" hologram buttons for elevators. Existing "no-touch" technologies could be put into greater use in common areas. These include voice- or motion-activated doors and dispensers in bathrooms, kitchens and common areas. (**See related story, page 28**)

Another change could involve antimicrobial materials in interior

**"Companies will need offices to build culture or to train people or to allow them to interact for specific tasks. At the same time, employees don't have to be in the office all day long.** That means companies will need to attract people to come to the office, and you have to offer them something they don't have at home."

*— Dror Poleg, a former real estate and technology executive*

design elements, such as door hardware. These coatings are made of materials such as silver, copper or chitosan, which is derived from shellfish. Many are already in use in health care settings.

Longer term, **Dror Poleg**, a former real estate and technology executive, thinks office space will evolve to serve dual purposes.

"Companies will need offices to build culture or to train people or to allow them to interact for specific tasks," he said during a recent online discussion between real estate professionals in the U.S., the U.K. and France. "At the same time, employees don't have to be in the office all day long. That means companies will need to attract people to come to the office and offer them something they don't have at home."

To draw workers to a building, it will be critical to make the office experience richer and more convenient, said **Ronen Journo**, senior vice president-enterprise at WeWork.

"I think we're going to see people question the purpose of the office," he said during Poleg's panel discussion. "Not just workers but employers as well. Placemaking developed in the last decade. I think it's going to continue, and I think it's going to bring the relationship between occupiers, landlords and operators a lot closer. People are going to question why they commute when they can do what they need to do at home. We will see companies begin to offload space, and we will see people working from multiple places — not just from home." ■

**Shawn Moura**, Ph.D., is research director at NAIOP. **Trey Barrineau** is managing editor, publications, for NAIOP.

## Coworking and Coronavirus: A Canary in the Coal Mine?

■ By Shawn Moura, Ph.D.

**Prior to the coronavirus pandemic**, the future of coworking and flex space looked strong. For example, a 2019 JLL study predicted that 30% of the office market will be flex space by 2030.

The coworking industry grew substantially along with the protracted bull market, and it's well documented that coworking was a primary driver of new office absorption across most major markets, especially during the past three to five years, said **Michael Kloppenburg** of Avison Young's flexible office solutions during a recent NAIOP webinar.

Coworking grew on average 26% per year from 2010-2018, and growth in 2019 was estimated to be 35% year over year before WeWork's failed IPO.

Prior to WeWork's troubles, much of the criticism of coworking and the flexible office business model focused on the challenges that coworking operators would likely face in a recession, when clients could easily end short-term memberships to conserve cash.

"Due to the structure of most coworking deals with landlords, primarily long-term leases, and the short-term nature of their client agreements, there is significant cash-flow exposure," Kloppenburg said.

However, he said that he's seen renegotiations happening during the coronavirus pandemic as operators attempt to leverage this crisis to secure more favorable terms, or convert leases to management agreements on a case-by-case basis.

"I have seen amazing support from many of these operators, providing resources to small businesses. So far, in talking with my colleagues, retention has been better than expected," Kloppenburg said. "I am bullish on the underlying demand for flexible office space, regardless of the current crisis."

### Vulnerable by Design

WeWork and other coworking firms were often on the cutting edge of open-office design and were emulated by tenants in traditional leases. Because of that, their dense office layouts could be seen more as an asset than a liability.

Many coworking companies have opted for office layouts that encourage close contact between occupants to facilitate interaction. For example, WeWork intentionally narrowed office corridors so workers would be more likely to interact with each other.

In the face of the coronavirus outbreak, these design features are now a cause for concern. In response to the pandemic, WeWork rolled out new guidelines for its offices in April. These include reductions on meeting room capacity, "buffer seating" in public areas to keep six feet of separation between workers, one-way foot traffic paths, and more signage about hand-washing and social distancing.

### Threatened by Subleases

In addition to member concerns about infection risks at coworking facilities, these spaces may also be vulnerable to growing competition from more traditional subleases. **Jason Hughes** and **David Marino** of tenant representation firm Hughes Marino expect that traditional office leases will struggle to compete with subleases offered at below-market rates by tenants with older multiyear leases, especially since many of these spaces are already furnished and technologically equipped. That makes them more attractive for companies interested in minimizing capital investment.

Commercial real estate professionals have long speculated that an increase in subleases during a recession could pose a threat to the viability of coworking firms. Subleased space competes directly with coworking and flexible office spaces, as both options appeal to firms interested in short-term commitments for furnished space. But coworking operators generally charge their members more on a per-square-foot basis than they would pay for a traditional lease, let alone a below-market sublease. As Serendipity Labs CEO **John Arenas** noted in June 2019, flexible office operators who rent entire offices or floors to enterprise clients are particularly at risk of competition from subleases, as these clients are well-positioned to take advantage of large sublease opportunities that become available.

## Adapting to Change

Coworking and flexible office operators took a variety of steps to respond to the coronavirus outbreak. Washingtonian magazine reports that coworking operators in the Washington, D.C., area provided members with hand sanitizer and disinfectant, increased cleaning, replaced bulk food with individually wrapped snacks, allowed employees to work remotely and asked sick members to remain home.

Other coworking companies took steps such as restricting non-essential business travel, limiting member guests, terminating sick members who failed to self-quarantine, and offering a range of web-based services such as virtual offices and digital happy hours. Both Common Desk and Work Suites also allow members to use private offices that have not been rented out. Common Desk has removed chairs from its common spaces to allow members to distance themselves from each other.

**Jamie Russo**, executive director of the Global Workspace Association, said during a recent episode of the Everything Coworking podcast that in addition to having plans in place to improve hygiene and cleanliness, coworking operators need effective communication policies and should develop contingency plans in case they need to close. She observes that operators are taking steps such as putting together procedures to disinfect an entire location when an infection is detected and closing spaces to new member tours. She also notes that to mitigate impacts to short-term cash flow, some operators are asking those who want to cancel their memberships if they will instead accept a voucher or credit for later use.

## Long-Term Implications

The coronavirus has severely impaired coworking firms' business operations and revenues. Larger firms such as WeWork, Knotel, Convene and Industrious have announced furloughs and layoffs since the outbreak began, and several operators have temporarily closed some or all of their locations.

However, it remains to be seen how people's experience with the virus will affect long-term demand for coworking after the outbreak ends. Some in the industry, such as **Jean-Yves Huwart**, are optimistic that coworking can thrive after the virus passes. In an article for Work Design Magazine, Huwart speculated that if companies become accustomed to staff working from home, they may see less value in returning to traditional centralized work arrangements and may be more open to distributed work models that include coworking.

**Timothy H. Savage**, a clinical assistant professor at New York University's Schack Institute of Real Estate and co-author of the NAIOP Industrial Space Demand Forecast, thinks that coworking could accelerate after the pandemic passes.

"We have to recognize that coworking, in the sense that it provides space for lease on a short term, is similar to instantaneous pricing," he said during a recent NAIOP webinar. "It's a little like distinguishing between bonds and equities. There is an option value to short-term leases. It is valuable both to the tenant and the landlord. The question is, does coworking accelerate through this process? Yes, quite possibly, if we recognize essentially that teleworking during the coronavirus pandemic is a form of coworking. The value of that optionality shouldn't be lost on the industry." ■

**Shawn Moura, Ph.D.**, is research director at NAIOP. NAIOP Managing Editor **Trey Barrineau** and Senior Communications Manager **Brielle Scott** contributed to this report.

# Pain Spreads Wide in Retail and Hospitality

The retail sector could struggle to recover from the coronavirus pandemic, especially small businesses.

Getty Images

## The effects of the coronavirus hit these sectors earlier, faster and more deeply than other areas of commercial real estate.

By Shawn Moura, Ph.D., and Trey Barrineau

Fears of contracting the coronavirus, government bans on public gatherings, mandatory closures of nonessential businesses and social distancing measures pose ongoing challenges to the retail and hospitality sectors. Many stores have been forced to temporarily close their doors in response to government mandates or in reaction to sharp declines in foot traffic.

The coronavirus crisis could also hasten the failure of retailers that are heavily indebted or have poor cash flow. The Wall Street Journal noted in March that junk-bond-rated retailers that are particularly reliant on Chinese imports are most vulnerable to the effects of the virus. Healthier retailers may eventually recoup some of their losses after the outbreak when consumers return to stores to satisfy pent-up demand for goods and services.

### Retail 'Is Really Going to Struggle'

Since the pandemic hit, the retail sector has struggled mightily, particularly small businesses. In mid-May, the Commerce Department reported that retail sales fell 16.4% in April, the largest decline ever recorded. Coresight Research

Getty Images

**Because they were declared an essential service, grocery stores have endured during the coronavirus pandemic.**

recently reported that foot traffic at U.S. retail outlets fell 60% in March, with much of that decline coming at the end of the month as social-distancing measures were put in place across the country.

And an April survey from the Harvard Business School found that an extended lockdown could force 65% of small businesses to close by the end of the year.

"There's going to be a lot of empty storefronts," said **Anirban Basu**, CEO of Baltimore-based economic consultants the Sage Policy Group, during a webinar for NAIOP Maryland. "And we already had so many retailers on the verge."

2019 was already a record year for store closings, Basu said. According to an analysis by Business Insider, more than 9,300 stores closed their doors permanently last year.

"That happened during a time when the economy was strong and consumers were spending aggressively," Basu said. "Now imagine what happens. The retail part of commercial real estate is really going to struggle."

Malls, especially those anchored by large department stores, are among the worst-hit properties. In January, real estate research firm Green Street Advisors noted that department store chains represent roughly 30% of all mall square footage in the U.S., according to an April report in the New York Times.

"The department stores, which have been failing slowly for a very long time, really don't get over this," **Mark A. Cohen**, the director of retail studies at Columbia University's Business School, told the newspaper.

In May, longstanding department store brands J.C. Penney and Neiman Marcus declared bankruptcy. Clothing retailer J. Crew did as well. And Pier 1 announced that it would close all its retail locations.

Many restaurants are also in jeopardy. The National Restaurant Association reports that U.S. eateries lost $25 billion during a three-week period in March, and around three million workers were laid off. About 44% of restaurants suspended operations during that time.

In May, Moody's Analytics predicted that effective rents for retail properties would fall 11% in 2020, nearly double the decline seen during the financial crisis from 2008 to 2011. Also in May, S&P Global Ratings reported that about 30% of the 125 retail and restaurant companies it tracks could be close to bankruptcy or liquidation.

"I think there's going to be a big uptick in online shopping, because **there's a whole class of people who have been forced to shop online and they're going to stay with it.**"

*— Elie Finegold, a veteran entrepreneur and global property executive*

## Many Retailers See a Long Recovery

**In April, McKinsey & Company** researchers surveyed 98 U.S.-based executives in apparel, department stores, off-price stores, beauty, and big-box and small-box specialty retail about what they expect in a post-pandemic world. Some of the results:

- More than 80% of respondents closed some locations, and 44% shut down in-store operations entirely.
- About 36% of executives say it will take six months or more for store traffic to recover.
- Approximately one-third of respondents are considering permanently closing underperforming stores, and roughly the same number could put plans to open new stores on hold.
- Roughly three-quarters of apparel executives plan to improve online integration at their stores.
- Around 75% of respondents haven't developed any plans for store reopening. ■

### E-Commerce's Moment?

While multi-trillion-dollar government stimulus packages could help restaurants survive the pandemic, e-commerce might be a deciding factor for many of them. Delivery and pickup accelerated after millions were forced to stay home and restaurants were ordered to halt sit-down service.

Between March 1-25, marketing firm NetElixir reported that online food sales surged 183% compared with the same period last year.

"I think the long-term impact is that the people who have been shopping online will continue to shop online," said **Elie Finegold**, a veteran entrepreneur and global property executive, during a webinar with real estate experts in Europe and North America. "But there's a whole class of people who have not been shopping online, at least for groceries and other basics. I think there's going to be a big uptick in online shopping, because there's a whole class of people who have been forced to shop online and they're going to stay with it."

Along those lines, **Hessam Nadji**, CEO of Marcus & Millichap, said the coronavirus pandemic is hastening trends that were already occurring across all of retail.

"As you know, e-commerce has profoundly changed brick-and-mortar retailing, and a lot of obsolete, older shopping centers, especially those that rely on department stores, have been hurt badly by what was already happening," he said in an interview with Bloomberg. "This is just speeding that up. But I think there's going to be more short-term pain because of it. There is no way around that."

**Al Pontius**, national director of office and industrial with Marcus & Millichap, thinks that the pandemic will diminish some retail concepts, or at least the number of units. But he also sees opportunities.

"There will be growth sectors or opportunities emerging that we're not contemplating right now," he said during a recent NAIOP webinar. "Retail has been a rapidly morphing area for years. It's certainly logical to assume that what we're learning and acclimating to in the online world is going to push change going forward."

Pontius said that many retailers have already determined that having physical locations in concert with online presence has been the best formula to drive activity. He expects that trend will continue, though he thinks it's too early to say if it will be any more significant than what was happening before the pandemic.

**Antony Slumbers**, a U.K.-based software development and technology strategist in commercial real estate, thinks that the pandemic could force technological advances into the retail market very quickly.

"Retail should consolidate its systems," he said during a webinar with real estate experts in Europe and North America. "You've got this omnichannel idea, but you end up with retailers who have one system to run their stores and another to

Getty Images

**Shopping malls that depend on department stores as anchors could face challenges in the post-pandemic retail landscape.**

run their online sales. These things need to come together."

Slumbers thinks that the pandemic will highlight the differences between retailers who have synchronized their online and offline systems and think as a one-system retailer and those who have an online option but don't really pay a lot of attention to it.

"We will still want retail stores, but we're going to want a really good human experience," he said. "Otherwise, why bother? I also think you're going to see a bifurcation of the really good digital stuff and the really good human-centric stuff. We need both."

**Dror Poleg**, a former real estate and technology executive, thinks that the big winners in e-commerce will be giants who are already hugely successful in that space.

He observed that major e-commerce players such as Walmart and Amazon began a hiring frenzy at a time when more than 30 million were out of work in the U.S.

"They're really taking advantage of their ability to be fully integrated, to make sure their supplies come in, to tie in their online and offline sales, and to automate some of the store experience to prevent their employees from being exposed to the virus," he said during a webinar with real estate experts in Europe and North America.

## Bright Spots Beyond E-Commerce

**Spencer Levy**, Americas head of research and senior economic advisor with CBRE, said grocery- or pharmaceutical-anchored centers are pulling in record sales.

In March, as the pandemic started to grip the U.S., year-over-year traffic rose by 36% at Kroger stores and by 40% at Albertsons outlets, according to Placer.ai, a company that measures retail activity. Major pharmacies such as CVS and Rite Aid also saw spikes in traffic that approached 30%.

"Grocery chain H-E-B in Texas takes in about $1 million a week at a typical store," Levy said during a recent webinar for NAIOP Maryland. "In March, they were taking in about $1 million a day. That's a pretty good example of how strong the grocery space has been during this period."

Online grocery retailers saw a whopping 210% increase in sales from March 12 to 15 compared with the same period in 2019, according to Rakuten Intelligence.

Additionally, Nadji notes that fast-food restaurants and single-tenant retail where there is one store on a long-term lease are also surviving — and in some cases thriving. (These are often big-box stores such

"**People talk a lot about the death of retail, but I also want to point out the rebirth of retail.** We have so many examples of renovation, repositioning and retenanting of retail that have been wildly successful."

*— Hessam Nadji, CEO of Marcus & Millichap*

### Small-Business Pessimism About COVID-19 Impacts

**A survey of 5,800 small businesses** that was published in April by the National Bureau of Economic Research asked respondents this question: "Suppose that most COVID-19 disruptions continue for six months. What is the likelihood of your business remaining operational?" The responses, by percentages:

33%: All retail (except grocers)

27%: Hotels

22%: Personal services

15%: Restaurants and bars ■

as Home Depot, many of which were deemed essential by state and local governments and allowed to stay open.)

## Hotels Struggle

At the same time, prohibitions on public meetings have drastically affected businesses that serve conventions.

A report from Bloomberg shows that up to 80% of the 2,500 business trade shows and events originally scheduled for March to mid-May have been cancelled or postponed, resulting in losses of $22 billion to conference organizers, hotels, restaurants and other related firms. Bloomberg predicts that hotels will likely experience the effects of cancelled or postponed business meetings, conferences and personal trips through the first half of 2020.

"Over 50% of hotels have gone to almost total shutdown today," Levy said. "I am directly aware of lenders who have reached out specifically to hotel borrowers that have personal guarantees and told them that they would forbear on their loans for three months unsolicited. So people are going out of their way, certainly in the bank space, to help people in the hotel space."

Across-the-board declines in room reservations are leading many hoteliers to furlough or lay off most of their staff. Major hotel operators like Marriott, Hilton and Hyatt have cut thousands of staff, while smaller hotel chains have laid off 90%-95% of their workforce, according to the Wall Street Journal.

## Looking Ahead

Federal stimulus is providing loan guarantees for hotels and retailers, including restaurants. However, some businesses in these sectors may no longer be viable, and it is unclear whether those that receive government support will employ as many workers as they did prior to the outbreak.

Despite that, many analysts think that the human desire for connection will help retail rebound.

"The day this is all over, you're going to see restaurants packed with people," Levy said.

**Julia Cambage**, chief executive of the Australian Institute of Architects, told Australia's Commercial Real Estate website that people will rediscover the importance of community after the pandemic, and bricks-and-mortar retail will return.

"My own personal view is that high street shopping precincts will become more relevant," she said. "I think people will want their community closer to them."

Despite that, health concerns will become a much more important consideration for customers.

"Until now, people just wanted a

"Retail has been a rapidly morphing area for years. It's certainly logical to assume that **what we're learning and acclimating to in the online world is going to push change going forward.**"

*— Al Pontius, national director of office and industrial with Marcus & Millichap*

*Getty Images*

**Safety will be a major concern in the retail sector following the COVID-19 pandemic. Stores will have to ensure a sanitary experience for both customers and employees.**

seat at that neighborhood restaurant and it didn't matter what was around them," **Carl Bialik**, data science editor at online review site Yelp, told Axios. "Now there will be a spotlight on how establishments are adhering to health standards. That's going to be more relevant than ever before." (**See related story, page 28**)

Along those lines, look for more "touchless" payment options such as Apple Pay and Google Wallet to reduce the use of pens or screens, which can be vectors for disease transmission. Stores and restaurants might also reduce occupancy levels so they can space out tables to meet "social distancing" guidelines, either voluntarily or because of government mandates. Other measures could include one-way foot-traffic patterns in grocery stores, plexiglass screens to protect workers, automated doors for touch-free entrance and exit, and moving more restaurant seating outside when the weather permits.

Regardless of what happens after the pandemic subsides, it seems certain that retail will adapt. With consumer spending representing about 70% of economic activity in the U.S., it might be an imperative.

"People talk a lot about the death of retail, but I also want to point out the rebirth of retail," Nadji said. "We have so many examples of renovation, repositioning and retenanting of retail that have been wildly successful."

**Timothy H. Savage**, a clinical assistant professor at New York University's Schack Institute of Real Estate, said retail has been evolving for more than 100 years.

"Arguably, Amazon is just a digital version of the Sears & Roebuck catalog," he said during a recent NAIOP webinar. "What we purchase isn't changing very much, but the mechanism by which it's distributed is changing a lot." ■

**Shawn Moura**, Ph.D., is research director at NAIOP. **Trey Barrineau** is managing editor, publications, for NAIOP.

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# Amazon Could Provide a Peek at Industrial's

The industrial sector has seen increased demand during the coronavirus pandemic as more people were forced to use e-commerce. Supply chain disruptions caused by the outbreak's early impacts on China could lead to more reshoring in North America.

# Post-COVID Future

Getty Images

## The e-commerce giant understands how to connect products and consumers.

By Ed Klimek

Commerce was changing before the outbreak of COVID-19, from the exponential trajectory of e-commerce, to the growth in consumer demand for more immediate goods, to the rise of urban industrial development to fulfill last-mile needs.

The unknowns of this novel virus have accelerated that change to a tipping point. The structures of commerce, and the development that supports it, may be altered for good. This crisis is proving the necessity of a resilient supply chain.

What will new commerce look like and how will industrial development respond to support it? Some answers may lie in examining the world's largest commercial enterprise — Amazon. Through the lens of Amazon's success, there is a

Getty Images

Many large retailers have struggled to meet a surge in online orders as they simultaneously adapt to COVID-19's effects on the workforce.

What will new commerce look like and how will industrial development respond to support it? Some answers may lie in examining the world's largest commercial enterprise — Amazon. **Through the lens of Amazon's success, there is a path forward for industrial development to be part of the resilient supply chain.**

path forward for industrial development to be part of the resilient supply chain.

First, the answer is far more complicated than consumers buying more goods online.

It involves a better integrated and more resilient form of commerce. Development that supports this new commerce will become more horizontally integrated between uses. The value of more localized goods, and a stronger market mechanism that connects to the consumer at the beginning and end of the supply chain, will replace the demand for immediate goods. Innovative infrastructure that is both digital and physical, and increasingly local, will help avoid reliance on a global supply chain.

## Marketplace Mechanism

What began as an online retailer selling a single product has morphed into an online marketplace selling everything from clothing to groceries. Amazon generated $280.52 billion in net sales in 2019, up 20.5% from the previous year. And since the coronavirus crisis began, consumer spending at the e-commerce giant is up 35%

**Industrial development must implement its own marketplace mechanism to better connect consumers with products and services, and to help eliminate friction from horizontal integration as new networks are created.** This will mean rethinking warehouses that store goods outside the suburban and urban landscape.

compared to the same period last year according to Facteus, a firm that analyzes daily payment card transactions. Additionally, while the U.S. is facing staggering unemployment numbers, Amazon is on a major hiring spree. The company announced in April that it is seeking to hire 75,000 additional workers after it brought on more than 100,000 positions in March.

## Demand for Cold Storage Heats Up During Shutdowns

**Demand for public refrigerated warehouse companies and online grocers surged** as consumers sheltered in place, according to an April report by CBRE, "COVID-19 Impact on the Food Industry & Implications for Industrial Real Estate." According to the report, COVID-19 will change the cold-storage sector in five critical ways:

- E-commerce grocery shopping will become more widely adopted, creating greater demand for cold storage capacity. However, the volume of perishable orders will need to grow to have a significant impact on cold-storage real estate decisions. In general, there is a recent consumption trend toward food that drives demand for temperature-controlled space, like frozen meat and processed poultry. Until recently, consumers were not ordering a lot of perishables online, but that likely will change in a post-COVID-19 environment.
- Since e-commerce is typically fulfilled by local grocery stores, retail footprints will include more storage and fulfillment space. As online orders rise, there will be a blending of retail and industrial space, as well as a greater need for infill temperature-controlled facilities close to consumers. Space requirements will vary among food retailers, but additional modern space likely will be needed considering that the average age of cold storage warehouses is 34 years.
- Restaurants may see a significant shift in dining formats with less dine-in options and more delivery or take-out that would require cold-storage capacity. Foodservice companies that supply restaurants may look to second-generation cold-storage space as a cost advantage in a limited dining environment.
- There will be further consolidation among major public refrigerated warehouse companies to gain more control over the cold-storage footprint in the U.S. This will lead to specialized development in major metros where large cold-storage operators will partner with developers to strategically build a network close to population clusters.
- Automation will increase in cold-storage facilities to efficiently fulfill orders and make up for a shortage of workers willing to work in the extreme conditions of these facilities. This will prompt higher-density, greater-height and smaller-footprint buildouts that will be required for around-the-clock operations. ■

**Ron Derven** is a contributing editor for Development magazine.


**The coronavirus pandemic has shown the importance of rethinking warehouses that store goods outside the suburban and urban landscape, according to Ed Klimek, a partner with KSS Architects.**

The infrastructure that will support new integrated development **will no longer have as its sole focus the 40-foot box of global trade.**

Amazon's entry into more markets has created a network effect: if everything is available on Amazon, consumers are more likely to buy there, making sellers more likely to sell there.

Harvard Business School Professor **Sunil Gupta** has noted that "in today's world, competitive advantage comes from connecting products and connecting consumers." This is one of the most crucial drivers of Amazon's growth — its continuous ability to bring customers back to purchase new products and services on Amazon.

Industrial development must implement its own marketplace mechanism to better connect consumers with products and services, and to help eliminate friction from horizontal integration as new networks are created. This will mean rethinking warehouses that store goods outside the suburban and urban landscape. Instead, development will favor true mixed-use developments where ideas are generated, companies collaborate, and the newest products are created and distributed at a rapid pace to a continuously returning consumer base. As opposed to traditional industrial development,

**Just-in-time logistics has helped supply chains grow more flexible and responsive to market demand,** and it is now allowing them to respond more effectively to disruptions associated with the outbreak by moving goods more rapidly.

these will be mixed-use marketplaces consumers will visit, where the integrated possibilities of commerce are spread out before their eyes.

## Customer Proximity

Amazon takes the adage "the customer is always right" a step further. The company aims to improve customer experience at every opportunity. Intense consumer focus drives the company to adapt its supply chain in directions that at first seem disparate, like an online retailer producing movies, but then seem like a natural progression when seen through the lens of relentless dedication to customer satisfaction.

Commerce has grown accustomed to a completely globalized market. Yet, early on in the COVID-19 crisis, that highly interconnected supply chain collapsed, throwing a wrench in the ability to meet consumer demand and exposing an important weakness. The collapse underscored a critical element of the new commerce paradigm: being close to the customer matters. Close proximity to the customer means that things like movie studios belong in industrial development. Industrial development must have the ability to both produce and distribute in ways that are driven by the values and complexities of an increasingly localized market, even as it interacts with the remaining global supply chain. A client recently captured this well as he said, "You can get a whole lot more product out there if you can simply get components rather than rely on waiting for completed assemblies."

## Infrastructure Agility

According to early Amazon employees, founder and CEO **Jeff Bezos** had clear ambitions for expansion from the company's beginnings. Despite not being profitable for its first 14 years, Bezos persuaded investors that Amazon was building an infrastructure that would enable it to gain scale, customers and business. He promised long-term profits and increased profit share. He eventually delivered, and then some.

Today, Amazon has 1,137 active facilities around the world, including 519 in the U.S., according to research from MWPVL International, a specialized supply chain, logistics and distribution consulting firm. The astounding evolution of Amazon has brought Bezos' vision to fruition, and it is all made possible by the groundwork laid in the company's early years.

The infrastructure that will support new integrated development will no longer have as its sole focus the 40-foot box of global trade. This typology will, of course, remain, but infrastructure will count on connection and connectivity through digital and physical means. For example, integrated industrial development will rely on a robust network that supports multisized vehicles working in multiple modes with increasing sustainability and decreasing friction. Industrial clients will begin to control an increasingly large portion of local transportation infrastructure, while still relying on externally controlled transportation infrastructure. It is possible that in the post COVID-19 environment we may have lost some of the obsession with same-day or within-the-hour delivery. But, regardless, we will expect a localized system of delivery that is better integrated within our daily lives.

As this crisis is still ongoing, we don't yet know the full extent of its impact and how we will need to react.  However, it has clearly demonstrated the need and value of more integrated communities. We have blurred the lines between where we live and where we work, exposed the weaknesses of an overly global market, and demonstrated the value of local sufficiency and expectation. Development that recognizes this phenomenon, in ways that are frictionless, will add the greatest value in a post COVID-19 world. ■

**Ed Klimek**, AIA, NCARB, is a partner with KSS Architects.

## Supply Chains Adapt to New Demands

**Long-term trends toward globally integrated supply chains**, just-in-time logistics and rapid deliveries by online retailers have driven the pace and shape of demand for warehouse and distribution centers for the past decade. However, by disrupting supply chains around the world, the coronavirus outbreak has led some to question whether these trends are sustainable. The virus has posed a challenge to every link in global supply chains, from factories and ports in China to manufacturers, warehouses, grocery stores and medical providers in the U.S.

**Chris Caplice**, Ph.D., is the executive director of the MIT Center for Transportation & Logistics and the founder and director of the MIT FreightLab, which is currently examining a range of freight-related research topics, including the effects of natural disasters on U.S. truckloads, global ocean transportation reliability and freight network optimization. Development magazine spoke with Caplice to explore how supply chains are adapting to the coronavirus outbreak.

### Effects on Global Supply Chains

According to Caplice, seasonality helped to dampen some of the outbreak's initial effects on global supply chains. The beginning of extensive measures to contain the outbreak in China coincided with the Chinese New Year. Importers in the U.S. had already prepared for disruptions associated with the holiday by increasing their stockpiles. Many had also previously increased inventories before U.S. tariffs on Chinese goods took effect in 2019. These stockpiles helped to delay the effects of a supply shock to U.S. retailers and manufacturers.

"Essentially the slowdown in February was almost an extension of the Chinese New Year," he said. "February is not a big demand month, so there was a lag."

Now that Chinese manufacturing and exports are getting back up to speed, U.S. ports face the challenge of processing a surge of Chinese imports arriving on container ships. Caplice notes that U.S. ports are highly automated, but social distancing measures to contain the coronavirus could slow down their ability to process cargo. Some importers are responding to delays in shipping goods from China by shifting orders to air freight.

Shortages of medical supplies and slowdowns in manufacturing and construction as ports wait for shipments from China have prompted some observers to question whether it is time to rethink globally integrated supply chains. Although Caplice does not believe that U.S. firms will fully divest from Chinese manufacturing, he notes that the outbreak may reveal a greater need for dual-sourced supply chains and less reliance on China. China's reaction to the outbreak may also

Chris Caplice

lead to a long-term reallocation of the country's logistics capacity, with an increased emphasis on serving domestic markets instead of exports.

Disruptions associated with the outbreak have also prompted some, like U.S. Trade Advisor **Peter Navarro**, to advocate for relocating more productive capacity to the U.S., especially for medical supplies and other strategically important goods. Caplice believes that there may be some reshoring of supply chains where labor costs make up a small portion of a good's total cost or where it is important to have very short supply lines between production and the market. However, he notes that past predictions of an impending shift toward reshoring have yet to be realized.

"We've been saying that for 10 years now, and I think it makes sense because our cost of energy is lower now because of all the fracking and the availability there," he said. "I just haven't seen it in practice."

> "**That inventory is getting pushed closer to population centers because the only way you can provide one-day is to have more of it closer.** There aren't Hyperloop tubes or anything to go great distances that fast."
>
> *— Chris Caplice, executive director of the MIT Center for Transportation & Logistics*

"You don't have to do social distancing for robots, and they don't have absenteeism."

*— Chris Caplice, executive director of the MIT Center for Transportation & Logistics*

## Shifts in Consumer Demand

Social distancing and other measures to contain the coronavirus are also affecting demand patterns and supply chains within the U.S. Caplice observes that manufacturing has slowed significantly, particularly for expensive consumer durables that now face limited demand.

Retailers and restaurants have also experienced a significant drop in business, and many were forced by state or local governments to close their doors to customers.

On the other hand, grocers have struggled to meet a surge in demand for food, cleaning and hygiene products. Caplice observes that this surge results in part from consumer hoarding behavior, but also reflects a response to restaurant closures.

"You're not able to go to restaurants so more people are eating at home, so you're seeing more volume going through groceries," he said.

Caplice notes that these shifts in consumer demand are also reflected in supply chains. For example, Tyson has repackaged a significant share of the chicken it would normally distribute to restaurants for shipments to grocers. Overall, short-term demand for distribution centers has grown as grocers and e-commerce retailers try to catch up to spikes in consumer demand.

The Wall Street Journal has also reported a surge in one-way truck routes. This is happening because retailers are demanding more shipments of consumer staples to areas where truckers are unable to find outbound freight orders that they might normally be able to book for non-staple consumer goods. Caplice sees the increase in one-way trucking flows as a sign that the market is responding correctly to an increase in demand. While carriers generally prefer to avoid one-way trips, a surge in demand can increase spot rates enough that they can profit from a trip even if they are unable to carry a load on their return.

## Long-Term Effects on U.S. Supply Chains

Caplice believes that just-in-time logistics has helped supply chains grow more flexible and responsive to market demand, and it is now allowing them to respond more effectively to disruptions associated with the outbreak by moving goods more rapidly.

Caplice notes that although supply chains in earlier years relied more on inventories for redundancies, they were less responsive to changing market conditions, and larger inventories likely would have been insufficient to make up for disruptions associated with the outbreak.

There are also downsides to stockpiling. With larger inventories, it is easier for unsold or unused products to become outdated or perish.

As much as grocers have at least temporarily adapted their inventory practices to keep up with demand, online retailers that once offered one-day delivery are now seeing those orders delayed. Large retailers have struggled to meet a surge in online orders as they simultaneously adapt to the virus' effects on the workforce. However, Caplice observes that supply chains organized around one-day delivery are not necessarily more fragile than other supply chains; they are just more expensive to operate.

"That inventory is getting pushed closer to population centers because the only way you can provide one-day is to have more of it closer," he said. "There aren't Hyperloop tubes or anything to go great distances that fast."

Caplice does not believe the outbreak will significantly affect the long-term trend favoring distribution centers that are located closer to the populations they serve. However, he notes that rapid changes in demand may encourage large retailers and distributors to take advantage of short-term warehouse space offered by on-demand providers like Flexe.

Although the outbreak is unlikely to have a long-term effect on warehouse location decisions, Caplice believes it may lead to a broader adoption of automation within warehouses.

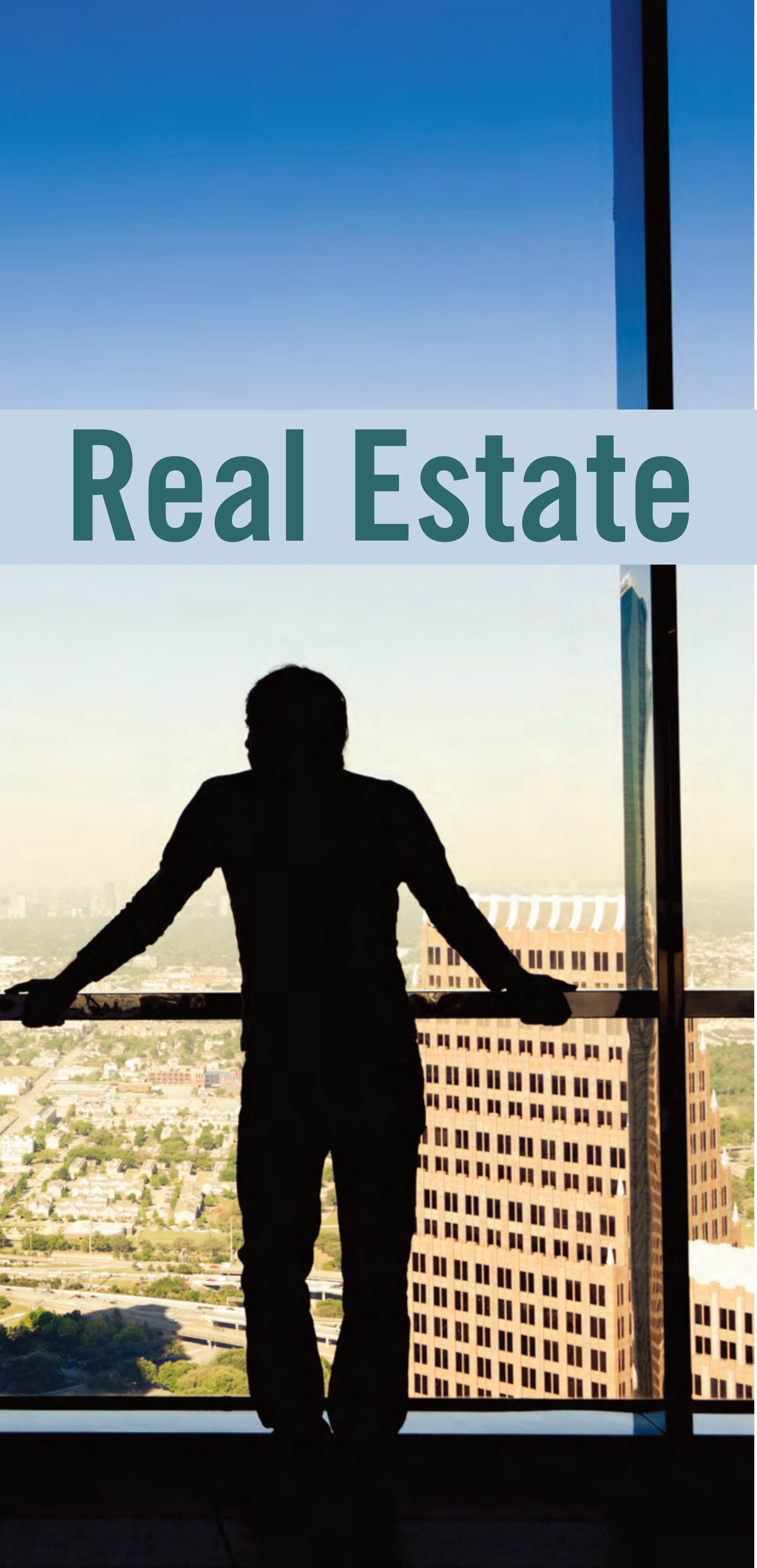
"You don't have to do social distancing for robots, and they don't have absenteeism," he said.

Automated operations within a warehouse can be ramped up or down despite a pandemic or other disruption to the labor supply. ■

**Shawn Moura**, Ph.D., is the director of research for NAIOP.

SPECIAL REPORT

# Experts Speak: COVID-19's Impact on Commercial



# Real Estate

## Industry researchers respond to the crisis and take a look at what's on the horizon.

By Ron Derven

The COVID-19 pandemic is having a greater impact on commercial real estate than the global financial crisis of earlier in this century. That was a credit and liquidity crisis. The pandemic directly impacts the demand for space through quarantines, social distancing, shutdowns, supply chain disruptions, employment loss and a shattering of consumer confidence, according to real estate economic and research experts who spoke with Development magazine.

CRE and the overall economy will rebound, according to those interviewed. However, the speed with which the country and the industry emerge from the crisis depends on the ability to ramp up virus testing,

## Meet the Industry Experts

**John Chang**, Senior Vice President and National Director, Marcus & Millichap Research Services

**Emil E. Malizia**, Research Professor, Department of City & Regional Planning, the University of North Carolina

**Spencer Levy**, CBRE's Senior Economic Advisor and Chairman of Americas Research

**Raymond Wong**, Vice President, Data Operations, Data Solutions, Altus Analytics, Altus Group

Maria Sicola, Founding Partner of CityStream Solutions, a consulting firm, and Integrity Data Solutions

development of a vaccine, patience with social distancing, the magnitude of monetary stimulus, and the relative health of the CRE property types, markets and individual projects.

***Development:*** *How will commercial real estate emerge from this pandemic?*

**Maria Sicola:** CRE emerges from this pandemic looking different than it did before the emergency. Industries, regions and property types will recover at different speeds. Services such as property management, space design, construction, appraisal and analytics will become increasingly important. Brokerage will take a back seat to consultative advice and strategic planning.

**Spencer Levy:** The recovery will come in three phases — today, tomorrow and the distant future. Today, we are closely tracking rent collections in the top five asset classes — industrial, office, multifamily, retail and hospitality. The good news is that they are better than we expected in office, industrial and multifamily, which are tracking at about 90% in rent collections. Hospitality and retail are under-performing at around 20% to 40%. Tomorrow, which is likely to last for six to nine months, the assets will be reopened and will likely be reopened in phases, but further outbreaks could prompt local shutdowns. The distant future will find that the office will look a lot like it did in the pre-COVID-19 period, but with enhanced wellness features.

**John Chang:** The global health crisis poses a set of unique challenges and burdens on both the economy and real estate properties. Each property type faces unique challenges — some very severe, like the hotel sector, and some more mild, such as self-storage properties. All will face hurdles in the recovery process, and some may experience a substantive change, driven by new behaviors adopted during people's stay-at-home/work-from-home time. It's too early to assemble a clear picture on the ultimate outcome.

***Development:*** *Which asset classes will emerge most quickly from the current crisis, and which will lag?*

**Levy:** The areas that look to lag at this time are those dependent on airline travel, tourism, and oil and gas. I don't think Houston and New York will have a materially different opening, but Houston will suffer longer than New York because of the oil and gas industry. Retail in secondary cities has been suffering for a long time, but is COVID-19 retail's death knell? I am not prepared to say that. I am prepared to say that trends that have impacted a lot of secondary cities have clearly gotten worse because of the pandemic.

**Sicola:** Data centers, research and development labs, disaster recovery operations and the industrial sector — particularly warehouse/distribution and last-mile delivery services — will emerge strongly, and office and retail will take longer. Multifamily will hold its own as the need for shelter remains inelastic much the same as the need for food, but we may see decreases in rents initially as renters struggle to make payments. Retail recovery will be mixed, with essential needs such as groceries, gasoline, health and beauty remaining strong, while other such as restaurants will struggle. Some will not survive.

"Ultimately, a full reopening will require a **COVID-19 vaccine.**"

*— John Chang, Senior Vice President, national director Marcus & Millichap Research Services*

"**Retail recovery will be mixed with essential needs** such as groceries, gasoline, health and beauty remaining strong, while other such as restaurants will struggle."

*— Maria Sicola, Founding Partner for both CityStream Solutions, a consulting firm, and Integrity Data Solutions*

**Chang:** The economy will likely reawaken in phases, but the speed of the real estate recovery will largely be dependent on how long the shutdown lasts. Hotel properties will probably be slower to recover because much of their business is driven by conferences, events and tourism — all things that will be slow to revive. Ultimately, a full reopening will require a COVID-19 vaccine.

**Raymond Wong:** Prior to the pandemic, there was a strong push for just-in-time delivery to minimize space needs. What this emergency has shown us is that we need a little extra space to react to these events, but I don't think that means double or triple industrial space.

***Development:*** *Although COVID-19 will impact all of CRE, do you see any areas of the country being hit harder?*

**Chang:** As demonstrated by the severe spread of COVID-19 in New York, New Jersey and Louisiana, the impact is less about geography and urban density than it is about population mobility, tourism and public policy. Cities and states that rapidly locked down, like the Bay Area in California, were less severely impacted and therefore will not face as steep of a climb to recover.

**Sicola:** The urban core markets — New York City, Los Angeles, Chicago, Philadelphia, Detroit, Washington, D.C. — will be hit harder in the short term.

***Development:*** *What happens to office design going forward? What about the coworking industry?*

**Sicola:** The open-office plan concept, as we know it today, will be a trend of the past. Issues with noise, inability to concentrate and numerous distractions were already creating issues with productivity. Square footage per employee was shrinking to levels that, in some cases, were precariously close to violating codes. The move toward efficiency and lowering costs — while still important to the corporate bottom line — will now give way to flexibility, resilience, employee satisfaction and productivity.

***Development:*** *What about the U.S. supply chain?*

**Sicola:** Reshoring of manufacturing was already happening in some respects as the cost of labor was increasing outside the U.S. This trend will likely gain momentum with products that can be sourced in the U.S. Consumer products for sanitization will be in high demand, and the need to get the goods to consumers more quickly could impact the supply chain as well. The last mile will become increasingly important and new modes of delivery will emerge, as we are seeing already.

**Chang:** Many companies were already in the process of restructuring their supply chains because of the trade war with China. However, the pandemic will cause companies to re-evaluate where products are manufactured and how they manage inventory. Just-in-time inventory practices make a lot of sense, but companies may reconsider adding a bit more slack to their highly efficient systems. In addition, some products may be deemed of national importance such as N95 masks, and they may increase domestic production of those products.

**Levy:** COVID-19 will impact the supply chain, but it brings up a

"Real estate is resilient. **It may take time to come back, but it will come back.**"

— *Raymond Wong, Vice President, Data Operations, Data Solutions, Altus Analytics, Altus Group*

"**COVID-19 proved that our supply chain is a lot more** brittle ... than most people suspected."

— *Spencer Levy, CBRE's Senior Economic Advisor and Chairman of Americas Research*

much more important issue about globalization. Globalization is not one thing, but rather four: it is the trade of money, information, goods and services. The trade of money and information will continue to accelerate. The trade of goods and services will be called into question. COVID-19 proved that our supply chain is a lot more brittle — using that word as the opposite of resilient — than most people suspected. The word for the next 20 years will be "resilience." Maybe it is efficient and cheapest to have a single supply line from China, but for the future, businesses will expand supply lines to include the U.S., Mexico and Canada. We will also need more resilience at the local level where we saw shortages of cold-storage facilities needed for food deliveries.

***Development:*** *Will working at home become the norm after the crisis, or will people return to offices in large numbers?*

**Emil Malizia:** There is intense speculation that everyone working at home during the crisis will want to continue to do it. However, the benefits of social interaction far outweigh the benefits of sitting in one's house and working remotely.

**Sicola:** Office space will need to become more personalized and less communal — we will likely not return to all-private offices and fancy conference rooms. But all space — personal and meeting — will need to be viewed with more breathing room. Enhanced janitorial and sanitization services are also key.

***Development:*** *What happens to cap rates moving forward?*

**Levy:** Values on buildings are going to come down because of the impairment of rent rolls. The movement of cap rates is asset-dependent. If you have a core asset in a major market, you will see very little movement. If you are in a secondary market with weakness in the rent rolls, you will see a greater diminution in value.

**Sicola:** Cap rates are likely to rise as operating income declines.

**Wong:** Cap rates probably will not move up for core assets. Core assets are always in demand. Where we may have problems is with retail assets and with assets in secondary and tertiary markets. I don't think we will see a huge correction to prices.

**Chang:** Thus far cap rates have seen little movement, but the flow of capital and severity of the downturn could dictate trends. If many property owners face a severe financial impact, they may sell assets, creating a buyers' market that places upward pressure on cap rates. Because most investors have been well capitalized with comparatively low leverage, the probability of a severe distress situation remains low. However, there was considerable volumes of capital pursuing real estate assets prior to the pandemic. If this capital remains active in real estate, cap rates should see little movement in general. It's likely some assets will be sold at an elevated cap rate to clear the market quickly, but it's unlikely to be broad-based.

***Development:*** *When will investors return to the market?*

**Malizia:** One investor told me that he cannot close on a building because he cannot get an appraiser to go out and look at it. If social distancing — I like to call it physical distancing — remains in place, "There is intense speculation that everyone working at home during the crisis will want to continue to do it. **The benefits of social interaction far outweigh the benefits of sitting in one's house and working remotely.**"

*— Emil E. Malizia, Ph.D., FAICP, Research Professor,*
*Department of City & Regional Planning,*
*The University of North Carolina*

what does that do to occupancy, particularly office buildings? Does that have an impact on tenants' willingness and ability to pay rent?

**Levy:** Based upon our experience with prior crises, there will be a slowdown in transaction volume for several months until we have a better handle on price discovery and we have the physical ability to visit the asset. The other thing is that potential investors need more transparency into rent rolls.

**Chang:** Many investors remain active in the market, even during the shutdown period. Investors in a 1031 tax-deferred exchange, even with the extended timelines, continue to pursue assets, and local private investors remain active in many cases. However, logistics such as site visits, appraisals and even the signing of documents have been impaired, and they are slowing the processes. Full market activity will likely not resume until shelter-in-place restrictions are fully removed, air travel is fully operational, and people feel comfortable about traveling and interacting in person. This will likely require widespread vaccine availability.

**Sicola:** Opportunistic investors are likely already keeping an eye on the market to swoop in on distressed properties. The risk-averse will remain on the sidelines. There will likely be more acquisitions and takeovers if this turns into a prolonged or U-shaped recession rather than a V-shaped recession.

**Wong:** Real estate investors are continuing to look at projects online. They are doing the best they can to understand what type of asset is in the market. But real estate is a touch-and-feel asset. You have to see it and you have to see the other assets around it. Right now we are in a stall.

***Development:*** *Do you anticipate permanent damage to the industry or to the country due to COVID-19?*

**Levy:** The economy will be much better in about a year. The bad news is behind us. The good news is in front of us. So things are much better a year from now, and two years from now we will be largely back to normal.

**Chang:** Generations are shaped by their common experiences, and the pandemic of 2020 will leave an indelible mark for years to come. The millennial generation in particular will carry a new reality with them that will shape future decisions ranging from health to social gatherings to financial matters. The ability to adapt is an inherent strength of people in general. Ultimately these challenges will make people stronger and hopefully better prepare society for the next black swan event, whether it be a health crisis or something else.

**Sicola:** The industry will be transformed as it has after other black swan events such as the S&L debacle, the tech bust, 9/11 and the Great Recession. There will be winners and losers. The depth and breadth of it depends upon the government's ability to bring public health back to some form of normality and restore confidence, and the length of the economic recession and recovery. Real estate lags the overall economy, so it will need to follow suit and determine how to reinvent itself to aid in the recovery and the growth of the nation. ■

**Ron Derven** is a contributing editor for Development magazine.

# Washington Responds to COVID-19

**Congress and the Federal Reserve took unprecedented action to shore up businesses, including commercial real estate.**

By NAIOP Government Affairs staff

As the COVID-19 pandemic began to shut down the economy, lawmakers in Washington responded, reaching agreements on several bills intended to help the country survive the economic chaos caused by the pandemic. Congress passed three relief bills in March, and the House passed a fourth bill in May that was headed for further negotiations with the Senate.

"Phase I" was H.R. 6074, the Coronavirus Preparedness and Response Supplemental Appropriations Act, signed March 6. It provided approximately $8 billion in additional funding to federal health agencies and eased regulations to allow for over-the-phone consultations between Medicare recipients and their health providers. The bill also empowered the Small Business Administration (SBA) to issue an Economic Injury Disaster Loan declaration, which makes loans of up to $2 million available to small businesses.

Getty Images

Washington used every tool available to help support the economy in the weeks after the coronavirus pandemic struck the U.S.

The second phase of COVID-19 relief legislation was H.R. 6201, the Families First Coronavirus Response Act. The bill provided $192 billion in additional spending geared to supporting small businesses (those with fewer than 500 employees). Among other steps, the bill:

- Requires businesses to provide 12 weeks of protected leave to employees unable to work or telework because their child's school or care provider has closed due to the public health emergency.
- Deems all employees eligible for paid sick leave if unable to work due to one of several conditions related to COVID-19, including quarantine/isolation orders, or a need to care for an affected individual.
- Establishes tax credits for businesses with affected employees, in the amount of up to $200 per day for each individual, and $10,000 total per quarter.
- Creates a "Paycheck Protection Program" (PPP) providing $350 billion in federally guaranteed loans through the SBA, and modifying the existing SBA loan program by allowing all or part of the loan to be forgiven if the business maintains its payroll.
- Excludes from income the cancellation of emergency small business loan debt, which would otherwise be taxable.
- Increases the cap on the deductibility of interest expense, from 30% of EBITDA for taxable years beginning in 2019 and 2020 to 50%.
- Allows employers to defer their share of payroll taxes through the end of the 2020 calendar year, with 50% of the deferred amount due in 2021 and the remainder in 2022.
- Provides an employee retention credit (applied against the employer's 6.2% share of payroll taxes) for businesses ordered by a governmental authority to partially or fully close. The credit covers wages up to $10,000 per employee, per quarter. However, employers who receive a small-business-interruption loan are not eligible for the credit.

This "Phase II" went into effect on March 18. Before the provisions of Phase II were fully in effect, however, the scope of the economic problems made it clear that a more substantial "Phase III" relief would be needed.

By mid-March, millions of businesses across the country had closed down or were closed down due to state government orders. Landlords and tenants alike began to worry about their ability to pay mortgages and rent.

Phase III of Washington's legislative response was the Coronavirus Aid, Relief, and Economic Security Act, better known as the CARES Act, a $2.2 trillion economic relief package. NAIOP worked closely with its allies in the real estate field as well as representatives on Capitol Hill to contribute to the bill. In the end, this measure did much to boost commercial real estate, as well as shore up tenants' declining cash flows. The legislation:

- Makes a technical correction to the Qualified Improvement Property (QIP) depreciation drafting error from the 2017 Tax Cuts and Jobs Act (TCJA). The error resulted in a 39-year depreciation period for QIP, rather than the 15-year period — eligible for immediate expensing — that was intended. For real estate firms that elect out of business interest deduction limitations, the error results in a 40-year depreciation period for QIP, rather than the intended 20-year period.
- Temporarily suspends the TCJA's loss limitation rules and allows net operating losses (NOLs) from 2018, 2019 and 2020 to be carried back five years for a non-REIT business.
- Fixes another TCJA drafting error related to NOLs and ensures that businesses with non-calendar fiscal years are not adversely affected by carryforward limitations imposed by the tax bill.

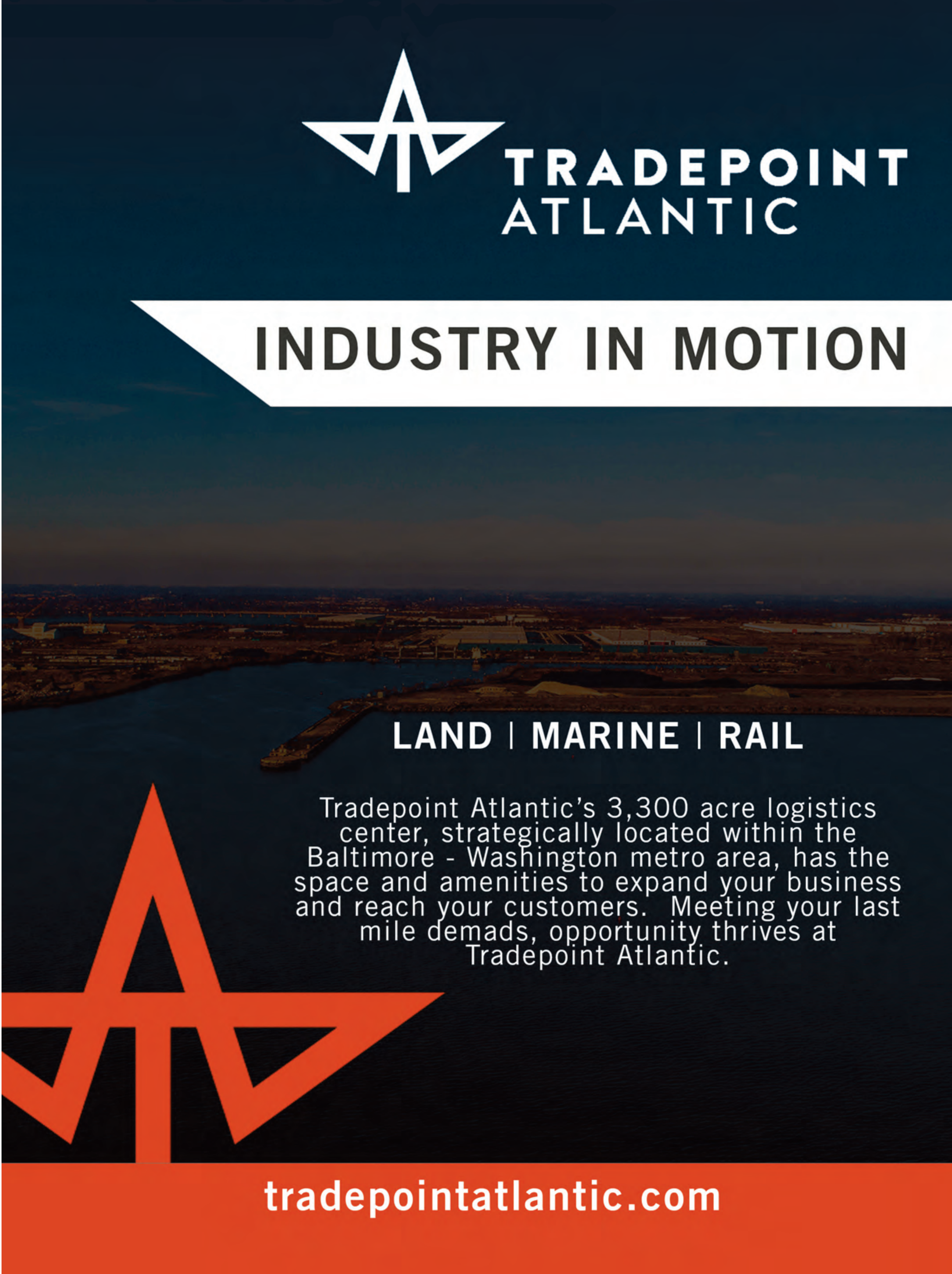
The rapid rollout of the PPP and confusion as to eligibility of certain businesses that applied for loans were problematic at the outset. NAIOP and its real estate allies have been active in efforts to encourage the Trump administration and Congress to address the program's deficiencies in Phase IV legislation.

While lawmakers were passing legislation, the Federal Reserve was also taking steps to protect the economy. On March 3, it cut the target rate for federal funds by 0.5 percentage points, to a target range of 1% to 1.25%. It cut rates again on March 15, lowering the target rate for federal funds by 1.0 percentage point, to a target range of 0% to 0.25%. At the same time, the Fed announced it would buy at least $500 billion of Treasury securities and at least $200 billion of agency mortgage-backed securities.

On March 22, the Fed announced unlimited expansion of bond purchasing programs, created two new lending facilities to support credit to large employers and a third to enable the issuance of asset-backed securities (e.g. student, auto, and credit card loans, and loans guaranteed by the Small Business Administration). On April 9, the central bank announced the formation of a Main Street Business Lending Program to support lending to eligible small- and medium-sized businesses, complementing efforts by the SBA, and expanded the eligibility of assets that can be purchased by its asset-backed purchasing facility to commercial mortgage-backed securities.

**NAIOP worked closely with its allies in the real estate field as well as representatives on Capitol Hill to contribute to the bill. In the end, this measure did much to boost commercial real estate, as well as shore up tenants' declining cash flows.**

The actions taken by Congress and the Federal Reserve thus far are the first steps in what is likely to be a continuing federal response to the COVID-19 pandemic and the resulting economic devastation. NAIOP will be working with policymakers in the coming months and over the longer term to ensure policies address the challenges faced by the commercial real estate industry as a result of this crisis. ■



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# The Importance of In-Building Wireless for the FirstNet Emergency Network

**A dedicated digital network for first responders might require modifications to commercial properties.**

By Ted Hebron


*Getty Images*

**The FirstNet public safety network is a dedicated wireless network for first responders. It was born in the aftermath of the 9/11 terror attacks.**

Property owners desire optimal wireless connectivity in their buildings to better serve their tenants. However, these systems can play a far more urgent role in emergency situations by supporting communications with first responders.

The coronavirus crisis is forcing building owners to think deeply about the safety of occupants. The nationwide rollout of the FirstNet network, which is happening at a rapid pace, will give first responders far better connectivity via a dedicated wireless network. However, the success of this network depends on whether buildings provide adequate in-building signal support for firefighters, police and EMTs.

## A Digital Public Safety Network

In 2004, the 9/11 Commission Report found that gaps in emergency communications and overburdened cell networks were major problems for first responders during the 2001 terror attacks. The commission recommended the development of a nationwide network for public safety communications that would use the LTE cellular protocol.

It took a long time for FirstNet to go from the drawing board to reality. But during the past two years, all 50 states and 14 territories have committed to its adoption, leading to a major build-out of standardized FirstNet infrastructure.

More than 9,000 first-responder agencies are moving forward with FirstNet connectivity projects, including upgrades to antennas on emergency vehicles and updates to the wireless systems they use. Thousands more public safety organizations nationwide are expected to move forward with their own FirstNet initiatives in the near future.

How does that affect property owners and operators? FirstNet must deliver a reliable signal where first responders need it, and the interiors of buildings are challenging environments for reliable cell signals. When a tenant's call drops or the audio is unintelligible, that is an inconvenience. But for a team of firefighters navigating a smoke-filled office building, that connectivity can mean the difference between life and death.

Most properties currently do not provide first responders with adequate wireless support. This is either because they do not have indoor signal-boosting or because the indoor antenna systems are not FirstNet-compliant. For those reasons, there will be growing pressure on property owners and operators to make upgrades. A combination of

*continued on page 82*

**The coronavirus crisis is forcing building owners to think deeply about the safety of occupants. The nationwide rollout of the FirstNet network, which is happening at a rapid pace, will give first responders far better connectivity via a dedicated wireless network.**

*continued from page 80*

zoning mandates, fire codes, county requirements, and industry standards and state/federal directives could drive these efforts. In addition, many owners and operators might pursue upgrades to demonstrate their commitment to public safety.

**When a tenant's call drops or the audio is unintelligible, that is an inconvenience. But for a team of firefighters navigating a smoke-filled office building, that connectivity can mean the difference between life and death.**

## Considerations for Property Owners

Here are some things to keep in mind as organizations plan for FirstNet upgrades.

**It's not simply a "rip and replace" task.** Some upgrades are simply a matter of pulling out the old unit and plugging in a new one. Unfortunately, FirstNet upgrades can be complicated. The performance of antennas is influenced by many factors, including the shape of the space, the density of the walls, the materials immediately surrounding an antenna and nearby electrical equipment. Successfully upgrading buildings with FirstNet-ready connectivity requires the right antenna for each installation site within a building as well as the right equipment to connect those antennas. A RF (radio frequency) expert can assess the space, guide antenna choice and perform testing to ensure it will properly support emergency personnel.

**FirstNet upgrades must focus on more than LTE.** One of the biggest misconceptions about FirstNet is that it's all about the LTE cellular protocol. In reality, it's a combination of complementary wireless technologies that must work well alongside one another, whether on top of an ambulance or in the third-floor hallway of an office building. For example, first responders not only require LTE connectivity but also UHF connectivity, which is a technology many of their communications systems rely on. While LTE is the core technology of FirstNet, in-building implementation must balance the other wireless needs of first responders as well as the wireless needs of tenants. For tenants, these might include Wi-Fi capabilities as well as amplification of public LTE signals. This requires antennas that can integrate multiple technologies operating on multiple wireless bands without interfering with one another. 5G will also be an important consideration, particularly when first-responder organizations begin deploying applications that rely on real-time communications with high-data throughput that are specifically designed to take advantage of the ultra-low latency of 5G. Examples of those applications that rely on 5G-ready in-building connectivity include situational-awareness technologies such as real-time video from first responders' on-body cameras and real-time virtual maps that give first responders augmented-reality navigation inside a building while also reporting their location to command centers. The adoption of those applications will be driven at the local level by each public safety organization, however, rather than by a federal edict.

**Most properties currently do not provide first responders with adequate wireless support. This is either because they do not have indoor signal-boosting or because the indoor antenna systems are not FirstNet-compliant.**

**Be prepared for different profiles.** Antennas and gateways come in every shape and size. Upgrading from existing in-building wireless to FirstNet-ready connectivity may involve a change in the shape and profile of the installation. Multiband, FirstNet-ready antenna systems might have a different size and shape than the ones they are replacing. In addition, the new antennas may require a different installation location than the prior antenna due to radio frequency dynamics. Aesthetics are important in building interiors, so the planning process should assess antenna solutions that deliver the connectivity required while also having the desired look. For example, there are many low-profile FirstNet antennas that can minimize the aesthetic impact on an interior setting. A property's FirstNet upgrade plan should also build in enough time for potentially moving the site of current indoor antennas.

These upgrades to in-building wireless systems entail extra costs to building owners. It is estimated that FirstNet-ready antennas would involve a 5%-10% cost increase over traditional antennas.

Upgrades to antenna systems can be complex, but they can ensure that public safety professionals will have the connectivity they need to do their jobs during an emergency. ■

**Ted Hebron** is the senior product manager at Laird Connectivity.



# See Spot the Construction Robot Run, Climb, Scan and More

**The coronavirus pandemic could push contractors to consider technological solutions to labor issues.**

By Trey Barrineau

The coronavirus pandemic's impact on construction appears to be mixed. On one hand, many projects have ground to a halt during the economic slowdown. On the other hand, most states have deemed construction an "essential" activity and allowed it to continue amid "stay at home" or "shelter in place" orders. (**See related story, page 20**)

Beyond that, construction workers who are sickened by COVID-19 could be out of work for several weeks, which would deplete already-thin labor forces. And many contractors might keep even healthy workers away from jobsites out of an excess of caution.

In an industry that was struggling with labor shortages before the coronavirus pandemic hit, technological solutions such as robotics might begin to look more appealing in this uncertain time. A promising new construction robot, Boston Dynamics' Spot, demonstrated the potential for this technology during a recent event at HITT Contracting's ColLab construction research facility in Falls Church, Virginia.


Trey Barrineau

**Boston Dynamics' Spot robot is 33 inches tall, weighs about 60 pounds and can move at a top speed of about 3.5 miles per hour.**

## The Breed Standard

Spot is a 33-inch-tall, four-legged robot that, true to its name, does indeed resemble a mechanical dog. It weighs about 60 pounds and can move in multiple directions, climb stairs and avoid obstacles. Spot's top speed is around 3.5 miles per hour, and it can carry about 30 pounds. Spot can operate for 90 minutes on a swappable battery that takes about 45 minutes to recharge.

The robot has an array of sensors and cameras that allow it to perceive its surroundings in 360 degrees. It is operated remotely with video-game-style joystick controls, but it can also work semi-autonomously on pre-programmed "missions."

"This is one of the first commercially viable robots for construction," said **Kipp Ivey**, key accounts manager for building information modeling (BIM) with Faro, a company that specializes in 3-D measurement and imaging. "Spot is a technologically elegant solution. It's intuitive. It's very easy to use."

For the ColLab demonstration, Spot was fitted with image-capturing technology. While data capture might represent Spot's initial deployment in construction, Ivey said the best use of the robot could be in places that are unsafe for humans.

"What immediately comes to mind in construction is hazardous conditions," he said. "Maybe it's something where you don't want to HazMat up, throw on your booties and send somebody in so they can do 10 minutes of work and come back out. First of all, that's a labor function that's highly costly to monitor in a confined space. Secondly, it's dangerous. I would rather lose a robot than lose a person."

## 'An Absolute Necessity'

According to Ivey, Spot's ease of use could help attract workers to the construction industry.

"Young people are not coming into the trades," he said. "Today, I think the

### Say Hello to Handle

**Boston Robotics** also makes a robot that can work in logistics facilities, which have been moving much greater volumes of material during the coronavirus crisis.

Handle is more than six feet tall and moves around on two wheels at speeds up to about nine miles an hour. Its two robotic arms can lift up to 100 pounds. Handle can travel about 15 miles on a single battery charge. ■

concept of robotics and the gamification of construction through robotics and other technology is how we're going to attract kids who are playing 'Call of Duty' out of their basements."

Prior to the coronavirus pandemic, the demand for labor in construction had been strong, said **Anthony Marchio**, an enterprise account executive with OpenSpace, a company that uses artificial intelligence to create 360-degree images of construction sites.

"For every one person being hired in construction, we're losing two to three people to retirement," he said. "So we're absolutely not worried about robots taking jobs. There's a labor shortage. Robots will be an absolute necessity if we're going to keep pace with demand."

### How Much is That Doggie?

While some forward-looking contractors might want to add Spot to their equipment inventory, the robot is not currently for sale. Instead, Boston Dynamics leases it.

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> — *Kipp Ivey, Faro*

> **"For every one person being hired in construction, we're losing two to three people to retirement. So we're absolutely not worried about robots taking jobs. There's a labor shortage. Robots will be an absolute necessity if we're going to keep pace with demand."**
>
> — *Anthony Marchio, OpenSpace*

"Our general guidance is that the total cost of the lease will be less than the price of a car, but that may vary depending on the number of Spots leased and how long the customer will be leasing the robot," a spokesperson for Boston Dynamics said via e-mail.

While Ivey said he's not sure how many Spots are currently deployed on construction sites, he did say that Tesla is using "two or three" at its factories.

"There aren't a ton out there right now," he said.

However, Ivey believes that could change as the construction industry begins to embrace the advantages of robotics.

"I think we're on the precipice of one of the most exciting things I've seen in a number of years in the construction space," he said. "I believe this technology can save jobs. Buildings are not getting cheaper, but people want to pay less for them. How do we maintain productivity and profitability and create a great product? The only way to do that is through technology."

Finally, products like Spot can help ease longstanding fears of machines replacing human workers, said **Sophia Zelov**, industry engagement manager for AEC with Autodesk Technology Centers.

"The usability and accessibility of something like Spot is really enticing because it's breaking down those barriers of human innateness to be fearful of something like this," she said. ■

**Trey Barrineau** is the managing editor of Development magazine.

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# Commercial Real Estate Pitches in to Fight COVID-19

**Industry's charitable efforts help save lives and ease the economic burdens of the pandemic.**

By Richard Tucker

The ancient Romans began their year in March. They named that month after Mars, their god of war. This made sense, because it was in March that military campaigns could begin again after the winter break.

As we know, March 2020 was marked by warfare. But this time it wasn't empire against empire. Instead, it was all of humanity against a virus. Commercial real estate companies and practitioners have been helping this battle in many different ways and giving back to their communities despite the economic downturn.

*JLL*

**JLL installed 305 workstations in a new call center for Delta Air Lines that had been established in a hangar near Atlanta's Hartsfield–Jackson Atlanta International Airport.**

## Flying into Action

In Atlanta, Delta Air Lines needed a lot of space on short notice. It had to have a place where hundreds of reservation agents could work to cancel customer flights. Yet those agents needed to maintain social distance.

Within three days, JLL's Moves, Adds, Changes (MAC) team installed 305 workstations in a new call center that had been established in a hangar at the Delta Flight Museum near Atlanta's Hartsfield–Jackson Atlanta International Airport. The workstations were spaced out to meet protocols for social distancing. Next, JLL set up a break room with refrigerators, microwaves, coffee machines, hand wipes and other vital supplies.

Meanwhile, a managing director on JLL's valuation advisory team was literally flying into action.

**David Dominy** is a pilot with 43 years of experience. On March 15, he flew an immunocompromised passenger on a private flight from Laredo, Texas, to the MD Anderson Cancer Center in Houston. It was the fastest way to get the patient to safety.

During this crisis, it has been difficult for relief workers to locate places where they can work.

## Adapting Space in Record Time

Prologis is using its Space for Good program to donate unoccupied buildings and other space to COVID-19 relief efforts in the U.S. and around the world. The company says it has donated approximately 450,000 square feet of space, and more donations are on the way.

NAIOP New Jersey engaged in a similar project. It worked with the state government and identified more than 1.5 million square feet of commercial space that could be converted to intensive care units for use by first responders.

"It is truly heart-warming to know that the Meadowlands Conference Center space (donated by Hartz Mountain Industries) was transformed by the U.S. Army Corps into a field hospital," **Michael McGuiness**, CEO of NAIOP New Jersey, told GlobeSt. "We are also working closely with the Port Authority of New York & New Jersey and surveying industrial members to identify their warehouse capacity and continued ability to process containers in the upcoming months."

Across the river in New York City, the USNS Comfort, a 1,000-bed U.S. Navy hospital ship, sailed into the city to dock and provide medical services for the

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*continued from page 88*

hard-hit city. But before it could begin its work, many permits had to be rapidly secured. A team from Langan, an engineering and environmental consulting company, worked around the clock with state regulators and Skanska to ensure that the Comfort could dock and get to work treating non-coronavirus patients in order to free up vital hospital space in the city, said **Jeff Stoicescu**, a senior associate at Langan.

Other hospital space was made available because of a partnership between The Boldt Co. and Wisconsin architecture firm HGA, a NAIOP member. Within a week, HGA had designed a prefabricated hospital space that can be shipped on a truck.

"The fact that these gentlemen were able to pull it off in the time they did was nothing short of heroic," Boldt's **Dave Kievet** told the Milwaukee Business Journal. Several of the units were ready for use in less than a month.

### Helping Tenants Out

And, of course, there are the landlords across the country who are working with their tenants to work out alternate rent agreements that can allow everyone to stay in business.

Some are providing rent abatement, others are deferring rent until after the crisis. As small businesses are struggling to stay in business, "they are friends, they are our partners," **Greg Maloney**, CEO of JLL's retail division, told CNBC. "We will take a look [at tenants' requests] and see what we think is right for everyone."

The international effort to defeat coronavirus is the 21st century version of war. The commercial real estate industry is doing its part to give back to the community as we defeat the virus. NAIOP is tracking the good news stories, and will be posting updates on our COVID-19 Web page, so be sure to send them along. And, stay safe. ■

**Richard Tucker** is the former director of public policy communications for NAIOP.

## More Good Deeds

**NAIOP asked members** to send in examples of good deeds their companies are doing during the COVID-19 crisis. Here's a brief sample:

**"To help alleviate the increased food insecurity issues** during this crisis, my firm has donated to Volunteers of America Colorado's Meals on Wheels program, supporting the delivery of 5,000 days' worth of meals to homebound seniors throughout the state. We have also provided financial support to Food for Thought, covering 20,000 meals for Denver-based families in need. Aside from that, we are supporting restaurant tenants and other restaurants located near our active job-sites by purchasing gift cards and box lunches to support the businesses during this time. In turn, Confluent Development is handing out the gift cards and meals — up to $5,000 per project — to the construction crews at our job-sites throughout the nation, to express gratitude for their continued work on the projects." — ***AJ Stackawitz****, Confluent Development, Denver*

**"In response to the pandemic, our Granite Properties teams** created a united front across all markets to support their local communities through donating to local nonprofits. We shared information about every nonprofit on Granite's social media pages to show our followers how they can help their communities. Granite also encouraged employees to use Granite's matching program by donating to causes they feel passionate about. … In addition, Granite employees across all our markets are sending handwritten letters, cards or their kids' drawings to senior assisted living facilities. Nursing homes aren't having visitors due to the pandemic, and residents may be feeling lonely." — ***Sandy Benak****, Granite Properties, Dallas*

**"Contour Engineering … created a networking group** called Shotgun Sisters several years ago to teach women how to shoot sporting clays so they can take their clients and also participate in industry clay shoots. These shoots involve networking and building relationships as well. The Shotgun Sisters group now has a financial assistance option available so that if a member finds themselves unemployed during the COVID-19 crisis, both individuals and/or their companies can contribute financially. There is power in numbers. If all members give only $1, then that Shotgun Sister can buy groceries for the month. If all members give $10, then that member can pay their rent or mortgage." — ***Tara Lane****, Contour Engineering, Atlanta*

To see more good deeds or to submit an entry, visit www.naiop.org/covid-19 ■

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NAIOP chapters provide local and regional education, networking and legislative affairs.

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NAIOP's central resource for industry and association news, programs, advocacy efforts and connections.

**National Forums**
Special-interest groups that comprise senior-level NAIOP members in a non-competitive environment for exclusive networking and experience exchange.

**Center for Education**
The principal learning resource for the commercial real estate development professional. Offerings include online, on-demand and live courses, plus two certificate programs.

**Development Magazine**
Current and past issues are available online and are mobile-responsive for those who want to read Development magazine on-the-go.

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Research projects and initiatives to improve the understanding of the built environment and the challenges that lie ahead for individuals and organizations engaged in real estate development, investment and operations.

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Online resource designed to help employers and job seekers find new commercial real estate job opportunities.

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The challenges presented by the COVID-19 pandemic are unprecedented and far-reaching. During this time of crisis, NAIOP is focused on delivering the invaluable education, advocacy and research that you expect – and that your business depends on. This is NAIOP's pledge to help its members during this crisis, as we all work toward a time of good health and prosperity.

Resources and knowledge to support you now.
naiop.org/covid-19

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- Extension of your NAIOP membership if you lose your job. Current members and those who join before September 30 will have membership extended up to one year or until you're reemployed. Even if your dues were paid by your company, your benefits won't stop.
- Access to our online job bank where you can search for your next position, browse candidates, and find career guidance, salary resources and hiring trends.
- Chapter support that provides tools and resources to continue programming and deliver strong member value in your local market.

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- Unlimited, free access to NAIOP's complete library of on-demand courses – 13 full courses and 70+ individual modules.
- Weekly webinar series on how COVID-19 is impacting CRE, presented by industry experts.
- Virtual roundtables to personally connect you with other members in online conversations. Research and Insights Positioning You for the Post-COVID-19 CRE Environment.
- Research briefs that focus on industry topics affected by the pandemic.
- Midyear update to our signature "Economic Impacts of Commercial Real Estate" report.
- COVID-19-focused issue of Development magazine (Summer 2020) on how the industry is responding, the long-term impacts and lessons learned so far.

## Advocacy that Protects Your Business on the Local, State, Provincial and Federal Levels

- Representation for the CRE industry so that well-meaning actions by elected officials don't cause unintended, harmful consequences.
- Collaboration with a broad coalition to ensure CRE is included and protected in stimulus packages.
- Updates on legislation, edicts and ordinances, explaining how they affect the industry and your business.

# In Times Like This…

We're at an extraordinary moment in history, dealing with a global pandemic that has completely upended our lives and businesses. It's safe to say that it will likely be quite a while until we've returned to what we'd consider "normal," as nearly every aspect of life just six short months ago has been fundamentally reshaped.


Larry Lance

It's during times like this that we have to prioritize what's most important: people. Our families, communities and colleagues, teams and tenants — they are who matter, and their health and well-being is first.

I've been in this industry for more than three decades and can recall four major economic disruptions in that time. It's human nature to panic a bit, and candidly, I did so myself when this all started. Processing this new reality, reflecting on my priorities, and realizing that this too will run its course helped me work through the gamut of fears and emotions.

I believe that being courageously vulnerable allows us opportunities to learn and grow. It also empowers us to take risks, cultivates an entrepreneurial spirit and prepares us for the next wave.

As an owner and investor, I'm experiencing the same professional challenges as many of you. We all need insights and guidance for the challenges and opportunities we'll encounter in the near- and long term.

As NAIOP's chairman this year, I'm proud that our organization is putting our members first by developing resources, knowledge and new opportunities when we need them most.

In April, NAIOP announced that it was opening its entire library of on-demand courses at no cost to members. This tremendous opportunity is vital for keeping ourselves and our teams up to date on both the fundamentals of our industry and the latest trends in development. In two months, we had more than 4,000 course registrations, and many individuals were able to earn a certificate of advanced study. Needless to say, this free course initiative was a key resource provided at just the right time.

**It's during times like this that we have to prioritize what's most important: people. Our families, communities and colleagues, teams and tenants — they are who matter, and their health and well-being is first.**

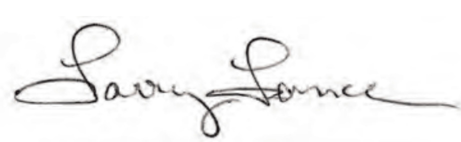
The content developed specifically in response to the COVID-19 crisis has been vast, including this issue of Development magazine that was promptly assembled to provide the latest on the impact to our industry and expectations for recovery, and new studies by the NAIOP Research Foundation have provided meaningful insights. Whether you participated in a webinar, met new colleagues on a virtual roundtable, or simply kept up with it all through our Market Share blog, no doubt you looked to NAIOP as a leading, steady resource during this uncertain time.

Legislatively, our team has worked on the federal level for provisions in the Coronavirus Aid, Relief, and Economic Security (CARES) Act, as well as in states and provinces to represent the industry and ensure that well-meaning actions don't create unintended consequences.

The unfortunate cancellation of the I.CON conferences presented an opportunity to host I.CON Virtual, a completely digital conference in late June 2020, complete with keynotes and one-on-one networking.

I'd be remiss in not acknowledging the wonderful work of our chapters, which quickly pivoted to keep members connected online and worked so diligently to protect your businesses on the local, state and provincial levels. Our chapters introduced new events and approaches to keep members engaged in spite of the circumstances, while also making a difference in their local communities. I'd invite you to take a look at many of our chapters' programs that are featured on www.naiop.org/covid19.

In closing, I want to thank our members for their support and involvement during the past few months. It's heartening to see the association coalescing as we navigate the situation and strategize for what's next. I'm confident we'll emerge as a stronger, smarter industry, and I'm grateful to be part of it. ■



**Larry Lance**, Executive Vice President, Everwest Real Estate Partners
2020 NAIOP Chairman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