

REAL ESTATE

Navigating COVID-19: Top Issues for Real Estate Dealmakers

Below are some of the immediate and key considerations to consider as real estate companies and investors work to protect their assets. We are here to help you navigate the critical decisions that need to be made immediately, and to provide any needed strategic problem solving to ensure long-term success.

Key Issues to Consider

Distressed Assets: Restructuring, Workouts, Enforcement, and Debt and Equity Acquisitions and Dispositions

The Issue: The economic consequences of COVID-19 could be devastating for property owners, lenders, investors and developers who do not quickly and forcefully confront issues affecting their investments. Early and decisive action is often the difference between successful asset value preservation and failure.

How Manatt Can Help: Manatt has significant experience in creating solutions that preserve value by applying our thorough understanding of applicable finance, restructuring, insolvency and commercial law, including California's One-Action Rule and anti-deficiency laws.

Leasing

The Issue: Landlords and tenants are facing obstacles in meeting their respective obligations. In light of recent eviction moratoriums and court closures, parties may be renegotiating terms—and enacting other resolutions.

How Manatt Can Help: Manatt can assist landlords and tenants in reviewing and analyzing applicable agreements, exploring creative solutions and negotiating carefully crafted resolutions.

Project Entitlements

The Issue: California orders have included waivers of certain public meeting requirements that will affect how state and local agencies will conduct the government's business during this period of social distancing. Relaxation of these meeting requirements has raised various practical and legal concerns for project applicants.

How Manatt Can Help: With extensive land use entitlement and administrative agency experience, Manatt can assist and advise on the submission of all relevant information to state and local agencies for inclusion in the administrative record to ensure that decision makers participating remotely have the materials they need to make critical decisions and that the administrative record is complete and supports the decision being made.

Project Development

The Issue: The Governor's stay-at-home order exempts commercial facilities (including "real estate"). Construction workers, including home builders, are exempt. However, more stringent local restrictions trump the statewide order. Parties are also revisiting force majeure, frustration of purpose and similar clauses in contracts to address current and anticipated nonperformance.

How Manatt Can Help: Manatt has a multidisciplinary team of attorneys and consultants closely monitoring this fluid situation, and we stand ready to assist as businesses evaluate the implications of the stay-at-home order and the impacts of compliance on performance.

Acquisitions and Dispositions

The Issue: Buyers and sellers considering new real estate transactions or engaged in pending transactions should carefully assess the effects of the COVID-19 outbreak. Parties should consider the availability of debt and equity financing, due diligence feasibility, implications of material adverse change carve-outs, property condition reps, and "time is of the essence" and "frustration of purpose" provisions.

How Manatt Can Help: With a deep bench of experienced real estate lawyers and consultants, Manatt can review and advise on material contract provisions and their practical business implications, and can negotiate optimal terms to achieve client goals.

Transactional Closings

The Issue: Closures of county recorder offices, title offices and limitations imposed on diligence consultants directly impact various types of real estate and financing transactions, including acquisitions and dispositions, financing and commercial and ground leasing.

How Manatt Can Help: Our team is available to troubleshoot diligence issues, recording issues and the resulting title issues and to pursue solutions to keep transactions on track.

We're Here to Help:



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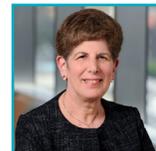
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