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COVID-19 UPDATE RESIDENTIAL LEASING/SHOWINGS GUIDANCE

The current COVID-19 public health crisis has created significant challenges to the day-to-day operations of residential real estate. This includes the manner in which owners and managers continue to show and lease apartments, while avoiding potential exposures to the virus by residents, applicants and staff.

The City of Boston has issued the following “guidance” on the manner in which apartments should be shown to perspective residents:

1. Owners/managers should use photos, videos and written descriptions to showcase properties whenever possible.
2. Owners/managers should not show clients occupied properties. It is being requested that owners/managers and tenants work out safety protocols for showing occupied units virtually. If absolutely necessary, **owners/managers must give the existing tenants as much advance notice as possible**. Such showings should minimize contact with others, practice social distancing of at least six (6) feet, all involved parties should wash their hands often, use hand sanitizer and wipe down any surfaces touched. Any prospective tenant who is ill must **not** be allowed to view a unit in person.
3. Open houses should not be held to market properties.

While this guidance only pertains to rental properties in Boston, and is merely guidance, rather than a legal mandate, we would recommend the following policy be considered to balance the public health concerns associated with showing occupied apartments with the economic necessity of continuing to provide access to housing:

1. Owners/managers should attempt to utilize virtual showings, including the use of videos, pictures, and plans. If you do not presently maintain videos or pictures, you may request same from the resident in order to avoid the necessity of having a staff member enter the apartment. Many residents may be willing to cooperate, both based on their desire to be cooperative and/or based on their desire to avoid entries. This remains the best and safest way to proceed given the current circumstances.
2. In the event access to an apartment is necessary to take pictures or videos, you should:
 - a. Contact the resident as far in advance as possible to schedule the entry;
 - b. Prior to entering, inquire from the resident whether: (i) they or anyone in the apartment has been ill, had symptoms of COVID-19 (fever, fatigue, shortness of breath, cough) or is subject to self or mandated quarantine; or (ii) has traveled outside

the country in the past 14 days. If yes, we would suggest that you delay entering unless absolutely necessary. If no, then staff should request that residents avoid any physical contact with the staff during the entry. Staff should also wear gloves and a mask, if available, when entering and avoid touching any surfaces. Staff must wash hands both before and after entering.

3. We would recommend avoiding any in-person showings to the apartments. If an in-person showing is required, the foregoing protocol should also be followed. However, based on the potential risk associated with staff and the applicant entering the apartment, we would recommend that management refrain from in-person showings at this time.

Many of you have also requested guidance on the legality of executing leases remotely. Massachusetts state law does not require a lease to be notarized or witnessed in order to be valid. As such, we would recommend that lease signings be done either through online leasing software or via mail. Where done by mail, a paper copy of the lease should be signed by the parties. We do not recommend accepting pdf or facsimile originals. Also, residents should always be required to sign the lease first and a deadline should be provided for the return of the signed lease. Pursuant to Massachusetts state law, a signed copy of the lease must be returned to the tenant within 30 days of execution by the tenant.

We understand the potential economic impact associated with the inability to show apartments. However, the foregoing action plan may assist managers and owners in avoiding this impact and ensure that residential apartments remain tenanted.

Our office will remain open during this public health crisis and, as always, we are here to assist you with all your legal needs.