

MEMORANDUM

From: Ganfer Shore Leeds & Zauderer LLP

Date: March 12, 2020

Re: Update on COVID-19 for Cooperatives and Condominiums

The COVID-19 coronavirus outbreak continues to threaten New York City. In addition to caring about their own welfare and that of their immediate families, co-op and condo board members have a fiduciary duty to their fellow residents and owners to act with due care in the face of this unprecedented and troubling outbreak. This memorandum is to suggest actions that board members may wish to consider on behalf of their buildings.

The most important advice for boards is to pay close attention to the recommendations and directions from health authorities. If buildings are directed by the health authorities to take certain actions, those actions should be taken promptly.

Buildings should have in place, and follow, a rigorous cleaning program to wipe down all public areas and high traffic surfaces, including elevators, door handles, landings, and other common areas. The NYC Health Department has released cleaning protocols specifically for residential buildings dealing with the COVID-19 threat. See the attached circular, “General Disinfection Guidance for Commercial or Residential Buildings,” also available online at <https://www1.nyc.gov/assets/doh/downloads/pdf/imm/disinfection-guidance-for-commercial-residential-covid19.pdf>. In addition, co-op and condo boards and their managing agents should make sure that proper logs are maintained so that the building has documentation that the cleaning program is being followed by the staff.

Boards should also be contacting their insurance brokers or carriers and confirming that any losses incurred due to claims relating to the COVID-19 outbreak will be covered by insurance. Carriers may also advise boards what actions, if any, need to be taken to secure or maintain coverage.

In the interest of limiting unnecessary social contact, boards should consider holding regular and special board meetings remotely and postponing any upcoming annual meetings. Boards may also consider closing non-essential public spaces in the building, such as fitness centers, pools, playrooms, or community spaces, for the time being. In addition to eliminating some potential sources of community spread, such actions would reduce the cleaning workload for building staff. At the very least, boards should consider posting signs warning of the particular risks in light of the COVID-19 outbreak, and instructing users to wipe all equipment or other surfaces after use with the disinfectant that is provided.

Many buildings have floor captains or similar arrangements. Boards should consider encouraging neighbors to work out a plan ahead of time to assist each other, consistent with health department guidelines, in case someone on their floor is confined to home for reasons relating to the virus.

If boards learn that one of their residents has been diagnosed with COVID-19, or has symptoms consistent with infection by the coronavirus, they should contact the health authorities immediately for specific guidance. Whatever actions that boards take should be consistent with that guidance. Board members should bear in mind that even if they happen to have a medical background, they should not be speaking with authority on public health matters or individual cases.

Consistent with their fiduciary duties, boards should take steps to ensure that the infected or isolated residents in question are complying with any required quarantines or isolation protocols. Boards should share information with the other residents regarding the status of infected persons in the building sufficient to allow their neighbors to take precautionary steps. Due to privacy concerns, however, boards should not disclose the identity (or identifying information) of the affected persons, even in the face of predictable pressure from other residents to do so.

If the affected residents are complying with the isolation/quarantine procedures, we are not at this time aware of any guidance from the health authorities suggesting that any of their neighbors are at heightened risk. If the affected resident is refusing to comply with protocols, however, the health authorities should be contacted immediately. Once again, we emphasize that guidance from the public health authorities in these circumstances is paramount.

Because this is such a rapidly changing situation, we expect that there will be many new issues that come up in the coming days and weeks. Please do not hesitate to contact us with any questions you have. In addition to your regular contact at the firm, you may contact Margery N. Weinstein or William D. McCracken to speak about any of the issues covered in this memorandum.

Coronavirus Disease (COVID-19) General Disinfection Guidance for Commercial or Residential Buildings

This guidance is provided “as is” for informational purposes only. The New York City (NYC) Health Department does not provide any warranties of any kind regarding the information contained within.

This document provides landlords, managers and cleaning/facilities staff of commercial or residential buildings with cleaning and disinfection guidance. Building operators should ensure staff take extra effort with daily cleaning practices as New York City responds to COVID-19. It may be updated as the situation is rapidly changing, and new information becomes available. Check the NYC Health Department and CDC’s webpages for the latest updates: nyc.gov/health/coronavirus and cdc.gov/coronavirus.

2019 Novel Coronavirus

Health officials are still learning about the spread and severity of a novel (new) coronavirus. The infection, called COVID-19, can be spread from person to person. However, the health risk to non-healthcare workers is considered low based on the current information. This may change with time.

Separate Facts from Fear and Guard Against Stigma

A lot of information about coronavirus on social media and even in some news reports is not based on facts. Building operators can help prevent the stigmatization or targeting of one group of people by proactively sharing the messages found in this document. The outbreak is absolutely no excuse to spread racism and discrimination. Building operators should encourage staff to stay informed, be aware and take care of each other. For more information, visit nyc.gov/coronavirus.

General Disinfection Guidance

Building operators and staff should follow these guidelines:

- Staff should wear and use appropriate Personal Protective Equipment, such as gloves, according to existing policies and procedures, as well as following label directions for cleaning products.
- No evidence suggests that building waste needs any additional disinfection. Frequent hand washing, gloves and use of alcohol-based hand sanitizer by staff handling waste can support good personal hygiene practices.
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- Have soap and paper towels in bathrooms at all times. Additionally, custodian and facilities staff should ensure that all handwashing sinks are in a state of good repair.
- Consider having alcohol-based hand sanitizer in common areas, including but not limited to bathrooms, laundry rooms, gyms and playrooms, at all times.
- Pay special attention to cleaning frequently touched surfaces in common areas. Frequently contacted items, such as drinking fountains, faucet handles, door hardware, push plates and light switches, and elevator buttons are to be wiped down regularly with cleaners.
- Use regular cleaning and disinfection products (e.g., Clorox, Purell, and Peroxide products). A full list of cleaners can be found here: <https://www.americanchemistry.com/Novel-Coronavirus-Fighting-Products-List.pdf>.
 - Cleaning and disinfectant products with EPA-approved emerging viral pathogens claims are recommended for use against COVID-19. These products can be identified by the following claim: “[Product name] has demonstrated effectiveness against viruses similar

to COVID-19 on hard non-porous surfaces. Therefore, this product can be used against COVID-19 when used in accordance with the directions for use against [name of supporting virus] on hard, non-porous surfaces.”

- This claim or a similar claim will be made only through the following communications: technical literature distributed exclusively to health care facilities, physicians, nurses and public health officials, “1-800” consumer information services, social media sites and company websites (non-label related). Specific claims for “COVID-19” **will not** appear on the product or master label. If there are no available EPA-registered products that have an approved emerging viral pathogen claim for COVID-19, products with label claims against human coronaviruses should be used according to label instructions.
- See [additional information about EPA-approved emerging viral pathogens claims](#).
- No special ventilation precautions are recommended for residential or commercial buildings. The spread of COVID-19 or coronaviruses from person-to-person over long distances, such as through HVAC systems, has not been shown. Check working windows and both supply and exhaust ventilation systems for proper operation per usual procedures.

Guidance When Entering Tenant Homes

Encourage staff who need to enter a home, for repairs or other reasons, to do the following:

- Ask these two questions before entering the home:
 1. Has anyone in the home had fever, cough and/or shortness of breath?
 2. In the 14 days before the visit, has anyone in the home traveled outside the United States or recently had contact with a person suspected or confirmed to be infected with COVID-19?

IF YES TO INTERNATIONAL TRAVEL, check to see if travel country is on the CDC’s affected geographic areas of widespread/sustained community transmission:
<https://www.cdc.gov/coronavirus/2019-ncov/travelers/index.html>
- If the tenant says yes to both questions and the visit can be postponed, politely ask tenant for their availability to re-schedule in 14 days or when they or the household member are feeling better.
- If the tenant says yes to both questions and the visit cannot be postponed, staff can politely ask that the sick individual(s) do the following:
 - Where possible, remain in a separate room with the door closed.
 - If a separate room is not available, maintain at least a 6-foot distance from the staff person at all times until they have left the home, AND wear a face mask if available.
- Consider carrying an alcohol-based hand sanitizer for periodic hand hygiene during visit.
- After visit, staff should wash hands with soap and water for at least 20 seconds or use an alcohol-based hand sanitizer, if soap and water are not available.

General Infection Prevention Strategies

Good personal hygiene practices remain the best method for preventing the spread of the COVID-19 virus. Building operators should encourage staff and tenants to do the following to prevent infection:

- Stay home if sick. Avoid close contact with people who are sick.
- Cover their coughs and sneezes with a tissue or sleeve, not their hands.
- Wash their hands often with soap and water for at least 20 seconds – an alcohol-based hand sanitizer can be used if soap and water are not available.

- Avoid touching their faces, especially with unwashed hands.
- Get the flu shot. Although the flu shot will not protect from COVID-19, it will help prevent the flu which has similar symptoms to this coronavirus.

About Face Masks

The NYC Health Department does not recommend the routine use of face masks if you are not sick. Face masks are not needed for general or routine tasks by staff – even those who frequently interact with the public. Remember that people wear face masks for many reasons, including seasonal allergies, pollution or to protect others from a common cold. Some staff may also use face masks or N95 respirators per their organization’s protocol for reasons unrelated to the COVID-19 outbreak. If so, staff should use face masks or N95 respirators as usual. No COVID-19 specific precautions are recommended for interactions with the general public, including people showing no symptoms who visited affected parts of the world.

Information about Medical Care for Staff, Tenants and Residents

- Staff and tenants with symptoms (fever, cough, and/or shortness of breath) should stay home, call their doctor and tell them about any travel history.
- If staff do not have a doctor or health insurance, they can visit an NYC Health + Hospitals facility. To find health care: nychealthandhospitals.org/hospitals or call 311.
- Hospital staff will not ask about immigration status.
- Receiving health care is not a public benefit by the public charge rule.
- Strict laws protect patient confidentiality.