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MEMORANDUM

Date: March 21, 2020

RE: COVID-19 – Developing Legal Issues

In these turbulent times, we at Kurzman Eisenberg Corbin & Lever, LLP understand that you may have questions concerning how the COVID-19 virus affects you and your business. The following is a summary of certain executive orders that have been announced over the last few days by the State of New York. Please understand that these are on-going developments that may be subject to further clarification and codification over the next few days.

To the extent you have any specific questions or concerns on any issue that is not addressed in this Memorandum, please contact us as we are available to address those issues on a one-by-one basis.

1. 90-Day Moratorium on Mortgage Payments and Foreclosures

Governor Andrew Cuomo announced on March 18th that he *intends* on ordering a moratorium on mortgage payments and foreclosures. As far as we are aware, the Executive Order has not yet been signed, however from the Governor's press-conference on this issue, he indicated that the moratorium would: (i) be based upon financial hardship; and (ii) act to suspend mortgage payments for 90 days. Note that mortgage payments are not being forgiven. Instead, they are being added to the end of the loan term.

It remains unclear as to what constitutes "financial hardship", whether the moratorium applies to both residential and commercial mortgages, and whether it includes other mortgage payments beyond principal and interest. We anticipate further clarification on these issues once the Executive Order is published.

2. Suspension/Tolling of Filing Dates & Statutes of Limitations

In an attempt to limit court operations in the State of New York to essential matters during the COVID-19 health crisis, New York State has issued that any specific time limit for the commencement, filing, or service of any legal action, notice, motion, or other process or proceeding is tolled from March 20, 2020 until April 19, 2020. The foregoing applies to all courts and areas of the law. Accordingly, landlords or any other individual or entity will have an additional 30 days to file and/or commence any legal action in New York. Notwithstanding, we

will continue to stay apprised of any further extensions or tolling and we recommend that you remain aware of key dates so as to avoid missing any filing and/or statute of limitation deadlines.

3. 90-Day Moratorium on Evictions

Governor Cuomo also announced he would be suspending all evictions and non-payment proceedings for 90 days. This suspension appears to apply to both residential and commercial evictions and non-payment actions. In addition, please be aware that by Executive Order issued by Governor Cuomo on March 20th, 2020, the statute of limitations and filing deadlines in all legal actions have been suspended and tolled from March 20, 2020 until April 19, 2020. Accordingly, a landlord's right to bring eviction and non-payment actions during this period will not be adversely affected.

4. Essential Services

According to a newly issued directive from Governor Cuomo, effective Sunday, March 22nd at 8:00 PM, all non-essential businesses statewide must close in-office personnel functions. The state has issued guidance as to what constitutes "Essential Business" and is therefore exempt from this directive. "Essential Business" includes, but is not limited to:

1. Essential infrastructure, including hotels and places of accommodation.
2. Essential retail, including grocery stores, pharmacies, convenience stores, and restaurants/bars (take-out and delivery only).
3. Essential services, including building cleaning and maintenance, mail and shipping services, and trash and recycling collection.
4. Construction, including skilled trades and other relating construction professionals.
5. Essential Services necessary to maintain essential operations of residences or other Essential Businesses, including security, building cleaners or janitors and general maintenance whether employed by the entity directly or a vendor.

A current list of Essential Business can be found at:

<https://www.governor.ny.gov/news/governor-cuomo-issues-guidance-essential-services-under-new-york-state-pause-executive-order>

5. Notarization

Effective immediately through April 18, 2020, any documents that require notarization can be done so digitally, provided that certain conditions are met. Those conditions include, but are not limited to: (i) a video conference with direct transmission between the signatory and notary, (ii) the signatory affirming that they are in the state of New York; and (iii) transmission of the signed document directly to the notary on the same day as the video conference.

A complete list of the conditions can be found here: <https://www.governor.ny.gov/news/no-2027-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>

Given the fluid-nature of the COVID-19 situation and rapid pace with which new directives are being issued from the Governor's office, the issues highlighted herein may still be subject to further clarification and/or modification from the State of New York. We intend to remain apprised of updates as they become available and invite you to contact us should you have any questions or concerns relating to the COVID-19 virus and its effect on your buildings and/or businesses.