

**Legal Alert: When Building Personnel or Resident Tests Positive for COVID-19**

**March 27, 2020**

We hope this legal alert finds you well.

In light of the COVID-19 (Coronavirus) pandemic, owners are being faced with addressing how to handle the situation wherein someone in the building tests positive for COVID-19.

At the current time, there is no express legal requirement that an owner notify building residents that a resident or a building employee has tested positive for COVID-19. The NYC Department of Health has issued Frequently Asked Questions (FAQs) for Residential Buildings, Coronavirus Disease (COVID-19), available at:

<https://www1.nyc.gov/assets/doh/downloads/pdf/imm/covid-19-residential-buildings-faq.pdf>.

Those FAQs include the following:

"Should property managers or residents notify the City or others in a building if a person in the building is sick or has COVID-19?"

No, property managers and residents do not need to notify the City or others in a building if someone in the building is sick."

According to these FAQs, neither owners nor residents are required to notify the City or others in a building if someone in the building has the virus.

Notwithstanding the Department of Health's position, and since this situation is unprecedented, it is our opinion that the Courts may view COVID-19 as they would any other condition that is dangerous to building occupants. Therefore, we encourage any owner who is notified that a resident or a building employee has tested positive to put all residents and building staff on notice immediately, so that these individuals can do whatever they believe is necessary to keep themselves healthy and safe.

We recommend posting a notice in the building, similar to that provided below. Additionally, the NYC Department of Health has issued a notice, COVID-19: General Guidance for Cleaning and Disinfecting for Non-Health Care Settings, available at:

<https://www1.nyc.gov/assets/doh/downloads/pdf/imm/disinfection-guidance-for-businesses-covid19.pdf>.

We also strongly recommend that you follow the cleaning procedures set forth therein to maintain your building in a clean and safe condition, regardless of whether you have a resident and/or employee who has tested positive for the Coronavirus.

**Sample Notices:**

**If a resident tests positive for COVID-19:**

Dear Residents,

We have just been notified that on DATE, a building resident tested positive for COVID-19 (Coronavirus). As of DATE we are advised that resident has self-quarantined.

The building staff has and will continue to clean the building common areas in accordance with the guidelines issued by the NYC Department of Health. We are also in the process of retaining an independent cleaning company to perform additional disinfecting and cleaning services in the building's common areas to ensure that these spaces remain clean and safe.

We encourage all residents and building staff to continue to follow the recommendations issued by the Center for Disease Control (CDC) during this time.

- Wash your hands often with soap and water for at least 20 seconds especially after you have been in a public place, or after blowing your nose, coughing, or sneezing. which advise to wash your hands often.
- Avoid close contact.
- Cover coughs and sneezes.
- Stay home if you're sick.

**If an employee tests positive for COVID-19 change the first paragraph as follows:**

We have just been notified that on DATE, a building employee tested positive for COVID-19 (Coronavirus). DATE was the last time the employee worked in the building.

New York State Chief Administrative Judge Marks issued an administrative order yesterday that halts almost all court activity in New York with the exception of essential proceedings. The order is effective immediately.

Pursuant to this Order, the only proceedings that will be heard, which are subject to ongoing review and amendment, currently include the following landlord and tenant related matters:

- Applications addressing landlord lockouts (including reductions in essential services)
- Applications addressing serious code violations
- Applications addressing serious repair orders
- Applications for post-eviction relief
- Temporary orders of protection
- Emergency applications in guardianship matters
- Any other matter that the court deems essential

Furthermore, as explained in a previous Alert sent by our office, Governor Cuomo issued an executive order last week prohibiting any evictions of commercial or residential tenants for 90 days. It also suspended the time limit for commencement or filing of any legal actions by any statute until April 19, 2020.

# **HWRD** Horing Welikson Rosen & Digrugilliers PC ATTORNEYS AT LAW

Based upon the above, at this time we are not permitted to file or commence any new summary non-payment or holdover proceedings. Please be advised, however, that our attorneys are still working remotely and can be reached via e-mail with any questions, concerns or other work you may need them to do. If you need the e-mail address of any of our attorneys, please contact Melissa Levin at [MLEvin@hwrpc.com](mailto:MLEvin@hwrpc.com) to request that information. Should you have any questions or concerns regarding a non-payment matter, please contact Lauren Rosen at [LRosen@hwrpc.com](mailto:LRosen@hwrpc.com). Should you have any questions regarding a warrant of eviction, please contact Sonja Kennedy at [SKennedy@hwrpc.com](mailto:SKennedy@hwrpc.com).

As this situation is constantly evolving, we will of course be here to keep you updated with the latest information once it arrives. We hope you are all safe and healthy. Should you have any questions, please feel free to contact us.