

# **Rent Relief for Commercial Businesses: A Deep Dive into the CECRA Program**

PRESENTATION BY:

**C. Grant Haddock**

Haddock & Company Lawyers

# COVID-19

---

The Province has invoked the *Emergency Programs Act* to address the COVID-19 pandemic. The *Act* grants sweeping powers to the provincial government who may invoke laws or amend legislation by Ministerial Order. Gatherings of more than 49 persons are not permitted. Certain non-essential businesses have been order to shut down. The public is not venturing out to comply with suggestions to stay home and to apply physical distancing.

# **Business Impact**

---

- Many businesses leasing commercial space are struggling with reduced or eliminated income.
- What options are available for a business when the rent is due and the business cannot pay it?

# CECRA

---

- Canada Emergency Commercial Rent Assistance
- Has not been rolled out yet – details and applications are expected to be released any day.
- Administered by CMHC.

# What is it?

---

- Offers forgivable loans to eligible property owners if that owner will forgo or reduce a commercial tenant's rent.
- The controversy is that this is an option for landlords – they are not compelled to engage in the program = no rent relief for the tenant.
- More later...

# How is it Supposed to Work

- Rent assistance for the months of April, May and June 2020. It's retroactive.
- Forgivable loans to property owners.
- The Loan covers 50% of the gross rent.
- Tenant pays 25% of the gross rent.
- Owner eats 25% of the gross rent.

# Requirements to Qualify

- the property owner must own commercial property that generates rental revenue ;
- the property is located in Canada;
- there are impacted small business tenants occupying and renting the property;
- there is a mortgage loan secured by the Property;

# Requirements to Qualify

---

- the property owner has entered or will enter into a rent reduction agreement for the periods of April, May and June 2020, that will reduce impacted small business tenants' rent by at least 75%;
- the Rent Reduction Agreement with impacted tenants includes a moratorium on eviction for the periods of April, May and June 2020; and
- the property owner has declared rental income on their tax return (personal or corporate) for tax years 2018 and/or 2019.



# What is an Impacted Business

- The business can be a non-profit;
- pay less than \$50,000 per month in rent per location;
- generate no more than \$20 million in gross annual revenues; and
- have temporarily ceased operations or have experienced at least a 70% decline in pre-COVID-19 revenues based on same months 2019 or Jan/Feb 2020.

# Problems

---

- We don't currently know what this program looks like;
- It may have come too late to save small business;
- The program is entirely in the hands of the property owner. This is problematic for various reasons:
  - Owners who ignore the opportunity;
  - Offshore owners;
  - Owners looking for the opportunity to be rid of tenants;
  - Owners not willing to take a 25% reduction;

# **Problems (continued)**

- Owners not willing to support businesses that appear to the owner to be doomed to fail, either during a phased reopening of the economy or in a second wave of COVID-19 in the fall of 2020.
- Owner with no mortgage can't apply, but it is expected there will be a similar program for those owners rolled out later.
- Someone will devise a way by which landlords will try to recover the 25% rent they are supposed to forgo.

# **Problems (continued)**

---

- You need a valid and enforceable lease agreement – what if you never got it in writing?;
- What is “gross rent”? Does it include operating costs? What if your lease defines gross rent as something other than 100% of what you are supposed to pay to your landlord?

# Remedies

---

- You can't make your landlord participate in the program;
- The Supreme Court is closed indefinitely, although the Law Society is warning lawyers to engage in online filings to avoid the rush.
- Currently no remedy for landlords from the courts.

**Questions?**

**H&CO** | HADDOCK & COMPANY  
LAWYERS



## **Haddock & Company**

260 – 1000 Roosevelt Crescent

North Vancouver, BC V7P 3R4

Telephone: 604-983-6670

[www.haddock-co.ca](http://www.haddock-co.ca)

[info@haddock-co.ca](mailto:info@haddock-co.ca)