



April 23, 2020

Building Owners and Managers Association of Metro Detroit (BOMA) is looking forward to getting back to business, re-occupying our buildings and restarting the economy in Michigan. We recognize safeguarding Michigan from another potential wave of infection is paramount.

BOMA members represent every aspect of the commercial real estate industry from building owners, building managers, building engineers, real estate developers, and various suppliers including security, landscapers, roofers, janitorial services, utilities, HVAC, construction firms and architects. The office market contributes 3 billion dollars in operational expenses to the economy and supports 27,000 jobs and 1,200,000 tenants. Many of the tenants in commercial office buildings are essential personnel and have maintained some degree of operations under emergency orders.

Cybersecurity and Infrastructure Security Agency (CISA) issued version 3.0 of its Guidance on the Essential Critical Infrastructure Workforce identifying Commercial Facilities as Critical Infrastructure and specifically listing “Workers supporting the operations of commercial buildings that are critical to safety, security, and the continuance of essential activities, such as on-site property managers, building engineers, security staff, fire safety directors, janitorial personnel, and service technicians (e.g., mechanical, HVAC, plumbers, electricians, and elevator).” CISA recognizes that commercial buildings are the backbone of a healthy economy.

Similarly, the Centers for Disease Control (CDC) have issued interim guidance for safe practices for the re-opening of businesses that can ensure social distancing, compliance with proper cleaning and disinfecting requirements, and protection of their workers and customers.

However, even the CDC recognizes that even strict compliance does not guarantee that there is no risk. Property owners and managers who expend good faith efforts to follow the CDC guidelines should receive similar protections from liability lawsuits as manufacturers who produce a product as a covered countermeasure to COVID under the Public Health Service Act, 42 USC Section 247d-6d. The only exception to the manufacturer’s immunity is willful misconduct that leads to death or serious physical injury. The exposure of a property owner and manager to unlimited liability by reopening the facilities could jeopardize the continued existence of the property owner, manager, and the industry as a whole. Some form of immunity is essential to balance the risk of reopening and resuming economic activity.

For these reasons we believe liability protections for building owners, managers, and employees in compliance with emergency orders during COVID-19 Emergency and in the process of reopening is imperative.

Should you have any questions, or we can provide additional information and resources, we remain at your service.

Respectfully,

Gregory McDuffee
President

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