



With rents past due, commercial tenants look to avoid eviction

BUSINESS | 1 hour ago

By Andy Peters, The Atlanta Journal-Constitution

John Gordon owns two businesses in completely different industries, located in two different buildings.

And he's fighting with two different landlords.

Work has evaporated at Perfect Circle Renewable Energy on Briarcliff Road, which collects restaurants' used cooking oil and converts it to biofuel. Gordon asked his landlord, whom he declined to identify, if he could skip April's payment. The landlord said he could pay half now and the rest in the coming months.

"We were a little surprised, but it's better than nothing," Gordon said.

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from home, though some still come into an office to print documents.

Gordon again asked for full deferral, but his unnamed landlord wouldn't budge.

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“We asked if he might be willing to help us and he said absolutely not,” Gordon said.

Many metro Atlanta business owners are in the same pickle. The [coronavirus shutdown](#) has [slammed the economy](#) and severely hampered commercial tenants' ability to pay rent.

It's too early to say how many tenants are late on rent, according to real estate industry experts. It will also take time for commercial mortgage delinquencies to show up in banks' financial reports.

Banks are [expecting problems](#), though. Loss rates on commercial real estate loans are expected to spike this year and next year, according to industry publication [American Banker](#).

The problem hasn't yet reached the point of mass evictions, said Ryan Rivera, an attorney at Hartman Simons & Wood who advises commercial landlords and tenants. Landlords understand why tenants can't pay and are trying to compromise. They want to avoid evicting tenants who reliably paid rent before the coronavirus hit.

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Some landlords are cooperating. Tanger Factory Outlet Centers, a Greensboro, N.C.-based operator of 39 outlet malls, has offered rent deferment in April and May, according to a letter that Rivera received last month on behalf of a client.

“We have always viewed our landlord-tenant relationship as a partnership,” Tanger said in the letter.

Many business owners have pinned their hopes on the [federal \\$349 billion rescue loan program](#), an element of the \$2.2 trillion federal stimulus plan. Borrowers can use up to a quarter of loan proceeds for rent.



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The federal relief loan program, however, may run out of money by June, if not earlier. Many applicants have struggled to submit documents due to technical problems with the Small Business Administration website, said Nathan Humphrey, state director for the National Federation of Independent Business.

Some tenants may argue the coronavirus shutdown is an “act of God” that lets them skip paying rent, said Stephanie Friese, a landlord attorney at Chamberlain Hrdlicka. But landlords in Georgia tend to have the upper hand in legal disputes and would prevail in that situation.

“If the lease is well-drafted, then there are very few defenses available to a tenant for the non-payment of rent,” Friese said.

But many large companies have done just that. Coworking firm WeWork, restaurant chain Cheesecake Factory and bedding retailer Mattress Firm have all stopped paying rent on hundreds of locations, according to media reports.

Small business owners should instead try to negotiate concessions for May rent, even if it falls short of their financial need, Rivera said. That’s because they might be in worse financial shape this summer and need more help then.

“You might not be able to pay anything in June or July,” Rivera said.

Gordon said he’s drawing on an emergency fund to cover his rent gap for now but noted that the fund won’t last forever. He also said he knows many business owners who have no cash cushion.

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