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Provisions of the CARES Act Pertaining to Mortgages and Evictions

The Coronavirus Aid, Relief and Economic Security Act (“the CARES Act”) provides relief to owners of certain properties secured by federally backed mortgage loans by delaying required payments and protecting against mortgage foreclosures, and temporarily prohibits certain tenant evictions.

I. 1 - 4 Family Residential Properties:

An owner of a 1 – 4 family residential property may send a request to its mortgage servicer to stop making mortgage payments (i.e., forbear), and the owner does not have to provide any documentation other than a statement that it has incurred financial hardship due to the COVID-19 emergency in connection with the request. The mortgage servicer will agree that payments will not have to be made for a period of up to 180 days, and this period may be extended for an additional 180 days so long the extension request is made during the original 180-day period. During this period, no additional fees, penalties or interest (other than normal interest) may be charged. And no mortgage foreclosures may be undertaken between the period March 18, 2020 and May 17, 2020 (though this does not apply to vacant or abandoned property).

II. Residential Multi-Family Properties Designed for 5 or more Families:

Similarly, an owner of a residential multi-family property designated for 5 or more families may send a request to its mortgage servicer to stop making mortgage payments however the owner must be current on its mortgage payments as of February 1, 2020 and may be required to provide supporting documentation that it has incurred financial hardship due to the COVID-19 emergency in connection with the request. This right does not extend to construction or other temporary loans. The period during which the forbearance period is permitted started on March 27th when the CARES Act was signed and will stop upon the earlier of the end of the COVID-19 emergency and December 31, 2020. The forbearance period will be for up to 30 days, but may be extended for 2 additional 30-day periods if such request is made within 15 days after the original 30-day period. Unlike 1-4 family residential properties however the servicer may charge additional fees, etc. and there is no restriction on mortgage foreclosures. And importantly, during this forbearance period, an owner may not evict a tenant just for nonpayment of rent and may not charge any late fees, etc. for nonpayment of rent. Also, an owner may not deliver a notice to vacate while mortgage payments are not being made, and may not require the tenant to vacate until 30 days after the notice to vacate is given.

III. Eviction Restrictions:

The owner of property with a federally backed loan, as a landlord, may not until July 25, 2020 (120 days after the CARES Act was enacted): (a) seek to evict a tenant for nonpayment of rent; (b) charge fees, penalties, or other charges for nonpayment of rent; or (c) issue a notice to vacate to a tenant, and thereafter the landlord may not require the tenant to vacate until 30 days after giving the tenant the notice to vacate. And the restriction against issuing a notice to vacate is not expressly limited to nonpayment of rent, and these matters apply to tenants whether or not they have a lease.