



Jeff Knoll
Regional and Town Councillor
Ward 5

905-815-6000
Jeff.Knoll@oakville.ca

March 29, 2020

Hon. Doug Ford
Premier of Ontario

Hon. Christine Elliott
Deputy Premier and Minister of Health
Legislative Building
Queen's Park
Toronto ON M7A 1A1

Premier Ford and Minister Elliott:

**Re: Relief from Commercial Leases for Small and Medium Business
in Ontario during COVID-19**

As you and your provincial Cabinet colleagues have so ably demonstrated over the last several weeks, slowing the pandemic's spread and securing the health and safety of Ontarians are the mission-critical tasks of the current crisis. On behalf of my constituents in the Town of Oakville and in the Region of Halton, I would like to thank you for your tireless work in a very fluid and difficult time.

I would also like to suggest, on behalf of small businesses facing the very real potential of imminent bankruptcy, that standing provincial legislation be modified as soon as possible to help entrepreneurs weather the perfect storm of falling revenues and looming rents.

In addition to being a Town and Region Councillor, I am a small business person operating a movie theatre in my community – Film.Ca Cinemas. [Minister Elliott may recall visiting my team and me there last year]. Thus, like so many Ontarians, I know first hand that being an entrepreneur is not easy at the best of times. **Add in Covid-related concerns about whether commercial landlords will terminate leases for non-payment, and the challenges faced by entrepreneurs soar by an order of magnitude that is hard to express.** For instance, I know of one local business that could close as early as tomorrow, Monday, March 30, 2020, as a result of this confluence of challenges. They are not the only ones facing a nightmare beyond their control.

My point here is that the attitudes and decisions of commercial landlords in the current Covid scenario have material impacts – more than ever before – on the economic future of their tenants and, by extension, the economic well-being of their tenants' families and the community at large.

Many landlords, including my own, are reasonable and somewhat flexible about rents during the Covid crisis, responses that are much appreciated by those of us seeking to stay afloat as employers and tax payers.

Some landlords, however, do not react in this enlightened way. Indeed, the valuable adage of “we’re all in this together” does not seem to resonate with them in the slightest. Unfortunately, I am personally aware of an alarming – and growing – number of cases of commercial landlords making existential threats and legal actions against their tenants at time when those tenants are very vulnerable. Of note, one commercial landlord delivered letters this past Friday, to every business renting from him, stating unequivocally that all rents are due by April 1st regardless or further action will be taken.

Many other local small businesses have told me that they have specifically reached out to their landlords in an attempt to work out some sort of new payment arrangement, only to be told that “rent is due when it is due.” A specific example is the Duran Place for Kids in Oakville, who have been advised that they may be locked out of their business as early as tomorrow. Another local business, Just Train It faces uncertainly and the prospect of the owner having to deplete personal savings just to pay rent after having voluntarily closed before the provincial order. There are thousands more in the same position as these two examples.

We of course understand that commercial landlords have bills to pay too. However, locking out tenants who have neither revenue nor reserves is very short sighted. It’s mutually destructive at the worst possible time, and this sort of practice cannot, in our view, be allowed to stand.

To that end, I have drafted immediately below a suggested framework that I believe could be addressed as a regulation under the Commercial Tenancies Act R.S.O., 1990 in such a way that it would protect entrepreneurs and landlords now and over the long term.

My suggested changes are as follows:

- Commercial lease payments be frozen for all commercial leases of property for businesses in commercial operation as at March 15, 2020 retroactive to March 15, 2020 and until 30 days following the date the business is allowed by the Minister of Health to reopen.
- Further, that rent which goes unpaid during that period be repaid to the landlord in equal monthly installments over the remaining term of the lease or 48 months, whichever is greater.
- Further, that such repayment shall be interest free for the first 13 months following permission to resume operation, and any balance after that period be paid at a rate equal to the Bank of Canada prime rate plus a rate slightly above a secure commercial line of credit to incent early repayment per annum.
- Further, that the right of re-entry under 18(1) of the Act or other such remedies for payment defaults under the Commercial Tenancies Act, R.S.O. 1990 be disallowed immediately

and not resumed until such a time following the cessation COVID19 pandemic that the Minister determines. And that notwithstanding any breach of payment of rent due from March 15 until 30 days following the authorized resumption of operations of the business, that such non-payment shall not be considered a breach of said lease notwithstanding the terms contained in the lease to the contrary.

- That failure to make repayment upon the terms of the revised regulation would be considered a breach of the lease and remedies contemplated under the lease for rental payment default shall apply.

In speaking with local business owners and lawyers, we feel that such a regulation would help small businesses survive the pandemic and put them in position to resume rental payments once restrictions are lifted.

For their part, landlords – by sharing in the short to medium-term “pain” that their tenants face – would, in the long term, recoup lost rent and only suffer a loss equal to the carrying cost of the debt during the pandemic and 13 months afterwards. Based on the principal that we are all in this together, this scheme is fair and equitable.

What’s more, under this regulation landlords would:

- benefit down the line by helping prevent (or at least reduce) large-scale vacancies stemming from bankruptcies that would otherwise be directly related to considerable challenges tenants face in paying rents when they have no revenue.
- be constructive partners in a consistent and orderly approach to repayment that would quickly and efficiently allow businesses and commercial landlords to return to normal pre-pandemic operations rather than go through long, contentious and legally expensive negotiations and/or litigation.
- benefit from the post 13-month interest-free period because tenants may choose to repay quicker to avoid the extra carrying cost or seek less expensive institutional credit, if eligible.

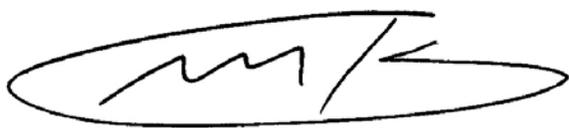
As you and your provincial government colleagues have been clearly saying, Ontarians all need to work together in order to protect ourselves, our jobs and our communities. By so doing, there will be jobs to go back to, favorite restaurants to patronize, movie theatres to be entertained at, gyms to exercise in, and activity centers for our children and seniors to enjoy when this is over. We can get through this.

However, in light of unreasonable and, frankly, unfathomable pressures being applied by some commercial landlords, many (and possibly countless) small business owners will face a very different and much darker reality well before the challenges of Covid have passed.

That's why, today, I am asking on behalf of my constituents, entrepreneurs throughout Halton Region, the employees of my own business and my family, to act now. April 1st is almost here, and rent is due in the business world just like in the residential. Clear, decisive and immediate action on commercial rents will help avoid the devastation of SME's across Ontario. The provincial government has the power to deal with this quickly, and I implore you to do so in support of entrepreneurs who are collectively the heart and soul of our economy.

Premier Ford and Minister Elliott, thank you very much for your ongoing leadership and for your attention to this issue during a time of enormous challenge. I would be happy to talk at any time should you or your staff members have any questions.

Sincerely,

A handwritten signature in black ink, enclosed within a hand-drawn oval. The signature is stylized and appears to be 'JK' or similar initials.

Jeff Knoll
Regional & Town Councillor
Oakville Ward 5
Cell 905-617-3330