

COVID-19 IMPACT ON DEVELOPMENT

Not since the Great Recession of 2008 has the homebuilding industry faced a challenge like COVID-19. While the State of Ohio's "Shelter in Place" order permits construction and homebuilding to continue, our industry faces significant concerns. Among the issues developers face include: 1) the inability of have customers visit model and spec homes to make sales, 2) the pessimism of buyers on their immediate financial position and loss of confidence in their continued employment, 3) banks requiring payment of interest/principal on improvement loans despite the slowed sales, 4) contractors, suppliers, and consultants requiring payment for labor and materials, and 5) contractors and suppliers unable to provide labor and materials due to the COVID-19 virus, delaying completion of homes.

Solutions to these issues will be neither fast nor simple. Developers and Builders may take advantage of SBA Paycheck Protection Program loans (designed to help small and medium size business weather this storm with a forgivable loan/grant), but shaken consumer confidence may not so quickly be restored. We are counseling all clients to immediately speak to their lenders and vendors about cash flow issues, so that all can plan. While technical breaches of loan agreements and subcontracts will occur, in terms of payment timing, all parties must work together to prevent needless litigation while we pass through this storm. Force majeure provisions, due to pandemics or Act of G-d, govern in these instances.

Developers, in the final stages of site plan approval, face additional delays from governmental meetings that are continued indefinitely (or moving forward with emergency items only). Developers will also need to re-evaluate whether otherwise promising new subdivisions and projects can muster the coming slowdown. Buyers facing this dilemma should negotiate an extension to any loan or land purchase agreement now.

Finally, everyone reading this feels an obligation to keep their staff and customers safe and healthy. Whether implementing social distancing, making hand sanitizer available, or pushing employees to work from home, all of these take a toll on a business and its managers, and slow production and efficiency. We all pray that this pandemic will pass as quickly as possible, with few casualties, and the market will promptly bounce back. Until then, buckle down, be fair, read your contracts, speak to your business partners, and seek assistance when necessary.

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