ZG LAW
ZAMBRANO GRUBA CAGANDA & ADVINCULA

FREQUENTLY ASKED QUESTIONS

Guidelines on the Concessions on Residential Rents & Commercial Rents During ECQ/GCQ

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/ a regional law network

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Q: Who are covered by the concession on Residential and Commercial Rents?

A: The concessions on residential/commercial rents of Micro, Small and Medium Enterprises ("MSMEs") shall apply to the 1) residential rents; and 2) commercial rents of MSMEs and other business sectors whose operation is not permitted during the period of community quarantine.

Residential Rent refers to any amount paid for the use or occupancy of a residential unit, regardless of the mode and terms of payment. **Residential Unit** shall refer to bedspaces, rooms, dormitories, apartments, houses, buildings, and/or land on which another's dwelling is located used principally for residential or dwelling purposes.

Commercial Rent refers to any amount paid for the use or occupancy of a commercial space, regardless of the mode and terms of payment. **Commercial Space** shall refer to land, offices, buildings, centers, shops, facilities and any other property used principally for commercial purposes, which denote any activity for which profit is the main aim or revenue is received.

Q: Who are considered as an MSME?

A: The Magna Carta for MSMEs defines MSME as "any business activity or enterprise engaged in industry, agribusiness and/or services, whether single proprietorship, cooperative, partnership or corporation whose total assets, inclusive of those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, must have value falling under the following categories:

Micro	:	not more than Php3,000,000.00
Small	:	Php3,000,001.00 to Php15,000,000.00
Medium	:	Php15,000,001 to Php100,000,000.00

Q: Who may avail of the 30-day grace period?

A: Based on the DTI Memorandum No. 20-29 dated 02 June 2020, the 30-day grace period may be availed of by:

1) Residential lessees who have lost their income during any of the community quarantines, or whose employer/s or business/es were not allowed to operate by laws/regulations/ordinances relevant to any covered community quarantine; and
2) Commercial lessee whose business is among those not permitted to operate pursuant to laws/regulations/ordinances relevant to any covered community quarantine.

Q: Are lessees of residential units or lessees of commercial units required to pay residential rent/commercial rent falling due within the Enhanced Community Quarantine ("ECQ") or General Community Quarantine ("GCQ") period?

A: **No**. A minimum of 30-day grace period shall be granted to residential rents and commercial rents falling due within the ECQ/GCQ period, without incurring any interest, penalties, fees, and other charges. Otherwise stated, the due date of residential or commercial rent, subject of deferment, shall generally fall within the covered community quarantine, which shall not be earlier than 17 March 2020 and not later than the lifting of covered community quarantine.

The cumulative amount of rents falling due within the ECQ/GCQ period shall be equally amortized in the six (6) months following the end of the ECQ/GCQ and shall be added to the rents due on those succeeding months, without interest, penalties, fees and charges.

For example:

Monthly rent	–	Php20,000.00
Due date	–	30th day of the month
Monthly rents falling due	–	30 March 2020 & 30 April 2020

The payment for the residential/commercial monthly rent for March and April 2020 should be equally amortized in the 6 months following the end of the ECQ/GCQ or from 15 May 2020. Thus, the amortized amount of Php6,666.67 shall be added to the monthly rent falling due from 30 May 2020 to 30 October 2020.

Q: From when should the 30-day grace period be counted?

A: Based on the DTI Memorandum No. 20-29 dated 02 June 2020, the 30-day grace period shall commence from the lifting of the covered community quarantine or from the date that the tenant is allowed to resume employment or business operation, whichever comes first, without incurring interests, penalties, fees, and other charges.

For example, if the community quarantine is lifted on 15 June 2020 and the business operation has already been allowed on 01 June 2020, the 30-day grace period should be counted from 01 June 2020.

Q: What if the business of commercial lessees or employers of residential lessee's has already been permitted to operate during the community quarantine period but they did not commence operation, will the 30-day grace still apply?

A: **No.** If a residential lessee's employer or a commercial lessee's business has been permitted to operate pursuant to a presidential proclamation, IATF Resolution and/or relevant ordinances notwithstanding the imposed community quarantine, the commencement of the grace period shall be from the date that such employment or business was allowed to resume.

This shall apply regardless of whether or not the lessee opts to go back to work or resume business operation.

However, the 6 months concession during the period of covered community quarantine shall continue to apply to rents, which due date is not earlier than 17 March 2020 and not later than the date of the issuance permitting lessee's employer or business to operate.

Q: I already paid my rent to our lessor, can I ask him to refund such payment in line of the 30-day grace period provided by the government?

A: **No.** Residential lessors and commercial lessors are **not** obligated to refund residential and commercial rents paid by the lessees during the ECQ/GCQ period. **BUT** the lessor should grant a minimum of 30-day grace period from the next due date of the residential/commercial rents, without incurring interest, penalties, fees, and charges.

Q: Instead of staggered amortization over the six-month period, can lessors, instead, totally waive the commercial rents that are falling due during the ECQ/GCQ period?

A: **Yes**. Lessors of commercial rents who wish to extend greater generosity may:

(i) Totally or partially waive the commercial rents that are falling due during the ECQ/GCQ period; or
(ii) Grant reprieve or discounted amount of commercial rents due after the ECQ/GCQ period; or
(iii) Open for renegotiation of the Lease Term Agreements with lessees; or

(iv) Use other recourse to mitigate the impact of the ECQ/GCQ to the MSMEs or other business sectors whose operation is not permitted during the period of community quarantine.

Q: Our lessor already executed a waiver on rental payments due on the ECQ/GCQ period, will this waiver still be valid?

A: **Yes**. Existing waivers on rental payments due provided by lessors, such as those in recognition of the temporary closure of their lessees' business during the ECQ/GCQ, shall continue to be honored.

Q: What are the requirements needed to be eligible to the 30-day grace period and the other benefits thereof?

A: MSMEs or other business sectors whose operation is not permitted during the period of community quarantine shall signify to their respective lessors their request for assistance by providing supporting documents, such as, but not limited to, financial statements as proof of enterprise size, and/or lease contract as proof of tenancy.

Lessors shall consider the liquidity and capability to repay rent in negotiating assistance to be granted.
The lessee shall likewise provide the lessor a signed Promissory Note or letter, undertaking to pay the deferred rent/s in accordance herewith, and failure thereof shall make such deferred rent/s in accordance with applicable government issuances, and failure thereof shall make such deferred rents due and demandable immediately following the end of the minimum grace period of thirty (30) days.

Q: Can lessees be evicted within the 30-day period for failure to pay residential or commercial rent for MSMEs due falling within the ECQ/GCQ period?

A: **No**. Pursuant to DTI Memorandum No. 20-29 dated 02 June 2020, no eviction for failure to pay residential or commercial rent of MSMEs due may be enforced from 17 March 2020, when the ECQ took effect until the end of the 30-day grace period.

Q: If the concession of residential rent/commercial rent of MSME is violated, what can be done?

A: Any violation may be brought before the DTI either in person or electronically.

The complaint shall contain the following information:

(i) Complete name, residence address, and contact number of the lessor and the lessee;
(ii) Complete address of the residential/commercial unit concerned;
(iii) Date when the rental payment became due;
(iv) Narration of the relevant and material facts; and
(v) Submission of documentary evidence, if any.

The DTI, through the Fair Trade and Enforcement Bureau ("FTEB") or DTI Regional Offices, motu proprio or upon complaint, shall issue a Notice of Violation against a lessor, who will be required to submit a written reply within five (5) working days from receipt of notice containing the following:

(i) An explanation why or how the violation occurred or, if contested, the basis for disputing the violation;
(ii) Corrective actions that have been taken and the results achieved;
(iii) The date/s of when corrective action/s was/were fully achieved; and
(iv) Corrective actions to be taken to prevent recurrence.

Upon determination of the violation, appropriate criminal charge/s shall be filed against the lessor with the Department of Justice, without prejudice to the filing of other administrative cases.

The lessees who fail to pay their obligations and abide by the terms of their promissory note may likewise be held criminally, civilly or administratively liable.

Q: Is there any penalty if a lessor refuses to provide the 30-day grace period to MSME lessees?

A: **Yes**. Lessors who shall refuse to provide the 30-day grace period to MSME lessees shall be penalized with imprisonment of not less than two (2) months or a fine of not less than Php10,000.00, or both, such imprisonment and fine, at the discretion of the court.

Q: What are the changes made in the DTI Memorandum Circular No. 20-29 to the concession of residential rent and commercial rent during the community quarantine period?

A: Below is a summary of the changes implemented in the new DTI Memorandum Circular:

Provision	DTI Memorandum Circular No. 20-12 (04 April 2020)	DTI Memorandum Circular No. 20-29 (02 June 2020)
Determination of the 30-day grace period	The 30-day grace period is determined to be the 30 calendar days following the last due date of the rent which fell due within the ECQ.	The 30-day grace period shall commence from the lifting of the covered community quarantine or from the date that the tenant is allowed to resume employment or business operation, whichever comes first. If a residential lessee's employer or a commercial lessee's business has been permitted to operate pursuant to a presidential proclamation, IATF Resolution and/or relevant ordinances notwithstanding the imposed community quarantine the commencement of the 30-day grace period shall be from the date that such employment or business was allowed to resume. This shall apply regardless of whether or not the lessees opts to go back to work or resume business operation. However, the 6 months concession during the period covered community quarantine shall continue to apply to rents, which due date is not earlier than 17 March 2020 and not later than the date of the issuance permitting lessee's employer or business to operate.
Qualification on who may avail of the	Residential lessees for residential unit and MSME lessees for commercial unit	Residential lessees who have lost their income during any of the community quarantine, or whose employer/s or business/es were not allowed to

30-day grace period		operate by laws/regulations/ordinances relevant to any covered community quarantine. Commercial lessee whose business is among those not permitted to operate pursuant to laws/regulations/ordinances relevant to any covered community quarantine.
Availment of the 30-day grace period	MSMEs shall signify to their respective lessors their request for assistance by providing supporting documents, such as, but not limited to, financial statements as proof of enterprise size, and/or lease contract as proof of tenancy.	Lessee shall provide the lessor a signed Promissory Note or letter, undertaking to pay the deferred rent/s in accordance herewith, and failure thereof shall make such deferred rents due and demandable immediately following the end of the minimum 30-day grace period.

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