



June 9, 2020

The Honorable Eric Holcomb
Governor of Indiana
Office of the Governor
200 W. Washington Street, Room 206
Indianapolis, IN 46204

Dear Governor Holcomb,

On behalf of our members representing the commercial real estate industry, I write to thank you for your leadership during this health and economic crisis and urge your support for a legal safe harbor for building owners and managers committed to implementing public health guidelines to mitigate the spread of Covid-19.

As the nation grapples with the severe toll of the pandemic, the commercial real estate sector is playing a vital role in re-opening and recovery efforts. Businesses and employers are relying on us to provide the safe, secure, and healthy environments necessary to bring individuals back to their workplaces and move the economy forward. Our sector has stepped up to meet this challenge, but action is needed to ensure that our efforts are not derailed by the threat of litigation.

During this crisis, our members have remained steadfast in our commitment to our tenants, employees and the public. The vast majority of buildings have never closed, and property owners and managers have continued operations during uncertain times to maintain safe buildings and assure the continuance of essential services. Now all of our members are drawing up plans and implementing new protocols to prepare for the safe return of the workforce in the coming weeks and months. In conjunction with BOMA International, we have coordinated with member companies and experts, created task forces, identified best practices and protocols for safety procedures, and published a series of comprehensive re-opening guidance documents based on government health and safety rules, directives, and guidelines.

Despite these best efforts, the threat of legal liability persists. Much remains unknown about the novel coronavirus, and federal, state, and local rules and directives often diverge and rapidly

evolve, creating legal uncertainty. The threat of lawsuits against commercial building owners and managers for re-opening prematurely or using inadequate virus mitigation measures, even when managers follow government guidelines and act in good faith, is pervasive. This threat creates instability, clouds decision-making, and diverts needed resources– all of which detracts from our work in welcoming back tenants and pushing the economy forward.

Some states have already extended protections to businesses for liability stemming from potential Covid-19 transmission on their property. Similar action is needed here to accomplish our shared goals. A tailored, specific legal safe harbor program for those in the commercial real estate sector, who are following public health rules, directives, and guidelines, developing plans, and implementing protective measures, will support ongoing recovery efforts. For those businesses that are acting in good faith, liability protections are prudent and will provide certainty and reassurance at a time when it is needed most.

In particular, legislation or executive action could provide that, if those responsible for commercial buildings conduct operations in accordance with federal or state public health guidelines, absent willful misconduct or intentional infliction of harm, they will be relieved of legal liability stemming from Covid-19 transmissions or mitigation measures.

We thank you for your consideration of this important issue. Our association looks forward to working with you to support our state and country’s recovery and re-opening, and we would welcome the opportunity to discuss this issue further.

Sincerely,



Sarah E. Kuester
Executive Director
BOMA Indianapolis
(317) 518-7060 Direct