

What Landlords and Tenants Need to Know This Hurricane Season

Lowndes Leasing Lawyers Blog
Lowndes
05.31.2024

Co-authored by: Scott Renaud, Chief Operating Officer, Foundry Commercial

Hurricane season in the Atlantic continues through November 30. It's important to stay ready, as even one storm can have serious impacts.

Lowndes and Foundry Commercial have teamed up to provide landlords and tenants with essential tips to stay prepared.

- **Insurance**

Take a moment to pull together your certificates of insurance and confirm that any required coverage under the lease agreement is in effect, including naming appropriate parties as additional insured(s). For the tenant, don't assume that the landlord's insurance will cover your furniture, fixtures, or equipment. Most landlord coverages are for the building structure and the tenant bears responsibility for the personal property and any tenant-specific improvements located within the leased premises. Landlords and tenants should also be familiar with any provisions in the lease that specifically set forth procedures for the handling of insurance proceeds.

- **Casualty Provisions**

The casualty provision establishes each party's respective responsibilities to repair damage to the leased premises and/or the building in which the same are located in the event of the full or, in some cases, partial destruction. This provision may also include provisions regarding the abatement of rent in the event of the prolonged loss of use of the leased premises.

- **Utility Services Provision**

In the event of a loss of utility services to leased premises, this provision

Related Attorneys

Joaquin E. Martinez

Nicole C. Leath

Related Expertise

Commercial Leasing

Real Estate

may provide for the abatement of rent until such time as service is restored; however, many such abatement rights are limited to loss of services caused by landlord and may not apply in the event of a hurricane.

- **Maintenance and Repair**

Review the maintenance and repair provision of the lease to determine the parties' respective obligations with respect to the leased premises and the systems serving the same. The responsible party should schedule pre-season and pre-storm check-ins with their critical vendor response team including restoration, roofing, general contracting, electrical and ground to name a few.

- **Flood Insurance**

If a property is financed, lenders will require that their borrowers maintain flood insurance. Landlords and tenants occupying properties that are only partially located in a flood zone, even if not financed and required by a lender, should consider obtaining flood insurance due to the state's susceptibility to hurricanes and heavy rainfall. As Central Florida experienced during the 2022 hurricane season, flooding can cause significant damage to improved properties and personal belongings, leading to financial losses for both landlords and tenants. Flood insurance offers financial protection in the event of such disasters, ensuring that both parties can recover and rebuild efficiently.

- **Access**

Collaborate with your landlord and your municipality to understand how post-storm access to the property and the region will be administered. Some municipalities will restrict access to essential personnel post-storm and pre-registering with them is a critical step.

- **Technology**

Take precaution to keep your electronic assets protected from water damage as best you can. Any backups that may exist on property should be relocated somewhere safe. Anticipate power outages by having car chargers for your phone, extra portable chargers, and hard printing critical contacts in case of network outages.

- **Force Majeure**

Many leases include a force majeure clause which may extend the time frame for satisfaction of an obligation in the event of a hurricane, tropical storm, or other severe weather event. If a deadline is looming for early September, landlords and tenants should determine whether force majeure may permit the extension or tolling of such deadline and comply with any related notice requirements.

- **Safety**

Experience tells us that many of the personal injuries from hurricanes occur after the storm has passed. When returning to your property, please ensure you have the "all clear" from property management and bring professionals with you to keep you safe.

"As with any unpredictable weather event, planning ahead can alleviate the stress of many of the last-minute preparations and post-event impacts to the real estate you lease or own," stated Scott Renaud, Chief Operating Officer at Foundry Commercial. "If we have learned anything from the past few years, it's the importance of

being flexible and nimble – especially as it relates to office properties – and going into this hurricane season with contingency plans will serve both tenants and landlords for years to come.”