

MEMORANDUM CIRCULAR NO. 20 - 12 ,
Series of 2020

SUBJECT : GUIDELINES ON THE CONCESSIONS ON RESIDENTIAL
RENTS; COMMERCIAL RENTS OF MSMES

DATE : 04 April 2020

WHEREAS, Presidential Proclamation No. 922, Series of 2020 was issued declaring a State of Public Health Emergency throughout the Philippines in view of the Coronavirus Disease 2019 (COVID-19) and raised the Code Alert System for COVID-19 to Code Red Sublevel 2;

WHEREAS, Presidential Proclamation No. 929, Series of 2020 further declared a State of Calamity throughout the Philippines and imposed an Enhanced Community Quarantine throughout Luzon from 17 March 2020 to 12 April 2020, unless earlier lifted or extended by the President as circumstances may warrant;

WHEREAS, Republic Act (RA) No. 11469 declared the existence of a National Emergency and a national policy in connection with the COVID-19 situation;

WHEREAS, pursuant to Article VI Section 23(2) of the 1987 Constitution, RA 11469 authorized the President to exercise powers that are necessary and proper to carry out the declared national policy, and adopt temporary emergency measures to respond to the crisis brought about by the pandemic for three (3) months;

WHEREAS, Section 4 (aa) of RA 11469, otherwise known as the "*Bayanihan to Heal As One Act*" mandates for a provision of "a minimum of thirty (30)-day grace period on residential rents falling due within the period of the enhanced community quarantine, without incurring interests, penalties, fees, and other charges";

WHEREAS, under RA 11469, refusal to provide thirty (30)-day grace periods provided under Section 4 thereof shall be punishable with imprisonment of two (2) months or a fine of not less than Ten thousand pesos (P10,000.00) but not more than One million pesos (P1,000,000.00), or both, such imprisonment and fine, at the discretion of the court;

WHEREAS, Section 3 of the same law declares as policy during the COVID-19 pandemic the "provision of safety nets to all affected sectors" and "partner with the private sector and other stakeholders to deliver these measures and programs quickly and efficiently";

WHEREAS, pursuant to RA 11469, the Office of the Executive Secretary under the Office of the President issued the Memorandum dated 28 March 2020 entitled "Implementation of Temporary Emergency Measures under Republic Act (RA) No. 11469, Otherwise Known as the Bayanihan to Heal as One Act" ("OP Memorandum,") ordering the whole of government to work together towards to provide temporary economic relief to Filipinos, among others;

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WHEREAS, by virtue thereof, the OP Memorandum tasked the Department of Trade and Industry (DTI) to specifically craft and enforce measures to provide for a minimum of thirty (30)-day grace period on residential rents falling due within the period of the enhanced community quarantine, without incurring interests, penalties, fees, and other charges;

WHEREAS, Section 2 of RA 6977, as amended, otherwise known as the "Magna Carta for Micro, Small and Medium Enterprises (MSMEs)", declares that *"the policy of the State to promote, support, strengthen and encourage the growth and development of MSMEs" and "the State shall recognize the specific needs of the MSMEs and shall undertake to promote entrepreneurship, support entrepreneurs, encourage the establishment of MSMEs and ensure their continuing viability and growth"*;

WHEREAS, Section 3 of the same law defines MSMEs 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:*

<i>micro</i>	:	<i>not more than P3,000,000</i>
<i>small</i>	:	<i>P3,000,001 - P15,000,000</i>
<i>medium</i>	:	<i>P15,000,001 - P100,000,000"</i>

WHEREAS, on 16 March 2020, the Office of the Executive Secretary issued a Memorandum on "Community Quarantine over the Entire Luzon and Further Guidelines for the Management of the Corona Virus Disease 2019 (COVID-19) Situation", declaring an Enhanced Community Quarantine (ECQ) in Luzon and limiting operations to private establishments providing basic necessities;

WHEREAS, commercial establishments forced to cease operations covering the date of the ECQ will be under financial distress due to the lack of revenue while maintaining overhead commitments;

WHEREAS, the Inter-Agency Task Force for the Management of Emerging Infectious Diseases Resolution No. 18 Series of 2020 dated 01 April 2020, authorized the Department of Trade and Industry (DTI) to issue guidelines to implement a directive for *"a thirty (30)-day grace period to commercial rents falling upon micro, small and medium enterprises (MSMEs) within the period of the ECQ, without incurring interest, penalties, fees, and other charges;"*

WHEREFORE, the foregoing considered, this Memorandum Circular (MC) is hereby issued for the information, guidance and strict compliance of those concerned:

Section 1. Objective – This Memorandum Circular aims to provide Filipinos and businesses particularly MSMEs, economic relief during the COVID-19 public health emergency.

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Section 2. Scope – The provisions hereof shall be granted to (1) residential rents, and (2) commercial rents of MSMEs, as defined by RA 6977, as amended, that have ceased operations due to the ECQ.

For purposes of this MC, “**residential rent**” shall mean 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.

On the other hand, “**commercial rent**” shall mean any amount paid for the use or occupancy of a commercial space, regardless of the mode and terms of payment, of MSMEs.

“**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.

Section 3. Concession on Residential and Commercial Rent –

3.1. Concession on Residential Rents – A minimum of thirty (30)-days grace period shall be granted on residential rents falling due within the period of the ECQ, without incurring interests, penalties, fees, and other charges.

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

3.2. Concession on Commercial Rents for MSMEs – A minimum of thirty (30)-days grace period shall be granted on commercial rents falling due upon MSMEs that have temporarily ceased operations within the period of the ECQ, without incurring interests, penalties, fees, and other charges.

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

3.3. Determination of the 30-day grace period - The minimum thirty (30)-days grace period is determined to be the 30 calendar days following the last due date of the rent which fell due within the ECQ.

3.4. No Refund of Rents Already Paid. Lessors are not obligated to refund residential and commercial rents paid by the lessees during the period of the quarantine. Notwithstanding this provision, the lessor shall 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.

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3.5 Other Concessions for MSMEs – Notwithstanding the above, the lessors of commercial rents for MSMEs who wish to extend greater generosity may:

- a. Totally or partially waive the commercial rents that are falling due during the ECQ.
- b. Grant reprieve or discounted amount of commercial rents due after the ECQ.
- c. Open for renegotiation the Lease Term Agreements with the lessees.
- d. Use other recourse to mitigate the impact of the ECQ to the MSMEs

Section 4. Recognition of Voluntary Waiver from Lessors – Existing waivers on rental payments due provided by lessors, such as those in recognition of the closure of their lessees' businesses during the ECQ, shall continue to be honored.

Section 5. Eligibility for Concessions – 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.

Section 6. Considerations for MSMEs – Lessors shall consider the liquidity and capability to repay rent of MSMEs in negotiating assistance to be granted. MSMEs may present their financial statements, cash flow projections, among others, as supporting evidence.

Section 7. Non-Enforcement of Evictions. No eviction for failure to pay the residential or commercial rent due may be enforced within the thirty (30)-day period after the lifting of the Enhanced Community Quarantine.

Section 8. Complaints. Any violation of this MC may be brought before the DTI either in person or electronically.

The complaint shall contain the following information --

1. Complete name, residence address, and contact number of the lessor and the lessee;
2. Complete address of the residential or commercial unit concerned;
3. Date when the rental payment became due;
4. Narration of the relevant and material facts; and
5. Submission of documentary evidence, if any.

Section 9. Enforcement. 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 –

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

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

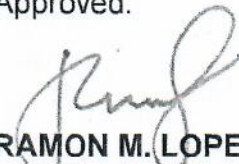
Section 10. Penal Clause – As provided under Section 6 (e) of RA 11469, lessors who shall refuse to provide 30-day grace period to lessees shall be penalized with imprisonment of not less than two (2) months or a fine of not less than ten thousand pesos (Php 10,000.00), or both, such imprisonment and fine, at the discretion of the court.

Section 11. Separability. — The provisions of this MC are declared to be separable and if any provision or the application thereof is held invalid or unconstitutional, the validity of other provisions shall not be affected.

Section 12. Effectivity – Given the presence of a public health emergency, this Memorandum Circular shall take effect immediately upon its publication and filing with the University of the Philippines Law Center.

Issued this 4th day of April 2020 in Makati City, Philippines

Approved:



RAMON M. LOPEZ
Secretary

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