



May 7, 2020

The Honourable Mary Ng
Minister of Small Business, Export Promotion, and International Trade
House of Commons, ON K1A 0A6

RE: Recommendations for the Canada Emergency Commercial Rental Assistance Program

Dear Minister:

On behalf of the Canadian Home Builders Association (CHBA), I would like to thank you and your government for your leadership during this difficult time. We welcome the supports that are being put forward to support Canadians and Canadian businesses to address the impacts of COVID-19.

The recognition of the need for rent relief for commercial businesses—both landlords and tenants—is both welcome and timely. With members of our association falling into both categories, we have a great deal of interest in this program, and based on initial announcements, we have recommendations we are passing on here in the interest of ensuring the final program design is as effective as possible.

Defining Rent: There are typically two elements to commercial rent - net rent and operating costs (like property taxes, maintenance, and repair, janitorial, snow removal, utilities, etc.) both of which are paid to the landlord. In many cases net rent can be less than 50 percent of the total rent, or “gross rent”, paid to the landlord (except in rarer cases where tenants pay gross rent, inclusive of all costs). Since operating costs must be paid by the tenant and then the landlord in all cases and represent a substantial portion of expenses, **it will be important that the program cover gross rent or gross rent minus property taxes.** This can be done by allowing those with net plus operating cost leases to use the full gross rent for the subsidy.

Mortgage-free Properties: To be equitable, it will be important to **make buildings that are mortgage free also be eligible for the program**, for the sake of both the tenants and the landlords. We are pleased to see that the government has announced it is looking to do so, and we whole-heartedly support that inclusion.

Reduced Income Calculations: With the current information released, it appears the landlord will be required to determine if the tenant has had an acceptable 70 percent drop in revenue. Landlords are not in a position to validate that information. **It will be important that the program include a method for tenants to attest to their revenue loss.** The 70 percent revenue loss criteria in this program is also inconsistent with requirements of the Canada Emergency Wage Subsidy, which may create confusion, and limit the effectiveness of the CERCA. **Aligning the thresholds between the programs could improve the effectiveness of the subsidy, and perhaps create an ability to better verify the revenue loss for participating tenant businesses through a single mechanism.**

Nature of ownership: Initial program announcements state the property owner must be the registered owner and landlord. While we appreciate that transparency of ownership is important, we would suggest, given the many forms of possible owner/landlord arrangements, that the suffering landlords and tenants have the same shortfalls irrespective of the ownership arrangement. **Those tenants and landlords with alternate ownership structures for their buildings, such as landlords holding titles to their properties through trustees or nominees, or have leasehold properties through ground leases, should all be eligible.**

Protecting Against Bad Faith Tenants: With the program including the requirement for a no-eviction guaranty, it will be important to still allow for action against bad faith tenants. **To that end we recommend that there be allowance for evictions in cases such as extreme negligence, criminal behaviour, or other extreme situations to avoid abuse by bad actors**, while still ensuring there are no evictions for non-payment of rent.

We trust you find the above recommendations helpful, and no doubt they may reinforce recommendations from others you are hearing from. CHBA recognizes the government is making announcements and rolling out details “on the fly” under current conditions. We very much appreciate the alacrity of program development and implementation, as well as the way the government has been making adjustments to further improve programs based on stakeholder input.

Again, we thank you for all you are doing for Canadians through this difficult time and hope you find our recommendations of assistance through your next phases of program development.

If you have any questions, please ask your staff to contact Nicole Christy, Manager of Government Relations, at 613-230-3060 x 241 or nicole.christy@chba.ca.

Sincerely,



Kevin Lee, P.ENG., M.ARCH.
CEO, CHBA

c.c. The Honourable Bill Morneau, Minister of Finance

The Honourable Diane Lebouthillier, Minister of National Revenue

Francesco Sorbara, Parliamentary Secretary to the Minister of National Revenue