



“Don’t Choke Us!” Covid-19 Eviction Moratoriums The Hotel Owner’s Perspective

Introduction:

This perspective paper discusses Covid-19 related eviction moratoriums and their underlying effects on hotel owners across the United States. The pandemic not only decimated the hospitality and tourism industries but has upended the lives of average Americans. From widespread layoffs, to a new normal in socially distanced routines and the psychological/human toll tied to the crisis, life has been anything but easy for many. Thankfully the government has stepped in to offer aid to those who need it the most. Paycheck Protection Program (PPP) loans and federal stimulus stipends have helped millions of citizens in alleviating some financial burden. One particular policy decision which had good intentions for American households was a moratorium on evictions. The initial CARES Act, passed in March 2020, included provisions to protect some 107 million people, about one-third of the United States population, living in rental households (*National Multifamily Housing Council*). Shortly after President Biden’s inauguration, he signed an executive order further extending these moratoriums until at least March 31, 2021. The calculation was simple; halting evictions prevents homelessness for anyone who has lost income due to the pandemic and has fallen behind on rent. Furthermore, this policy serves as a mechanism to help contain the spread of the virus.

The continued extensions of this policy, however, are not taking into account the financial toll on already hard-pressed hoteliers and multifamily owners across the country. Long-term guests, for many hotel owners in particular, provide essential baseline revenue streams irrespective of the seasonal nature of the industry. There are a variety of reasons for guests choosing hotel accommodations for longer length of stays. Some prefer the ease and convenience associated with staying in a hotel (access to laundry, fresh linens, housekeeping service, to name a few), others might be in the area on a several month-long company project and like the proximity to their work, while others may be in a transitional period tied to their family relations or other personal matters. From independent hotels to franchised select-service properties, it would be rare to come across a management team that would not accept a long-term guest’s business. When the economy is doing well and there are no global black swan events disrupting livelihoods, concerns tied to non-payment are less overwhelming. As a general rule of thumb with some variations depending on locale, guests become residents after a period of thirty days. In circumstances where the guest stops paying their rent, hotels may have to go to court in order to appropriately evict them per the established tenant/landlord relationship. To prevent such a relationship from occurring, there are lesser known and legally permissible steps to prevent extended-stay guests from becoming de facto tenants, which can help avoid an often-drawn-out eviction process. Unfortunately, the current pandemic related environment has exasperated an issue which only occasionally would rear its head.

The present-day situation is causing a much larger, under-reported crisis, further degrading the already precarious financial condition of the industry at large. By extending eviction moratoriums with minimal and easily manipulatable pre-requisites, some extended-stay guests and homeless advocacy organizations are starting to take advantage of the pandemic policies to simply cease remitting payments owed to hotels.

Challenge:

Naturally and especially in times of economic duress, there are people out there that will gain from someone else’s pain or downfall. Unfortunately, this is a bane of modern society. In this scenario, the brunt of the collateral damage is being taken by hotels. Incidentally, recently in Washington State, there was a standoff between local police and homeless activists which ended in a mass eviction. A CBS News affiliate reported that homeless advocates from a



local organization booked 16 rooms for a one night stay for approximately 40 homeless residents, with no plans to leave – or make any further payments. How an apparent advocacy organization can take such a flagrant action is an entirely different topic. For this particular owner, the local police put an end to what could have been a very costly, uncontrollable situation. Nationwide, the authorities appear to have their hands tied, because of these strict moratoriums. Law enforcement partners are typically very helpful in protecting the small business hotel owner, but reports being reviewed by the founders of Reform Lodging suggest that relations tied to requesting evictions have become fractured at best. Instead of treating hotel patrons as transient guests, rules that apply typically to multifamily settings are being imposed upon hotel properties.

Taking New Jersey area hotels into consideration, here is a chart which highlights the sheer gravity of the situation in simply one state:

Estimated New Jersey Hotel Losses from Illegally Occupied Guestrooms

<i># of NJ Hotels</i>	<i>Avg # of Illegal Tenant Rooms</i>	<i>Avg Room Rate</i>	<i>Avg Days Per Month</i>	<i>Avg Monthly Loss of Revenue for NJ Hotels</i>	<i>Avg Loss of Revenue Per Hotel Per Night</i>
1,061	3	\$100.00	30	\$9,549,000.00	\$300.00

Source: Reform Lodging

Unfortunately, the revenue losses are one piece of the puzzle. Hoteliers have direct costs that are incurred for every guestroom that is rented at the hotel, whether or not they are receiving timely payment from the guest:

Nightly Additional Cost Per Hotel Per Room

<i>Additional Loss Per Hotel Room</i>	<i>Utility Cost Per Occupied Room Night</i>	<i>Average Franchise Fees Per Occupied Room Night</i>	<i>Sales Tax Per Occupied Room Per Night</i>	<i>Legal Fees Per Illegal Tenant Per Night</i>	<i>Room Supplies Per Occupied Room Per Night</i>	<i>Services – Internet, Cable, Telephone Per Night</i>	<i>Labor – Front Desk, Maintenance, Housekeeping</i>
\$89.08	\$3.95	\$12.50	\$14.63	\$40.00	\$5.00	\$1.00	\$12.00

Source: Reform Lodging

As evidenced by the data above, potential losses are magnified when factoring in the hotel’s daily operating costs.

Below are some direct quotes from owners shared on Reform Lodging’s discussion boards and media platforms showing that the eviction moratorium policy is causing widespread grief, not only in New Jersey but across the country:

Hotel Owner & Reform Lodging Member from New Jersey: **“The current environment is becoming untenable. At my hotel, our front desk personnel have been personally threatened with physical harm when they have attempted to evict guests, even those that have not become residents under NJ law.”**

Hotel Owner & Reform Lodging Member from New Jersey: **“The police department is supposed to help us with some of these patrons who turn dangerous but they just raise their hands and said the governor said do not evict under any circumstances, even if the patron was disorderly and violent. What happened to the safety of the employees of the establishment? What are we paying those hefty property taxes for? It feels as if the governor basically wanted to punish property owners for some odd reason!”**

Hotel Owner and Reform Lodging Member from Illinois: **“Isn’t that interesting how that works? If they don’t leave, you have to evict them. Will you ever recover those funds? Nope. If you try to make them leave by cutting off power, they will sue you. Will the courts make you pay them? Yes!”**



Hotel Owner & Reform Lodging Member from Kentucky: **“I just went through the eviction process through the courts. It took me 2 months because of COVID otherwise it would be sooner. My attorney advised me not to shut off the utilities or lock him out as he may use that against me in court, and the judge may give them an additional 30-60 days to stay because of hardship. So, I did not give him any trouble, and the judge gave him 7 days to vacate the room.”**

Hotel Owner & Reform Lodging Member from Indiana and Ohio: **“We have similar issues at our Ohio property. The police are not evicting any guests, even after the Fire Marshall told them that this guest qualifies as a transient guest. We are not an apartment or house. We have tried everything. This is ridiculous. Hoteliers need to come with a plan to help each other.”**

Hotel Owner & Reform Lodging Member from Georgia: **“I have the same issue. I filed repo of property as landlord-tenant relationship as directed by the police department. Judge dismissed the case on basis of no tenant-landlord relationship BUT still police are not ready to evict him from the room. We took advice from an attorney and just filed some paperwork with the court. If something comes fruitful, I will keep you posted.”**

Hotel Owner and Reform Lodging Member from Texas: **“The police are our friend. We communicate with law enforcement agencies on a regular basis and educate them about hotelier issues. In my area, they are more receptive and assist on issues and times we have to call them. We all have to engage in the right areas.”**

It is evident that the eviction process is causing widespread, systemic grief, but it can also prove to be fatal. In August of last year, Cleveland, Mississippi hotelier, Mr. Yogesh Patel was murdered by a guest who had already been evicted by the police moments earlier. Tragically, the guest returned to the premises attempting to gain access to his room and got into a deadly altercation with Mr. Patel who later succumbed to his injuries. This unfortunate scenario further highlighted the importance of working jointly with law enforcement partners when conducting evictions, and also to request them to be on standby in case the aggrieved guest returns on site afterwards.

Hoteliers are additionally running into scenarios where they offered assistance to Board of Social Services and other local and state homeless advocacy agencies in providing an allocation of hotel rooms to be used for Covid negative patrons. After a certain number of days, usually when the hotel becomes embroiled in a tenant-landlord relationship with the guests, these agencies are then electing to stop payments. Despite having a contractual obligation with these boards, they expect the hotels to institute eviction proceedings from that point forward, further burdening cash-strapped business owners and causing more financial heartache.

Possible Solution(s) & Conclusion:

Hoteliers continue to reel from the effects of this global pandemic. With a slower than anticipated vaccine roll-out, thousands of ongoing Covid related deaths, and new virus variants being introduced, the general public will remain in a sense of heightened anxiety for the foreseeable future. A robust summer season rebound in travel is being touted by industry experts with drive-to destinations leading the recovery. However, these are assumptions tied to many irrepressible variables and achieving pre-Covid performance levels may take at a minimum, several years.

Protecting over a third of the United States population from an inability to pay rent due to pandemic fueled income losses will certainly not fail the moral litmus test. The very fabric of our democracy and country’s rich history was woven by prioritizing the needs of its citizens, even more so, in times of economic recessions and downturns. Hoteliers are an essential backbone to the economy collectively employing millions of Americans, and contributing



billions to local, state, and federal agency coffers. They, too, deserve a helping hand in these trying times instead of being choked by bureaucracy at its worst.

Potential solutions and benefits include:

- Hoteliers gain business from homeless coalitions, shelters, and social service agencies. There is certain gratitude and appreciation for this revenue stream. However, contracts with these agencies should include clauses where the hotel partner is ***guaranteed*** payments for the duration of the contract, and after should the residents remain on-site. They must have protection mechanisms put in place to transfer residents out immediately once the contract ends. Additionally, in the event the contract ends, the agencies should be held completely responsible in arranging for an extension or accommodating the patrons elsewhere without further burdening the hotels. Furthermore, for larger room allocation contracts, Reform Lodging encourages its members to seek legal guidance and professional reviews of the terms and conditions, ensuring that they are not blind-sided with non-paying customers, potential breaches of contract, and associated loopholes.
- The narrative that the small business owner has the ability to stomach intense financial pressure could not be further from the truth. The government at the federal and state level needs to realize that it is not a crime to become a business owner and employer. To that end, when policies are implemented that will negatively affect entire industries (hotels, multifamily, and apartment complexes to name a few), there should be adequate measures enacted to ensure that tax paying business owners and those who employ U.S. workers also receive just protection.
- Reform Lodging has found that non-paying residents, with the ease of social media, will share their experiences publicly about being able to stay at certain locations for free, without repercussions. Furthermore, some residents will pay the bare minimum well under their rent amounts, despite having income and accruing large balances. They will then share their prowess with the eviction laws with hotel staff and claim that they do not have any recourse available to them anyways! For cases similar to this, with intentional abuse of laws, there should be an expedited eviction process arranged to protect the hotel owner from financial losses.
- The court system will likely face a deluge of eviction requests once the moratorium expires. Hotel related eviction matters should be prioritized and quickly advanced to ensure efficient outcomes for already struggling properties.
- Reform Lodging stands in solidarity with law enforcement around the country and believes its members should maintain strong ties with their local police departments. These relationships should be cultivated to maintain direct and ongoing communication to educate our law enforcement partners about the daily operational issues dealt by hotel owners. In doing so, if faced with tenuous eviction matters, the police department can work hand in glove with owners, and potentially offer additional assistance due to a friendly, and collegial relationship.

About Reform Lodging Inc. Reform Lodging is a nonprofit hospitality industry think tank and owner advocacy organization fueled by the youthful exuberance of millennial hoteliers, backed by the wisdom of industry luminaries. The organization was formed in April 2020 by hoteliers, Rich Gandhi, Sagar V. Shah, and Dharam Goragandhi. The Old Bridge, New Jersey based group has over 2,000 members from across the United States and overseas. Reform Lodging's website is www.reformlodging.org