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## **REAL ESTATE LAW AND THE PANDEMIC**

**By: Michael P. Lehnert, Esq.**

2020 ushered in long awaited legal and technological advancements into the real estate market, which, by seeming happenstance, were immensely beneficial in allowing the market to cope with COVID-19's shocking effects.

Assimilation of these technological advancements into legal practice has generated efficiency gains that enable practitioners to more effectively service the booming real estate market. These advancements have also acted as an impetus for practitioners to reorient their business development perspectives to account for newly available client representation opportunities, not just locally, but across the nation. Prior to integration of these advancements, viable and realistic opportunities for this expansion were, at least for small to mid-size firms, difficult to secure and maintain.

The advent of remote online notarization (RON), along with Florida legislature's sanctioning its use in Florida, has dramatically simplified document execution for practitioners and real estate professionals throughout Florida and facilitates the execution of documents for clients across the nation and abroad.

Moreover, the revision of ch. 689, *Florida Statutes*, tremendously improved the efficiency of the lease finalization process by removing the requirement to have two witnesses for each signatory to a lease.

The introduction and authorization of RON along with the removal of the two-witness requirement could not have come at a more opportune time. COVID-19, with its pervasive policies of social distancing and minimizing physical contact, threatened the real estate market and curtailed the ability to transact business in the traditional manner. In response, real estate practitioners, professionals, and market participants turned toward RON and the removal of the leasing witness requirement to close deals from the safety of their homes, thereby avoiding the delays and risks associated with scheduling and attending in-person meetings. Due to these nimble pivots, the real estate market thrived and was able to meet the increasing demands.

Remote online notarization, electronic signing platforms, such as DocuSign, and reliable video conferencing - with the ability to share computer screens in real time - have made it so a practitioner almost never needs to interact face to face with a client (except for old fashioned getting to know

someone, which, even from a millennial's perspective, could never be replaced with technology). While this may have its downsides, the big upside is a practitioner now, more than ever, can develop and retain business outside of their local jurisdiction, where previously that ability was seemingly left to larger law firms with massive resources.

Not only has the practice of real estate law changed due to these legal and technological advancements, but so has the market.

On the home development side, a product in a formerly marginal sector of the market is starting to gain popularity – communities and homes built for renters, not purchasers. With the pervasion of COVID-19 came a heightened sensitivity to our proximity to one another, the hygiene issues associated with that proximity, and the unavoidable, elevated frequency of interactions associated with close-quarters living arrangements. Building homes for rent, rather than apartments, seeks to capitalize on this new perspective and the change in consumer preferences that accompanies it.

For better or worse, nationally and locally, the restaurant industry has been substantially impacted. Restaurant-goers are demanding outdoor seating and patio areas, even in the Florida heat, as they want to feel they can enjoy their meal, free of the fear that another patron may be spewing viral particulates into their shared, confined airspace.

Not only are customers demanding open-air seating, but demand for curbside pickup and delivery options, especially “contactless” options, has increased exponentially. As a result, tenants are now looking to secure designated parking spaces near their building suites to make curbside pickup options economically feasible and effective; and, landlords are considering whether to incorporate these new market demands into their future concepts. The key factor going forward will be whether these demands are just a fad or whether they have been integrated into a new normal.

On the technical side, recent societal events have breathed new life into real estate practitioners' and professionals' consideration of pandemics, epidemics, governmental shutdowns, and other force majeure events. Real estate professionals now have a fresh understanding of the adverse impact these circumstances and events can have on a market participant and the need to consider them as material issues when negotiating default or continuous operation provisions.

While 2020 may have been rough for many, it was a good year for Florida real estate, and 2021 is shaping up to be even better.

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*A note to the reader: This article is intended to provide general information and is not intended to be a substitute for competent legal advice. Competent legal counsel should be consulted if you have questions regarding compliance with the law.*

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