

WHAT HAPPENS WHEN YOUR FORBEARANCE IS UP?

BACKGROUND OF COVID RELIEF

- Most hotel owners received some type of forbearance on your loan payments from your lender, or in the case of CMBS loans, from your servicer
- Many traditional lenders (banks, life companies, etc.) forbearance terms included deferring 90 – 180 days of payments and placing the missed payments on the back end of the loan, so it would be paid back at refinance or sale when the loan matures
- CMBS forbearances included deferring 90 days to one year of payments for up to a one year; meaning all deferred payments had to be paid back within approximately a year of receipt of the forbearance

EXAMPLE OF CMBS FORBEARANCE TERMS

- CMBS servicer grants a one-year deferral of payments, e.g., no payments are required from April 2020 through March 2021
- Starting in April 2021, borrower resumes regular payments
- Starting April 2021 through March 2022, the borrower must also pay back the deferred amount
- The total amount deferred had to be guaranteed by the current guarantor

PROBLEM

- Most hotels have yet to recover to pre-COVID revenue levels
- Starting sometime in 2021, owners who received COVID relief from their CMBS servicer will need to pay two payments each month (one regular payment and one payment that was deferred)
- CMBS servicers are generally not willing to give any further relief
- The hotel recovery period is longer than the relief obtained, and the relief obtained was all in the form of short-term deferral



CMBS BORROWER ADVOCATE



OWNERS OPTIONS AT END OF FORBEARANCE

- **Thoroughly understand the terms of the forbearance, repayment, and penalties for not complying with the repayment terms. Examples of those penalties are:**
 - All previously deferred or waived fees (default interest, late fees, etc.) are now due
 - Servicer can immediately place a receiver on the property
 - Servicer sometimes can immediately foreclose
- **Seek a permanent modification of your loan**
 - Depending on the circumstances of the property and loan, you may qualify for a permanent modification of your loan, rather than the short-term forbearance provided by COVID relief
 - There are various forms of modifications and ultimately the outcome is dependent on the property, the CMBS pool, as well as other factors. Some of the common types of modifications include:
 - Discounted payoff
 - Interest-rate reduction
 - Maturity extension
- **Seek outside capital to cover the shortfalls**
 - This would typically be in the form of preferred equity and typically does require the approval of the servicer
 - Be sure you allow 60 or more days for the servicer's approval and plan to fund prior to the expiration of your forbearance period to avoid the default
- **Sell your property**
 - Keep in mind that CMBS loans are locked out from prepayment so the sale would require the buyer to assume the existing loan
 - Be sure you allow approximately 90 days for approval and closing of the assumption
 - Loan to value (current sales price = value) does matter, so seek guidance from a CMBS borrower advocate before proceeding with the assumption
- **Deed in lieu**
 - CMBS loans are non-recourse, so another option is to hand the property back to the "lender"
 - Beware of the non-recourse carve-outs during this process
 - Seek professional advice and guidance

SUMMARY

- Be sure you thoroughly understand your forbearance agreement terms paying particular attention to the penalties for non-compliance
- Understand your options and decide your course of action well before the forbearance is in default
- Seek professional help from a qualified CMBS borrower advocate