

FEDERAL COURT INVALIDATES NYC'S COVID-ERA GUARANTY LAW, OPENS DOOR FOR COMMERCIAL LANDLORDS TO RECOUP UNPAID RENT FROM PERSONAL GUARANTORS

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On March 31, 2023, New York City commercial landlords were dealt a huge win by the United States District Court for the Southern District of New York, as Judge Ronnie Abrams granted summary judgment in favor of a commercial landlord, declaring that a COVID-era New York City law precluding the enforcement of certain personal guaranties is unconstitutional. The ruling will permit commercial landlords to enforce guaranty obligations for rent defaults dating back to the early days of the COVID-19 pandemic.

Background

On May 26, 2020, New York City's City Council passed Local Law No 55 of 2020, the so-called Guaranty Law which, following two extensions, rendered personal guaranties of certain commercial leases unenforceable as to rent defaults between March 7, 2020, through June 30, 2021. Not surprisingly, commercial landlords in NYC challenged the law almost immediately, since it severely impacted landlords' ability to collect unpaid rent.

The Decision

The Southern District's decision relies heavily on guidance provided by the Second Circuit when it decided an earlier appeal of a motion to dismiss the same claims. In reversing the dismissal of certain claims related to the Guaranty Law, the Second Circuit advised that the City Council must demonstrate that the Guaranty Law was a reasonable and appropriate way to achieve a legitimate public purpose. The Second Circuit identified "five serious concerns" about the Guaranty Law. Following the Second Circuit's remand of the case for further proceedings and upon a motion for summary judgment, Judge Ronnie Abrams of the Southern District ruled that the City failed to show that the Guaranty Law was reasonably tailored to accomplish the City's legitimate policy goals. Judge Abrams highlighted, among other concerns, that the Guaranty Law didn't just defer landlords' enforcement rights, it forever extinguished them, and the burden of the Guaranty Law was placed exclusively upon landlords. Ultimately, the Court concluded that the Guaranty Law violates the

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Contracts Clause.

What It Means For Commercial Landlords

Commercial landlords may now seek to enforce guaranty obligations for rent defaults during the period covered by the Guaranty Law. Of note, Judge Abrams' decision mentions that the Melendez plaintiffs received SBA loans which were not yet forgiven. While that fact did not affect the landlord's standing in this case, it raises the question of whether landlords who received SBA loans which were forgiven or other COVID relief will be required to offset their damages by any such amounts.

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