Open Letter to Hospitality Industry Stakeholders

CMBS Loan Servicing; COVID-19 Pandemic

By David Marvin, Founder & President Legacy Ventures – Atlanta, GA

The Covid-19 pandemic has hit the hospitality industry hard and its CMBS borrowers harder. Along with managing a catastrophic decline in revenues with uncertainty as to when business will normalize, CMBS borrowers are faced with the hard reality of working with overwhelmed servicers who contend they do not have the ability to provide sensible, short-term, objectively reasonable relief. Master servicers' pat answer that a loan must be transferred to special servicing for most any relief, at significant cost and risk to the borrower, is simply not true. This letter is written to expose this myth and urge re-examination.

What hotel owners need is a bridge to better visibility and time to raise the capital required to get to the other side of this pandemic. Recognizing that we are dealing with an exogenous situation and focused on not impairing the collateral, portfolio and agency lenders are following this script, routinely granting their good borrowers 90-day forbearances (which generally include deferment of principal and interest payments that will be repaid over time) with the ability to repurpose certain reserves and accept PPP and EIDL loans. Let's call this the Covid-19 relief package.

Master servicers start discussions about a Covid-19 relief package with an edict that loans must first be transferred to the special servicer. This is not true, efficient or in the best interest of any involved party except perhaps the servicing community. What is at stake? Special servicing transfers trigger a 25-basis point increase to the interest rate for the life of the loan, a plethora of fees (e.g., 25-basis point restructuring fee) and an administrative ordeal (e.g., appraisal of assets in the jaws of a crisis) - all to be borne by a Covid-19 weakened borrower. On CMBS hotel loans for which Covid-19 relief has been requested, the interest rate increase alone represents an additional burden to hoteliers of hundreds of millions of dollars. And then there is the hard truth that, by contrast to portfolio banking relationships, the very nature of the CMBS structure lays bare the fact there can be misalignment between the best interests of the REMIC Trust that holds the loan and the self-interest of certain special servicers.

Lost in the current discussion at the most senior and junior levels of the servicing industry is this simple truth: CMBS servicing agreements governing the administration of CMBS loans universally permit short term forbearance arrangements before any transfer to special servicing is required so long as the special servicer and the so-called directing certificate holder/controlling class representative consent. Ask your master servicer asset manager if they have read and understand the governing, 500-page pooling and servicing agreement (available on www.sec.gov/edgar) and witness how they respond. Don't give them a pass when you hear the party line.

With such limited visibility in the prevailing environment, the idea that a loan that was performing pre-crisis must be transferred to a special servicer in order to obtain a Covid-19 relief package is mindboggling. The need is self-evident. Beyond the fairness argument, the truth is that the avalanche of Covid-19 impaired loans is already overwhelming the servicer community. Just as the call to "flatten the curve" was about not overwhelming our health care system, a CMBS Covid-19 package would moderate the flow of files being stacked on asset managers' desks. Moreover, embracing a Covid-19 play book would take some pressure off all concerned and reduce unnecessary defaults and collateral impairment.

Overwhelmingly, CMBS market participants and all Americans who enjoy the products and services our industry provides will be best served by providing a sensible, short-term, objectively reasonable forbearance/Covid-19 package that provides hotel owners and their current and potential capital providers sufficient time to craft durable solutions. The borrower community dealing with this exogenous crisis deserve nothing less. Rest assured; in the future, hotel borrowers will steer clear of CMBS unless servicers start doing the right thing in the manner permitted by the pooling and servicing agreements by which they are bound.

About David Marvin

David Marvin is founder and president of Legacy Ventures®, a 25 year old, integrated hotel and restaurant company with a signature portfolio near its headquarters downtown Atlanta that encompasses 5 hotels (1,200 rooms) and 20 restaurants and event facilities. Prior to the COVID 19 pandemic, Legacy employed 1,500 hospitality workers in four states. Marvin holds a Master of Science in Real Estate from the Massachusetts Institute of Technology, an MBA from Rensselaer Polytechnic Institute, and a Bachelor's degree in Civil Engineering from the University of Vermont. He is a licensed Professional Engineer and is active on trade and civic boards.

About the Atlanta Hospitality Alliance

The Atlanta Hospitality Alliance is the premier peer-to-peer learning and networking organization for current and future hospitality investment leaders in Atlanta. AHA is a private, non-profit corporation dedicated to promoting the interests and welfare of its members by providing a platform for networking, education, and the promotion of the hospitality industry.

The AHA's officers and directors seek to maintain a diverse and balanced membership base of highly experienced professionals. Its focus is not only on just the transactional and developmental aspects of hotel real estate, such as owners, third party managers, investors and developers, but to the hospitality industry in general.