

Retail Tenants, Landlords in L.A. at Odds On Rent Relief

The only thing tenants and landlords agree on right now is the government needs to offer guidance on paying rent during the coronavirus.

By [Kali Hays](#) on May 7, 2020



📷 Rodeo Drive is empty and its luxury goods stores are closed amid the coronavirus pandemic in Beverly Hills, Calif. ETIENNE LAURENT/EPA-EFE/Shutterstock

Things are a little tense right now between many [retail](#) tenants and landlords in [Los Angeles](#).

As the [coronavirus](#) has forced essentially [all retail operations to close](#), at least those that do not trade to some extent [in grocery](#), many businesses have stopped paying rent — from small and independent stores to large and national ones. This has left landlords in L.A., home to famed [retail](#) streets like Melrose

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Avenue, Robertson Boulevard and Rodeo Drive, along with a number of major malls, to try different tactics in how they will collect rent.

“Everyone is trying to make money, but we need to make sure L.A. survives right now,” Fraser Ross, the founder of popular boutique Kitson, said. “There’s not enough communication [between landlords and tenants]. We should all be in the pool together.”

Ross has been in his store on Robertson for 20 years, **almost consecutively**, the entirety of Kitson’s existence. His current monthly rent is \$36,000 and paid to an independent landlord that owns the property. He estimates that over the years, he’s paid \$12 million in rent. Now, as he says his landlord has been “aggressive” in attempts to force him to pay rent (Ross did not pay April and does not intend to pay May), he’s likely looking to leave the Robertson space.

He claims his landlord sent him a legal form letter the day L.A. announced the closure of all nonessential businesses, informing him of his duty to pay. Since then he’s been offered a deal to pay April rent in full by the end of June, which would be a rent forbearance of two months. That’s not enough.



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“When you have the Chicos, the Gaps, the H&M’s not paying rent, how can you expect the small people to pay rent?” Ross said. “These small businesses are getting intimidated by these landlords, and it’s bringing businesses owners depression and even more anxiety.”

He brought up the notion of “force majeure,” a standard contract clause that generally frees a party on either side of liability should an “act of God” prevent them from operating in



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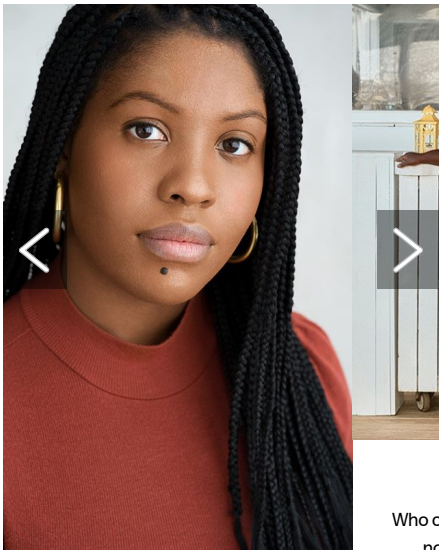
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the normal course, suggesting that it applied under the coronavirus pandemic. Landlords and brokers so far seem to disagree.

In L.A., there is no rent relief program in place and a March measure adopted to stop evictions in commercial and housing properties has not yet been extended past June 1. Nevertheless, Ross is holding firm in his non-payment conviction and already looking at other options for his business. For years he's eschewed long-term leases and said his is only one year, coming up in a few months' time.

"Beverly Hills has been trying to lure me for years and there are locations coming up there," he said.

For the most part, it seems landlords are trying to work with tenants, if only because they have little choice. So far that willingness has only stretched mainly to offers for up to three months of deferred rent. Meaning any months of missed rent are expected to be paid, in full, at a later date. Some local area landlords are said to be demanding payment immediately upon the end of an agreed deferral period — June or July for most retail tenants. Some are offering to spread repayment over a period of three months, either this year or the first three months of next.

Most tenants don't see it as a great offer, as it's in reality an expectation that they will at some point in the near future be expected to pay double rent. An expectation that will more than likely come amid a [full blown recession](#).

Allison Samek, chief executive officer of [Fred Segal](#), said the company has gotten a rent deferment from its landlord on Sunset Boulevard and has requested for rent relief outright. She's not yet gotten a response on the latter, but a deferral presents a difficulty given the state of the economy at large.

"Deferrals are going to be tough for any retailer because business won't be back to normal when we can reopen," Samek said. "Rent relief will be a key factor for survival for a lot of people."

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Raven Leilani spoke to WWD about her anticipated debut novel "Luster." "Luster" has received critical praise, and her literary agent referenced the novel with excitement ahead of its August release. At the beginning of the year, one of Leilani's professors from NYU's creative writing program, Zadie Smith, wrote a letter praising Leilani's work for the February issue of Harper's Bazaar; the spread included a portrait painted by Leilani. Leilani shares an interest in portraiture with the protagonist of "Luster," Edie. Unlike Leilani, Edie hasn't yet shed herself creatively. "Most of my work is done after the 9 to 5," Leilani says. "That made it into the work; you see Edie trying to balance those demands of work and survival, right, and I was doing the same thing." Her character carries a dedication to literary craft with a certain appeal. It's an unusual page turner, a storyline that captivates with dark comedic wit within the mundane, familiar stakes of everyday life. As a young woman figuring out what she wants and how to get it, Edie's choices are complicated and at times shocking and exciting from the vantage of a voyeur. Tap into bio for more. Report: @ktauer 📷

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As for the [Fred Segal location in Malibu](#), Samek said that lease structure has not been impacted, mainly because it's based more on percentage rent, or payments based on sales. Fred Segal also got access to a loan through the federal Paycheck Protection Program. Samek declined to specify the amount, but credited the loan with allowing the company to avoid layoffs for at least the next two months. Nevertheless, she sees rent relief, not deferrals, as crucial going forward.

"We're really pushing for it," Samek said. "This isn't an end-of-the-world moment for us, but we're looking at how to set ourselves up for the next 12 to 24 months, and pushing back leases just isn't enough."

Half a dozen other retailers and brands contacted for this article declined to comment, but nearly all admitted to active negotiations with landlords as they had stopped paying rent for their retail locations. Some stopped out of sheer necessity, as they have seen business drop off precipitously since mid-March and can't actually afford to pay. Some stopped out of a sense that they were forced to close and so shouldn't be expected to pay rent under such conditions. Several again mentioned the term "force majeure."

Jay Luchs, a commercial [real estate](#) broker in L.A. focused on retail and [fashion](#) companies, said the term is getting thrown around by tenants a lot in the past few weeks. Another is "impossible to perform," also known as "impossibility" in contract law, which allows a party to stop performing under a contract due to an unforeseen occurrence. He doesn't see either as a sure way for tenants to escape rent liability, as they've historically applied to things like weather events.

"But tenants are saying 'We can't perform and that's it,' 'Why should we pay a landlord when we cannot function?'" Luchs said.

Conversations between tenants and landlords that start with a hard line aren't going so well. Luchs said tenants who have taken the time to show a landlord that they're having a truly hard time but are willing to negotiate have had better outcomes. He recently was mediating talks between a major retail tenant

and a landlord, and the tenant explained they were expecting revenue to fall by up to 80 percent in the coming months but committed to paying half rent for the rest of the year.

“The tenant was like, ‘I don’t know what else to tell you but that’s all we can do,’ and the landlord’s response was, ‘Well, OK, we’ll work it out,’” Luchs said. To him, that was a better outcome than many of the conversations he’s participated in in recent weeks.

But in order for conversations to improve overall, Luchs thinks state or federal governments will have to step in. He sympathizes with landlords that do not own properties outright and who aren’t getting flexible repayment terms from banks.

“If there were to be a friendly resolution, it would probably mean the government steps in, telling the tenants, ‘OK, don’t pay rent,’ then telling the landlords, ‘Don’t worry, we’ll deal with the banks,’” Luchs said.

As it stands, that is not the situation in California, or any other state for that matter. Conversations around rent relief are said by tenants and landlords to be happening at the local level in L.A., but far from being agreed upon.

As for how the pandemic will change the face of L.A. retail on main shopping streets like Robertson, Melrose and in Beverly Hills, it will change it but Luchs is unsure to what extent. He thinks some luxury tenants will probably be OK, as they tend to be in conglomerates with more resources. Others won’t be so fortunate.

“Some tenants aren’t going to make it, even if they do get three months of free rent,” Luchs said. “Let’s say you manage to make it through the shutdown, then you reopen and suddenly you have rent to pay again, employees, property taxes. You can find yourself in a spiral.”

To Rick [Caruso](#), founder of [Caruso](#) Properties that owns centers like The Grove, [Palisades Village](#), The Commons and The Americana, any outs tenants are looking for to escape rent liability are simply inapplicable under the circumstances. Caruso is also on the White House’s Great American Economic

Revival Industry Groups, as well as California Gov. Gavin Newsom's Business & Jobs Recovery Council, both formed in response to the economic upheaval caused by the pandemic.

"Force majeure does not apply, it's a tactic," Caruso said. "Of course, there are opportunists out there that are trying to take advantage of the situation."

Caruso said that his company is indeed still receiving rent from a number of tenants at his properties, but admitted that there are some bigger brands that are not paying, even though he sees them as being capable of doing so.

"They see this as an opportunity to withhold payment and I think that's shameful," Caruso said. "We've had very honest conversations with people, saying they need to do the right thing. But the true character of people comes out during times like this, and we have a very long memory."

Caruso did say that not every retailer currently not paying rent falls into this category and that, so far, no one is trying to wriggle completely out of lease agreements or renegotiate terms. But he did note that other mall operators, mainly those with indoor properties, are having a harder time of it. He said Caruso is working closely with all of its tenants, the smaller ones in particular. Those businesses are being offered rent deferrals, but no abatement, Caruso said, with repayment terms that vary by business.

"It's critically important we help them get back on their feet, start growing sales," Caruso said. "The smaller tenants, they provide the soul to the properties and I don't want to reopen without them."

Still, he expects everyone to pay rent in full, be it now or later. Companies like Caruso have their own bills to pay, like loans to banks and property taxes. Costs like this are not being deferred and there is really no meaningful political discussion right now of any sort of abatement by lenders. It creates a downward pressure that affects the entire retail ecosystem.

While Caruso admitted he hasn't heard of anything at the federal level regarding commercial banks, he does think the U.S. government needs to step in and offer something like the

forbearance it created for mortgage lenders. He intends to propose something to the White House along this line, with a suggestion that any deferred amounts be tacked on to the principal amount of a loan.

“What the banks need to hear from the federal government is that the government will be behind them, if they offer a deferral or maybe even an abatement,” Caruso said. “But a deferral makes all the sense in the world.”

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