

Levante Su Empresa Durante el Coronavirus – Serie de Dialogos

PREPARE BIEN LA REAPERTURA DE SU EMPRESA DURANTE LA EPOCA DEL CORONAVIRUS

Dialogo #5

1

Presented by:
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Alberto Calvo

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Hispanic-American Institute

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GRACIAS A NUESTROS PATROCINADORES



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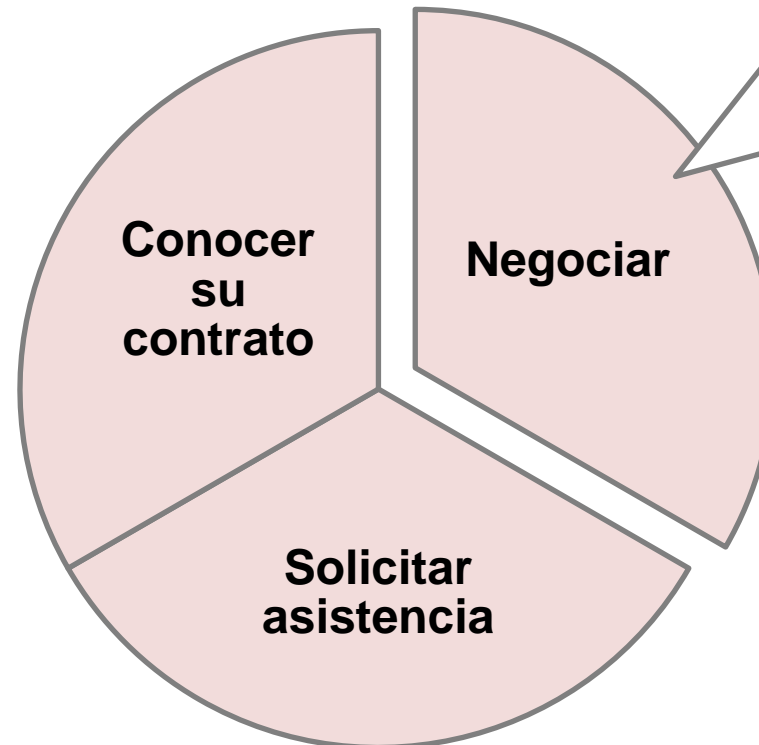
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Un resumen de este material está disponible aquí.

<https://www.northeastern.edu/law/pdfs/experience/cbc/leases-esp.pdf>



- A** Documentar
- B** Comunicar
- C** Preparar
- D** Escribir

Force Majeure (Fuerza Mayor). En el caso de que el arrendador o el inquilino se retrasen u obstaculicen o impidan la realización de cualquier acto **que no sea la obligación del inquilino de hacer pagos de alquiler,** alquiler adicional y otros cargos requeridos en virtud del presente, debido a huelgas, cierres patronales, falta de disponibilidad de materiales , incumplimiento del poder, **leyes o regulaciones gubernamentales restrictivas,** disturbios, insurrecciones, el acto, incumplimiento o incumplimiento de la otra parte, guerra u otra razón fuera de su control, entonces el cumplimiento de dicho acto será excusado por el período del retraso y el período para la ejecución de dicho acto se extenderá por un período equivalente al período de dicho retraso. Sin perjuicio de lo anterior, la falta de fondos no se considerará una causa ajena al control de ninguna de las partes.

Cobertura de sus hechos:¹

- ¿Qué le pasó a su negocio? ¿Está cubierto por el lenguaje de la cláusula?
- Por ejemplo, pandemia, cierre del gobierno, emergencia nacional, frase general

Obligación de alquiler:²

- Muchas cláusulas de "Force Majeure" no excusan la obligación del inquilino de pagar el alquiler
- Esta cláusula puede resultar más útil para el propietario o relevante en sus otros contratos

Aviso:¹

- ¿Hay algún requisito para que avises para activar la aplicación?
- ¿O un proceso de resolución de disputas requerido?

Implicaciones si se activa:¹

- ¿Tiene la obligación de buscar formas alternativas de cumplir?
- ¿Cuál es el remedio? ¿Terminación? Excusa de rendimiento?

Fuentes: 1) <https://www.wsgr.com/en/insights/covid-19-and-force-majeure-clauses.html>;

2) <https://www.cooley.com/news/insight/2020/2020-03-26-covid-19-considerations-for-landlords-and-tenants>

- Estos son más fáciles de decir que de hacer. ¡Conoces mejor su situación!
- No **estas solo**: Algunas empresas están teniendo éxito en la negociación.

	El contrato dice:	Podría proponer: ¹
Renta	<ul style="list-style-type: none">• Tiene que pagar cada mes	<ul style="list-style-type: none">• Reducir y perdonar la renta por X meses• Diferir por X meses (¿intereses?)<ul style="list-style-type: none">– Hasta el final de la crisis– En un plan de pago<ul style="list-style-type: none">▪ ¿Porcentaje?– Hasta el final del contrato
Renta Adicional	<ul style="list-style-type: none">• Usted paga el alquiler base y una parte de los gastos comunes	<ul style="list-style-type: none">• Por un cierto período de tiempo, solo paga una parte de los gastos comunes
Depósito	<ul style="list-style-type: none">• Debe ser reemplazado inmediatamente después de su uso	<ul style="list-style-type: none">• Utilizado para pagar el alquiler sin obligación de reemplazar por ahora
Compromisos	<ul style="list-style-type: none">• El contrato tiene una fecha cuando termina• Esfuerzos de buena fe implicados	<ul style="list-style-type: none">• Una extensión del contrato<ul style="list-style-type: none">– Riesgo en compromiso adicional• Promesas de solicitar alivio
Terminación	<ul style="list-style-type: none">• Tiene la responsabilidad de la renta hasta el final del contrato	<ul style="list-style-type: none">• Terminar el contrato ya (si eso es lo mejor)

Haga una estrategia en sus comunicaciones con el arrendador para que no active automáticamente el incumplimiento (por ejemplo, diciendo que no pagará el alquiler)²

Fuentes: 1) <https://www.seyfarth.com/news-insights/10-considerations-for-landlords-during-the-coronavirus-crisis.html>
2) <https://www.eater.com/2020/3/24/21192792/restaurants-cant-pay-rent-landlords-lease-covid-19-coronavirus>

- Fechas en que se emitieron las órdenes del gobierno que requirieron el cierre de su negocio
- **Gastos** que pagó
- **Esfuerzos** que realizó para cumplir y mitigar pérdidas
- Evidencia de **capacidad (o incapacidad) para pagar** en preparación para negociar (incluidos los planes para asistencia financiera)

A Documentar¹

- Intenta mantener una **relación positiva** que te permita negociar
- Chequear su contrato para **requisitos de aviso** para:¹
 - Invocar una cláusula de “force majeure”
 - Invocar derechos de reducción de la renta bajo el contrato

B Comunicar

- Disponibilidad de asesoramiento legal (teniendo en cuenta los gastos)
- Pensar en la disposición del propietario a negociar
 - ¿Cuáles son los intereses de su arrendador? Necesitan hacer pagos de hipoteca. También estarán preocupados por las vacantes. Los desalojos pueden ser difíciles para ellos.
 - ¿Pactos de préstamos que requieren la aprobación de una modificación?
 - ¿Qué tipo de propietario son (institucional, pequeño, etc.)?
 - ¿Otras propiedades con ejemplos de modificaciones?

C Negociar²

- Asegurar que todos los acuerdos estén escritos
 - Si es electrónico, aclare que ambas partes han aceptado un acuerdo.

D Escribir

1

Asistencia financiera

- Fuentes **federales, estatales y privadas** de asistencia financiera
 - Consulta aquí la última lista: <https://icic.org/small-business-resource-center-covid-19-crisis/>
- El préstamo federal bajo la “**Paycheck Protection Program**” se puede perdonar si se destina a nóminas, alquileres, intereses hipotecarios y servicios públicos (pero al momento menos 75% debe ir hacia nóminas)¹
- **Espera que su arrendador** le pregunte acerca de sus planes para obtener préstamos si intenta negociar. Considere su elegibilidad y planes para el dinero (incluido cuánto tiempo durará) como parte de sus preparativos para la negociación.

2

Moratoria de desalojo

- En MA, sí hay moratoria en desalojos por causa de la crisis para pequeñas empresas: <150 empleados, opera solo en MA, no cotiza en bolsa pública
- Renta todavía adeudada y acumulada

3

Seguro

- Las **preguntas sobre seguros** serán litigadas y el gobierno podría involucrarse.²
- Seguro de **interrupción de negocios**:
 - Desafortunadamente, por lo general sólo cubre daños físicos
 - Todavía vale la pena presentar un reclamo³
- Tal vez el propietario tenga un **seguro de pérdida de renta** si tiene un reclamo de reducción exitoso³
- **Otro seguro?**

Fuentes: 1) <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options>

2) <https://www.arnoldporter.com/en/perspectives/publications/2020/03/the-impact-of-coronavirus-on-existing> ;
<https://www.bostonmagazine.com/restaurants/2020/03/27/coronavirus-boston-restaurants-insurance-bill/>

3) <https://graffito.com/business-interruption-insurance-part-3/>

Contratos de Arrendamiento

[..\..\..\OneDrive\CORONA VIRUS TOOL KIT\Commercial Leases During COVID-19 - Northeastern CBC.pdf](#)

[..\..\..\OneDrive\CORONA VIRUS TOOL KIT\Contratos De Arrendamiento Durante COVID-19 - Northeastern CBC.pdf](#)



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Alberto Calvo

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RECURSOS DISPONIBLES PARA RE-ABRIR

➤ Ayuda Para Comprar equipos de proteccion (PPE)

➤ Lawyers for Civil Rights / Tufts Health Plan

<https://docs.google.com/forms/d/e/1FAIpQLScC7wrluXat4FTFB9RojO-ToDPmuzl048oHpbAX7p5q81BNRw/viewform>

➤ Guias a seguir en espanol para establecimientos

<https://www.mass.gov/doc/plan-de-control-covid-19-covid-19-control-plan-espanol/download>

<https://www.mass.gov/doc/importante-compliance-attestation-poster-espanol/download>

➤ Guias a seguir en espanol para empleados

<https://www.mass.gov/doc/reglas-para-mantener-te-seguro-en-el-trabajo-worker-poster-espanol/download>

➤ Guias a seguir para Salones de Belleza y Barberias

<https://www.mass.gov/lists/safety-standards-for-hair-salons-and-barbershops>

RECURSOS DISPONIBLES PARA REABRIR

► Gobierno del Estado

Guías para reabrir su negocio:

<https://www.mass.gov/doc/guia-para-empleados-employer-poster-espanol/download>

<https://www.mass.gov/doc/plan-de-control-covid-19-covid-19-control-plan-espanol/download>

<https://www.mass.gov/doc/importante-compliance-attestation-poster-espanol/download>

<https://www.mass.gov/lists/safety-standards-for-hair-salons-and-barbershops>

<https://www.mass.gov/doc/reglas-para-mantener-te-seguro-en-el-trabajo-worker-poster-espanol/download>



Hispanic-American Institute

- ▶ **ONE-ON-ONE COUNSELING (FREE OF CHARGE)**

- ▶ **Nader Acevedo**

- ▶ 20+ years experience in banking and financial analysis
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- ▶ **Alberto Calvo**

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Q & A

About the Hispanic-American Institute

- Formed in 1995
- Offices in
 - Boston, MA (incorporated)
 - Albuquerque, NM
 - San Juan, PR
- Over \$ 3 million in Grants awarded by Local, State and Federal agencies.
- Initiatives
 - Healthy Food and Wellness
 - Financing and Technical Assistance
 - Puerto Rico Disaster Recovery

Our Mission

The Institute promotes social, educational, and economic development of Hispanic communities in in the continental United States, Puerto Rico, and Latin America. We actively address major issues impacting those populations, including access to sound nutrition and wellness, higher education, and economic opportunity.





Presentadores

Bios

Nader Acevedo

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Nader Acevedo is the Executive Vice President of the Institute, a non-profit corporation engaged with businesses, universities, and institutions in promoting the economic, educational, and social well being of Hispanic communities in the United States, the Caribbean, and Latin America. The Institute is based in Boston, Massachusetts and has offices in Albuquerque, New Mexico and San Juan, Puerto Rico. In this role he is responsible for the operation of the Institute's programs in the Northeast U.S. and Latin America. He manages all administrative functions and staff and supports the activities of the board of directors

Prior to joining Institute, Nader was the President of the *Hispanic-American Chamber of Commerce* for ten years and served as Director of Latino and Latin American Programs at the *Massachusetts College of Pharmacy and Health Sciences*, where he was responsible for local and international relationships with educational, government and financial institutions. He established a weekend and summer institute for Latino students and implemented a pilot Pharmacy Internship Program to recruit and train pharmacists from four countries in South America. Nader is a former Vice President Community Development Manager at *Bank of America* throughout the New England Region. His banking career began in 1990 with *BayBank*, and he also held senior community banking positions with *Shawmut Bank* and *Fleet Bank*.

He earned a bachelor's degree in Finance and Marketing from the School of Sales and Marketing in Colombia. He completed a two-year business program at Bryant and Stratton School of Business in Boston, Massachusetts. He is a graduate of Shawmut Bank's one-year Credit Training Program.

He has been the recipient of numerous awards and recognitions for his contribution to the economic development of the Latino Community in the Massachusetts and South America. He received the 2006 Community Award from the Action for Boston Community Development and the 2006 Hispanic Heritage Month Official Recognition from the President of the Boston City Council. He received a Certificate of Recognition for his contribution to building self-esteem of Latino students by serving as a role model from the Boston Public Schools.

Jorge Andrade

Vice President

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Jorge Andrade is a Business Banking Relationship Manager/Commercial Lender at Eastern Bank.

As your banker, I take a close look into a business operations specifically through cash flow analysis and provide banking solutions that will help add value to the business.

With over 15 years in the financial industry working as as a mortgage broker, Retail branch manager and now as a Commercial Lender/Relationship manager, My experience has provided me the ability to provide valuable solutions to all my clients. I am not your typical banker. I have been a board member of the Burlington Area Chamber of Commerce, Rotary club in Burlington and Burlington Education foundation.

I was born in Peru, came when to the US when I was 9. I grew up in Everett and now I reside in Burlington with my wife Erica and my girls(I have three daughters).

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Alberto Calvo is an entrepreneur with broad experience in small business management, operations and supply chain management, business development and strategic planning. He co-founded Stop and Compare Supermarkets with his wife Bertha in 1996 and assumed the role of President in 2010 after he retired from a successful 35-year engineering career in the aerospace industry. Alberto retired as President of Stop and Compare in 2019 and became Chair of the Board of Advisors.

Alberto has served as an advisor and recently joined the Board of Directors of the Hispanic-American Institute. He currently serves as Treasurer and in this role, he provides strategic planning and management advice to HAI. He has been instrumental in securing contracts from the Massachusetts Growth Capital Corporation, the Massachusetts Gaming Commission, Encore Boston Harbor and other Boston organizations.

Prior to joining the family business, Alberto held several engineering and management positions over a 35-year span at companies such as TASC, Northrop Grumman, SAIC, Jacobs Engineering and MCA Federal. He held positions in systems engineering, cost estimation and analysis, logistics, reliability, quality assurance, process improvements and data analytics.

Alberto has been active on several boards of non-profit / community organizations: such as the Chelsea Chamber of Commerce, the North Shore Latino Business Association (NSLBA), English for New Bostonians (ENB), and La Vida Scholars Program.

After immigrating from Cuba in the early 1960's, Alberto completed his education at Northeastern University earning a BS degree in industrial engineering (1970), a Master of Science degree from MIT (1972), and an MBA from Boston University (1977). He lives in Newton with his wife Bertha.



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Carlos Hernandez, Lender Relations Specialist has been with the SBA since December 2011. Mr. Hernandez engages the Massachusetts network of lenders and financial institutions with regular activities, including webinars and conference calls.

His responsibilities include conducting outreach, training, education, development, lender recruitment, and working with assigned lenders in the District.

Hernandez received his Bachelor's in Business Administration from the University of Central Florida in Orlando, FL. Hernandez served as a Staff Sergeant in the U.S. Army Reserves, including two tours of duty under Operation Iraqi Freedom.

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Frances founded the North Shore Latino Business Association in 2012 along with several Latino business owners in Lynn. After 8 years at the helm, Frances has been able to build up an Association with close to 500 members and a strong Executive Board and Board of Directors, who are committed and passionate to the Association's mission of advancing the Latino businesses. Among her many duties, Frances has developed a strategic plan to advance the association mission, objectives, profitability, and growth. She executes this plan in close collaboration with Plan, develop, and implement strategies with the Executive Board and Board of the Directors for generating resources and revenues for the association and its members. She mentors existing and new business owners, offering technical assistance, and recommendations on how to run and grow their businesses. She represents the association in front of legislative sessions, committee meetings, and at formal functions. She administers the office functions, coordinates general meetings, social events, and other activities.

Frances has served in the Lynn Public School system as Parent Liaison for the Special Education Department. Previously, she served as Executive Director of La Vida and as Latino Business Coordinator for the Lynn Chamber of Commerce. Frances is a long time resident of the City of Lynn.



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Jared Nicholson es Profesor Asociado Clínico y Director de la Clínica de Empresas Comunitarias de Northeastern, que brinda servicios legales gratuitos a nuevas empresas, empresarios y pequeñas empresas en lugares de bajos recursos. La supervisión clínica, la enseñanza y la escritura del Profesor Nicholson se centran en el desarrollo económico de la comunidad y las habilidades transaccionales. Jared sirve en la Junta Ejecutiva del North Shore Latino Business Association

Jared Nicholson is an Associate Clinical Professor and Director of Northeastern's Community Business Clinic, which provides free legal services to startups, entrepreneurs and small businesses in economically disadvantaged neighborhoods. Professor Nicholson's clinical supervision, teaching and writing focus on community economic development and transactional skills.