

## In The News

# Texas Is Ready To Reopen For Business, But Tenants May Not Be

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*Bisnow*

Texas is reopening for business on Friday.

Texas Gov. Greg Abbott issued an executive order Monday, allowing all retail stores, restaurants, movie theaters and shopping malls to reopen May 1. Those venues must limit capacity to 25% of their listed occupancy. The order also applies to museums and libraries, and single-person offices can also reopen. The announcement was accompanied by a report that outlines new protocols, guidance and recommendations.

Harris County Judge Lina Hidalgo's "Stay Home, Work Safe" order expires on April 30, putting Houston's Harris County, the most populous county in Texas, in line with the new state guidance.

But in Austin, Dallas and San Antonio, extended work-from-home orders are out of sync with the new state guidelines, creating some debate over when tenants should actually return to work.

Many are grappling with a simple question: Even if you can return to work on May 1, should you?

While the governor's order allows businesses to reopen, it does not force them to, said Munsch Hardt Kopf & Harr shareholder and board member Kitty O'Connell Henry, who is based in Dallas.

"I think that there are a lot of companies that are concerned about doing things too fast, or not carefully enough, because there hasn't been enough time to think it all the way through, and all the consequences," she said.

One of the main concerns around opening on May 1 is that some businesses may not yet have completed preparations that comply with the governor's order, such as adding sanitation stations for visitors and only using disposable single-use menus. And there is concern that a business could face liability if customers or staff get sick in the workplace.

"I think that is a very valid concern for businesses, to take actions within an eye toward minimizing the risk of liability," Henry said.

"I'm sure that any liability would be litigated based on some standard of reasonable precautions, but we don't know what all of that is yet."

The governor's order specifically states that reopening a business on May 1 in a county where a stay-at-home order is still in place will not expose anybody to liability from the city or county, as long as the company abides by the limitations he has set out, Henry said.

Dallas County Judge Clay Jenkins extended the county's stay-home order to May 15 last week. Travis County Judge Sarah Eckhardt's stay-at-home order extends to May 8. Those orders have not been amended since the new state guidelines were released Monday.

Bexar County Judge Nelson Wolff announced yesterday that the county's stay-at-home order has been extended to May 29. The new order still permits the reopening of retail, malls, movie theaters and restaurants. Wolff's prior order had been slated to expire on April 30.

"In Dallas, the conversation from the county level, is like, yes, the governor's order says you can reopen, but please don't," Henry said. "Those who are more conservative on this spectrum are urging people to not open, or to be circumspect in opening, based on the number of cases and all of those parameters that have been put out there."

Transwestern has left the decision to tenants as to when they choose to go back to work, Managing Director for Asset Services Brett Williams told Bisnow.

"We don't want to be in the position to tell companies that they can or cannot work. That is something that they need to determine, based on their interpretation of the orders," Williams said.

Transwestern's Asset Services group manages 250M SF across the country. About 77M SF is in Texas, spread out over 300 properties. Because property managers are considered essential personnel, the company's employees have continued to operate those properties throughout the various stay-at-home orders in different cities.

Williams said every time a new county, city or state ordinance is issued, Transwestern's legal team reviews it and then provides an interpretation of what it means for property management.

While Abbott's order to reopen on May 1 supersedes existing county orders, Williams said he thinks most people in Dallas County are still preparing to open with May 15 in mind.

"I think everybody is pretty well preparing in Dallas proper for May 15 to kind of be that time, and if it works out that it's not May 15, well that's OK, because they were going through their preparations anyway," Williams said.

Institute of Real Estate Management Houston Chapter Executive Director Jo Miller said the majority of property managers in Houston are preparing for tenants to reopen Friday, but in many cases, it's because they feel they have to. If businesses are returning to buildings, those managers need to have boots on the ground, too.

"I get the feeling that most will be back in business in some form or fashion by Monday," Miller said.

Miller polled several IREM Houston chapter members this week, and was told that most are leaning on the guidelines prepared in Abbott's handbook.

"Many are asking individual tenants for their plan and date of re-entry so that they can best support their clients. They are seeing equal interest in returning on Friday, May 1, to other companies that will come back mid-to-late May," she said. "Individual businesses are also being asked to rely heavily on Abbott's guidelines for internal practices within their own company."

REIS Associates Operations Director Kaci Hancock oversees property management for 54 tenants within the outdoor shopping center Rice Village in Houston.

Hancock told Bisnow that some retailers have told her they intend to open the week after next, because they still need to work on preparations to fully open, and come up with individual social distancing plans. At this stage, Hancock and her colleagues are trying to contact all their retailers to find out exactly what their reopening plans are.

"I think it's really too soon for us to tell which retailers are going to be opening and when, because they're all just trying to figure out how to open under this madness, and also keep their employees safe while keeping their customers safe," Hancock said.

When it comes to the issue of conflicting state and county guidelines, Hancock said that while local officials may not agree with the state guidelines, the governor's orders trump everything else.

"Whatever the governor says tops all local and county ordinances," Hancock said. "We're a little bit more on the same page now, when it comes to county, state and local. So that's working a little better."

On the property management side, Rice Village never closed. Operating hours were reduced, but property management staff have been on-site the entire time. Aside from signage, staff are practicing social distancing and wearing masks.

"All of our restaurants have been open, with the exception of Starbucks," Hancock said.

The retail sector has been particularly hard-hit by the stay-at-home orders, with nearly 20% of all Texas restaurants already forced to permanently close as a result of the coronavirus pandemic.

Some shopping mall landlords are moving ahead with opening their doors to the public. Simon Property Group said Tuesday it intends to reopen 49 of its shopping malls around the U.S. between May 1 and May 4. As part of that process, the company will reopen 21 shopping malls in Texas, including the Houston Galleria, on May 1.

Satya Inc. owns and operates 16 retail centers in the greater Houston area, as well as a few hotels, office buildings and condominiums.

"As far as we, as landlords, as concerned, we have not implemented any policy on any of our centers, stating that this business cannot open," Satya CEO Sunny Bathija said.

Bathija said he had heard from other people in the market that many people have grown tired of waiting for permission, and that some restaurants are slowly opening up again, even before the expiration of Harris County's stay-at-home order.

It is likely that when the first businesses begin to officially reopen, they will be closely watched by other people to see what happens, Bathija added.

Like Transwestern, Satya and Rice Village, Pipeline Realty has not been restricting access to any of its properties during the duration of the various stay-at-home orders. The company has acquired, developed, repositioned or redeveloped over 100 properties in the U.S., totaling more than 2M SF. It also has its own property management arm. The majority of the company's holdings are in the greater Houston area, spanning the retail, office and industrial sectors.

"Our focus is on monitoring our common areas and allowing our tenants to really respond how they want to respond," Pipeline Realty founder and President Scott Rubenstein said.

Pipeline Realty has been prepping for more people to return to its properties. One of the challenges is procuring additional sanitation stations, which are hard to come by, Rubenstein said. The company has also been adding more signage throughout its properties, and doing additional cleaning and sanitizing of common areas.

"We're not going to require the face masks, as long as the state's not telling us to require it," Rubenstein said.

There is widespread concern that returning to work too quickly could lead to a resurgence of coronavirus cases across Texas. But for businesses that are struggling to pay the bills while their doors are closed, remaining closed is a luxury they cannot afford.

The issue of business interruption insurance is also a factor in how and when companies may choose to reopen. Right now, insurance companies and lawmakers are still debating whether the impact of the pandemic is covered under that insurance. Once a business opens, that insurance will end — but then, business may not return to normal for some time.

Reopening at 25% occupancy is no guarantee of survival. For some businesses, it could even be more costly to reopen under that limitation.

“There are certain businesses for which 25% is just not practical,” Henry said.

For others, the desire to open outweighs the potential risks.

“To the extent that they can get back to work, they want to get back to work,” Williams said.

To read the full article, [click here](#).

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