

---

1101 15th Street NW, Suite 800  
Washington, DC 20005  
Office: 202-326-6300  
Fax: 202-326-6377  
www.boma.org

---

**Chair & Chief Elected Officer**  
**Scott O. Jones, PE**  
Jacobs  
San Francisco, CA

**Chair-Elect**  
**Shelby Christensen**  
Liberty Property Trust  
Wayne, PA

**Vice Chair**  
**Mark Dukes, CCIM, RPA, BOMA Fellow**  
Physicians Realty Trust  
Atlanta, GA

**Secretary/Treasurer**  
**Keith Major**  
BentallGreenOak (Canada) LP  
Toronto, Ontario

**President and Chief Operating Officer**  
**Henry H. Chamberlain, APR, FASAE, CAE**

---

BOMA International  
Conference & Expo  
June 27-30, 2020  
Pennsylvania Convention Center  
Philadelphia, PA



May 27, 2020

The Honorable Nancy Pelosi  
Speaker of the House  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Mitch McConnell  
Senate Majority Leader  
U.S. Senate  
Washington, DC 20510

The Honorable Kevin McCarthy  
House Minority Leader  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Charles Schumer  
Senate Minority Leader  
U.S. Senate  
Washington, DC 20510

Re: COVID-19 Liability Concerns for Commercial Property Owners and Managers

Dear Speaker Pelosi, Leader McConnell, Leader Schumer, and Leader McCarthy,

On behalf of BOMA's 20,000 members representing 6.6 billion square feet of privately-owned office space, I write to thank you for your leadership during this unprecedented health and economic crisis. As our members plan for businesses re-opening and employees returning to work, we are concerned that despite our best efforts to promote health and safety in commercial buildings, this new environment may foster future liability issues related to exposure to the virus.

During this crisis, our sector has remained steadfast in our commitment to our tenants, employees and the public. Many property owners and managers have continued operations to serve their communities, doing their best during uncertain times to maintain safe and secure buildings. Others are drawing up plans and implementing new protocols to prepare for the safe return of the workforce in the coming weeks and months. In our leadership role, BOMA has coordinated with member companies and experts to create a task force, identify safety procedures and protocols, and publish a series of comprehensive re-opening guidance documents based on government health and safety rules, directives, and guidelines.

However, despite these efforts, the threat of legal liability persists. Much remains unknown about the novel coronavirus, and federal, state, and local directives often diverge and are rapidly evolving, creating uncertainty. The threat of lawsuits against commercial building owners and managers related to negligence for re-opening prematurely or using "inadequate virus mitigation measures," even when managers follow government guidelines and act in good faith, is pervasive. This threat creates instability, paralyzes decision-making, and diverts needed resources away from recovery, all of which could slow the re-opening of the economy.

In response to past emergencies, Congress has enacted liability protections for organizations deploying proven solutions. For example, in the aftermath of the 9/11 terror attacks, the private sector was reluctant to deploy security technologies in civilian settings due to liability concerns.

To ensure the availability of effective security products and services to protect Americans, in 2002, Congress passed the Support Anti-Terrorism by Fostering Effective Technologies (SAFETY) Act, which limits liability for security providers for claims resulting from an act of terrorism. Similarly, in 2005, Congress passed the Public Readiness and Emergency Preparedness (PREP) Act, which is designed to encourage the expeditious development and deployment of medical countermeasures during a public

---

1101 15th Street NW, Suite 800  
Washington, DC 20005  
Office: 202-326-6300  
Fax: 202-326-6377  
[www.boma.org](http://www.boma.org)

---

**Chair & Chief Elected Officer**  
**Scott O. Jones, PE**  
Jacobs  
San Francisco, CA

**Chair-Elect**  
**Shelby Christensen**  
Liberty Property Trust  
Wayne, PA

**Vice Chair**  
**Mark Dukes, CCIM, RPA, BOMA Fellow**  
Physicians Realty Trust  
Atlanta, GA

**Secretary/Treasurer**  
**Keith Major**  
BentallGreenOak (Canada) LP  
Toronto, Ontario

**President and Chief Operating Officer**  
**Henry H. Chamberlain, APR, FASAE, CAE**

---

BOMA International  
Conference & Expo  
June 27-30, 2020  
Pennsylvania Convention Center  
Philadelphia, PA

health emergency by limiting liability associated with the development, manufacture, distribution, and use of those measures. In enacting the SAFETY and PREP Acts, Congress stepped forward to limit litigation threats to efforts needed to support the public good. Congressional action is needed again today for the commercial real estate industry.

As Congress considers legislation to limit COVID-19-related liability, the inclusion of commercial real estate professionals, owners, and managers will be crucial to re-starting the economy safely. A tailored, specific legal safe harbor program for those in the commercial real estate sector, who are following public health rules, directives, and guidelines, making plans, and implementing protective measures, will support ongoing recovery efforts. If a business is willfully violating laws or public health directives, then they do not deserve liability protections. But for those who are acting in good faith, protections are prudent and will provide certainty and reassurance at a time when it is needed most.

In particular, federal legislation could provide that, if those responsible for commercial buildings conduct operations in accordance with federal public health guidelines, they will be relieved of legal liability stemming from COVID-19 transmissions or mitigation measures unless there is evidence of willful misconduct or intentional infliction of harm.

We appreciate your consideration of these suggestions and look forward to working with you on this important issue.

Sincerely,



Henry Chamberlain, APR, FASAE, CAE  
President and COO  
BOMA International



Scott O. Jones, PE  
Chair and CEO  
BOMA International

