

today's hotelier

September 2020 | todayshotelier.com

Publication of AAHOA

Mit Shah

NAVIGATING
CREATIVE
APPROACHES TO
HOSPITALITY

*You know what
to do during
COVID-19
But what has
been overlooked in
the meantime?*

Utilizing IPM at your property
*How your employees
are your first defense*

**PAST ADVERSITY CAN
HELP HOTELIERS
DURING PRESENT CRISIS**

*A Q&A with AAHOA's first
chairman HP Rama*



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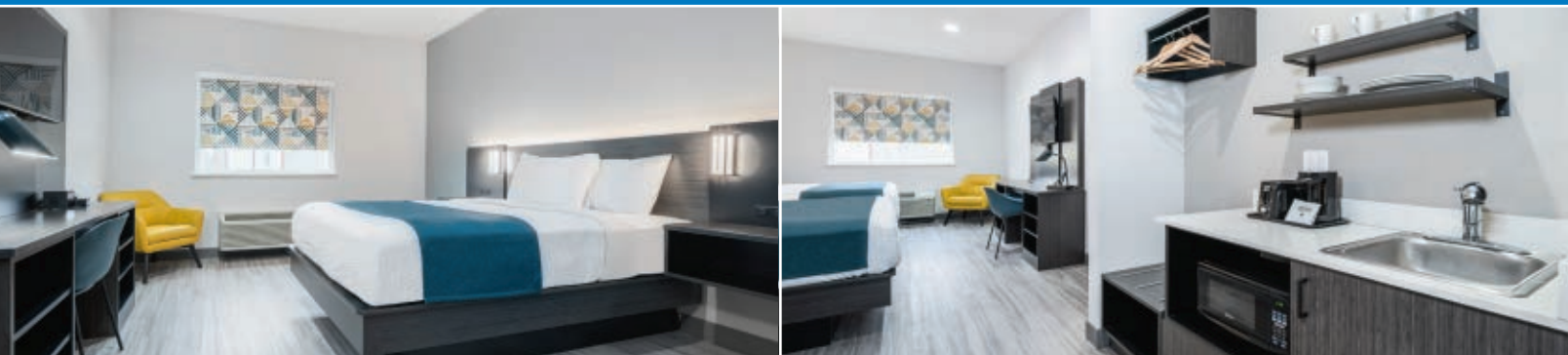
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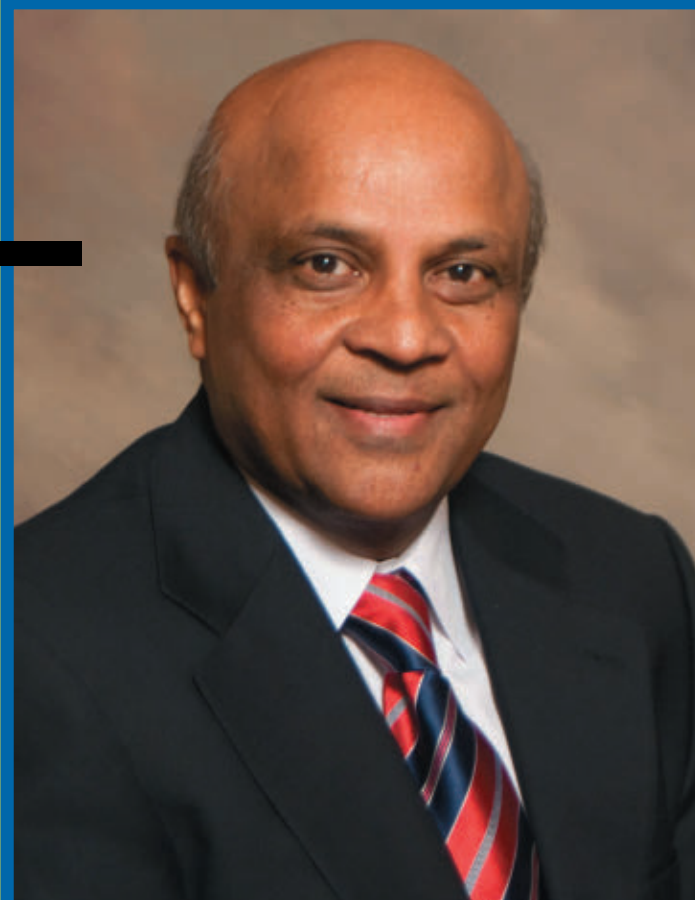
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5 THINGS TO KNOW

ABOUT AAHOA THIS MONTH

1.

AAHOA welcomes new Secretary, board members. Bharat Patel, who previously served AAHOA as Florida Regional Director, was elected Secretary in last month's election. Also elected were Chintu (Danny) Patel, Rahul Patel, Vikesh (Vik) Zaver, Naresh (ND) Bhakta, Bhavesh N. Patel, Dhiren Masters, Bhavik Patel, and Lina Patel. Join us in welcoming our newly elected board members.

2.

Register for the Southwest Region Charity Golf Tournament. In our ongoing efforts to give back to our communities, AAHOA is hosting the Southwest Region Charity Golf Tournament in Albuquerque, NM, on September 9. Sign up today for a day of fun with friends, all while helping raise money for worthwhile causes. Visit AAHOA.com/events/golf to register.

3.

Officers to speak at Hotel Optimization, Part 2. Chairman Biran Patel, Vice Chair Vinay Patel, and Treasurer Nishant (Neal) Patel will join other industry experts at Hotel Optimization 2: A Virtual Event on September 10 and 24. The event will provide clear insight and forecasting to help hoteliers better understand their options for getting back to profitability. Register for free at Hotel-Optimization.com.

4.

Earn your AAHOA/P&G Professional's Training in Hotel Sanitization and Cleanliness. This FREE all-digital program covers what every hotelier needs to know about sanitization. Find out what more than 200 certificate holders – 65 on the first day alone! – learned to allow them to welcome back guests with confidence. Get started at AAHOA.com/CleaningCert.

5.

AAHOA Chairman will be a featured guest at NABHOOD, IMN conferences. AAHOA Chairman Biran Patel will be a guest speaker at both the 2020 NABHOOD Summit (Sept. 15-18) and the IMN Distressed Hotel Forum (Sept. 15). The NABHOOD event will examine increasing equity in the industry. Register at NABHOOD.net. The IMN forum, which will discuss creative strategies to help hoteliers and developers protect their portfolios, is free. Learn more at IMN.org.

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AAHOA CHAIRMAN (2020-2021)

“

AAHOA is constantly exploring ways we can adapt to the changing needs of our membership, while engaging industry partners and leading experts to curate educational content, programs, and resources. In a number of webinars and virtual events, our membership of seasoned professionals also has lent their time, expertise, and insight.”

Driving the future of hospitality education

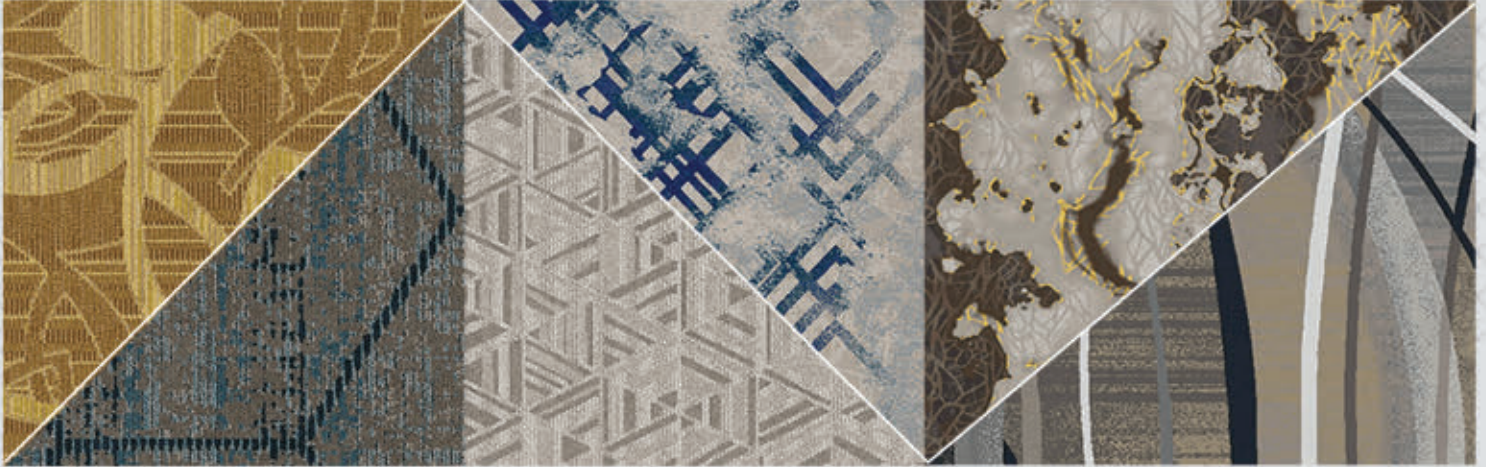
THE LATE SUMMER MONTHS TYPICALLY MARK THE BEGINNING OF A NEW SCHOOL year for students across the country. Colleges welcome millions of young adults to their campuses, and K-12 students rush back into the classroom, eager to share the happenings of their months-long break with their peers. It is a sad reality that the national prevalence of COVID-19 has plunged the back-to-school season into uncertainty. This presents quite the challenge to our nation’s most critical and influential infrastructure. Schools cultivate and educate America’s youth – an investment in education is an investment in the future of our nation.

The same principle of investing in education also applies to our association, which is why AAHOA prioritizes our educational programming. Given the extraordinary circumstances we face today as hotel owners, it is imperative to harness cutting-edge knowledge and then apply it to our businesses. At this moment, our industry is on the road to recovery and the need for continuous learning in hospitality has never been more relevant. When equipped with the best, up-to-date industry practices and protocols, hoteliers are better prepared for the uncertainties the path to recovery will bring. As an association dedicated to serving America’s hoteliers, AAHOA will continue to arm our members with a toolkit of knowledge, while also investing in the education of the next generation of hoteliers.

AAHOA has a longstanding commitment to education, both within our association and our communities. During the 2019 AAHOA Convention & Trade Show, we announced the Mike Leven & Lee Dushoff AAHOA Scholarship for Compassionate Leadership, a collaborative scholarship endowment between AAHOA and Kennesaw State University (KSU) in Atlanta. In less than one month after its announcement, the scholarship fund raised more than \$125,000 to support undergraduate students studying hospitality management at KSU, while also offering networking opportunities with AAHOA executives and the Board of Directors at the annual convention and regional events. Additionally, AAHOA offers scholarships to hospitality students at the University of Houston Conrad Hilton College of Hotel & Restaurant Management. By investing in education within our communities, we are building up the next generation of America’s hoteliers.

Our pursuit of excellence in education does not stop with scholarships. AAHOA has been on the forefront of industry-leading education and training programs for more than 30 years. In the past six months, our AAHOA team has launched more than 100 COVID-19-related webcasts and developed training programs like the AAHOA/P&G Professional’s Training in Hotel Sanitization and Cleanliness. AAHOA is constantly exploring ways we can adapt to the changing needs of our membership, while engaging industry partners and leading experts to curate educational content, programs, and resources. In a number of webinars and virtual events, our membership of seasoned professionals also has lent their time, expertise, and insight. It is during times like these that our association’s network truly delivers unrivaled value to our members. As we forge a path for our association going forward, rest assured that AAHOA will continue to invest in the education of our members, the future of our industry, and the well-being of our communities. ■

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AAHOA PRESIDENT & CEO

AAHOA Members make a difference across the country

“

AAHOA has called upon our associates to discuss and deliver real help to hotels and other small businesses severely impacted by the pandemic. To make possible the flow of information from which our advocacy efforts depend, we continue to cultivate straightforward communications built on credibility and unique insight.”

OUR ADVOCACY HINGES ON THE STRENGTH OF THE RELATIONSHIPS WE FORGE. These relationships are as numerous as they are varied: elected officials, hotel brands, state and local lodging associations, vendor partners, members of the media, OTAs, and more. AAHOA has called upon our associates to discuss and deliver real help to hotels and other small businesses severely impacted by the pandemic. To make possible the flow of information from which our advocacy efforts depend, we continue to cultivate straightforward communications built on credibility and unique insight.

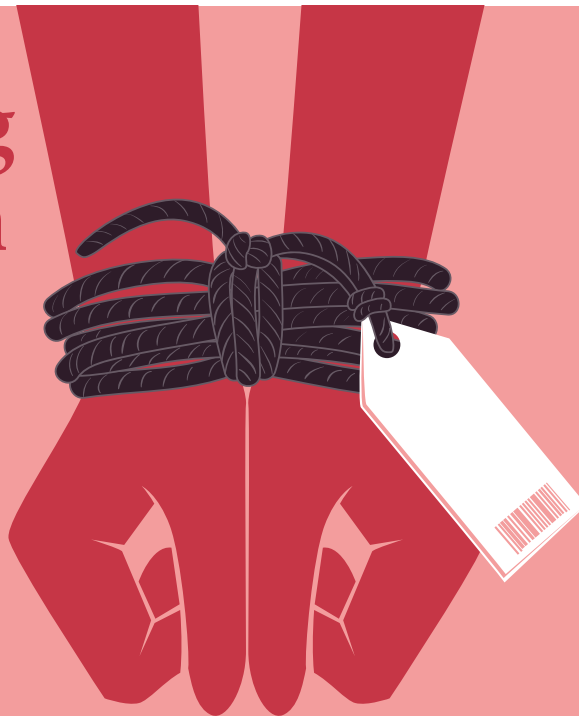
As in many professional relationships, there exists an expectation of mutual benefits, or in other words, there is give and take. Hotels are a pillar of many local economies across the country, and our efforts to amplify the issues our members face are strengthening our stake in the Washington, D.C. and state capitol buildings. Hoteliers are seasoned small business owners with valuable perspective into the travel and tourism industry. For politicians and media alike, our members can serve as trusted sources for legislative solutions or a breaking-news piece. In exchange for lending industry expertise and insight, our AAHOA Members have direct influence on aspects of the lawmaking process and the presentation of our industry's challenges in public discourse.

AAHOA is and should be proud of the ways in which our members have engaged in the advocacy process. AAHOA is a conduit for the voice of America's hotel owners and member participation in our grassroots advocacy campaigns has been remarkable throughout the course of the COVID-19 pandemic, with thousands of member advocates sending more than 40,000 messages to state and federal legislators, city councils, and OTAs. Back in May, our Government Affairs team and several AAHOA Members met with representatives from the House to discuss our recommendations to improve the Paycheck Protection Program (PPP). By early June, the PPP Flexibility Act was drafted and became law. I was thrilled to see that several of our recommendations were included in the bill, and this reaffirmed the impact our advocacy can generate, by both grassroots and direct engagement.

Through our ongoing outreach, we will continue to produce actionable solutions that make it into the hands of policymakers locally and nationally. Our outreach manifests in several ways, from meetings with politicians to featured stories in the news. As the fall election season approaches, let me encourage AAHOA Members to continue their active participation in the advocacy process, be it through our association, community engagement, or in the elections at the local, state, and federal levels. ■

Maintaining momentum in the fight against human trafficking

by SEAN GROSSNICKLE



“AAHOA and our partners in the fight against trafficking remain fully committed to raising awareness of this crime throughout the year.”

LORELYN MEDINA/SHUTTERSTOCK.COM

THE U.S. GOVERNMENT AND organizations nationwide have doubled down on their efforts to combat human trafficking through public awareness campaigns, victim restitution, and preventative training. Back in January, AAHOA and others in the hospitality industry recognized National Slavery and Human Trafficking Prevention Month, which coincided with the 20th anniversary of the landmark Trafficking Victims Protection Act. Months later, the industry again observed the World Day Against Trafficking in Persons on July 30. These officially recognized days on the calendar help to elevate anti-trafficking advocacy and action in public discourse, even as the nation endures the pervasive effects of the COVID-19 pandemic. The pandemic has enacted a heavy toll on the livelihoods of many Americans. Human traffickers prey upon the most vulnerable members of society, which reaffirms the need for vigilant and continuous action against this crime, especially during times of economic hardship and uncertainty. AAHOA and our partners in the fight against trafficking remain fully committed to raising awareness of this crime throughout the year.

TRAFFICKING AWARENESS AND TRAINING

Human trafficking is a scourge to our society, one that demands proactive training and action not just from hotel staff, but from every level of local, state, and federal government. And while public awareness is on the rise, all members of the travel industry can work to maintain the momentum against human trafficking that our industry advocated in January and July. AAHOA offers innovative programs to train hotel staff through our online Human Trafficking and Awareness Training (HTAT). To date, AAHOA has trained thousands of hotel owners and employees to recognize and report signs of human trafficking on hotel properties. AAHOA has established valuable partnerships with Businesses Ending Slavery and Trafficking (BEST), Polaris, and the Department of Homeland Security's Blue Campaign to develop and promote anti-trafficking initiatives.

AAHOA Members are aware of the threat human trafficking poses to the safety of their communities, properties, staff, and guests. Hotel properties can be targeted by traffickers, which is why awareness

and training are so vital to hotel owners and others engaged in temporary lodging. Traffickers seek to operate in the shadows of communities across the nation. By spreading awareness and promoting preventative training programs to other hoteliers, advocacy groups, and lawmakers, the hospitality industry plays a crucial role in the fight against trafficking.

RESOURCES FOR AAHOA MEMBERS

AAHOA Members have around the clock access to free, online training resources that are invaluable to equipping owners and staff with necessary knowledge to recognize and report human trafficking. Training one's staff is essential, yet spreading the resources to other hoteliers, local businesses, and community leaders can further disseminate awareness of human trafficking. Additionally, hoteliers can leverage their knowledge and experiences in the hospitality business to lobby for effective anti-trafficking legislation at all levels of government. Human trafficking is a bipartisan issue, and politicians on both sides of the aisle have united against this horrible crime. ■

The American dream

by MIT SHAH

Mit Shah with his father, Bart.

“

Stewardship of community leaders across our country like my father helped to sow the seeds of what would become the Asian American Hotel Owners Association. Today, AAHOA is the nation's largest hotel owner's association, deeply woven into the very soul and conscience of our communities and our industry.”

IN SEPTEMBER OF 1964, JUST weeks after President Johnson signed the Civil Rights Act, my father, Bharat, left a small manufacturing town in rural India as an immigrant to the United States. In search of the American Dream, Dad arrived in Knoxville, TN, as a college student and found himself in a country torn by a crisis of compassion. Later that same year, he saw Dr. Martin Luther King Jr. accept the Nobel Prize for Peace and heard his hopeful remarks that “Civilization and violence are antithetical concepts. Sooner or later, all the people of the world will have to discover a way to live together in peace.”

But today, the struggle for genuine equality remains. My father observed the end of the tyrannical British rule over India through the vigor of Gandhi’s leadership. In America, he bore witness to a powerful movement led by Dr. King. Growing up, Dad encouraged us to read their works and would describe how strong minds and noble hearts were the most potent weapons available on the journey for freedom, justice, and prosperity.

STANDING ON THE SHOULDERS OF GIANTS

In the summer of 1979, I was 10 years old when my parents became the proud owners of the Winkler Motor Inn in Winston Salem, NC. As a kid, you learn a lot from working the 7 a.m. to 3 p.m. shift every Saturday and Sunday. Even more so with brown skin and the last name Shah during a time when Americans are being held hostage in a foreign country.

Dad always believed in the power of humanity. Late one evening in 1982, my father received a call from his good friend from Greensboro, Babu Patel, who relayed that he and several other Patel families were notified that their property insurance was immediately being canceled.

That very week, as president of the India Merchants Association, my father led a congregation of Asian American hotel owners to meet with the governor of North Carolina and the state insurance commissioner. Within days, each person whose insurance had been canceled received letters of apology from their respective insurers, stating that their policies were being reinstated without any lapse of coverage.

Stewardship of community leaders like my father across our country helped to sow the seeds of what would become the Asian American Hotel Owners Association. Today, AAHOA is the nation’s largest hotel owner’s association, deeply woven into the very soul and conscience of our communities and our industry.

FROM CRISIS COMES OPPORTUNITY

In 1967, Dr. King gave a speech “The Other America” at Stanford University, where he said, “Certain conditions continue to exist in our society, which must be condemned as vigorously as we condemn riots. A riot is the language of the unheard. And what is that America has failed to hear? It has failed to hear that large segments of society are more concerned about tranquility and the status quo than about justice, equality, and humanity. And so, in a real sense, our nation’s summer of riots are caused by our nation’s winters of delay.”

Make no mistake, my family, like many others, would not be here today if there was not a civil rights movement in the United States. Our country faces a multitude of health, economic, and social challenges. Now, more than ever, it is my hope that those of us who stand here on the shoulders of giants, together alongside a talented and inspired generation led by our progeny, ensure that strong minds, noble hearts, and purposeful actions prevail. This must be our American Dream. ■

Since 1993, Noble has invested nearly \$4 billion in communities throughout the country, creating thousands of jobs. As founder and chief executive officer, Mit Shah provides overall strategic guidance for the Noble organization and heads its investment committee. He has been profiled in Newsweek magazine as one of the most influential South Asians in the United States, named as one of Atlanta’s most prominent leaders by Atlanta Magazine and the Atlanta Business Chronicle, and as one of the 21st century’s most influential hospitality industry leaders by both Lodging Hospitality magazine and Lodging magazine. He is the most recent recipient of the prestigious IREFAC C. Everett Johnson Award for leadership in the hospitality industry.



Mit with his family (L to R): Mit Shah, wife Dr. Reshma Shah, their son, Arjun Shah, Mit’s mother, Milan Shah, and father Dr. Bharat Shah.

States step up to address COVID-19 liability

Common Ground profiles members of opposing parties who are working together to advance issues important to hoteliers.

by SEAN GROSSNICKLE



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enact limited-liability protections for business operating during the pandemic. However, while planning for a safe and successful reopening of the economy, several state legislatures and governors passed their own sets of liability protections.

COMMON GROUND

The public concerns of business owners facing potential liability as economies reopened back in April caught the attention of state and local lawmakers. In North Carolina, Rep. Harry Warren (R-NC-76) introduced House Bill (HB) 118, “An Act to Provide Limited Immunity from Liability for Claims Based on Transmission of Coronavirus Disease.” This bill expanded on the immunity protections outlined in a preceding bill introduced in the Senate in May.

Warren was joined by 23 of his Republican and Democratic colleagues to sponsor this bill, signaling overwhelming bipartisan support amongst the House. In late June, HB 118 passed by a vote of 109-6 in the House and 40-7 in the Senate. Gov. Roy Cooper signed the bill into law on July 2. This law protects businesses that have created COVID-19 mitigation plans from claims that another person contracted the virus based on the property owner or business owner’s negligent act. The limited liability offered by this law applies only to claims arising within six months of the governor’s declaration of a state of emergency, and it does not apply to claims based on “gross negligence, willful or wanton action, or intentional wrongdoing.” ■

THE ISSUE

Following the initial COVID-19 shutdowns, state governments across the country developed and rolled out plans to reopen their economies. Many businesses were ready to open again, but concerns of COVID-19-related lawsuits cast a shadow over the prospects of renewed operations, even for businesses following public health guidelines and developed mitigation plans. Hotel owners have experienced the burdens of frivolous legal claims for decades. Take, for example, “drive-by” ADA lawsuits, which occur when a lawyer submits a legal complaint describing overly technical or potential ADA infractions on a property and demands thousands of dollars to settle at a price point that is slightly less than the cost to retain counsel. For small business owners, the prospect of lawsuits and legal fees threatens injurious financial strain on top of the pervasive damages already caused by the pandemic. As of early August, the federal government had yet to

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PART 1

THE PROS SPEAK UP



HP Rama served as AAHOA's first chairman.

AAHOA Past Chairman Hasmukh P. (HP) Rama discusses adversity and how past lessons can help hoteliers survive COVID-19

by PETER BERK

AS THE HOSPITALITY INDUSTRY FACES UNPARALLELED economic hardships imposed by COVID-19, it would be beneficial to look back and chat with the leaders who built AAHOA into the force it is today to see how they overcame past challenges and how we can use those lessons to navigate this pandemic. This article represents the first of three interviews to be published monthly in which we interview former AAHOA Chairs and discuss how they coped with and eventually overcame adversity. PMZ is pleased that HP Rama agreed to be the first interviewee of the series.

Hasmukh P. Rama is the Chairman of the Board of Auro Hotels, USA, renowned for development, acquisition, and management of upscale hotels affiliated with some of the largest hotel franchises in the world: Marriott, Hilton, Hyatt, and Taj Hotels. He obtained his Master of Business Administration from Xavier University in Cincinnati, Ohio, and was awarded an Honorary Doctorate of Business Administration in Hospitality Management by Johnson & Wales University.



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Rama is the first chairman of AAHOA and has served as Past Chairman of the American Hotel & Lodging Association (AHLA).

In India, Rama is the Chairman of Gujarat JHM Hotels Ltd., which owns the Surat Marriott Hotel and the Courtyard by Marriott Hotel in Surat. He also is the Founder and President of the Auro University, Surat, Gujarat.

HP, as he is commonly known, has numerous professional affiliations, having served on the board of various universities such as Johnson & Wales University, Cornell University School of Hotel Administration, University of South Carolina, New York University, University of Houston, and California Polytechnic University.

Rama's commitment to excellence has won him many awards, including the ALIS Lifetime Achievement Award, AAHOA Outreach Award for Philanthropy Award, The Lodging Conference Above and Beyond Humanitarian Award, Hunter Conference Award for Excellence and Inspiration, ISHC Pioneer Award, the Arthur Landstreet Award, which is presented to an individual who has made a lasting impact on the quality of education and training in the hospitality industry, and the AAHOA Oberoi Award for Excellence, which recognizes a hotelier who has demonstrated strong leadership, has high standards of excellence, and who is making a significant contribution to the lodging industry.

WHAT YEAR DID YOU GET INTO THE BUSINESS?

April 1973.

WHAT IS SOMETHING INTERESTING THAT PEOPLE PROBABLY DON'T KNOW ABOUT YOU?

I'm a regular visitor of Sri Aurobindo Ashram in Pondicherry, India, for meditation and yoga practice.

WHAT WAS THE FIRST HOTEL YOU OWNED, AND WHERE WAS IT?

A 40-room independent motel in Pomona, CA.

HOW MANY HOTELS DOES YOUR FIRM OWN TODAY, AND WHAT ARE THE BRANDS?

Auro Hotels owns 38 hotels and operates under Marriott, Hilton, and Hyatt brands.

YOU WERE FACED WITH ADVERSITY WHEN OPENING YOUR FIRST HOTEL. DESCRIBE AN UNEXPECTED CHALLENGE.

I wasn't able to speak Spanish with my Spanish-speaking customers. I also didn't know how to make beds, change vacuum bags, or clean the pool.



The biggest mistakes in our decisions are made during the best of times because we become comfortable, complacent, and overambitious, driven by greed, ego, and false competition.”

HOW DID YOU OVERCOME THOSE CHALLENGES?

I learned about the operations from the seller at the motel. He taught me all I didn't know at that time. Through training and self-learning, I was able to overcome all that was necessary.

WHAT WERE THE FIRST ACTIONS YOU TOOK AT YOUR FIRM WHEN YOU REALIZED JUST HOW SERIOUS COVID-19 WAS BECOMING?

We developed the “Connecting Safely” program for our guests and associates. This allowed us to communicate with all stakeholders, banks, brands, vendors, associates, guests, and communities on the status of our situation. We could rely on them for help and support. We also focused on the cash management of the company through cutting costs of all line items within our hotel operations.

HOW DID YOU MAKE THE DECISION TO KEEP YOUR HOTELS OPEN OR CLOSE THEM?

The group house/full-service hotel's demand immediately vanished. It forced us to suspend operations and our ability to cover variable and fixed costs based on revenue stream. We kept one property open and closed others, where we had a choice of multiple properties within the same market area.

WHAT STEPS ARE YOU TAKING AT YOUR HOTELS TO MAKE TRAVELERS COMFORTABLE THAT IT IS SAFE TO STAY AT YOUR HOTELS? PLEASE GIVE SOME SPECIFIC EXAMPLES.

We have created property-specific “Connecting Safely” plans, which include having a hygiene manager at each property to ensure all our procedures are in place, provide training to all our associates, and address any questions or needs our guests may have during these challenging times. We are using EPA/hospital-grade cleaners in all guest rooms and public areas and have increased the frequency of our cleaning schedules in all public areas.

Signage has been installed throughout all our properties to remind guests to wear masks and follow all social distancing guidelines. Sanitation stations have been added throughout our properties at the entrance and high-touch areas such as elevators, fitness centers, and all food and beverage outlets. All front

desks now have plexiglass shields. We are utilizing single-use menus in food and beverage outlets. We are offering virtual site visits instead of in-person tours to meeting planners and others interested in booking an event at one of our hotels.

WHAT DO YOU THINK ABOUT THE CURRENT ZOOM MEETING CONCEPT? DO YOU THINK THAT WILL IMPACT THE BUSINESS TRAVELER DEMAND IN THE FUTURE?

Zoom meetings are a great way to communicate and make people feel more connected. I do feel that Zoom and other similar platforms will continue to be used for smaller, more regular, ongoing meetings. However, humans are social beings, and there is no replacement for in-person connections, networking, brainstorming, and building long-term relationships. The meetings/group side of the business will be slow to come back, but once a vaccine is created, I am confident that business levels will resume.

LET'S DISCUSS FINANCE FOR A MOMENT. HOW HAVE YOUR LENDERS HANDLED YOUR EXISTING LOANS? HAVE YOU GOTTEN RELIEF/FORBEARANCE?

All of our lenders offered us forbearance, generally for three months. We are working with many of our lenders now to extend the forbearance. Most hotels will need additional forbearance from lenders. We are starting to hear of pushback from some banks that are not willing to extend the initial relief period, or who may be asking for changes in terms as compensation for the extension. This is a time when hotels need forbearance. Banks that provide that relief will help to stabilize their loan faster and will build loyalty with their hotel clients, which will serve them well going forward.

HOW DID THE CRISIS YOU FACED WHEN OPENING YOUR FIRST HOTEL PREPARE YOU FOR THE DECISION PROCESS AMID THE CURRENT PANDEMIC?

I learned to never take success for granted, as we're living in a dynamic, changing world both personally and professionally. You have to earn and persevere over the course of your business to create goodwill, trust, and confidence of all stakeholders you work



“

Humans are social beings, and there is no replacement for in-person connections, networking, brainstorming, and building long-term relationships.”

with. That applies to lenders, vendors, franchisors, associates, or fellow hoteliers. When things are not going your way, and you need help, then those deposits of creditworthiness will help to address and overcome issues, which inevitably come without pre-notice.

The biggest mistakes in our decisions are made during the best of times because we become comfortable, complacent, and overambitious, driven by greed, ego, and false competition. It's always advisable to preserve the percentage of cash flow in liquid form, bank deposits, stocks, and bonds. These can be available either to meet current obligations or take advantage of opportunities during bad times.

WHAT ADVICE WOULD YOU GIVE TO OTHER HOTEL OWNERS TO GET THROUGH THIS CURRENT CRISIS?

Communication, communication, communication! That, combined with transparency and candor toward all stakeholders,



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will help you manage the business with fiscal discipline on a daily basis. It will also help associates in your community in their hour of need. Most importantly, focus on your health and safety and all the people that depend on you.

THE BIG CRYSTAL BALL QUESTION: WHEN DO YOU EXPECT REVPAR TO GET BACK TO 2019 LEVELS?

It will take time to get back to normalcy, which I predict will be in the second half of 2022. ■



Peter Berk is President of PMZ Realty Capital LLC – Hotel Finance Group. He has more than 26 years of experience in the real estate industry and is a frequent lecturer at industry events, including AAHOA webinars and meetings. He has arranged more than \$6 billion of debt and equity transactions for hotel owners, representing more than 50,000 hotel rooms. As an industry leader, he has worked with AAHOA Members for more than 20 years on their financing needs. Berk attended George Washington University as an undergraduate and holds a graduate degree from Columbia University. He can be reached at berk@pmzcapital.com or 212-277-8265.

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Hotel cleaning in a post-pandemic world

How hotels can prepare for rising operational costs

by KATHERINE GRASS



THE FIRST HALF OF 2020 BROUGHT UNPRECEDENTED challenges to businesses around the world. The COVID-19 crisis forced them to adapt processes and models at record speed and has seen many businesses forced to close their doors. One of the most affected industries has been hospitality, where hotels have had to close as the world moved into lockdown.

As restrictions begin to ease, the hospitality industry is now looking at the best ways to prepare for operating in the new normal. The path ahead is not clearly defined; however, one thing hotel managers can be certain of is that their operational processes will need to be more efficient than ever and visibility across all aspects of operations will be essential for success.

HOUSEKEEPING IN THE NEW NORMAL

Housekeeping has always been a central part of hotel operations, and in the new normal there will be even greater scrutiny on hotel cleanliness. New cleaning protocols will need to be introduced to reassure both customers and employees that establishments are adhering to new guidelines in a post-COVID-19 world. We are starting to see hotel chains around the world reveal their plans to introduce new cleaning protocols such as the Safe Stay initiative by AAHOA and AHLA.

These new cleaning protocols will inevitably have an impact on the hotel's costs, as more time and money need to be spent ensuring standards are met. Communal areas, for example, will require even more attention than pre-pandemic, as handrails, elevators, and reception areas will be sanitized continually throughout the day.

Alongside this, the type of traveler hotels can expect in the early stages of opening up will change. The industry expectation is that leisure travel will bounce back the fastest, with business travel expected to take slightly longer. Hotel operations teams need to take this into consideration, as leisure rooms tend to take longer to clean, which also will be a factor in driving up cleaning costs.

CALCULATING THE COSTS OF CLEANING PROTOCOLS

To help hotels prepare, cleaning costs are expected to rise to account for more supplies due to more frequent sanitizing and a change in the products used. On top of this, hotels might require an additional full-time member of staff for the housekeeping team alongside a member of the service team to meet customer demands. These costs will all need to be considered by hotel managers when calculating operational teams time and processes.

ADAPTING PROCESSES TO MITIGATE NEW COSTS

Although the cost of cleaning and operations is expected to increase, hotels will be able to mitigate against these costs by adapting processes. It will be more important than ever that managers utilize data to understand where the most time is being spent and where additional services or team members are needed. Hotels will need to embrace new technologies such as AI and machine learning to help optimize their labor teams and ensure optimal efficiency of teams. Housekeeping is the



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Housekeeping has always been a central part of hotel operations, and in the new normal there will be even greater scrutiny on hotel cleanliness.”

single-largest controllable expense in a hotel operation so establishing time-based cleaning plans and efficient monitoring systems will be essential to help mitigate against rising costs.

For example, one way to offset increasing costs is to remove stayover cleans for guests and not cleaning on a daily basis if the guests stay more than one night, saving housekeeping times and, in many cases, meeting guest preferences to not be disturbed. Our assessments show that cutting out 75 percent of stayover cleans (based on 60-percent occupancy of a 250-room hotel) could save around \$110,730 per annum. Ancillary services such as additional deep cleans or stayover cleans also could be offered by hotels in the future to generate new revenue.

It is not clear what exactly lies ahead for the hospitality industry, but things will certainly be different. By assessing processes, embracing technology, and closely monitoring operations, it is possible for hotels to create the same great experience customers expect while ensuring new cleaning standards are met. These next few months will be crucial in planning for hotels, and by working together, we can help rebuild our industry. ■



Katherine Grass is the CEO of Optii Solutions, the leading hotel operations technology platform. Grass also is a Venture Partner for Thayer Ventures, a firm specializing in the development of technology companies that will revolutionize the travel and hospitality industries.

Can COVID-19 impacted CMBS loans be restructured? What are borrowers' best options?

by RUSHI SHAH



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HOTEL OWNERS ARE KNOCKING on capital sources' doors asking for help as they struggle to make payments and navigate the ongoing ramifications of the COVID-19 pandemic. At the same time, they are looking to lawmakers and government executives to intervene and create guidelines for CMBS lenders, private market lenders, banks, credit unions and other financial institutions to offer some sort of relief. As an immediate gesture of support, most community banks, regional banks, local

banks, credit unions, and other local financial institutions have stepped forward and provided hotel owners with 90 days of initial forbearance or some sort of payment deferral. Additionally, government-controlled entities such as the Small Business Administration (SBA) were able to move quickly and provide up to six months of principal and interest payments. However, CMBS lenders have been unable to offer borrower's blanket relief. This is due to the very nature of the CMBS loan. Let's examine why.



Their efforts are augmented by the combined pressure from lobby groups such as AAHOA, the America Hotel & Lodging Association (AHLA), and the International Council of Shopping Centers (ICSC), who have banded together to convince the Federal Reserve and other government officials to devise creative ways to alleviate hotel owner pain.”

MORAL HAZARD AND PROTECTING ALL INVESTORS

CMBS loans are pooled together, packaged, and sold as bonds to investors. A single CMBS loan may be chopped up and sold to 14 different investors, where one investor group is charged with controlling the financial decisions surrounding the loan. Known as the controlling class, this group has a fiduciary responsibility to the other investors, or the non-controlling class. As a result, the controlling-class investors do not have the authority to simply stop collecting or making payments across the board. The group must collect and distribute payments because the trustee that holds the loan is obligated to make the monthly payments to all the investors of a bond. If the controlling class failed to collect the payments from the borrower of the CMBS, this breach would be viewed as abuse of control and likely lead to litigation from the other investors.

Enter the Special Servicer. Nominated by the controlling class investors, Special Servicers can provide acceptable relief to borrowers and are actively reviewing the influx of CMBS borrower requests in earnest to try to work out fair and sustainable solutions. Their efforts are augmented by the combined pressure from lobby groups such as AAHOA, the America Hotel & Lodging Association (AHLA), and the International Council of Shopping Centers (ICSC), who have banded together to convince the Federal Reserve and other government officials to devise creative ways to alleviate hotel owner pain. Additionally, these loans are governed by strict contracts between the lenders and the borrowers. By intervening, some argue

the government could potentially create moral hazard and defeat the principles of contract law.

THE RELIEF CONTINUUM

The following solutions have been deemed reasonable and seem to be acceptable for both the controlling and non-controlling class of investors and are being offered by the Special Servicers to CMBS loan holders. Some relief measures are more temporary, while others can be considered more permanent in nature. Either way, when discussing restructuring with a Servicer or Special Servicer, it is critical that borrowers do not admit any sort of intent to default. Instead, borrowers must strike a balance between providing too optimistic or too pessimistic projections to protect their negotiating position.

SHORT-TERM OPTIONS

The majority of hotel CMBS loans are 10-year terms with 25- to 30-year amortizations. Two short-term solutions are on the table for most hotel owners that have suffered from COVID-19-triggered shutdowns. The first is a 90-day forbearance where no payments are collected for 90 days. Once the grace period is over, the skipped payments are due in full or the hotel owner may move into some sort of a payment plan. Hotel owners with healthy FF&E reserves may qualify for the second type of temporary relief, where the Special Servicer allows the borrower to divert a portion of accumulated reserve funds toward the property’s debt service. Both options appear to only be available to borrowers whose hotels are still performing, who have continued to make their

payments, and who are not in default when they ask for assistance.

MODERATE-TERM OPTIONS

Another popular option Special Servicers are offering is six months to 12 months of forbearance. Under this restructuring strategy, a Special Servicer will defer payments for up to a year. At the end of the forbearance period, the non-paid principal and interest is either added to the end balloon payment due at maturity or a cash-management mechanism is put in place. With the cash-management approach, after the six months to 12 months, the excess cash flow after paying regular expenses and debt service is applied toward the deferred loan payments. While this interim solution can help borrowers get through these challenging times, it also requires them to present a full historic cash flow analysis as well as projected cash flow analysis.

LONGER-TERM OPTIONS

There is another more sustainable and long-term restructuring solution for CMBS borrowers. In this work out scenario, the Special Servicer divides the borrower’s loan into two pieces: an A-note and a B-note. Although this solution is more difficult to negotiate, it provides the most long-term relief if successful. For example, if a \$10-million CMBS loan is taken in for restructuring, the Special Servicer will re-underwrite the deal to determine the asset’s long-term cash flow generation and then right size the loan to that amount. In this example, the original \$10-million loan may work at \$8 million. As a result, the payments from the amortizing existing loan

are moved to an \$8 million interest-only loan, or the A-note. The remaining \$2 million balance, the B-note, would be restructured as a preferred equity note at a higher interest rate, typically upwards of 8 percent. The B-note is only paid if a certain performance hurdle is met. For example, if in four years the hotel starts operating a maximum capacity and is throwing off more cash flow than what is needed to

service the A-note, the B-note also will get paid at the higher interest rate. But in the event the asset does not perform, the B-note will not need to be paid.

This type of restructuring is a rare solution but can be possible with the right intermediary. Lenders are willing to take this approach and assume the risk because they have re-valued the asset and believe the amount of the total mortgage is above

the asset's current value. So, if a lender were to foreclose and sell the asset in the market, they would incur this amount of loss anyway. In the majority of successful A- and B-note restructurings, the borrower also must bring additional equity to the table in order to demonstrate his or her commitment to the asset. This type of restructuring also provides the owners with an opportunity for a discounted payoff in the future.

For example, we are working with one of our CMBS clients who owns a suffering resort property in North Carolina that relies predominantly on group business. We've signed him up with our newly formed restructuring advisors partnership to divide the existing \$23-million loan into an \$18-million A-note and a \$5-million B-note in the form of preferred equity. The borrower brought in half a million dollars as interest reserve to the service the A-note for the next 12 months. Once successful, this restructuring will allow our client to continue the long-standing tradition of holding this asset in his family trust for the next 10 years as he has for the past 30 years.

Regardless of which form of restructuring may be available to a borrower, research has shown the chances of a successful outcome are improved when hotel owners engage an experienced restructuring advisor who has pre-existing relationships with the Special Servicers. ■



Rushi Shah is principal and CEO of the commercial mortgage and real estate investment banking firm and AAHOA Club Blue Member Mag Mile Capital. As a leader in hospitality financing, Shah specializes in structuring and placing high-leverage, non-recourse bridge and permanent debt with cash out for full – and limited-service hotels nationwide. Since joining the firm's predecessor, Aries Capital, in 2015, Shah has structured and closed hundreds of millions in financing for all property types. Shah has held previous positions at Northern Trust and has an MBA from the University of Chicago's Booth School of Business.

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Smart legislation and deregulation: The path to small business success

by ALFREDO ORTIZ

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JUST BEFORE THE COVID-19 crisis struck, America had record-high employment rates and the economy was roaring. But economic hardship changed the business environment for nearly all industries, leaving millions of Americans jobless. As the country rebuilds, government leaders should rely on a legislative toolkit that has supported Americans in the past.

Main Street businesses are among the hardest hit – especially hotels that have been operating at extremely low occupancy rates. In April, the occupancy rate dropped to just 24.5 percent – a 43.5-percent decline for the same month the previous year.

Many independent stores have been forced to make difficult decisions due to the crisis, including laying off employees or cutting salaries. A report released by the National Bureau of Economic Research (NBER) in April found that since the end of January, small business employment fell by 32 percent for full-time workers and by 56 percent for part-time staff. Furthermore, it reported that more than 100,000 small businesses won't be able to reopen their doors to the public.

Small businesses have always been vulnerable because of modest financial resources. But the pandemic has exacerbated the vulnerability.

LEGISLATION MUST PASS SWIFTLY

Swift action from legislators, including the passage of the Paycheck Protection

Program, provided immediate relief to millions of small businesses. This bipartisan success story was a lifeline businesses needed and a stepping stone in the right direction to protect Main Street. Nearly five million businesses received a loan, which helped to directly save 51 million American jobs.

But loans simply won't be enough. As the country recovers, the Trump administration must continue to push for legislation that will get the economy humming again, all while avoiding unnecessarily adding to the bloated debt.

PAYROLL TAX HOLIDAY

One idea is a payroll tax holiday. When the Trump administration passed the Tax Cuts and Jobs Act in 2017, the economy quickly experienced a resurgence. In a similar way, a payroll tax holiday would jumpstart the financial recovery by benefiting both employees and employers. Uncle Sam collects roughly 7.5 percent of every employee paycheck and then turns around and takes the same from the business. Allowing employers and their staff to temporarily keep more or all that money – targeting businesses with fewer than 100 employees – will act as a pay bump for workers and a tax cut for businesses. It's an economic stimulus program that lets American families and businesses decide where to spend their money, not government officials.

Under the policy, someone who makes \$40,000 per year would take home an extra \$250 every month.

GOVERNMENT REGULATION

Continuing to cut regulatory red tape is another approach that will boost businesses and the economy. In the first 11 months of President Trump holding office, 1,500 planned regulatory actions were canceled or delayed. Moreover, under a previous executive order, two regulations were required to be eliminated for every new one added. This is just a snapshot of the deregulation that has taken place. To help get the economy back on track, we can't stop now.

Government regulations can often be as burdensome on companies as high taxes. Compliance requires time and, in some instances, extra staff. As with high taxes, small businesses also are the most severely affected. With the added stress of the pandemic and the uncertainty it has brought to Main Street, it's the perfect time to continue to examine the red tape that hinders their success. The Mercatus Center agreed with this sentiment in a recent report saying, "[r]egulations are one of the greatest barriers to success facing small businesses."

The U.S. economy is in a fragile state but using similar tactics that helped build the strongest economy in decades can be used once again to help the country claw back to prosperity. The success of small businesses depends on it. ■

Alfredo Ortiz is the President and CEO of the Job Creators Network.

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Charlotte

by ASIF LAKHANI

“Visit Charlotte has booked **528 events** for future years totaling **443,298 room nights**, according to the CRVA 2019 Annual Report.”

SEAN PAVONE/SHUTTERSTOCK.COM

WITH 29.2 MILLION VISITORS in 2019, Charlotte maintained its stronghold as the No. 1 travel destination in the Carolinas, according to the Charlotte Regional Visitors Authority. Domestic travel expenditures in Mecklenburg County, where Charlotte is located, accounted for almost \$5.7 billion that year.

CHARLOTTE'S PANDEMIC RESPONSE

In response to COVID-19, the CRVA closed multiple venues under its jurisdiction such as the Charlotte Convention Center, the NASCAR Hall of Fame, and others to help slow the spread of the virus. The group also established an internal task force to establish return-to-work guidelines based on federal, state, and local safety protocols. The city is in Phase 2 of its reopening, which mandates face coverings in

public spaces and allows restaurants to operate at a strict 50-percent capacity for on-premise dining. Bars, nightclubs, gyms, and playgrounds remain closed, and gatherings are limited to 10 people indoors and 25 people outdoors.

Hospitality industry professionals throughout the state also have committed to the Count on Me CLT program in collaboration with the state's Division of Tourism, the North Carolina Restaurants & Lodging Association, and the North Carolina Department of Health and Human Services to ensure all patrons that businesses are undertaking social distancing and hygiene best practices to a greater extent than CDC guidelines recommend, Mike Butts, Executive Director of Visit Charlotte said.

Charlotte also is working to get obtain Global Biorisk Advisory Council (GBAC) STAR Accreditation for its convention

centers, the NASCAR Hall of Fame, and other buildings in its portfolio, while also encouraging local hoteliers to do the same so meeting planners and attendees can feel safe and comfortable when coming to town in the future, Butts said. The certification signifies that businesses and employees have been trained properly on best practices for biohazard response.

SMALL BUSINESS PROTECTION

North Carolina small business owners were eligible to apply for the state's COVID-19 Rapid Recovery Loan Program to help bridge the gap until a full recovery is achieved; repayment is required by a more stable source or once the business is profitable again. The Mecklenburg County Office of the Tax Collector has said it will absorb debit, credit, and eCheck fees for payments on tax bills during the duration of the pandemic.

The CRVA also designated portions of its website charlottesgotalot.com to promote local businesses during the quarantine. Offerings included a list of restaurants offering takeout, ways to shop online and help small businesses, take virtual fitness classes from top instructors in the city, and iconic local food and cocktail recipes that people could make at home.

QUEEN CITY'S FUTURE

Despite the current circumstances, the future of the Queen City is promising. Visit Charlotte has booked 528 events for future years totaling 443,298 room nights, according to the CRVA 2019 Annual Report. Charlotte is already home to marquee events such as the ACC Championship football game (until 2030), major NASCAR races, and multiple NFL games annually. The city was to be the home of the 2020 Republican National Convention in August, but COVID-19 forced North Carolina Gov. Roy Cooper to downsize. The event was moved to Jacksonville before eventually being canceled. This left Charlotte event organizers scrambling to hold individuals and organizations with millions of dollars in breached contracts accountable, while also still being expected to execute a modified convention.

The move also undoubtedly affected the Charlotte MSA (Metropolitan Statistical Area), a 10-county (seven in North Carolina, three in South Carolina) cluster that represents the largest number of tourism employees and the largest payroll in the state of North Carolina. There are more than 140,000 leisure and hospitality jobs in the region, which is its fourth-largest industry. Of course, sacrificing human capital for financial gain (pandemic or not) isn't a sound leadership strategy, but there is still a lot of potential in the Queen City for future development and prosperity beyond the curveball that is 2020. While relocating the Republican National Convention cost Charlotte lots of money, there would be no way to make up for lives lost due to eased restrictions on large gatherings.

For one, Charlotte has extended its Charlotte 10 program, in which Visit Charlotte and participating hotels each give meeting planners \$5 back (\$10 total) for

every occupied room night, through the end of 2021. The rebate offer is only valid when Charlotte is competing with another city for meetings and generally works better for attracting small-to-medium groups, Butts said. The latter will presumably dominate meeting and event formats in the near term.

A second selling point of Charlotte as a top city – globally – for overall quality of life, according to a study from Numbeo, the cost-of-living database. Property

also is affordable. The city is primarily known as a FinTech hub but is becoming an emerging destination for advanced manufacturing, automotive, IT, and health care. Its airport also is one of the busiest in the nation. All of these – commerce, hospitality, and leadership – will play a factor in America's economic recovery once the pandemic is over. Few places are set up to succeed in the long term like Charlotte is, Butts said. ■



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Your first defense against pests: Employees utilizing IPM

by BENJAMIN HOTTEL, PH.D.



Staff members are your property's first defense in pest control

SMOOTH OPERATIONS DEPEND on a well-trained team, and pest management is no different. Since your staff members are on-site every day, they play an important role in minimizing pest problems. Employees are a hotel's first line of defense against pests.

All staff should recognize and report signs of pest activity, no matter how miniscule a problem may seem. Whether it's noticing rodent droppings or a single cockroach in the kitchen, these red flags could symbolize an underlying or potentially growing pest problem.

To equip your staff with the tools they need, partner with your pest control

provider to educate your staff about Integrated Pest Management (IPM) practices that can help identify and prevent pest activity.

INVOLVE YOUR EMPLOYEES

IPM is a long-term solution, requiring ongoing maintenance and participation

from your employees. Help involve your employees with these tips:

- ➔ **Offer IPM training.** Your provider can teach your team what signs to look for and when to report a potential issue.
- ➔ **Prevent conducive conditions.** Ask your employees to do their part in combating sanitation issues,

Effective pest management is a process, not a one-time action, so consistency and communication are essential to the success of your business's pest control program.”

WHAT IS IPM?

Integrated Pest Management (IPM) is a sustainable strategy for managing pests that reduces the negative effects of pesticides to people and the environment. IPM consists of the following core components:

- **Identify pests in your facility.** Staff can be trained to identify bed bug evidence, cockroaches, or other pests that might be encountered in a hotel. Trained staff can then alert management and pest management partners to new pest issues before customers notice the pests themselves.
- **Monitor the effectiveness of your efforts.** Effective pest management is a process, not a one-time action, so consistency and communication are essential to the success of your business's pest control program. Between visits from your provider, check for signs of pest activity and any new conducive conditions that may have surfaced since their last visit.
- **Prevent pest problems before they become an issue by implementing sanitation and exclusion practices.** Enacting enhanced building-wide sanitation strategies for cleaning and waste disposal can help prevent certain pests from becoming established. Adding door sweeps and sealing up other openings into a hotel can help prevent pests outside from entering the building.
- **Treat pest activity with treatments suited to your hotel's needs.** Based on your inspection findings, work with your provider to develop a custom prevention program that emphasizes proactive techniques to ensure your cleaning and maintenance efforts reduce pest hot spots.

cleaning spills immediately and keeping breakrooms tidy.

- **Regularly inspect hot spots.** Develop a schedule for select employees to check hot spots, especially storage rooms which can otherwise go unmonitored.
- **Develop a reporting process.** An employee spotting an issue doesn't help if no one else knows about it. Implement a reporting process, such as a pest sighting log.
- **Document the details.** Make sure employees include important details when reporting a potential issue, such as date, time, location, and any conducive conditions.

Observations from employees can help develop a trend analysis of historical pest activity to help identify the cause of pest problems, so you can modify your IPM program as needed.

If you aren't already following IPM guidelines at your hotel, contact your pest management provider to discuss how you can start an IPM program. With a rigorous IPM program and cooperation from your staff, you will be on your way to becoming a more responsible business that helps keep consumers satisfied and willing to return to your hotel. ■

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Trending legal issues for hoteliers to consider as they reopen

by CAROL C. LUMPKIN and SHAWN HOGUE

CCOVID-19 HAS FUNDAMENTALLY changed the way we live, work, communicate, and travel. The hospitality industry has been one of the hardest hit by the pandemic.

We applaud the industry for focusing significant energy addressing this crisis, but as things open back up and individuals hit the road to escape quarantine, it is important to remain mindful of resurgent litigation.

As hotels reopen, they have implemented social distancing and other mitigation measures in order to protect their employees and customers. While these steps are essential, hoteliers also need to focus on other legal issues that are showing an uptick in activity. Below, we provide the top five areas to consider as you move forward with getting back to business.

1 AMERICANS WITH DISABILITIES ACT (ADA):

Hotels should review their ADA compliance because this area has not had a decrease in activity during the pandemic. Here are a few items that should be considered:

➤ **Websites:** While hotel properties were put on hold, website accessibility litigation was not. Hotel management needs to ensure that their websites are accessible to individuals with disabilities which

includes identifying and describing the accessibility features at the hotel itself. A guest with disabilities who visits the website should be able to determine whether or not the hotel is capable of meeting their specific needs, and they also must be able to book the room using the on-line reservations site.

➤ **Hotel Access:**

Rooms: The ADA requires accessible hotel rooms to be dispersed among the various classes of rooms available at the hotel. Factors to be considered in dispersing rooms include room size, price, available amenities, and number of beds. The Department of Justice (DOJ) takes the position that the dispersal requirements are essential to ensure that the services and facilities of a hotel are provided to individuals with disabilities in the most integrated setting appropriate to their needs.

Physical Barriers: Although issues of physical barriers have been litigated for years, during this crisis, there has been an increase in litigation based on allegations of and denial of access to guests with disabilities. Hotel management should focus on its accessible parking spaces and valet parking policies. It should review access to the check-in area, the concierge desk, the

lobby restrooms, the business center or area for computer use, the pool area (pool lift), and all other common areas that guests use throughout their visit. Management should also revisit its ADA policies and employee training.

➤ **Service Animals:** Remind staff that guests accompanied by service animals must be permitted to have them on the premises. It does not matter if the hotel has a no pet policy.

2 OPERATIONS/EMPLOYMENT ISSUES:

Hotel management needs to also attend to COVID-19 related employment issues as they bring employees back to work.

➤ **Fair Labor Standards Act (FLSA) and COVID-19:** For most employers, FLSA requirements can be a challenge. Although there are numerous areas to consider, often wage and hour issues deal with the classification of exempt vs. non-exempt employees and how to properly pay them. With the COVID-19 disruption to the workplace, the FLSA has to be factored into the operations.

➤ **Furloughs and closures:** In the wake of furloughs and closures, it is not surprising that returning hotel staff are now expected to do additional tasks that are not a common part of the employees'

duties. The need to have employees play different roles in the early stages of reopening requires heightened attention be given to how the hotel is paying employees (overtime pay, hourly rates, and salaries), and how the employees are classified. Additionally, hotel management has to address whether to pay employees or not pay them for the time spent during COVID-19 related screening protocols. It is critical to remain mindful that plaintiffs' attorneys will be vigilant in finding circumstances to argue there has been a violation of wage and hour laws. As such, in addition to the FLSA, employers need to consider the applicable state wage and hour laws.

Management that gives time to evaluating and planning for potential wage and hour issues that may occur as employees come back to work, will likely be in a better position to address the challenges that COVID-19 has brought and will continue to bring to the workplace.

➔ **ADA Title I Employment:** Although the new guidance suggests that face coverings are an essential part of the safety protocols in this ever developing landscape, hotel employers have to consider the reasonable accommodation interaction required by the ADA if an employee claims that he/she cannot wear a face covering due to a health condition or that returning to work is a concern for he/she due to pre-existing conditions.

3 CONTRACTS:

Given the substantial impact to the industry, hotel management should give thought to its contracts and their terms.

➔ **Force Majeure Clauses:** For most contracts, the analysis of whether a party may be excused from performance of an obligation should begin with a review of the contract's force majeure clause, if any. Generally speaking, a force majeure clause excuses a party from a contractual obligation in light of an unexpected event beyond its control in specified circumstances. Hotels should be mindful of legitimate health and safety concerns associated with hosting large events at this time, but also have contractual language that makes

it more difficult for parties to back out of their contractual obligations.

➔ **Management Agreements:** Hoteliers should review any management agreements for possible default provisions or for potential modifications due to COVID-19. Hotel owners may also want to address franchisor issues such as modifications to improvement plan deadlines, and other related issues.

4 INSURANCE COVERAGE:

Because of the disruption that COVID-19 has caused to their business, hotel owners may want to consider the possibility of insurance coverage to mitigate the economic impact.

➔ **Management:** Management should review property damages coverage in their insurance policies and also look to your business interruption coverage. We suggest hotel owners and capital providers carefully review their insurance policies and coordinate with their consultants, lawyers and brokers to determine whether coverage is possible.

5 HEALTH AND SAFETY COMPLIANCE:

➔ **New Guidance:** Currently, Employers have been bombarded with new workplace guidelines due to COVID-19, but as a refresher employers are legally required to provide safe and healthy workplaces for employees and vendors/contractors on site. (See OSHA General Duty Clause. Also see EEOC Guidance and state/federal mandates.) To further assist hotel management and owners, the American Hotel and Lodging Association (AHLA) has developed enhanced cleaning guidelines and workplace protocols to meet the new health and safety challenges and expectations presented by COVID-19. Employers should train all on these new safety and sanitation protocols and how staff should interact with guests.

By implementing these measures, Hoteliers can take proactive compliance steps and adopt best practices that will go a long way in defending against additional litigation in the future. The impact of COVID-19 will eventually pass and there will be a return to some level of normalcy.

Unfortunately, whether the “new normal” or the “old way,” lawsuits will continue to be a permanent feature in the hospitality industry, and the industry will have to adapt to the next wave of suits. Nevertheless, operators can however take steps to position themselves for a strong comeback. The old adage that an ounce of prevention is worth the pound of the cure is equally applicable to the reopening of hotels. ■



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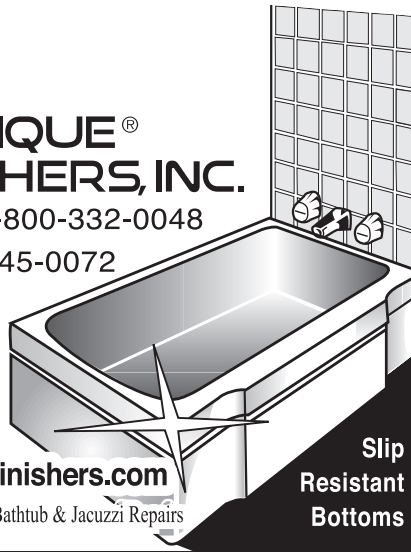
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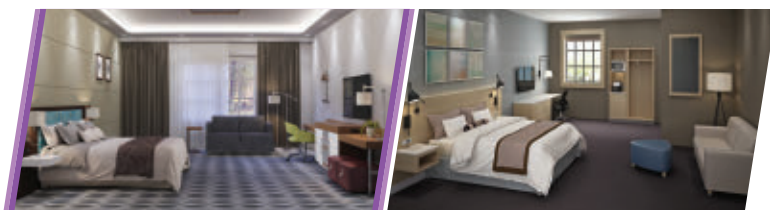
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