

Legislation Fact Sheet

Bill # 210917:

COMMERCIAL TENANT PROTECTION BILL



What Problem is this Legislation Trying to Address?

Over the past few years, we have repeatedly witnessed small business owners entering into leases without an understanding of the zoning of the property and whether their business requires the approval of the Zoning Board in order to open.

For example, an aspiring baker leased a building with a history of commercial use only to discover after outfitting the property and paying rent for months that they needed Zoning Board approval before they could welcome customers. Their landlord, who did not live in Philadelphia, did not advise them to check the zoning of the property before signing the lease. Another tenant signed a lease based on their intention to use the backyard of a property for a business. However, they later learned that an overlay prevented this use. They then had to spend unanticipated time and money to obtain approval from the Zoning Board in order to open. The business closed less than a year later.

These are only two of the numerous stories of devastating financial loss experienced by entrepreneurs throughout the City. Currently, there is no requirement for property owners to disclose vital zoning information to prospective tenants. This regularly causes small business owners to enter into leases without fully understanding the zoning of the property and whether their business requires the approval of the Zoning Board to commence operations. As a result, these business owners must undergo a months-long zoning approval process, paying rent and zoning appeal costs while forgoing revenue they would have received had their business been able to open. Many have already spent tens of thousands of dollars in improvements, outfitting, and other expenses as well. Not only does this lack of transparency stifle entrepreneurship and small business growth, but we have observed in the 9th Council District that it has disproportionately affected entrepreneurs of color and women-owned businesses.

This legislation aims to bolster the likelihood of success for our small businesses by improving transparency in the commercial leasing process when it comes to the zoning and use of a property.



What Does this Legislation Do?

Bill # 210917 protects commercial tenants by requiring that property owners, or those authorized to lease the property on their behalf, provide potential tenants with a City-issued guidebook containing zoning information at the time the lease terms are presented. In addition, the legislation requires that landlords give prospective lessees a minimum 7-day due diligence period to review the zoning information prior to a lease being signed. Unless covered by an exemption, these requirements would apply to all new commercial leases negotiated after the effective date of the legislation.

The guidebook will:

- Describe where the tenant can obtain current and accurate zoning information about the property.
- Provide contact information for the City's Commerce Department, as well as legal and language-access assistance, to obtain clarity on applicable zoning regulations.
- Be accessible to landlords and tenants on a City website where it can be viewed and printed.
- Include two copies of an acknowledgment form to be signed by the property owner and prospective tenant as confirmation that the guidebook has been provided and the latter informed of their right to a minimum 7-day due diligence period to review the property's zoning information. Each party will retain an original copy of a signed acknowledgement form.

This legislation further protects the rights of commercial tenants by:

- Providing a minimum 7-day due diligence period for small business owners to research a property and seek assistance in understanding the complexities of the Philadelphia Zoning Code as it relates to their business.
- Granting tenants the ability to sue property owners who fail to provide the guidebook and the minimum 7-day due diligence period, and to seek restitution for financial losses suffered as a result of not having the necessary zoning information prior to signing the lease.
- Allowing landlords and tenants to enter into a lease prior to the end of the 7-day minimum due diligence period, if one of the following conditions are met:
 - Both parties mutually agree on a different period of time in writing AFTER the tenant receives the guidebook, OR
 - The prospective lessee is represented by an attorney or a licensed Pennsylvania real estate agent at the time the lease terms are presented. Neither the attorney nor the real estate agent may also represent, or otherwise be under the influence or control of, the lessor.

How Will this Legislation be Implemented?

This legislation will go into effect sixty (60) days after it is enacted into law. By codifying a private right of action for commercial tenants, this legislation will be implemented through the legal actions taken by individuals who have been wronged. The guidebook containing the zoning information will be developed by the City and made available online, similar to the Partners for Good Housing brochure that all residential landlords are required to provide to their Philadelphia tenants. In addition, our office will work with a variety of stakeholders inside and outside of government to ensure that both landlords and tenants are aware of the requirements of this legislation.



"The introduction of the Commercial Tenant Protection Legislation is an important step in acknowledging and co-creating solutions to ensure all businesses are provided adequate resources to ease the process of doing business in the city; and to level the playing field for minority-owned and disadvantaged businesses,"

Regina A. Hairston, President & CEO of the African American Chamber of Commerce of Pennsylvania, New Jersey, and Delaware

"This legislation is an important step in preventing economic hardship caused by entering into a multiyear lease without knowing and understanding the property's zoning restrictions,"

Ivelisse Cruz, Nonprofit & Small Business Coordinator, Philadelphia VIP

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