

# DAILY BUSINESS REVIEW

## Industry Trends: The Hospitality Sector Is Over COVID, but Economic ‘Speed Bump’ Lies Ahead

By Raychel Lean

After an unprecedented period of uncertainty brought on by the COVID-19 pandemic, the hospitality industry—South Florida’s luxury hospitality sector, in particular—is flourishing.

That’s according to Ari M. Tenzer, founder of business law firm TA PLLC in Miami, who cautioned that there could be some “significant” speed bumps ahead due to global economic turmoil and the war in Ukraine.

Tenzer focuses on transactions in the hospitality industry, including negotiating hotel management agreements, casino management agreements, hotel license and franchise agreements and complex restaurant leases. He recently represented RCD Hotels in deals with Nobu Hospitality to develop Nobu hotels, restaurants and residences in Florida, Mexico and the Dominican Republic.

Here’s what Tenzer said is important to know about the hospitality industry as it enters 2023.

**Q. Are some brands recession-proof?**

A: I wouldn’t call them recession-proof. With demand outpacing the number of available hotel rooms, we are seeing an astronomical increase in average room rates in the luxury segment of the market.

Owners are very happy and willing to invest in new development.

Luxury hospitality has benefited more than the other sectors for two reasons. Consumers are coming out of COVID, and many have the money to stay in nicer hotels. Second, psychologically consumers tend to feel more comfortable in a post-COVID environment about the policies and procedures in place with respect to cleanliness and sanitation in the luxury segment.

**Q. During this recovery, what are attorneys and their clients spending more time on? Is it issues like force majeure or is it more dealing with litigation post-pandemic?**

A: To a certain extent, the legal profession got caught off-guard because no one had gone through a pandemic of this magnitude in recent history. Lawyers had not exactly spent a lot of time focusing on certain provisions in transaction documents with an eye toward a once-in-a-100-year event with much longer effects than, say, a fire or a hurricane. As a result, most force majeure provisions were, at best, ambiguous as to the obligations and rights of the parties in such a situation. At worst, they were detrimental to the owner.

When a tenant such as a restaurant is required by law to close, does it still have



Courtesy Photo

Ari Tenzer of TA PLLC.

to pay rent? If a hotel can no longer accept guests, is it excused from making royalty or license payments to the hotel flag?

**Q. Moving forward, will owner-franchisor-landlord-tenant contracts be written based on what the courts and any new laws say?**

A: Correct. And don’t forget insurance policies. Lawyers will be spending a lot of time going forward reviewing contracts very carefully, not only in terms of coverage levels but coverage types. Another lesson that has come out of this pandemic for the parties to consider is what insurance policies do and do not cover. How much insurance will they have to carry? What types of risks are covered and for how long? No one has the answers to those questions right now.

**Q. Have insurance costs reached the point that they are slowing development?**

A: I don't think they have reached that level yet. More important, it's a function of how the financial market reacts to higher costs. It will also be a function of litigation making its way through the courts currently. The size of the claims' payments will have a big impact on costs and coverage going forward.

It's like what happens in Florida with hurricanes. After a bad season, a lot of insurers pull out of the market and, going forward, very few people can get coverage. We won't know for another several years, though, largely because so many lawsuits are backed up in the courts. This is another legacy of COVID that will impact the hospitality industry for a long time.

**Q. How does the future look for hospitality transactions?**

A: Other than a few permanent changes to operations, not much will change from a development perspective. By and large, the industry has rebounded quite remarkably, and investors are comfortable with hospitality plays. The economy is the biggest challenge. Interest rates, land, materials, and labor costs are all higher, making it harder to underwrite the cost of development.

**Q: In light of a transition from little to no travel during COVID-19 to a resurgence now, what are the lasting effects for business travel?**

A: What has emerged from the pandemic is something that I think will be with us for the foreseeable future: The way we work is forever changed. This has had an unintended ripple effect in the business segment of travel as people have become accustomed to working from home and using Zoom rather than getting on a plane or driving to meetings. The technology was already there, but just not nearly as accepted or common. The shift may have been on



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its way regardless, but it was accelerated by COVID. Especially in the business segment, people are just not traveling for work as much.

That doesn't mean that business travel has totally disappeared. Certain people still need to travel for business and be there in person. But in many white-collar professions, people can do business remotely and I don't think those levels of travel will come back any time soon.

**Q: Leisure travel has come roaring back this summer. Are we seeing pent-up demand from two-plus years of COVID, or could we see higher levels than before the pandemic?**

A: Expectations and the facts on the ground reflect that travel on the leisure side is as good as it's ever been. The market was heading there before COVID. With the pandemic, there were two years, give or take, where nobody went anywhere.

A lot of people who were cooped up were tired of staying at home and many had travel credits. So now that entire segment of the hospitality industry is on fire. I don't even think anyone in the industry is worried about COVID anymore. Through mid-summer, they were concerned about higher gas prices and certain other macroeconomic concerns that could affect the hospitality industry like any industry dampening travel plans, but consumers hit the road anyway.

**Q. Will leisure travel change in the winter?**

A: The fundamentals look good. However, demand for leisure travel is, to a certain extent, a function of how the economy is doing. Macroeconomic concerns about the economy, the war in Ukraine, and the like are without a doubt the most significant speed bump ahead.