

# Beyond Six-Feet-Apart Accelerator

Expert Webinar Series on Reopening Topics

**Legal Issues Related to Reopening**  
**Wed. June 24, 5:00-6:30 p.m.**

**Register  
Now**



**Priya Lane, Esq.**  
**Lawyers for Civil Rights**  
**BizGrow Director**

The BizGrow program has provided legal services to over 600 small businesses. Attorney and BizGrow Director Priya Lane will provide guidance regarding legal issues facing small businesses during the reopening process. We'll cover lease negotiations, contract issues, insurance protections employment issues and other questions from small business owners and consultants.

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Agenda

## **Welcome and Beyond Six Feet Apart Program Description**

LISC Boston Executive Director Karen Kelleher  
IXL Managing Director Hitendra Patel

## **Opening Remarks – Priya Lane, Esq.**

BizGrow Director, Lawyers for Civil Rights

## **Discussion and Questions - Beyond Six Feet Apart Accelerator** **Participants**

Moderated by Karen Kelleher

## **Audience Questions submitted through Chat**

We are piloting a digitally-enabled planning process for minority-owned businesses seeking to retool their businesses safely and strategically in the wake of COVID-19.

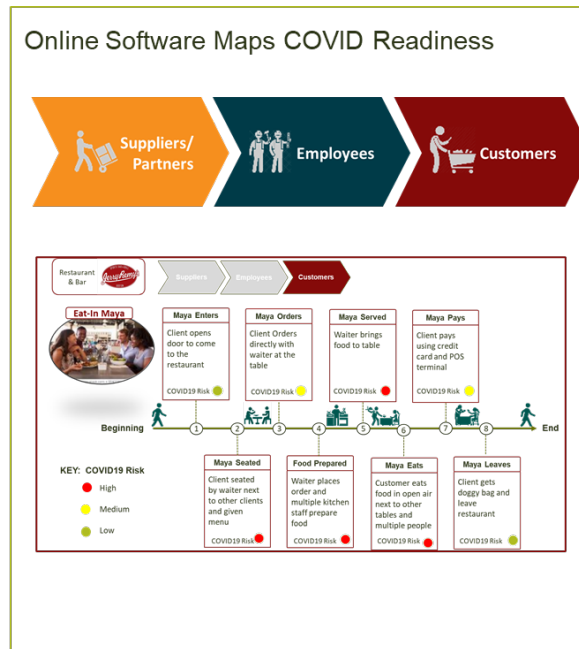
Program  
Overview



In response to the COVID-19 crisis, the Beyond Six-Foot-Apart Accelerator helps minority-owned small businesses get-back-to-business safely

Sign Up Now

The IXL Center is a global innovation company with unique roots in consulting and education. IXL has developed a digital tool to map business processes, identify safe solutions and build implementation plans.



MBA students trained and supervised by IXL provide consulting services to create a plan for a safe, strategic reopening and repositioning.





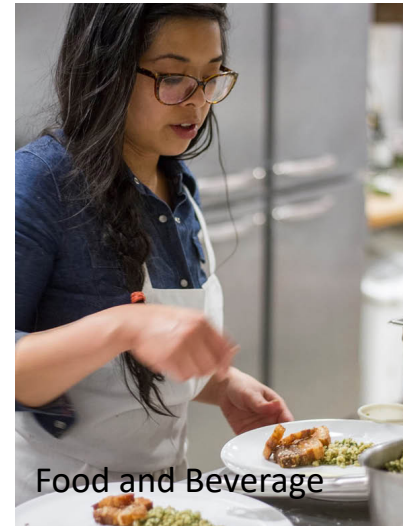
The Beyond Six-Foot-Apart Accelerator takes minority-owned businesses in four sectors through a five-step approach to create a new strategic and safety plan.



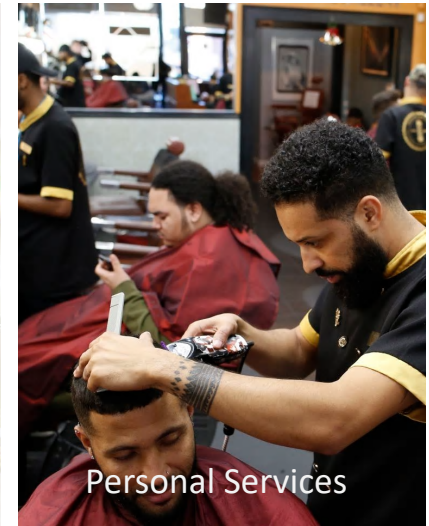
Retail



Professional Services

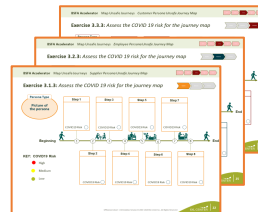
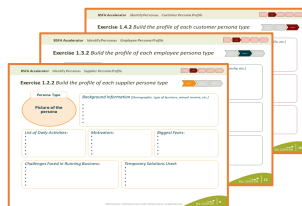
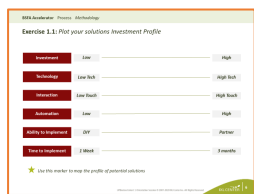


Food and Beverage



Personal Services

Strategic Direction      Identify Personas      Map unsafe journey      Make safe journey      Implementation Plan



These Beyond Six feet Apart Accelerator participants are working with consulting teams to develop their implementation plans.

Participating Businesses

Food & Beverage



Retail



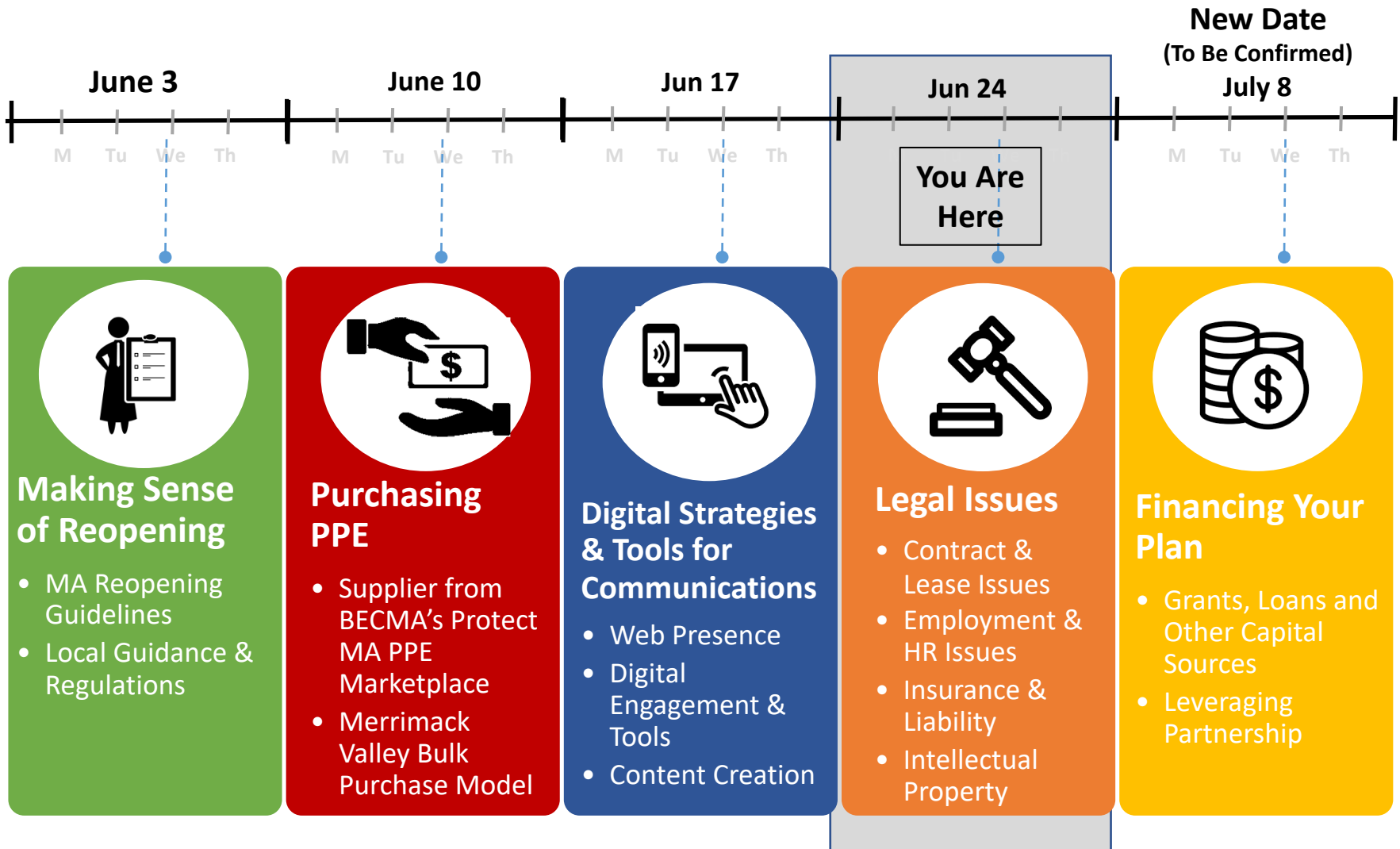
Professional Services



Personal Services



Expert webinars facilitated by LISC explore practical challenges to be incorporated into the plan by owners and consulting teams.



Local Initiatives Support Corporation is one of the country's largest community development support organizations working in and with underserved communities.

## LISC BOSTON

But we have deep local roots, and have worked in Massachusetts for over 35 years. We support projects and programs to revitalize underserved communities and bring greater economic opportunity to residents.

### Housing



Pool public and private dollars



Work with local partners



Support people and places

### Health and Resiliency



### Economic Opportunity



We prioritize equity in our investments, from affordable housing and quality schools to growing business and connecting community with financing, technical assistance and resources to build capacity and stability.

### Capacity Building





# LISC BOSTON

Capacity Building



Health and Resiliency

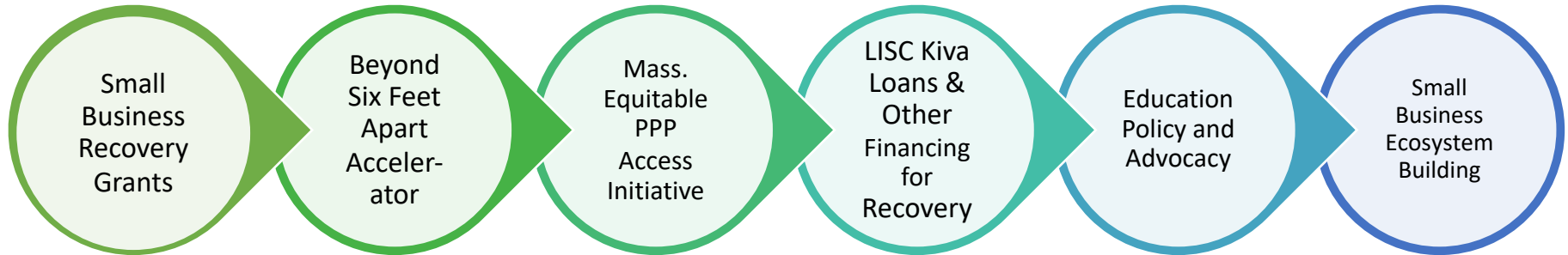


Economic Opportunity



## Rapid Relief and Recovery Fund for Massachusetts

LISC Boston supports small and underserved businesses throughout Massachusetts. LISC's Rapid Response and Recovery Fund for Massachusetts includes a number of small business responses to COVID-19.



The Beyond Six Feet Apart Accelerator is funded and supported by Massachusetts Growth Capital Corporation and Local Initiatives Support Corporation.



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**Priya Lane** is the Director of LCR | BizGrow, which provides minority, immigrant, and women entrepreneurs with free legal assistance, technical support, and education, helping them develop sustainable businesses and achieve economic self-sufficiency.

Under her leadership, LCR | BizGrow has grown exponentially and is now serving over 600 small businesses annually (90% people of color; 60% women). Priya actively conducts legal clinics and workshops, provides one-on-one legal consultations, and matches businesses with *pro bono* attorneys. Priya launched innovative culturally and linguistically accessible programming to help business owners navigate the specter of federal immigration enforcement. She also successfully created a flagship annual event, The BizGrow Conference, which connects hundreds of entrepreneurs to free legal and technical support in a single day.

Priya is a 2013 graduate of Northeastern University School of Law, where she coordinated a chapter of the Iraqi Refugee Assistance Project (IRAP). During law school, Priya interned in the Asian Outreach Unit of Greater Boston Legal Services, the U.S. Attorney's Office of the District of Massachusetts, and with Massachusetts State Senator Karen Spilka.



Speaker  
Bio

### Attend the BizGrow Conference

July 16, 2020, 1:00-6:00 p.m.

<https://www.eventbrite.com/e/the-bizgrow-conference-2020-tickets-96971826343>

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Discussion

Beyond Six Feet Apart participants will join the discussion to ask questions and/or comment on what their business is experiencing or planning for.

Audience members may submit questions using the chat function.

Please introduce yourself, with your name, business name (if applicable) and location.

Thank you.

# Lawyers for Civil Rights

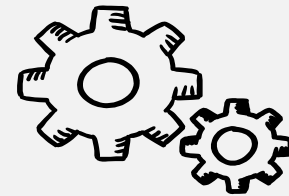
PRIYA LANE

BIZGROW PROJECT DIRECTOR

**LCR** | BizGrow

CHOICE OF ENTITY





# WHAT TO CONSIDER WHEN CHOOSING AN ENTITY

LIABILITY

TAXATION

SET-UP

COST

# CORPORATIONS

- ❖ Independent entity owned by shareholders
- ❖ Managed by a board of directors and officers (all can be one person)
- ❖ Limited Liability protections for shareholders
- ❖ Fiduciary duties for directors (need to keep the corp. “best interest” in mind)
- ❖ Double Taxation, both corporation and shareholders are taxed
- ❖ \$275 minimum filing fee, \$125 annual report filing fee (\$100 if online)

# S-CORP

- ❖ Must make an “s-election” with the IRS by the 15th day of the 3rd month after forming a C-Corporation.
- ❖ Single level of taxation - entity does not pay separate income taxes
- ❖ Only humans can be owners
- ❖ Only US citizens or permanent residents can be owners
- ❖ No non-US citizen may invest
- ❖ No more than 100 owners
- ❖ Only one class of stock

# LIMITED LIABILITY COMPANY (LLC)

- ❖ Owned by “members”
- ❖ Limited Liability - assets of company at risk not of members
- ❖ One level of taxation - All LLC income allocated to the members (and they pay taxes on all income/profits regardless of whether the LLC makes distributions)
  - May elect to be taxed as a corporation
- ❖ Comprehensive operating agreement is not required by law but is strongly encouraged
- ❖ \$500 initial fee and \$500 yearly report filing fee

# FOR EVERYONE

- ❖ Obtain federal EIN -

<https://www.irs.gov/businesses/small-businesses-self-employed/apply-for-an-employer-identification-number-ein-online>

- ❖ “DBA” with the city you are conducting business in
- ❖ Reservation of name prior to incorporation (\$30 with Secretary of Commonwealth for 60 days)
- ❖ DO NOT COMMINGLE FUNDS!!
- ❖ Personal guarantees will eliminate limited liability protections



# INTELLECTUAL PROPERTY

# TRADE SECRETS

- ❖ Can be considered an “alternative” to a patent
- ❖ Cheaper, perpetual, can be used when a patent is not applicable
- ❖ Must be
  - Secret or not generally known
  - Reasonable measures taken to protect
  - Disclosure would result in competitive gain
- ❖ Examples: Customer lists, source codes, technical procedures, financial data, business plans, recipes

The Coca-Cola logo, featuring the brand name in its iconic red script font.

# TRADEMARKS

- ❖ Commercially identify the source of your products - not just company names
  - Product names (M&Ms), logos (Nike swoosh and McDonald's), sounds (MGM Studio's lion roar), colors (Tiffany blue)
  - Protects against consumer confusion of brand
  - Product must be used in commerce
  - Consider filing for trademark protection
    - Use <sup>TM</sup> or SM if not registered
    - Don't use ® unless registered
  - Can be Perpetual with continued use



# SPECTRUM OF INHERENT DISTINCTIVENESS



Fanciful

Arbitrary

Suggestive

Descriptive

Generic

Easiest to Register

Impossible to Register

**Kodak**



**Coppertone**<sup>®</sup>

 Our Open MRI System



# COPYRIGHT

- Right of an artist to control the copying, use, distribution, adaptation, display and performance of a work
  - e.g., literature, art, choreography
- Protects the expression of ideas
  - Not the idea itself
- Extends beyond life
- Formalities:
  - Copyright notice (e.g., © 1999 Jane Smith)
  - Registering with US Copyright Office may be advisable
- Basic filing fee - \$35 online or \$50 paper
- <http://www.copyright.gov/>



EMPLOYMENT LAW

# EMPLOYEES VS. INDEPENDENT CONTRACTORS

## Employees

- ❖ Services at your direction
- ❖ Company must pay benefits
- ❖ Company must withhold taxes and provide a W-2

## Independent Contractor

- ❖ Company controls the result of the work, but not the means or method
- ❖ Company provides a 1099, not a W-2
- ❖ No withholdings from paycheck

# PAYING YOUR EMPLOYEES

- ❖ Minimum Wage: \$12.75 in 2020
- ❖ Cannot defer payment, even with employees permission
- ❖ For most hourly and salaried employees:
  - IF work more than 40 hours/week, THEN paid 1.5 times regular hourly rate
  - EXCEPTIONS: Restaurants, hotels, hospitals, nursing homes, gas stations, drivers/helpers on truck
- ❖ Deductions:
  - Required: State and federal income tax, Social Security, Medicare
  - Employee authorized: health insurance, pension, savings plan, etc.

# MANAGING PAYROLL AND STAFFING

- Furloughs vs. Layoffs
- MA Workshare Program
- Expedited Unemployment Assistance

# PREPARING FOR SUCCESSION

- First responsibility is to discharge debts and liabilities
- Liquidate as much of the remaining assets as possible
- Disburse remaining assets proportionate to ownership
- Depending on entity type, there may be further steps with the Commonwealth

CONTRACTS

# WHAT IS A CONTRACT?

- ❖ An agreement between two or more parties that is legally enforceable
- ❖ Can be written OR oral
- ❖ Must involve a “bargained for exchange” (consideration) to be legally enforceable

# WRITTEN CONTRACTS

- ❖ Some contracts have to be written
    - Sales of goods over \$500
    - Leases with payments over \$1,000
  - ❖ If you are writing a contract, make sure all the terms are written there, do not rely on oral terms
-



# EXAMPLE TERMS AND CONDITIONS

- ❖ Terms: How long is the agreement in effect? Can it be terminated early?
- ❖ Price and how payment will be made
- ❖ Time of performance
- ❖ Procedures for waivers and amendments
- ❖ Governing law
- ❖ Integration clause (this is the final agreement)

# COMMERCIAL LEASES

- Not like residential leases - the landlords do not have the same level of responsibility
- Having a written lease is vital, otherwise rights are very limited
- Basic Terms:
  - Landlord (Lessor) and Tenant (Lessee)
  - Description of the property being leased
  - Rent
    - Base Rent - What you pay each month
    - Common area Maintenance Charges
      - Management fees, maintenance expenses for the building and grounds, and utilities of the building
  - Term: How long is the lease for?
    - Tip: Agree on rent of formula to calculate rent for extended terms, generally better for tenant to have shorter term with more extension rights

# COMMERCIAL LEASES (OTHER ISSUES)

- Does the lease permit your planned use?
  - Tenants should try and make the “use” provision as broad as possible to allow for flexibility
  - Often tenants are required to obtain landlord permission for a change of use, so want to make it as flexible as possible
- Assignment and subletting - restrictions and limitations: Tenant should seek the ability to sublet without Landlord’s consent
  - Where Landlord’s consent is required, make sure that it cannot be unreasonably withheld.

# RENT RELIEF DURING COVID-19

- When negotiating with your landlord, really lay out the specifics of what you are looking for
  - Negotiating is always better than just saying you are not going to pay
- Defer = pay later, Abate = don't pay
  - Landlord may say you need to pay it off over a certain period, may add an extra month or two to your lease, may just let you not pay.
- You would add an amendment to your lease to commemorate this
  - Want to make sure you are not waiving any rights (like extension options)
- Note: Landlord's lender may not allow them to modify the lease.

# MORATORIUM ON COMMERCIAL LEASES

- No self help eviction in MA! They can not just come in and change the locks on you
- Can not evict for non-payment of rent from April 20 - August 18 (or 45 days after emergency declaration has been lifted)
- May **not** impose late fees or notify a credit reporting agency as long as the tenant provides notice that the non-payment was due to financial impact of COVID-19.
- Note: This doesn't mean that the landlord can't try to recover lost rent earlier.



THANK YOU!