



STEINHARDT
CAPPELLI
TIPTON &
TAYLOR LLC

1010 Kings Hwy South, Building 2
Cherry Hill, NJ 08034

☎ 856.853.5530
✉ 856.354.8318

Lou Cappelli, Jr. | Partner

856.853.5530
lcappelli@floriolaw.com

March 23, 2020

VIA E-MAIL ONLY

Robert Briant, Jr.
Utility and Transportation Contractors Association
PO Box 728
Allenwood, New Jersey 08720

Re: Construction Industry Exemption from Executive Order No. 107

Dear Mr. Briant:

The purpose of this letter is to advise the UTCA that members of the construction industry are exempt from the “stay at home” mandate established by Executive Order No. 107. Construction contractors, sub-contractors, and workers/employees are designated as employees who must be present at their work sites in order to perform their essential job duties. As such, members of the construction industry need not close their businesses and are permitted to leave their homes and continue working in-person or on-site as needed. However, it is important to note that notwithstanding this exemption, the order requires all businesses to make best efforts to reduce staff on-site to the minimal number necessary to continue essential operations.

By way of brief background, Executive Order No. 107 was signed into law on Friday, March 20, 2020. The order proposes to mitigate the impact of the COVID-19 pandemic and protect the capacity of New Jersey’s health care system. The order directs all residents to stay at home until further notice, with limited exceptions for obtaining essential goods or services, seeking medical attention, visiting family or close friends, reporting to work, or engaging in outdoor activities. The order also prohibits all gatherings of individuals, such as parties, celebrations, or other social events. When in public, individuals must practice social distancing and stay at least six feet apart whenever possible, excluding immediate family members, caretakers, household members, or romantic partners.

The order further directs the closure of all non-essential retail businesses to the public, with limited exceptions for: grocery stores, pharmacies, medical supply stores, gas stations, convenience stores, hardware and home improvement stores, banks and other financial institutions, laundromats, pet stores, liquor stores, and printing and office supply shops, among others.

The order additionally mandates that all businesses or non-profits, wherever practicable, must permit their workforce to telework or work-from-home. However, the order recognizes certain businesses and industries where employees cannot perform their functions remotely. These businesses and industries include, but are not limited to, “law enforcement officers, fire fighters, other first responders, cashiers or store clerks, construction workers, utility workers, repair workers, warehouse workers, lab researchers, IT maintenance workers, janitorial and custodial staff, and certain administrative staff.” (EO 107, ¶ 11) (emphasis added).

As such, construction workers and the construction industry are exempt from Executive Order No. 107’s “stay at home mandate.” It is important to again note that notwithstanding this exemption, the order requires businesses where employees cannot work remotely to make best efforts to reduce staff on-site to the minimal number necessary to continue essential operations.

Executive Order No. 107 otherwise continues existing bans on recreational and entertainment businesses, in-person dining, and in-person classes. Please note Governor Murphy also signed Executive Order No. 108 on March 20, which invalidates any county or municipal restriction that in any way conflicts with Executive Order No. 107.

Attached herewith is a form letter that employers or contractors can send to their sub-contractors or employees operating in the construction industry to inform them that they are exempt from Executive Order No. 107’s restrictions. The template letter may also be presented by employers, contractors, employees, and sub-contractors to members of law enforcement if they are stopped going to or from work and questioned for a possible violation of the order.

I will inform you of any additional changes in the law or requirements and limitations applicable to the construction industry as they may arise in the coming weeks. Please stay safe and healthy during this difficult time. Please do not hesitate to contact me if you have any questions or wish to further discuss any aspect of the foregoing.

Very truly yours,

**FLORIO PERRUCCI STEINHARDT
CAPPELL TIPTON & TAYLOR LLC**

/s/ Lou Cappelli, Jr.
Lou Cappelli, Jr., Esquire

LCJ/sjb

att.