KAUFMAN | DOLOWICH

Mansfield Rule
Certified 2022-2023

New York State Update: COVID-19 Guidance for Construction

We continue to monitor events pertaining to the construction industry in these serious times. As most are aware, NYS Governor Andrew Cuomo has issued Executive Order 202.6 (“Order”), which now requires that 100% of staff must not be in the workplace. The Order exempts construction and essential infrastructure including utilities, telecommunication, airports and transportation infrastructure as essential services not subject to the restrictions. A subsequent Guidance from NYS Empire State Development (ESD) listed Construction as including:

- skilled trades such as electricians, plumbers
- other related construction firms and professionals for essential infrastructure or for emergency repair and safety purposes

Responding to questions from the construction industry, ESD yesterday morning advised that the construction designation applies effectively to "all construction." Guidance from Agencies such as NYS DOT, MTA and NYS Thruway Authority effectively indicates that the exemption should include subcontractors, suppliers, vendors and specialty firms that are supporting capital program work. There is no set direction on whether/how the Governor’s Executive Order applies to local government and private construction; However, with no limit/qualification on the term “construction” in the Order or ESD’s Guidance, it should be appropriate for a contractor or construction-related firm to continue operations with an exemption from the Order’s restrictions.

The Agency Guidances do indicate that exempt firms should still assess personnel’s ability to work remotely, and continue safe and recommended practices on site. Included here is the full text of the MTA’s Memorandum, click here.

The attorneys in KD's Construction Law Practice Group continue to closely monitor developments on the law and update employers as the legal landscape continues to evolve. If you have questions about these developments, complying with the above regulations or are in need assistance in implementing the new policies, please contact one of the experienced Construction Law attorneys: Andrew Richards, Co-Managing Parter of the KD Long Island office and Chair of the KD Construction Law practice group at (516) 283-8717 or arichards@kaufmandolowich.com, Erik Ortmann, Vice Chair of the KD Construction Law practice group at (516) 283-8730 or eortmann@kaufmandolowich.com, Elizabeth Marchionni, partner, at at (516) 283-8723 or emarchionni@kaufmandolowich.com, or call Kaufman Dolowich & Voluck at (516) 681-1100.

© 2024 Kaufman Dolowich. All Rights Reserved. | www.kaufmandolowich.com