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ATTORNEY GENERAL



CONSUMER PROTECTION  
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We received a complaint alleging that individuals who have been living in your hotel or motel as their residence reported a recent threat of eviction not supported by a court order authorizing eviction. We write to inform you that evicting these individuals without a court order may constitute violations of North Carolina's landlord-tenant and consumer protection laws depending on the facts and circumstances of the individuals' stay at your property.

Violations of North Carolina's landlord-tenant and consumer protection law have serious consequences. The Attorney General is authorized to obtain a civil penalty of up to \$5,000 for each violation of North Carolina's consumer protection law as well as additional monetary relief. N.C. Gen. Stat. §§ 75-15.1, -15.2. Tenants evicted without a court order are entitled to return to the property and recover damages caused by their removal. N.C. Gen. Stat. § 42-25.9. The Attorney General is also authorized by law to obtain a temporary restraining order or preliminary injunction to stop violations of these laws. N.C. Gen. Stat. § 75-14.

We understand that your property may be facing severe financial distress because of the reduction of travel caused by the unprecedented realities of the COVID19 public health crisis. However, the current crisis also poses enormous challenges to North Carolinians' health and ability to make even minimal housing payments. During a period when public health demands social distancing and Governor Cooper has imposed a stay-at-home order, it is essential that North Carolinians be allowed to stay in their residences during the emergency absent strict compliance with North Carolina eviction law.

The North Carolina Court of Appeals has determined that landlord-tenant laws protect certain individuals who use hotel and motel rooms as their primary residence even when there is no written lease. *Baker v. Rushing*, 409 S.E.2d 108, 112 (N.C. App. 1991). The determination of which individuals present in hotels and motels are protected by the landlord-tenant laws is fact-intensive and depends on evaluating all relevant circumstances. *Id.* A hotel or motel that does not treat individuals according to the landlord-tenant laws runs the risk that a judge will find that it violated the law.

North Carolina's landlord-tenant law provides that *no* individual—even if they have not paid their rent—may be constructively or actually removed from a dwelling without obtaining a court order and having it enforced by the Sheriff's Department. N.C. Gen. Stat. § 42-25.6. This means that hotels and motels must obtain a court order before asking local law enforcement to file trespassing charges against residents covered by the landlord-tenant laws. Additionally, a hotel or motel cannot take its own actions to remove residents covered by the landlord-tenant

laws, such as cutting off utilities or changing locks, without obtaining a court order. Doing so subjects a hotel or motel to a potential lawsuit from the Attorney General and the tenant.

We understand that many hotel and motel owners may not be aware of the application of landlord-tenant laws to residents of their property and will fully comply with the laws' requirements once aware of them. However, if we receive future complaints about similar conduct at your property, we may make a formal investigative demand for information pursuant to the Attorney General's authority under N.C. Gen. Stat. § 75-10 or pursue a temporary restraining order and preliminary injunction to prevent removal of individuals covered by the landlord-tenant laws.

You may contact me at (919) 716-6026 or [dmosteller@ncdoj.gov](mailto:dmosteller@ncdoj.gov) if you have questions concerning this letter.

Sincerely,

/s/ Daniel P. Mosteller

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Consumer Protection Division