

Press Release from Cape May County Prosecutors Office

RE: Campground operation during COVID-19 Emergency Declaration EO107

As County Prosecutor, my obligation under the COVID-19 crisis is to enforce Executive Orders ("EO") and Administrative Orders ("AO") issued by the Governor and the State Director of Emergency Management, respectively. Unfortunately sometimes EOs and AOs are rather vague making it difficult for law enforcement and the general public to understand what they can and cannot do. **The obviously purpose is to limit contact between unrelated people and limit travel from one region to another to prevent the spread of the virus.**

The Attorney General's office has confirmed that EO 107 paragraph 9.f. applies to recreational campgrounds. As I set forth in the April 18th Press Release (and as confirmed by the AG's office) all campgrounds are closed - with a few exceptions. The exceptions apply to the form of lease and/or ownership of the individual campsites; but before I address the sites that meet the exceptions I want to be clear that even if a campground has the excepted sites - all other amenities and activities at the campsite are banned. Also, even if a campground may have excepted sites that may be allowed to be occupied by owners/excepted lessees of the sites - **it is completely up to the individual campgrounds whether they want to make the excepted sites available to the owners/excepted lessees of the sites.** Some correspondence I have had with campground owners implies that they feel like they are forced to open if they have excepted sites even if they do not want to. That is between the campground owners, their attorneys and the campsite owners/excepted lessees. I cannot comment about what their contractual relationships may be.

As set forth in the Press Release :

1. If the the campground has year-round leases and the lessees use the address as their permanent residence (including campground workers) they are excepted and allowed to continue their leases. There are some exceptions where people live in a winter rental on one of our barrier islands and live at their campsite in the summer that have been granted because they are more or less year-round residents - but that is on a case by case basis.

2. If an individual campsite is owned thru a deed and/or a longterm lease (or other form of ownership) that requires the payment of property tax by lessee, then they are deemed to hold a more permanent property right interest and they would be allowed to occupy the site with their direct family (assuming the campground owner consents), however they are subject to all shelter at home requirements as if this is their permanent residence and as set forth above, there would be no campground amenities/activities open or available to them. Think of its as how

the beach and parks are closed to the public. The closing of beaches/parks/boardwalks is done to dissuade people from outside the area to come as part of the travel restrictions; so people in campgrounds should be treated exactly like people who come to beach communities who own second homes. They are expected to act like they are at their permanent residence.

The reason there is this exception is because the campsite 'owners' are like second home condo owners, not recreational campers.

There are also two Resolutions that were passed by Cape May County that ban all short term rentals. Resolution 250-20 and 256-20 apply to any of the excepted sites outlined above. So even if the campsite meets either of the exceptions outline in 1 and 2 above, they cannot be used for short term rentals in violation of the Resolutions. They can only be occupied by the owners or their family members.

This is a complicated situation for all of us. As a County Prosecutor my role is to enforce criminal laws and in this situation Executive Orders. I am not a legislator and have no say over whether the EOs and AOs are fair and I had no control over how they are written. I can confirm that my description outlined above has been accepted by the Attorney General's office and I am simply trying to provide guidance to campground owners, campers and the general public. Given that the County Health Dept administers the campgrounds for purposes of meeting health standards and opening, I have asked them to contact the campgrounds and determine which of them have excepted sites as outlined above and if they do and want to open in accordance with what is outlined above. Any campgrounds that do not have any such sites would simply be banned from opening based on EO 107 9.f., unless and until the EO is rescinded or modified. I can say that I had a conversation with the First Assistant Attorney General this afternoon and asked (as I have for the last month) whether there will be any additional guidance coming from the Governor's office and she was clear that based on what she knows it is not. Of course that could change so my guidance outlined above is based on EO 107 as of today's date.

I hope this has answered all of your questions and has provided guidance for you and your members.

Jeff Sutherland
Cape May County Prosecutor