

March 21, 2020

Illinois Gov. Pritzker's "Stay Home" Order: The Impact on Construction



Richard Reizen

Construction

Illinois Gov. J.B. Pritzker yesterday issued an [executive order](#) advising the state's citizens to stay home and allowing only essential businesses to keep operating beginning on March 21, 2020.

As was the case with similar orders entered in California, New York and Boston, the Illinois Stay Home Order addressed permissible construction activities. However, slightly different language found in the Stay Home Order either intentionally, or through imprecise language, indicates that construction activities are exempt from the order, as long as social distancing and other government-mandated safety standards are followed in the construction. The Illinois order does not, by its terms, shut down construction activities.

Details of the Order Affecting Construction

Specifically, article 9 of the Stay Home Order addresses "Essential Infrastructure." Included in the definition of Essential Infrastructure is: "**construction (including, but not limited to,** construction required in response to this public health emergency, hospital construction, construction of long-term care facilities, public works construction and *housing construction...*" (emphasis added) By including construction in the definition of Essential Infrastructure and using the "including but not limited to" language, the Stay Home Order can be read to include **all** construction.

This definition is different from others used by some states and cities that limit construction to certain specific public infrastructure and emergency situations. The Illinois Stay Home Order also seems to include all housing construction. It is possible Illinois will argue that by including construction under the Essential Infrastructure article, it was limiting construction to those essential activities and industries. However, the express language says otherwise.

The Stay Home Order also exempts manufacturers, supply chain companies and distributors producing and supplying essential products used in "construction."

Finally, the Stay Home Order exempts "Building and Construction Tradesmen and Tradeswomen" performing essential activities, which broadly includes electricians, plumbers, maintenance and cleaning companies, and many other similar trades.

Given the emergent nature of the COVID-19 pandemic in Illinois and the likely haste with which the Stay Home Order was written, it can be interpreted more than one way. Additionally, it is unclear how – and if – the state will enforce the Stay Home Order. Nevertheless, the Stay Home order expressly allows construction to continue as long as all parties comply with the required safety standards. Aside from the question of enforcement, additional issues may include whether contractors will have sufficient workers to do the work and whether owners will continue to want their projects to proceed.

We will continue to monitor the situation and report on developments.