



The Office of
Minnesota Attorney General Keith Ellison
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November 23, 2020

Ms. Larvita Mcfarquhar
Haven's Garden
106 E Railroad St.
Lynd, MN 56157

Re: Executive Order 20-99

Dear Ms. Mcfarquhar:

As I mentioned in our conversation today, the Minnesota Attorney General's Office received information that Haven's Garden has remained open to members of the public for on-site consumption of food and beverages in violation of Emergency Executive Order 20-99. Additionally, Haven's Garden is currently advertising an "open mic" event on November 26, 2020.

In response to the ongoing COVID-19 pandemic, on November 18, 2020, Governor Tim Walz issued emergency Executive Order 20-99, which prohibits bars and restaurants from being open to members of the public for on-premises consumption of food or beverages at least through December 18, 2020, in order to slow the community spread of COVID-19. Importantly, bars and restaurants are still permitted and encouraged to continue to offer walk-up, drive-through, and/or take-out service,¹

The Order also closed certain places of public accommodation, including venues holding indoor events, such as open mic nights, to members of the public at least through December 18, 2020, in order to slow the community spread of COVID-19.

The purpose of this Emergency Executive Order is to protect the health and safety of Minnesotans during the peacetime emergency. Indeed, Minnesota is currently experiencing some of the highest rates of new COVID-19 cases, hospitalizations, intensive care unit admissions, and deaths since the start of the pandemic.

Emergency Executive Order 20-99 empowers this Office to investigate and take action against businesses or persons that are operating or threatening to operate in violation of the Order. As the chief legal officer for the State of Minnesota, the Attorney General has authority to file a civil enforcement action seeking injunctive relief and civil penalties of up to \$25,000 for each and every occurrence Executive Order 20-99 is violated, as well as its attorney's fees and costs

¹ This includes the limited sale of alcoholic beverages with prepared take-out food orders in accordance with 2020 Minnesota Laws Chapter 75.

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(including costs of investigation). *See* Minn. Stat. § 8.31, subds. 3, 3a. Emergency Executive Order 20-99 further provides that “[a]ny business owner, manager, or supervisor who requires or encourages any of their employees, contractors, vendors, volunteers, or interns to violate this Executive Order is guilty of a gross misdemeanor and upon conviction must be punished by a fine not to exceed \$3,000 or by imprisonment for not more than a year.” I have enclosed with this letter for your review a copy of Emergency Executive Order 20-99.

In our call today, you indicated that you would not be closing your restaurant for on-site consumption or following any portion of Executive Order 20-99. You stated that the Order was “not a law,” and stated that the Attorney General should not enforce the Order because doing so would be unconstitutional. As I mentioned on the phone, Executive Order 20-99 has the force and effect of law, and is constitutional.

I ask that you state in writing by Monday, November 23, 2020 at 5:00 p.m. that Haven's Garden will not remain open for on-site consumption or for entertainment activities like the planned open mic night, and that you will fully comply with Executive Order 20-99. To the extent Haven's Garden does not comply and violates Executive Order 20-99, the Minnesota Attorney General's Office reserves the right to bring an enforcement action pursuant to Minn. Stat. § 8.31.

I thank you for your prompt attention to this matter, and I am available if you would like to discuss this further or have any questions.

Sincerely,

/s/ Noah Lewellen

Noah Lewellen
Assistant Attorney General

Enclosures: Executive Order 20-99