

JAY INSLEE
Governor



STATE OF WASHINGTON
OFFICE OF THE GOVERNOR

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April 22, 2020

Keith Johnson
County Administrator
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Dear Franklin County Board of Commissioners and County Administrator Keith Johnson:

It appears that the Franklin County Board of Commissioners took action yesterday, April 21, 2020, to unanimously approve a resolution that purports to declare that the County is “open for business,” including all building/construction and all other businesses that want to work. That action is contrary to the Governor’s “Stay Home, Stay Healthy” order, and it is unlawful.

As you are aware, Governor Inslee has enacted statewide, temporary emergency measures in response to the severe health risks posed by the COVID-19 respiratory illness. Relevantly, he issued Proclamation 20-25, “Stay Home, Stay Healthy,” which prohibits non-essential activity through May 4, 2020. Among other things, this Proclamation, which has the force and effect of law, temporarily prohibits certain business activity as well as certain commercial and residential construction except in limited cases.

The action taken by the Board of Commissioners intentionally and knowingly violates an order issued by the Governor pursuant to his emergency powers, see RCW 43.06.220(1), and it therefore violates state law. And it encourages its residents, to their detriment, to violate the Governor’s order and state law.

As you may know, the Governor also issued proclamation enforcement guidance in the first week of April. The guidance establishes a three-step process for engaging with individuals who intentionally or unintentionally act in violation of the Governor’s orders. The purpose of this guidance is to provide a process that will allow for a consistent response across the state. The multi-step process, which begins with education, is intended to avoid imposition of sanctions and to seek voluntary compliance in every case. However, if individuals or businesses decline to comply after repeated efforts to achieve compliance, as a very last resort the Governor will direct that criminal and/or civil charges be pursued.

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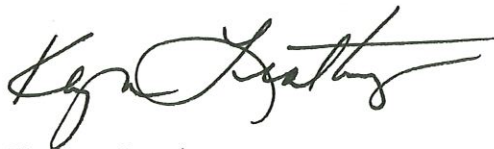
To further exacerbate the confusion for Franklin County residents and its workforce, in an email sent at 11:08 a.m. by Mr. Sean Davis, apparently on behalf of County Administrator Keith Johnson, the above referenced resolution was discussed and the following further guidance was issued: "The main emphasis of this resolution is to notify the public that...they will not be cited or charged for violating a stay at home order unless they are clearly violating social distancing expectations or placing others at risk."

The above guidance is false. The Board of Commissioners cannot insulate any resident from state action to enforce state law. In other words, workers and business owners cannot rely on conflicting local guidance to defend against state enforcement. More importantly, the Board of Commissioners' action puts lives at risk.

During this pandemic, the health of the public is paramount. As such, by and through this letter, the Governor directs you to immediately retract or rescind the resolution adopted on April 21, 2020, that declares the County to be "open for business" and any relevant guidance that purports to supersede state enforcement authority.

Thank you for your prompt attention to this matter.

Sincerely,



Kathryn Leathers
General Counsel
Office of Governor Jay Inslee

cc: Robert E. Koch, Chairman, RKoch@co.franklin.wa.us
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