

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



P.O. Box 30212
LANSING, MICHIGAN 48909

DANA NESSEL
ATTORNEY GENERAL

March 31, 2020

Menards
Corporate Office
4777 Menard Drive
Eau Claire, WI 54703-9604

Delivered via email only

Re: Executive Order of the Governor 2020-21

To Whom it May Concern,

As you know, on March 10, 2020, Governor Whitmer issued Executive Order 2020-4 declaring a state of emergency across the State of Michigan under sec. 1, art. 5 of the Michigan Constitution of 1963, the Emergency Management Act, MCL 30.401, *et seq.*, and the Emergency Powers of the Governor Act of 1945, MCL 10.31, *et seq.*

Pursuant to those authorities, she subsequently issued Executive Order 2020-21 which prohibits any person or entity from operating a business or conducting operations that require workers to leave their homes or places of residence, except to the extent those workers are necessary to sustain or protect life or to conduct basic minimum operations. The Order is to be “construed broadly to prohibit in-person work that is not necessary to sustain or protect life.” See EO 2020-21, ¶1.

The Governor has posted “Guidance for Business” on the State’s website (www.michigan.gov/coronavirus) to help assist businesses in determining if their on-site operations are “necessary to sustain or protect life.” This page also has a Frequently Asked Questions (FAQ) section to address specific questions of interpretation related to the Executive Orders issued by the Governor. These FAQs can be viewed by clicking “Executive Orders, Directives & FAQs” on the black panel on the left side of the page. (https://www.michigan.gov/coronavirus/0,9753,7-406-98178_98455-522631--00.html)

Though Menards is currently allowed to remain open to the public to supply those goods that fall under certain provisions of the Governor’s Executive Order, its business operations are still restricted and bound by the other limitations in the order, as are the members of the general public who shop at your stores. For example, Menards is only allowed to supply goods to the general public as “are

necessary to maintain and improve the safety, sanitation, and essential operations of a residence.” In turn, Menards should only have the minimum number of Critical Infrastructure Workers on-site to support sales for those specific, emergent issues.

This Department has received multiple complaints about Menards’ current business operations. Those complaints suggest that Menards is intentionally marketing and advertising to drive additional business into its stores in violation of the Governor’s Executive Order. Some of these complaints have been sent by Menards’ employees who fear for their safety. [REDACTED]

If true, it’s our position that this business practice violates both the letter – and the spirit – of Executive Order 2020-21. It also puts both the general public and Menards employees at serious risk. Moreover, we find this business practice particularly troubling since the conduct comes on the heels of warnings from our Department finding that Menards has engaged in price gouging of certain goods critical to responding to the COVID-19 health crisis.

The current climate should not be viewed through the lens of business opportunism where dollars drive decisions over the good of the public health. We are asking that you cease any and all practices that run contrary to the spirit and intent of the Governor’s Stay Home, Stay Safe Order, including marketing sales to draw large numbers of the general public into your store for non-emergency purposes.

We ask that you confirm your understanding and agreement with this request no later than 9:00 a.m. April 1, 2020. We appreciate your prompt attention to this matter.

Sincerely,

/s/ Christina Grossi

Christina M. Grossi
Chief of Operations
Department of Attorney General