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April 16, 2020

Lynn Minges, President and CEO
North Carolina Restaurant and Lodging Association
222 North Person Street
Suite 210
Raleigh, NC 27601

Cecil P. Staton, President and CEO
Asian American Hotel Owners Association
1100 Abernathy Road
Suite 725
Atlanta, GA 30328

   *Via electronic mail*

Ms. Minges and Mr. Staton:

   Thank you for the continued engagement by the North Carolina Restaurant and Lodging Association, the Asian American Hotel Owners Association, and hotel and motel owners and operators across the state, about our April 3, 2020 and April 7, 2020 letters concerning the application of North Carolina's landlord-tenant and consumer protection laws to individuals staying at hotels and motels. We appreciate the compassion demonstrated by many hotel and motel owners and operators in ensuring that individuals who are living in a hotel or motel as their primary residence are not displaced during this unprecedented emergency. We also appreciate the severe financial hardship that the stay-at-home orders effective in nearly all states place upon the industry.

   Our purpose in sending our April 3 and April 7 letters was to provide relevant information about North Carolina's landlord-tenant laws as they have existed since 1991 when the Court of Appeal specified that the application of those laws to hotels and motels "must be determined by looking at all of the circumstances" of an individual's stay. *Baker v. Rushing*, 409 S.E.2d 108, 112 (N.C. App. 1991). We do not have authority to change the law from how it has been interpreted by our courts.

   We had credible information that it was appropriate to provide such information to each recipient of our April 3 letter. Unfortunately, we have continued to receive since April 3 complaints directly from long-term residents of hotels and motels around the state about

potentially unlawful eviction efforts taken without court order.  It is our regular practice, without making a determination about the factual or legal merit of complaints, to ask businesses to respond to consumer complaints we receive, so we have brought these complaints to the attention of hotels and motels.

Despite our many efforts during the past several weeks to communicate with those concerned about this issue, we understand there may continue to be some confusion about our April 3 and April 7 letters.  We therefore provide the following clarifications:

- The landlord-tenant laws apply only to individuals who are living in a hotel or motel, or any other kind of property, as their primary residence.  It does not apply to travelers, leisure guests, or business guests.  A one- or two-night stay is unlikely to establish a primary residence even in combination with other circumstances.

- Hotel and motel residents even if covered by the landlord-tenant laws still owe their payments, although court eviction procedures must be used to remove them from the property.  A hotel or motel may continue to ask these residents for payment, or to ask them to make a payment arrangement.

- A hotel or motel may ask residents who are currently unable to pay to apply for financial assistance, if available from governmental or charitable sources.

- A hotel or motel may inform residents of the amount due for their stay.

- A hotel or motel may ask residents of their plans regarding how long they will continue residing at the property.

- A hotel or motel may not use trespassing laws to remove non-paying individuals who are living in the property as their primary residence.  A hotel or motel may report criminal conduct by such residents to law enforcement.  Like anybody else, individuals residing at a hotel or motel are subject to arrest if they engage in criminal activity in their residence.

If there are questions about this letter, I can be contacted at (919) 716-6026 or dmosteller@ncdoj.gov.

Sincerely,

/s/ Daniel P. Mosteller

Daniel P. Mosteller
Special Deputy Attorney General
Consumer Protection Division