

KTJ

KLEIN, THORPE & JENKINS, LTD.
Attorneys at Law

November 16th, 2020

For any questions or comments you might have regarding this newsletter, please feel free to contact:

LEGAL ALERT

Illinois Appellate Court Upholds Governor's Authority to Issue Continuing Proclamations Based On the Same Disaster

An Illinois Appellate Court has reversed the decision of a Kane County circuit court judge granting the Fox Fire Tavern a temporary restraining order preventing enforcement of the Governor's Executive Order 2020 - 61 against the Tavern. The Governor issued an initial 30 day proclamation under Illinois law, and has issued several successive 30 day proclamations implementing COVID based restrictions. The Appellate Court concluded the Illinois Emergency Management Agency Act plainly authorizes the Governor to issue successive disaster proclamations due to a single, ongoing disaster:

“Once such a [disaster] declaration has been made, the governor may exercise his emergency powers “for a period not to exceed 30 days” following the proclamation. The State notes, and we agree, that nothing in this language precludes the governor from issuing multiple disaster proclamations – each with its own 30 day grant of emergency powers – arising from one ongoing, disaster.”
Fox Fire Tavern, LLC v Pritzker, 2020 IL App (2d) 200623 (Nov. 13, 2020)

The Court went on to note that its conclusion was also supported by more recent legislation that expressly refers to the Governor's authority to issue successive disaster proclamations.

Relative to local disaster proclamations, a mayor or village president has authority to declare a state of emergency and issue executive orders in compliance with any locally established standards, if given the power to do so by the corporate authorities pursuant to the provisions of the Illinois Municipal Code. Such a declaration stays in effect until the adjournment of the first regular Village Board/City Council meeting following the declaration of the state of emergency. 65 ILCS 5/11-1-6

A full copy of the Court's opinion in *Fox Fire Tavern, LLC v Pritzker* is available at the following link:

<https://courts.illinois.gov/Opinions/AppellateCourt/2020/2ndDistrict/2200623.pdf>

Authored By:

Name: Scott F. Uhler

Email: sfuhler@ktjlaw.com

Phone: 312-984-6421



This newsletter is not to be construed as legal advice or a legal opinion under any circumstance. The contents are solely intended for general informative purposes, and the readers of this newsletter are strongly urged to contact their attorney with regard to any concepts discussed herein.

This newsletter may be deemed advertising under the laws of the Supreme Court of Illinois.

© 2020 Klein, Thorpe and Jenkins, Ltd.