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MEMORANDUM

DATE: July 9, 2015

TO: Hotel Association of New York City, Inc.
Labor Relations Members
General Managers, Human Resources Directors and Controllers

FROM: Kane Kessler, P.C.
Labor & Employment Law Department

RE: Article 69(B) of the Industry Wide Agreement ("IWA"): Ventilation

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With the potential for high summer temperatures, we wanted to remind you that Article 69(B) of the IWA provides, "The Employer shall provide sufficient ventilation and air temperature for a safe and healthy work environment." The term "safe and healthy work environment" is not defined in the IWA. The Occupational Safety and Health Administration ("OSHA") applies to all Hotel employers. While OSHA does not have a specific rule regarding air temperature[1], this issue would fall under OSHA's General Duty Clause which requires employers to "furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm." In August of 2014, OSHA published a Fact Sheet (DTSEM FS-3743) titled "Protecting Workers from the Effects of Heat" which provides some guidance on a recommended Heat Illness Prevention Program in order to lessen heat stress. The precautions are consistent with the advice we have provided in the past and are as follows:

Prevention Made Simple:
Key elements of a Heat Illness Prevention Program include:

- A Person Designated to Oversee the Heat Illness Prevention Program – identify someone trained in the hazards, physiological responses to heat, and controls. This person can develop, implement, and manage the program.

[1] OSHA does, however, recommend temperature to be between 68 to 78 degrees with relative humidity of 30% to 60%.

- Hazard Identification – use technology such as a Wet Bulb Globe Thermometer.
- Water. Rest. Shade. – ensure that cool drinking water is available for workers to drink and encourage workers to drink one liter every hour. Provide or ensure that there are fully shaded or air-conditioned areas available for rest.
- Acclimatization - during a rapid change leading to excessively hot weather or conditions such as a heat wave, even experienced workers should begin on the first day of work in excessive heat with 50% of the normal workload and time spent in the hot environment, 60% on the second day, 80% on day three, and 100% on the fourth day.
- Modified Work Schedules – altering work schedules may reduce exposure to heat (i.e., schedule more physically demanding work at cooler times of day).
- Training - provide training in a language and manner workers understand, including information on health effects of heat, the symptoms of heat illness (headache, nausea, dizziness, weakness, irritability, confusion, thirst, heavy sweating and a body temperature greater than 100.4°F), how and when to respond to symptoms, and how to prevent heat illness.
- Monitoring for Signs and Symptoms - establish a system to monitor and report the signs and symptoms of heat illness to improve early detection and action. Using a buddy system will assist supervisors when watching for signs of heat illness.
- Emergency Planning and Response - have an emergency plan in place and communicate it to supervisors and workers (i.e., what to do when someone is showing signs of heat illness, how to get help). Consider seeking advice from a healthcare professional.
- Engineering Controls Specific to Indoor Workplaces - indoor workplaces may be cooled by using air conditioning or increased ventilation, assuming that cooler air is available from the outside. Other methods to reduce indoor temperature include: providing reflective shields to redirect radiant heat, insulating hot surfaces, and decreasing water vapor pressure, e.g., by sealing steam leaks and keeping floors dry. The use of fans to increase the air speed over the worker will improve heat exchange between the skin surface and the air, unless the air temperature is higher than the skin temperature. However, increasing air speeds above 300 ft. per min. may actually have a warming effect. Industrial hygiene personnel can assess the degree of heat stress caused by the work environment and make recommendations for reducing heat exposure.

You can access this fact sheet and other information on OSHA's website at www.osha.gov.

If you have any questions, do not hesitate to contact David R. Rothfeld, Judith A. Stoll, Robert L. Sacks, Lois M. Traub, Alexander Soric, or Michael C. Lydakis.

cc: Joseph E. Spinnato, Esq.
Vijay Dandapani, Chairman