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Employers' Right to Refuse Property Access

The State Labor Commissioner's Office has announced that, working in conjunction with Cal/OSHA and the Agricultural Labor Relations Board (ALRB), it intends to contact farmworkers this week by attempting to take access to growers' properties, including agricultural fields and worker housing. According to Secretary of Labor Julie Su's recent Twitter posting, a team of Labor Commissioner, Cal/OSHA, and ALRB representatives will be starting a 4-day mobile caravan to talk to farmworkers about their right to paid COVID sick leave and freedom from retaliation for exercising their rights. Ms. Su went on to add a comment thanking their partners in this effort: Mixteco/Indigena Community Organizing Project (MICOP), Central Coast Alliance United for a Sustainable Economy (CAUSE), California Rural Legal Assistance (CLRA), and Lideres Campesinas.

You need to know your rights in regard to this group's ability to take access to your property, so that you can respond properly if you are targeted. Generally, employers may prohibit private non-governmental organizations (NGO) and private individuals from entering or being on their land. NGO's include organizations like MICOP, CAUSE, CLRA and Lideres Campesinas. This means that if any of the "partners" referenced in Ms. Su's Tweet show up at your worksite, you have every right to refuse to allow them to have access to your property.

Under State and Federal law, certain agencies have limited access to your property under specific circumstances. Under State labor laws, the Office of the Labor Commissioner (or "Division of Labor Standards Enforcement (DLSE)"); Division of Occupational Safety and Health (DOSH or Cal/OSHA); Employment Development Department (EDD); Department of Fair Employment and Housing (DFEH); and Agricultural Labor Relations Board (ALRB) all have limited rights to access your agricultural property. Under California law, these government agencies have authority to enter your property when (1) given employer consent; (2) subject to an administrative subpoena; or (3) subject to a search warrant. Employer consent will be pivotal to the Labor Commissioner's "mobile caravan." You do NOT have to give consent.

What This Means for Employers:

Employers should immediately meet with their field supervisors, including foreman and crew leads, to make them aware of the company policy to enforce its legal rights to refuse access. Remind supervisory employees to immediately contact management and to stop individuals at the gate when seeking access. Employers should also remind management and supervisory employees not to engage in physical violence or threats with these agency groups. Rather, supervisory and management employees should get business cards, names, and license plate numbers if possible and record the date, time, and place of contact. Management should call legal counsel immediately and then meet the individual at the gate, do not allow agency representatives to come to you. Upon

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meeting the agency representative, ask if any of the representatives have a valid search warrant or administrative subpoena. Let them know you have contacted your legal counsel and require reasonable time (generally up to 30 minutes) for your legal counsel to contact the agency. Be cordial, but do not consent to giving them access.

If you are subject to a visit from the Labor Commissioner's team, contact Barsamian & Moody immediately so that we can work to protect your legal rights.

The goal of this article is to provide employers with current labor and employment law information. The contents should neither be interpreted as, nor construed as legal advice or opinion. The reader should consult with Barsamian & Moody at (559) 248-2360 for individual responses to questions or concerns regarding any given situation.