

## Opening Indoor Pools: Divergence Between NYS and NYC

Residential cooperatives (coops) and condominiums (condos) should proceed with caution when opening their indoor pools. In a recent *Alert*, we advised that residential coops and condos in New York City (NYC) are permitted to open their pools based on guidance received from the Empire State Development Corporation (ESD). ESD is the New York state (state) governmental organization responsible for providing guidance to businesses with respect to the governor's executive orders. Despite the state's position regarding the opening of all pools in New York, the state has allowed NYC to impose additional restrictions beyond those set by the state. As such, the NYC Department of Health (NYCDOH) is now taking a divergent position from the ESD in stating that only outdoor pools in NYC are permitted to open (including those located in residential coops and condos). Given these conflicting opinions, we advise that condos and coops reevaluate their decision to open their indoor pools, because they may be subject to NYC fines notwithstanding the state's guidance. Coops and condos located in NYC must also comply with (1) New York's Interim Guidance for Pools and Recreational Aquatic Spray Grounds During the COVID-19 Public Health Emergency and (2) NYCDOH Reopening New York City: Guidance for Outdoor Pool Operators.

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