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SPRINGFIELD

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FILE NO. NP-252
MUNICIPAL CORPORATIONS:
Lease of Garage Facility

Honorable Henry D. Sintzenich
State's Attorney
McDonough County
Macomb, Illinois 61455

Dear Sir:

I have your recent letter wherein you state:

"I hereby request your opinion on the following matter:

"Can a hospital which is organized in accordance with Chapter 23, Section 1251 and subsequent of the Illinois Revised Statutes of 1969 build and lease to the county a garage whose sole purpose will be for the storing of ambulances belonging to the county ambulance service which was organized and provided by the County Board of Supervisors?

"The two considerations which are foremost in my mind are

"(a) Whether or not the district hospital will lose any portion of its tax exempt status by leasing to another governmental agency.

NP-252

"(b) Whether or not building of such a garage facility is within the power of the hospital.

"If your opinion to the above is to the negative, is there an alternative plan by which garage facilities could be placed on a district hospital's grounds for the use of the county ambulance service?"

You have inquired as to whether or not a hospital has the power to lease to a county a garage for the sole purpose of storing county ambulances. The general rule with respect to powers of a municipal corporation such as a Hospital District is stated at page 235 of Volume 62 Corpus Juris Secundum (Section 107 of Municipal Corporations) which reads as follows:

"The powers of a municipal corporation are derived solely from the laws of the state, and must be conferred by its charter or the laws which created it, or by other laws, constitutional or statutory. Ordinarily, these powers are conferred by the legislature; and, subject to constitutional limitations, the legislature may confer on municipal corporations such powers as it sees fit; it is a matter within its discretion. * * *"

Illinois follows the above stated rule. Your attention is called to Arnold v. City of Chicago, 387 Ill. 532 at page 536 which reads as follows:

"It has long been the established rule in Illinois that municipalities may only exercise the powers delegated to them by the General Assembly. All legislative power is vested in the General Assembly by the constitution. That body may exercise the power directly or it may create municipalities and delegate to them, for the purposes of local government, such portion of the power as it sees fit to grant. Municipal corporations owe their existence to, and their powers are derived solely from, the General Assembly. They have no inherent power. In order to legislate upon, or with reference to, a particular subject, they must be able to point to the statute which gives them the authority to exercise the power which they claim the right to exercise. Statutes granting powers to municipal corporations are strictly construed. Any fair or reasonable doubt of the existence of the power is resolved against the municipality which claims the right to exercise it. * * *"

I have examined the provisions of the Hospital District Law, Paragraphs 1251 through 1273 of Chapter 23 of the 1969 Illinois Revised Statutes. Subparagraph (c) of Paragraph 1253 of Chapter 23, 1969 Illinois Revised Statutes reads as follows:

"'Facilities' means and includes real estate and any and all forms of tangible and intangible personal property and services used or useful as an aid, or constituting an advantage or convenience to the safe and efficient operation or maintenance of a public hospital."

Subparagraph 3 of Paragraph 1265 lists as a power of a Hospital District:

"To operate, maintain and manage such hospital and hospital facility, and to make and enter into contracts for the use, operation or management of and to provide rules and regulations for the operation, management or use of such hospital or hospital facility."

Subparagraph 4 of Paragraph 1265 states that a Hospital District shall have power:

"To fix, charge and collect reasonable fees and compensation for the use or occupancy of such hospital or any part thereof, or any hospital facility, and for nursing care, medicine, attendance, or other services furnished by such hospital or hospital facilities, according to the rules and regulations prescribed by the board from time to time."

Paragraph 158.1 of Chapter 30, 1969 Illinois Revised Statutes provides:

"Any municipality may lease for any term not exceeding 20 years to any other municipality real property owned or held by the transferor municipality, or any part thereof or interest therein, upon such terms and conditions and for such uses as may be agreed upon by the corporate authorities of both the transferor and transferee municipalities in the same manner as is provided in paragraph (a) of Section 2 of this Act for the conveyance of real estate to a transferee municipality."

Honorable Henry D. Sintzenich - 5 -

The foregoing statutory provisions indicate that a hospital district could build and lease a garage for ambulances provided that the garage and ambulances were used in connection with its hospital. I am of the further opinion that the hospital district will not lose any portion of its tax exemption under the Revenue Act by leasing to another governmental agency.

Very truly yours,

A T T O R N E Y G E N E R A L