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SPRINGFIELD

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FILE NO. S-1346

PUBLIC HEALTH:
Application of The Illinois
Manufactured Housing and Mobile
Home Safety Act to Municipalities

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Director
Department of Public Health
Suite 450, 535 West Jefferson Street
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Dear Dr. Peterson:

I have your letter concerning the construction of section 4 of The Illinois Manufactured Housing and Mobile Home Safety Act. (Ill. Rev. Stat. 1975, ch. 67 1/2, par. 504.)

I note that Federal legislation has preempted State regulation of mobile homes. (42 U.S.C., §5401 et seq.) Therefore, this opinion is directed solely to the operation of the codes relating to manufactured housing.

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You inquire whether the language of section 4 which authorizes preemption of regulation by municipalities with "equal" municipal manufactured housing codes requires that preempting codes be identical to the ones promulgated by the Department of Public Health. You also ask whether the requirement that manufactured housing bear a seal and certificate of compliance issued by the Department applies to manufactured housing rented, sold or offered for sale in a municipality which has codes "equal" to the codes promulgated by the Department. For the reasons hereinafter stated, it is my opinion that the language of section 4 does not require that preempting municipal codes be identical to the ones promulgated by the Department but merely requires that the municipal codes contain restrictions as great in every respect as those contained in the codes of the Department. It is also my opinion that the language of section 4 requires all manufactured housing to bear the Department's seal even if such housing is rented, sold or offered for sale in a municipality having codes "equal" to those of the Department.

Section 4 of The Illinois Manufactured Housing and Mobile Home Safety Act provides in pertinent part as follows:

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" * * *

The provisions of this Act shall not apply to any municipality which has adopted a mobile home or manufactured housing safety code, the provisions of which are equal to the codes promulgated by the Department. * * *
(Emphasis added.)

The provision is poorly worded. Literally it exempts municipalities from the provisions of the Act; however, the Act does not apply to municipalities in the first place. It applies to manufactured housing. The obvious intention is to exempt manufactured housing from certain requirements, if the housing is assembled or placed for habitation on a site within a municipality with equal codes.

Your first question relates to the underscored portion of section 4, quoted above. The plain meaning of the language used in a statutory provision is the best means for ascertaining the intent of the General Assembly. (Franzese v. Trinke (1977), 66 Ill. 2d 136, 139.) The word "equal", as that word is used in section 4, describes something which is "like, as great as or the same as another or others in degree, worth, quality, nature, ability or status". (Webster's Third New International Dictionary.) A requirement that the municipality's codes be identical would serve only to permit

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a municipality to enforce the Department's codes. This purpose could have been accomplished by the General Assembly with much more direct language. Furthermore, the implication of the language of section 4, authorizing adoption by reference of the Department's codes is that a municipality's codes need not be identical to those of the Department. Ill. Rev. Stat. 1975, ch. 67 1/2, par. 504.

There is no intention that preempting municipal manufactured housing codes be identical to the codes promulgated by the Department nor is there any indication that the General Assembly intended to prohibit the enactment of more stringent municipal codes. I am therefore of the opinion that the codes adopted by the Department of Public Health are minimum codes and that municipalities may adopt codes which are more stringent than those of the Department.

The portion of section 4 relating to seals and certificates of compliance provides as follows:

"No person may rent, sell, or offer for sale to anyone within this State any mobile home manufactured after July 1, 1974, or any manufactured housing unit manufactured after July 1, 1976, unless it bears a seal issued by the Department and a certification by the manufacturer or dealer, that the mobile home or manufactured housing unit complies with the applicable safety code.

* * *

"

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The above language specifically requires seals and certificates for all manufactured housing to be sold, rented or offered for sale to anyone in this State. The question which arises, however, is whether the second paragraph of section 4 permitting preemption by municipal codes, exempts manufactured housing to be sold in municipalities with "equal" codes from the seal and certificate of compliance requirements.

In resolving the problem, one must first look to the intent of the provision permitting municipal preemption of regulation. The obvious intent of the provision is to permit municipalities, as long as they enact codes complying with minimum (i.e. Department) standards, to regulate manufactured housing within their corporate limits. Such regulation could, as was pointed out above, involve the establishment of standards which are more exacting than those promulgated by the Department of Public Health.

The seal and certificate of compliance requirements serve to insure that all manufactured housing shipped into Illinois meets minimum requirements. The requirements in no way interfere with municipal regulation but merely show compliance with State requirements. Regulating municipalities are not bound by the Department's certification,

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and there is no indication that the General Assembly intended to exempt housing destined for such municipalities from the requirements.

Exemption of housing to be used in municipalities with preempting codes from the seal and certificate of compliance requirements would produce confusion and serve no useful purpose. I therefore am of the opinion that all manufactured housing rented, sold or offered for sale to anyone in Illinois must bear a seal and a certificate of compliance.

Very truly yours,

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