



WILLIAM J. SCOTT

ATTORNEY GENERAL

STATE OF ILLINOIS

500 SOUTH SECOND STREET

SPRINGFIELD

62706



August 20, 1973

FILE NO. S-607

COUNTIES:

**Chairman of Board of Review -
Term of Office**

Honorable William J. Cowlin
State's Attorney
2200 North Seminary Avenue
Woodstock, Illinois

Dear Mr. Cowlin:

I have your recent letter wherein you state:

"I have in hand your opinion S-440 given to the Honorable William R. Ketcham, State's Attorney for Kane County, on April 21, 1971 pertaining to the duration of the chairmanship of the board of review of Kane County citing therein, among other provisions, Section 8 of 'The Revenue Act of 1939', and Attorney General's opinion F-1466, relating to the term of the chairman of the board of review.

I have been requested by the present chairman of the board of review of McHenry County to

seek your opinion concerning the term of office of the present chairman of the board of review.

The present chairman of the board of supervisors was elected to that post a year ago to serve for a period of two years. At the time of his election to the chairmanship of the board of supervisors, he selected the present chairman of the board of review. The chairman of the board of supervisors now seeks to replace the chairman of the board of review to serve on the board for the remainder of the chairmanship of the board of supervisors. The question arises as to whether or not the chairman of the board of review, having been appointed by the chairman of the board of supervisors, at the inception of his office, is entitled to serve as chairman of the board of review during the entire two year period of the chairmanship of the board of supervisors.

In that the board of supervisors of McHenry County are to meet on June 12, 1973, it would be very much appreciated if you will render your opinion pertaining to this matter by the 12th of June."

Section 7 of "An Act relating to the composition and election of county boards in certain counties," (Ill. Rev. Stat. 1971, ch. 34, par. 837) provides:

"Any county board when providing for the reapportionment of its county under this Act may provide that the chairman of the county board shall be elected by the voters of the county rather than by the members of the board. In that event, provision shall be made for the election throughout the county of the chairman of the county board, but no

person may be elected to serve as such chairman who has not been elected as a county board member to serve during the same period as the term of office as chairman of the county board to which he seeks election. Whether the chairman of the county board is elected by the voters of the county or by the members of the board, he shall be elected to a 2 year term, to commence on the first Monday in May in 1972 and each 2 years thereafter."

Section 8 of the "Revenue Act of 1939," (Ill. Rev. Stat. 1971, ch. 120, par. 489) provides as follows:

"In counties under township organization containing less than 150,000 inhabitants, and in such counties which have by the last preceding federal census reached or exceeded a population of 150,000 but in which no board of review has heretofore been elected pursuant to Section 10 of this Act or authorized by referendum as provided in Section 10a, there shall be a board of review to review the assessments made by the supervisor of assessments. The chairman of the County Board shall be ex-officio chairman of the board of review. The County Board is authorized to delegate some member other than the chairman of the County Board as chairman of the board of review when the chairman of the County Board so requests. There shall be 2 additional members of the board of review, who shall be appointed in the manner following: At the time the first appointment is made of members of a board of review, a circuit judge residing shall appoint one citizen of the county to serve as a member of the board of review for 2 years from one year from the date of his appointment, and one citizen of the county to serve as a member of the board of review for 2 years from the date of his appointment.

Each year thereafter, on or before the first day of July, a circuit judge in the county shall appoint one citizen of the county to serve as a member of the board of review for 2 years from the date of his appointment. In making the appointments, a circuit judge residing in the county shall choose persons qualified by virtue of experience and training in the field of property appraisal and property tax administration or by virtue of training and experience of an equivalent nature. Should a member of the board of review die, resign, or be removed, a circuit judge in the county shall appoint a citizen of the county to fill the unexpired term of such member. The board of review shall at all times consist of 2 members affiliated with the political party polling the highest vote for any county office in the county, and one member of the party polling the second highest vote for the same county office in the county at the last general election in the county prior to the time any appointment is made by virtue of this section. * * * *

The cardinal rule in the construction of Illinois statutes, to which all other canons and rules are subordinate is that a statute must be construed so as to ascertain and give effect to the intention of the General Assembly as expressed in the statute, Lincoln National Life Insurance Co. v. McCarthy, 10 Ill. 2d 489. Necessary implications and intendments from the language used in a statute may be resorted to in order to ascertain legislative intent, U. S.

v. Jones, 204 F. 2d 745. At page 754 of that opinion the court said:

"In construing any statute, anything within the clear intention of the legislative body enacting it is within the statute, though not within the strict letter of the law. People ex rel. v. Stratton, 335 Ill. 455, 167 N.E. 31; People v. Elgin Home Protective Ass'n, 359 Ill. 379, 194 N.E. 584. Statutes are to be construed as a whole. Village of Glencoe v. Hurford, 317 Ill. 203, 148 N.E. 69. The court must read the entire act and from the words used determine the legislative intent. Armour Grain Co. v. Pittsburgh, C., C. & St. L. R. Co., 320 Ill. 156, 150 N.E. 650. So, though the term arrest is not used in the statute, the language employed necessarily implies that such power was included.

Necessary implication refers to a logical necessity; it means that no other interpretation is permitted by the words of the Acts construed; and so has been defined as an implication which results from so strong a probability of intention that an intention contrary to that imputed cannot be supported. 42 C.J.S., page 405 and cases there cited. The term is used where the intention with regard to the subject matter may not be manifested by explicit and direct words, but is gathered by implication or necessary deduction from the circumstances and the general language. Burford v. Huesby, 35 Cal. App. 2d 643, 96 P. 2d 380; Goldfein v. Continental Ins. Co., 125 Neb. 112, 249 N.W. 78; 42 C.J.S., page 406. Consequently that which is implied

in a statute is as much a part of it as that which is expressed, for a statutory grant of a power carries with it, by implication, everything necessary to carry out the power and make it effectual and complete. * * * *

From an examination of the provisions of the aforesaid statutes I am of the opinion that the chairman of your board of review who, I understand, was appointed by your county board at the request of the chairman of the county board, is entitled to serve as chairman of the board of review during the entire two year period of the chairmanship of the county board. All of the terms of the other members of the board of review were for two year terms. In my opinion the reason why the length of the term was not specified is because it was not necessary to do so. The chairman of the county board is ex-officio chairman of the board of review. It can be observed from section 7 of "An Act relating to the composition and election of county boards in certain counties" that the term of office of the chairman of the county board is also two years (commencing on the first Monday in May 1972 and each 2 years thereafter). The term of office of the chairman of the

board of review would also automatically be two years. It was not necessary for the statute to specifically state his term to be two years. By implication, the chairman of the board of review has a two year term which commences on the first Monday in May, 1972 and terminates on the first Monday in May, 1974. The same would be true in my opinion even though the person acting as chairman of the board of review was a person selected by the county board at the request of the chairman of the county board. The rule of law is stated in 67 Corpus Juris Secundum, p. 197 (Officers, Sec. 44) to be as follows:

"The question whether a public officer has a fixed term of office can be determined only by reference to the law creating the office; but a term of office may be fixed by law, although not so stated in express terms by the statute, where such a result is properly inferred from the construction of the statute as a whole. * * * * "

In Boyd v. Huntington (Cal.) 11 P. (2d) 383 the court held that a term of office is fixed, although not expressly so stated in statute, where such result is properly inferred from construction of the statute as a whole. At page 385 of this opinion the court said:

* * * * * As stated by respondent, however, the Nickel Case implies that the converse is also true; that is, if a particular date is established for either the beginning or ending of the term, then the term runs with the office and not the officer, for it is there said that when the terms of commencement and termination of the term of an office as well as its duration are definitely fixed and provision is made for filling vacancies without any provision as to the duration of authority, such person is entitled to serve for the unexpired term. See, also, 23 Am. & Eng. Ency. of Law (2d Ed.) 418. Whether a public officer has a fixed term of office can be determined only by reference to the law creating the office. But a term of office may be fixed by law, although not so stated in express terms by the statute, where such a result is properly inferred from the construction of the statute as a whole. 46 C.J., p. 946. So, while no particular date for the beginning or ending of the term of any member of the board in question was definitely fixed by the statute, it does not follow that the term was fixed at a given period of time only.

[2] The word 'term,' when used in reference to the tenure of office, means ordinarily a fixed and definite time. Statutes creating public offices usually but not always prescribe the limits of the terms provided for, fixing the dates at which they shall begin and end. Where a term for which an officer is to hold is fixed by law, the appointing power cannot enlarge or diminish it by issuing a commission in which a greater or less term is named.

* * * *

"The law is well established that a term begins not necessarily from the date of the appointment, but from the time fixed by the lawmakers for it to begin. People ex rel. Mason v. McClave, 99 N.Y. 83, 1 N.E. 235. Nor is it necessary that such a statutory provision expressly fix a date for the beginning or ending of a term. It is sufficient if the statute shows by its provisions that the term shall run with the office. Such a result may properly be inferred from the construction of the statute as a whole. 46 C.J. p. 946; Simpson v. Willard, 14 S.C. 191; Bruce v. Matlock, 86 Ark. 555, 111 S.W. 990. * * * *

Another decision to the same effect is State v. Bloodworth, 134 Fla. 369, 184 So. 1.

I also call your attention to my opinion No. NP-339 issued September 24, 1971, in which I announced the same result achieved herein. I direct your attention to the reasoning employed in that opinion.

In conclusion, I am of the opinion that the chairman of your board of review, having been selected by the county board at the request of the chairman of the county board, at the inception of his office, is entitled to serve as chairman of the board of review during the entire two year period of the chairmanship of the county board.

Very truly yours,

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