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ATTORNEY GENERAL
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SPRINGFIELD

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FILE NO. S-1371

**PUBLIC HEALTH:
Authority of County Board to
Inspect and License Food
Service Establishments**

**Honorable Robert F. A. Stocke
State's Attorney
Clay County
Louisville, Illinois 62858**

Dear Mr. Stocke:

You have asked whether the County Board of Clay County has authority to enact an ordinance providing for inspection and licensing of restaurants and other food service establishments. Clay County had a 1970 population of approximately 15,000 and is not a home rule unit.

Counties are not specifically authorized to license food service establishments; however, section 25.12 of "AN ACT to revise the law in relation to counties" (Ill. Rev. Stat. 1977, ch. 34, par. 419) authorizes county boards:

Honorable Robert F. A. Stocke - 2.

"During the period that 'An Act in relation to the establishment and maintenance of county and multiple-county public health departments', approved July 9, 1943, as amended, is in force in the particular county, to:

(1) do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease; including the regulation of plumbing and the fixtures, materials, design and installation methods of plumbing systems subject to the provisions of the Illinois Plumbing Code Law, enacted by the Seventieth General Assembly, and any future amendments thereof;

* * *

The question, then, is whether licensing of restaurants and other food establishments is an act which is authorized by this section. I am of the opinion that it is, and thus counties in which "AN ACT in relation to the establishment and maintenance of county and multi-county public health departments" (Ill. Rev. Stat. 1977, ch. 111 1/2, par. 20c et seq.) is in force, have authority to license food service establishments.

In opinion No. 8-1010 (1975 Ill. Att'y. Gen. Op. 323) I advised, based on Father Basil's Lodge v. City of Chicago (1946), 393 Ill. 246, that the power to regulate carries with it the power to license. In that case the court upheld

Honorable Robert F. A. Stocke - 3.

a city ordinance requiring licensing of "homes" and "nursing homes" enacted in accordance with statutory authority of a city to "do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease". Under "AN ACT in relation to the establishment and maintenance of county and multi-county public health departments", counties have been granted this same power to promote health and suppress disease. Therefore, counties, to the extent necessary or expedient to promote health or suppress disease, have the authority to license food service establishments.

Very truly yours,

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