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SPRINGFIELD

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FILE NO. 89-001

STATE MATTERS:
Medical Center Commission
Authority to Convey
Property For Use As
Viet Nam Survivors Memorial

Park Livingston, President
State of Illinois
Medical Center Commission
736 South Ashland Avenue
Chicago, Illinois 60607

Dear Mr. Livingston:

I have your recent letter wherein you inquire whether the Medical Center Commission has the authority to transfer, for no monetary consideration, a vacant lot which it owns, and which lies within the Tri-Taylor Historic District, to a private, not for profit entity for expansion of the Viet Nam Survivors Memorial located adjacent thereto. For the reasons stated below, it is my opinion that the Commission does not have the authority to make such a transfer, because the purpose

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proposed for the lot is not one of those set out in the Commission's enabling Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 5001 et seq.), and further, that the Commission is authorized to convey land without consideration only to a governmental entity for State purposes. It is also my opinion, however, that the Commission does have the authority to set the vacant lot aside as a park, which could then be used in conjunction with the adjacent memorial.

Section 6 of "An Act in relation to the establishment of a medical center district in the city of Chicago * * *" (hereinafter Medical Center Act) (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 5009) provides in part:

"The Commission may sell, convey, transfer or lease any title or interest in real estate owned by it to any person or persons, to be used, * * * for the purposes stated in Section 4, or for the purpose of serving persons using the facilities offered within the District * * *. Any real property sold by the Commission pursuant to the provisions of this Act shall be sold at its use value * * * which use value represents the value at which the Commission determines * * * such real property should be made available for sale or rental in order that it may be developed for the accomplishment of the purposes of this Act * * * provided, however, that the Commission may convey the fee simple title to land acquired by it, without the payment of any consideration, to the State of Illinois, any political subdivision thereof or to any body politic and corporate or public corporation created under the laws of the State of Illinois for the carrying out of any function of the State * * * "

Section 4 of the Medical Center Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 500) describes the purposes for which Medical

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Center property may be used:

"The Commission may * * * cause or permit to be constructed in such District, hospitals, sanitariums, clinics, laboratories, or any other institution, building or structure which may be of use or benefit in the practice of medical science and treatment of human ailments, or for such old peoples' homes * * * or for such institutions as shall engage in the training, education, or rehabilitation of persons who by reason of illness or physical infirmity are wholly or partially deprived of their powers of vision or hearing or of the use of such other part or parts of their bodies as prevent them from pursuing normal activities of life, or office buildings for physicians or dealers in medical accessories, or dormitories, homes or residences for the medical profession, including interns, nurses, students or other officers or employees of the institutions within the District, or for the use of relatives of patients in the hospitals or other institutions within the District, or for the rehabilitation or establishment of residential structures within a currently effective historic district * * *"

Pursuant to these statutes, the Commission is authorized to transfer its property to another only for use for one of the purposes delineated in section 4, or for the purpose of serving persons using facilities within the District. The memorial in question is clearly not intended primarily for the use of persons using other facilities within the District; consequently, such a transfer, if permissible, would have to be made to further one of the purposes set out in section 4 of the Medical Center Act.

Section 4 lists, among the things which may be constructed within the district, "hospitals, sanitariums, clinics, laboratories" before adding "or any other institution,

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building or structure which may be of use or benefit in the practice of medical science and treatment of human ailments * * *". When a statute specifically enumerates several classes of things together with a clause embracing "other" things, the word "other" will generally be read as "other such like", so that the things comprised therein are similar to, and not of a quality superior to or different from, those specifically enumerated. (People v. Capuzi (1961), 20 Ill. 2d 486, 493.) It is clear that a memorial to Viet Nam veterans, while a laudable project, differs materially from those purposes described in section 4, and therefore, is not a purpose for which the Commission is authorized to transfer its property under section 4 of the Medical Center Act.

I would note, however, that section 7 of the Medical Center Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 5017) provides:

"The Commission may set apart any part of the District as a park and may construct, control and maintain the same or may provide by contract with the Chicago Park District or the City of Chicago for the construction, control and maintenance of any area within such District set apart as a park."

Although section 7 of the Act would not authorize the Commission to transfer its property to a private, not for profit entity to be used for park purposes, the establishment of a park at this location by the Commission would serve the purposes for which the transfer has been requested, and would

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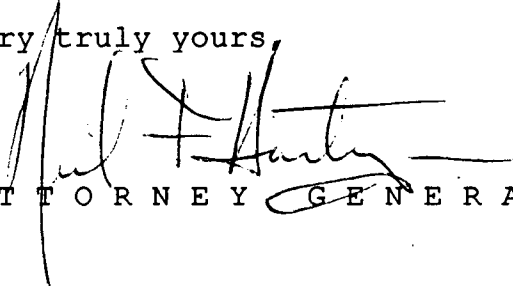
appear to be of general benefit to the neighborhood in which it would be located. Although the determination of whether to make such a dedication is a matter of discretion for the Commission, I believe that it warrants serious consideration.

Your second question, whether the Commission can transfer realty to a private, not for profit entity without monetary consideration is, in this case, rendered moot by my response to your first question. I will note, however, that section 6 of the statute provides that real property is to be sold for its "use value", which "represents the value at which the Commission determines * * * such real property should be made available for sale or rental in order that it may be developed for the accomplishment of the purposes of this Act". While it is evident that the Commission has discretion in determining the "use value" of realty, there is nothing in this definition which would appear to permit a use value of zero. To the contrary, the use of the terms "sold" and "sale" presume some monetary consideration. The clause immediately following the enumeration of factors to be considered in determining the use value provides that "the Commission may convey the fee simple title to land * * * to the State of Illinois" or other governmental entities without payment of consideration. If the earlier clauses were construed to permit the Commission to establish the use value at zero, a specific clause authorizing transfer without consideration to specific entities would be unnecessary.

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In conclusion, therefore, it is my opinion that the Commission is not authorized to convey realty to a private, nonprofit entity for expansion of the Viet Nam Survivors Memorial, and further, that no authorized conveyance of realty by the Commission to a private entity may be made for less than the use value of the property established by the Commission. I would suggest, in the alternative, that the Commission consider setting aside this property as a park which could be used in conjunction with the Viet Nam Survivors Memorial. Such a dedication is, in my opinion, clearly authorized by section 7 of the Medical Center Act, which grants the Commission the power to establish parks within the District. If the proponents of the Viet Nam Survivors Memorial would be satisfied with the creation of a park adjacent to the memorial, such a dedication could resolve this matter satisfactorily to all.

Very truly yours,



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