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FILE NO. S-534

COUNTIES:
Board Member -
Vacancy

Honorable Ronald A. Niemann
States Attorney
Marion County
Salem, Illinois 62881

Dear Mr. Nieman:

I have your recent letter wherein you state:

"A request has arrived in my office from the Marion County Board concerning qualifications of one of its members to hold the office of county board member.

"Specifically this concerns Chapter 46, Section 25-2 wherein it is stated, 'Fourth-His ceasing to be an inhabitant of the State; or if the office is local, his ceasing to be an inhabitant of the district, county, town, or precinct for which he was elected; provided, that the provisions of this paragraph shall not apply to township officers

whose township boundaries are changed in accordance with section 3a of Article III of "An Act to revise the law in relation to township organization", approved March 4, 1974, as amended."

"This statute appears to require that a board member elected from his district vacates the office when he ceases to be an inhabitant of that district. My question is, if a board member moves his household out of the district he was elected from, does he cease to be an inhabitant of that district, thereby creating a vacancy in his office?

"Inasmuch as the statute does not refer to residence or domicile requirements, your opinion is requested as to the interruption of the word inhabitant as stated in the statute and whether this is the same as residency or domicile or whether it requires a person to dwell in the district to be an inhabitant of that district."

Section 25-2 of "The Election Code," Ill. Rev.

Stats. 1971, ch. 46, par. 25-2 provides:

"Every elective office shall become vacant on the happening of either of the following events, before the expiration of the term of such office:

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"Fourth--His ceasing to be an inhabitant of the State; or if the office is local, his ceasing to be an inhabitant of the district, county, town, or precinct for which he was elected; Provided, that the provisions of this paragraph shall not apply to township officers whose township boundaries are changed in accordance

with section 3 a of Article III of 'An Act to revise the law in relation to township organization', approved March 4, 1874, as amended.

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You have asked for a definition of the word "inhabitant" as used in the statute and also whether there is a vacancy in a county board district office if a board member moves his household out of that district.

In Bowes v. City of Chicago, 3 Ill. 2d 175, the Illinois Supreme Court said that courts should apply to words appearing in legislative enactments the common dictionary meaning or commonly accepted use of the words unless the words are otherwise defined by the General Assembly, (3 Ill. 2d 201). Webster's New International Dictionary, Second Edition, defines an inhabitant as one who dwells or resides permanently in a place, as distinguished from a transient lodger or visitor. It ordinarily implies more fixity of abode than resident. Ordinarily it is not a synonym for citizen or resident. Your attention, however, is called to the case of People v. Ballhorn, 100 Ill. App. 571 wherein the court used the term "inhabitant"

interchangeably with that of "resident". In this decision a ward alderman was held to have vacated his office when he ceased to be an inhabitant of the ward for which he was elected. The court said that he must be a resident of the ward that he represents.

In an opinion of this office which was issued on March 30, 1916, found at page 1001 and 1002 of the 1916 Illinois Attorney General's Opinions it was held that a vacancy in the office of township supervisor is created if the supervisor ceases to be an inhabitant of the township. It was said in this opinion that a person is an inhabitant if he lives in a place and has there a fixed and legal settlement.

In conclusion, and as answer to your questions, I am of the opinion that although the term "inhabitant" does not necessarily mean the same as "resident", for all practical purposes the terms are synonymous, at least as the term is used in this statute. If, therefore, a county board member moves his household permanently out of the

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district from which he was elected, he ceases to be an inhabitant of that district and there is a vacancy in the office.

Very truly yours,

ATTORNEY GENERAL