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FILE NO. 95-006

LIQUORS:

Village Trustee Serving as Manager of
Convenience Store Holding Liquor License

Honorable Gregory B. Grigsby
State's Attorney, Christian County
Christian County Courthouse
Taylorville, Illinois 62568-2244

Dear Mr. Grigsby:

I have your letter wherein you inquire whether it is permissible for a village trustee to be employed as the manager of a convenience store at which alcoholic beverages are sold. For the reasons hereinafter stated, it is my opinion that although a village trustee is not prohibited per se from being employed by a liquor licensee, the licensee may not permit the trustee to conduct the business thereof as a manager or agent if the business is located within the village he represents.

Subsection 6-2(11) of the Liquor Control Act (235 ILCS 5/6-2(11) (West 1992)) prohibits the issuance of any license to:

" * * *

(11) A person whose place of business is conducted by a manager or agent unless the .

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manager or agent possesses the same qualifications required by the licensee;

* * *

This section will prohibit the licensure of a convenience store operator if its manager is prohibited from holding a liquor license.

Subsection 6-2(14) of the Act (235 ILCS 5/6-2(14) (West 1992)) provides that the following persons are not eligible to hold a liquor license:

" * * *

(14) Any law enforcing public official, including members of local liquor control commissions, any mayor, alderman, or member of the city council or commission, any president of the village board of trustees, any member of a village board of trustees, or any president or member of a county board; and no such official shall be interested directly in the manufacture, sale or distribution of alcoholic liquor, except that license may be granted to such official in relation to premises which are not located within the territory subject to the jurisdiction of that official if the issuance of such license is approved by the State Liquor Control Commission;

* * *

(Emphasis added.)

A village trustee, like other law enforcing public officials, cannot be issued a liquor license for premises which are located within his or her jurisdiction as village trustee. This is not a matter of a common law conflict of interest or a conflict of duties which might be resolved by abstention or

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recusal in certain matters, but is a clear, unequivocal statutory prohibition. Therefore, it is my opinion that the village trustee in question does not possess the qualifications for holding a liquor license, and, by reason of subsection 6-2(11) of the Act, the convenience store operator cannot be licensed for the sale of liquor on the premises as long as the village trustee serves as its manager.

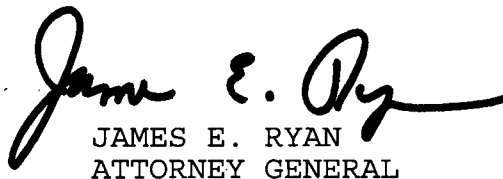
It should be noted that the village trustee's employment by the convenience store in a capacity other than manager, however, would not necessarily prohibit licensure of the store's operator. Subsection 6-2(14) of the Act was amended by Public Act 83-779, effective September 24, 1983, to eliminate language which prohibited the enumerated public officials from possessing an indirect interest (in contrast to a direct interest) in the business of a licensee. The legislative debates relating to the enactment of Public Act 83-779 indicate that it was the intent of the General Assembly to remove mere employment relationships between public officers and liquor licensees from the purview of subsection 6-2(14). (Remarks of Sen. Luft and Sen. Geo-Karis, June 20, 1983, Senate Debate on House Bill No. 345 at 189; Remarks of Rep. Mautino, May 18, 1983, House Debate on House Bill No. 345 at 279-80.) Based upon the legislative intent evidenced by these debates, the village trustee's employment by the store in another capacity would not ordinarily be considered a direct

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interest in its activities, but at most an indirect interest which is not prohibited by law. The exclusion of indirect interests, however, does not avoid the requirement that the manager of the licensed premises meet the qualifications for licensure. The manager of a liquor selling establishment is in a distinctly different position from, for example, a bookkeeper, a clerk or a janitor.

In conclusion, it is my opinion that a liquor licensee cannot lawfully employ a village trustee to act as the manager of a convenience store located within the village at which alcoholic beverages are sold. A trustee is not, however, necessarily precluded from performing other services for a liquor licensee.

Sincerely,


JAMES E. RYAN
ATTORNEY GENERAL