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SPRINGFIELD



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FILE No. S-1159

FINANCIAL INSTITUTIONS:
Distance Between Bank
and Detached Facility.

Richard K. Lignoul
Commissioner of Banks
and Trust Companies
Room 400 Reisch Building
Springfield, Illinois

Dear Mr. Lignoul:

This responds to your letter requesting my opinion as to the proper construction to be given section 5(15) of the Illinois Banking Act (Ill. Rev. Stat. 1975, ch. 16 1/2, par. 105(5)) as amended by P.A. 79-1388. Section 5(15) as amended provides in pertinent part that a bank has the power:

"To establish and maintain not more than 2 facilities for the purpose of doing business with the operators of or passengers in motor vehicles or with pedestrian traffic provided such facilities comply with the following provisions:

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(a) No facility shall be more than 3500 yards from the main banking premises of the maintaining bank; and if 2 facilities are maintained at least one of the facilities shall be 1500 feet or less from the main premises of the maintaining bank.

* * *

(c) No business shall be done at a facility except receiving deposits, cashing and issuing checks, drafts and money orders, changing money and receiving payments on existing indebtedness.

* * *

The distance referred to in this paragraph shall be measured in a straight line from the nearest point of one premises to the nearest point of the other premises, the word 'premises' being deemed to mean the boundaries of the real estate on which the facility or the maintaining bank is located, as the case may be, and the areas contiguous thereto which the bank has the exclusive right as owner or lessee to use or maintain for egress from or ingress to or for parking in connection with the main banking house, or as the case may be the facility permitted hereby.

* * *

You state in your request that numerous inquiries have been directed to your office concerning the application of section 5(15), as amended, where a detached facility is located in a shopping center mall area. The issue you asked me to address is whether the distance to be measured for purposes of section 5(15) is the distance between the maintaining bank and the real estate on which the entire shopping

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center mall is located, or the distance between the maintaining bank and that portion of the real estate of the mall set aside for the bank's detached facility.

In response to your question, I note that the General Assembly has defined the word "premises" for purposes of section 5(15) to mean "the boundaries of the real estate on which the facility or the maintaining bank is located", together with certain contiguous areas. It is generally acknowledged in this state that the words of a statute are to be given their ordinary and popularly understood meanings. (Bowman v. Armour and Co., 17 Ill. 2d 43.) Applying this maxim to the language of section 5(15), it is evident that "the real estate on which the facility is located" refers only to that area set aside specifically for the detached facility and not to the entire area of the shopping mall.

This construction is consistent with the general intention of the legislature evidenced by reading section 5(15) of the Illinois Banking Act as a whole. (Carrigan v. Illinois Liquor Control Com., 19 Ill. 2d 230.) Section 5(15) permits a bank to establish two remote facilities, a specific

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distance from the bank, at which certain limited services may be provided the operators and passengers of motor vehicles and pedestrians. There is no indication that the General Assembly intended to treat differently for purposes of the distance limitation imposed by section 5(15), those detached facilities that happen to be located in a shopping mall.

I therefore am of the opinion that for purposes of section 5(15) of the Illinois Banking Act, the "premises" of a detached facility located in a shopping center mall is that real estate set aside specifically for that facility, together with those "contiguous areas" expressly provided for in the statute. This then is the definition to be applied in measuring the distance between the maintaining bank and that detached facility for purposes of section 5(15).

Very truly yours,

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