



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

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FILE NO. 97-025

TOWNSHIPS:
Coterminous Township and City

The Honorable Marty Butler
State Senator, 28th District
Chair, Local Government and
Elections Committee
800 East Northwest Highway, Suite 102
Mount Prospect, Illinois 60056

Dear Senator Butler:

I have your letter wherein you pose several questions regarding the extent to which the decision in Bloomington Township v. City of Bloomington and Town of the City of Bloomington, No. 4-96-0370 (4th Dist., December 18, 1996) may affect the governance of coterminous cities. For the reasons hereinafter stated, it is my opinion that the decision in question affects only annexation matters, and therefore will not otherwise affect the status of coterminous cities, their operations, powers or officers.

Bloomington Township v. City of Bloomington and Town of the City of Bloomington concerned the construction of the provi-

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sions of the Township Annexation Act (see 60 ILCS 10/0.01 et seq. (West 1992)), which is now codified as Article 15 of the Township Code (60 ILCS 1/15-5 et seq. (West 1996)). Under these provisions, the territory within a city of not less than 3,000 population may be organized as a township, so that the city and township are coterminous. (60 ILCS 1/15-5 (West 1996).) In a coterminous city, no township board is elected, and the city council exercises all powers of the township.

When a coterminous city annexes territory in an adjacent township, the area so annexed is automatically disconnected from the adjacent township and included in the coterminous township, until such annexations within any 12 month period exceed 1% of the equalized assessed valuation of the adjacent township (60 ILCS 1/15-25 (West 1996)), at which time the adjacent township board may request that a referendum be held on the disconnection of any subsequent parcel. (60 ILCS 1/15-15 (West 1996).) If the proposition to disconnect fails, the coterminous city may annex the territory, but it will not be disconnected from the adjacent township. (60 ILCS 1/15-20 (West 1996).) Thus, the boundaries of the coterminous city and township will no longer be identical.

The primary issue in both Bloomington Township v. City of Bloomington and Town of the City of Bloomington and in Nameoki Township v. Granite City Township (1993), 242 Ill. App. 3d 141, upon which the court relied, was whether, following the failure

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of such a disconnection proposition, a city remains a coterminous city for the purposes of future annexations. Both courts concluded that it did not. Therefore, it is clear that future annexations by a coterminous city of territory in the adjacent township will not result in automatic disconnection of the territory from the adjacent township, and, thus, repeated referenda on disconnections will not be necessary.

Neither case held, however, that the city township and the city ceased to be considered coterminous, for purposes of the selection of officers or for governmental operations. To the contrary, the final paragraph of Nameoki Township v. Granite City Township states:

" * * *

Granite City and Granite City Township were no longer coterminous after the March 18, 1988, referendum. The city and township, however, did maintain coterminous status under the Act for purposes of the method of selecting officers and the operation of the city-township. In addition, pursuant to the Township Annexation Act, territory annexed to Granite City subsequent to March 18, 1988, was not automatically annexed to Granite City Township. * * *" (Emphasis added.) (Nameoki Township v. Granite City Township, 242 Ill. App. 3d 141 at 147.)

Moreover, section 15-20 of the Township Code (60 ILCS 1/15-20 (West 1996)) expressly provides:

"Failure of proposition to disconnect; status quo. Where the proposition to disconnect the territory fails and it remains with the adjacent township, the status quo and operation of a township and the officers of a

township coterminous with a city at the time provided for in this Article is not to be affected. Where the proposition to disconnect fails, the status quo of a council of a city that is coterminous with a township at the time provided for in this Article and that already is vested with the authority to exercise all powers vested in that township is not affected. Where a city coterminous at the time provided for in this Article has provided by operation of law that certain offices of the city and the coterminous township shall be united in the same person, or that the office and election of highway commissioners shall be discontinued, that provision shall continue to be the case after the proposition to disconnect the territory fails. Where the proposition to disconnect fails, vacancies in any of the township offices in a township coterminous at the time provided for in this Section may continue to be filled by the city council. Where the proposition to disconnect fails or the city, its coterminous township, and the adjacent township agree by intergovernmental cooperation agreement that the territory shall remain part of the adjacent township, the city may annex the territory and by doing so does not relinquish its status as a city with a coterminous township." (Emphasis added.)

In discussing the underscored language of section 15-20, the court in Bloomington Township v. City of Bloomington and Town of the City of Bloomington stated:

" * * *

* * * [It] does not provide that the coterminous status of the city and the city township are retained for purposes of annexation. Instead, that language, when read in connection with other provisions of the Act, merely sets forth the manner in which the city township operates and the method by which officials of the city and its township

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are selected and function in the event of a failed referendum. * * *

* * *

"

Bloomington Township v. City of Bloomington and Town of the City of Bloomington, No. 4-96-0370 (4th Dist., December 18, 1996), slip op. at 17.

Therefore, although the boundaries of the city and the city township may no longer be identical, and the two entities are no longer treated as being coterminous for annexation purposes, they retain their coterminous status for purposes of operations and the selection of officers.

The specific questions you have raised are contingent upon a conclusion that a city would cease to be a coterminous city if the boundaries of the city and the township diverge following an annexation referendum. Because I have concluded that the city and township remain coterminous for purposes of governance, it is not possible to respond to the questions directly. In general, I will note that in such cases there will be no occasion for the selection of a separate township board of trustees, the city council will continue to exercise all powers of the township board and township highway commissioner (60 ILCS 1/15-50 (West 1996)) and the city clerk and treasurer will continue to exercise the powers of township clerk and collector. (60 ILCS 1/15-55 (West 1996).) The township supervisor remains, ex officio, supervisor of general assistance (60 ILCS 1/15-55

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(West 1996)). Johnson v. Town of the City of Evanston (1976), 39 Ill. App. 3d 419.

You have also inquired concerning the respective roles of the mayor of a coterminous city and the supervisor when the city council exercises the powers of a township board. It has been suggested elsewhere, for example, that the supervisor, and not the mayor, is authorized to chair a meeting of the city council during discussions of township business.

Section 15-50 of the Township Code (60 ILCS 1/15-50 (West 1996)) provides:

"Powers exercised by city council. All the powers vested in the township described in Section 15-45, including all the powers now vested by law in the highway commissioners of the township and in the township board of the township, shall be exercised by the city council. The city council shall perform the duties of a township or multi-township board in relation to the township or multi-township assessor as provided in the Property Tax Code."

Section 80-5 of the Township Code provides:

"Township board membership; officers.

(a) In each township, the township board shall consist of the supervisor and 4 other members elected at large from the township under Section 50-5. The township clerk shall be the clerk of the township board but not a voting member, except that in the case of a tie vote to fill a vacancy in a township office, the clerk shall be entitled to cast one vote. Each person on the township board shall cast but one vote. The supervisor shall be the chairman of the board.

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(b) In towns organized under Article 15, all the powers vested by law in the township board shall be exercised by the city council.

* * *

"

These sections do not provide that the city council sits as a separate township board to exercise township powers. Rather, it is provided that all township powers, including those ordinarily vested in the highway commissioner, shall be exercised by the city council. This includes township powers otherwise exercised by the electors or by a multi-township board. Section 80-5 does not authorize the supervisor to preside over the city council when it is acting with respect to township functions. To the contrary, a city council does not sit separately as a township board, but exercises the township's powers as part of its duties as the corporate authority of the municipality.

The city council consists of the mayor and aldermen (65 ILCS 5/3.1-40-5 (West 1996)). The township supervisor is not made a member of the council in coterminous cities, nor is authority granted to the supervisor to participate in the proceedings of the city council merely because the council is carrying out its duty to exercise the powers that would otherwise be vested in the township board. It is my opinion, therefore, that the mayor continues to preside over the meetings of the city council of a coterminous city when it is exercising the powers of

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the township, and that the supervisor does not have any authority to participate in the proceedings of the council.

Sincerely,

A handwritten signature in black ink, reading "James E. Ryan". The signature is written in a cursive style with a long, sweeping tail on the "y".

JAMES E. RYAN
ATTORNEY GENERAL