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SPRINGFIELD

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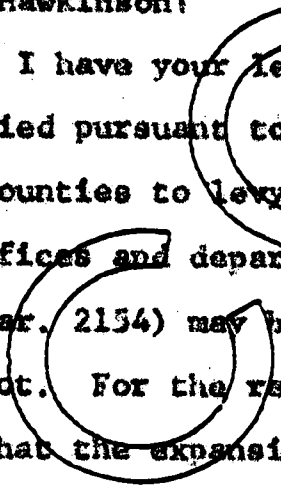
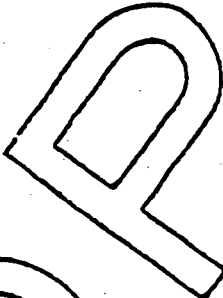
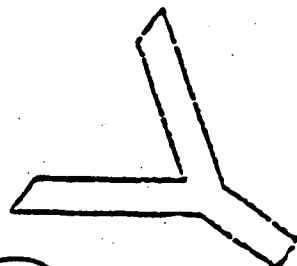
COUNTIES:
Construction of County
Courthouse Parking Lot

Honorable Carl Hawkinson
State's Attorney
Knox County
Courthouse
Galesburg, Illinois 61401

Dear Mr. Hawkinson:

I have your letter in which you inquire whether taxes levied pursuant to section 1 of "AN ACT authorizing certain counties to levy an additional tax for the housing of county offices and departments" (Ill. Rev. Stat. 1980 Supp., ch. 34, par. 2154) may be used to expand a county courthouse parking lot. For the reasons hereinafter stated, it is my opinion that the expansion of a county courthouse parking lot is within the purpose of the aforementioned statutory provision.

Section 1 of "AN ACT authorizing certain counties to levy an additional tax for the housing of county offices



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and departments" (Ill. Rev. Stat. 1980 Supp., ch. 34, par. 2154) provides as follows:

"Upon the adoption of a resolution approved by not less than two-thirds of the members of the board, the county board of any county having less than 80,000 inhabitants may levy an annual tax of not to exceed .04% of value, as equalized or assessed by the Department of Revenue, on all taxable property of the county, for the purpose of providing housing for county offices and departments. * * *

Section 26 of "AN ACT to revise the law in relation to counties" (Ill. Rev. Stat. 1979, ch. 34, par. 432) places a duty on the county board to erect or otherwise provide for a courthouse, jail or other county buildings:

"It shall be the duty of the county board of each county:

First - To erect or otherwise provide when necessary, and the finances of the county will justify it, and keep in repair, a suitable court house, jail and other necessary county buildings, and to provide proper rooms and offices for the accommodation of the county board, State's attorney, county clerk, county treasurer, recorder and sheriff, and to provide suitable furniture therefor. * * *

Section 24 of the same Act (Ill. Rev. Stat. 1980 Supp., ch. 34, par. 303) authorizes counties to purchase and use land for the construction and maintenance of parking facilities for persons using county buildings:

"Each county shall have power - * * *

* * *

To purchase and hold real estate for the construction and maintenance of motor vehicle parking facilities for persons using county buildings, but the purchase and use of such real estate shall not be for revenue producing purposes.

* * *

"

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Section 1 of "AN ACT authorizing certain counties to levy an additional tax for the housing of county offices and departments" authorizes the levy of a tax "for the purpose of providing housing for county offices and departments". Although a parking lot would not fall under a strict interpretation of the term "housing", it is certainly a necessary incident to the provision of such housing.

In your letter you note that most Knox County employees and patrons of county offices drive automobiles to the courthouse and that the parking lot in question is directly adjacent to the courthouse. You state that the Knox County Board wishes to expand the parking lot in order to provide adequate parking facilities for courthouse employees and patrons. To provide housing for county officers and departments, as authorized by section 1 of "AN ACT authorizing certain counties, etc." and section 26 of "AN ACT to revise the law in relation to counties" without providing adequate parking as authorized by section 24 of the Act, would seriously impair the usefulness of such housing.

The tax levy authorized by section 1 of "AN ACT authorizing certain counties, etc." is a special tax in the sense that it is levied for a specific purpose. The rule with regard to the use of tax funds collected for a specific purpose is well-established. In McFarland v. Town of Bourbonnais (1950), 339 Ill. App. 328, 334, the court stated:

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* * *

* * * Taxes levied for a specific purpose must be applied to the purpose for which they were levied. * * *

It is my opinion, however, that such limitation in the application of taxes levied for a specific purpose must, in the context of section 1 of the aforementioned statute, be read to permit the application of the taxes levied to the specific purpose along with the necessary incidents thereto. See, Wabash R.R. Co. v. The People (1900), 187 Ill. 289, 296; O'Day v. The People (1898), 171 Ill. 293, 297.

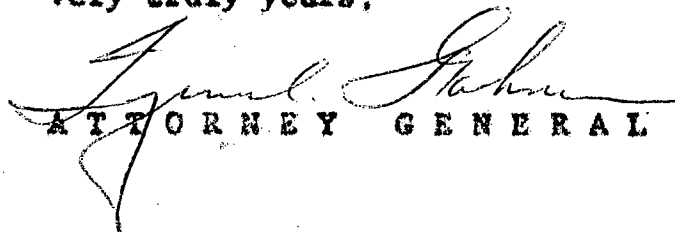
Since Knox County proposes to expand existing parking facilities in the present parking lot adjacent to the courthouse, and since most county employees and patrons of county offices drive automobiles to the courthouse, adequate and convenient parking for the courthouse is an essential adjunct or incident to the housing. Thus, the power to levy a special tax for the purpose of providing housing necessarily includes the power to construct parking so that the housing will be useful for the purpose intended and authorized.

On the basis of the above discussion, it is my opinion that a parking lot for the use of courthouse employees and patrons is a necessary incident to the housing of county offices. Therefore, the expansion of a county courthouse parking lot is within the statutory purpose of section 1 of

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"AN ACT authorizing certain counties to levy an additional tax for the housing of county offices and departments".

Very truly yours,


ATTORNEY GENERAL