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SPRINGFIELD

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FILE NO. S-1313

SPORTS AND GAMING:
Race Track Improvement Fund

Lucy Reum, Chairman
Illinois Racing Board
Room 1000 - State of Illinois Building
160 North LaSalle Street
Chicago, Illinois 60601

Dear Ms. Reum:

I have your letter wherein you request an interpretation of subsection (d) of section 32 of the Illinois Horse Racing Act of 1975. (Ill. Rev. Stat. 1976 Supp., ch. 8, par. 37-32(d).) Specifically, you inquire whether the use of the phrase "ground or track" in that provision means that Race Track Improvement Fund monies may be used for the improvement or acquisition of ground or track or whether the phrase merely describes the location of the seating stands, buildings or other structures for which funds may be used. You also request a definition of the term

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"structure" as that term is used in subsection (d), and you inquire whether the enumeration in subsection (d) of purposes for which Race Track Improvement Fund monies may be used is exclusive.

Subsection (d) of section 32 provides as follows:

"Monies shall be distributed from the Fund to tracks for the cost of erection, improving or acquisition of seating stands, buildings or other structures, ground or track, or for the payment of the cost of amortization of debt contracted with the approval of the Board for any or all such purposes."

The section clearly authorizes the use of Race Track Improvement Fund monies for the erection, improvement or acquisition of (1) seating stands (2) buildings (3) other structures (4) ground or track, and for the amortization of debt contracted with the approval of the Illinois Racing Board for any or all of the above mentioned purposes. Therefore, in response to your first question, it is my opinion that the erection, improvement or acquisition of ground or track is clearly within the enumerated purposes for which Race Track Improvement Fund monies may be expended, and there is no basis for a conclusion that the phrase "ground or track" is merely descriptive of the location of seating stands, buildings

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or other structures which may be erected, improved or acquired with Race Track Improvement Fund monies.

In the absence of a statutory definition, the courts will look to the plain meaning of statutory language in order to ascertain the intent of the General Assembly. (Franzese v. Trinko (1977), 66 Ill. 2d 136, 139.) Because the term "structure", as that term is used in subsection (d), is not defined in the Act, it will be necessary to determine its plain meaning. "Structure" is defined in Webster's Third New International Dictionary as something constructed or built. Therefore, in response to your second question, it is my opinion that Race Track Improvement Fund monies may be used for anything constructed or built as part of a race track facility and reasonably related to the operation of such facility. The phrase "or other structures" was intended to include necessary facilities constructed or built which do not fall within the definitions of the terms "seating stands" and "buildings".

Under the maxim expressio unius est exclusio alterius, the enumeration of certain items in a statute impliedly excludes items not mentioned. (In re Estate of

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Leichtenberg (1956), 7 Ill. 2d 545, 552.) When the above maxim is applied to subsection (d), it is clear that the enumeration of certain purposes for which Race Track Improvement Fund monies may be used necessarily excludes the use of such monies for purposes not mentioned therein. Therefore, in response to your third question, it is my opinion that subsection (d) is exclusive.

You have listed several purposes for which Race Track Improvement Fund monies might be used, and you request that I advise you as to the legality of those respective uses. The Attorney General is not in a position to make the primary determination as to whether those particular uses are permissible, and therefore, I must respectfully decline to comment on such matters. If, in the expert judgment of the Illinois Racing Board, the enumerated uses constitute permissible uses under subsection (d), as interpreted in this opinion, the Board, in its discretion, may, pursuant to the authority entrusted to it by statute, approve such uses. If the Board is concerned about the legality of the expenditure of funds for a particular item which the

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Board would otherwise approve, I will consider the matter further.

Very truly yours,

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