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SPRINGFIELD

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FILE NO. 83-006

PENSIONS:

Authority of Board of Trustees of
State Employees' Retirement System to
Build or Purchase an Office Building

Michael J. Mory, Executive Secretary
State Employees' Retirement System of Illinois
2815 West Washington
Post Office Box 4064
Springfield, Illinois 62708

Dear Mr. Mory:

I have your letter wherein you ask whether section 14-135.01 of the Illinois Pension Code (Ill. Rev. Stat. 1981, ch. 108 1/2, par. 14-135.01) authorizes the Board of Trustees of the State Employees' Retirement System of Illinois to construct or purchase an office building. Section 14-135.01 of the Illinois Pension Code vests in the Board the power:

"To establish an office or offices for the meetings of the board and for the administrative personnel; * * *"

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Whether section 14-135.01 authorizes the Board to build or purchase an office building necessarily depends upon the meaning of the word "establish".

In Caldwell v. City of Alton (1864), 33 Ill. 416, the court addressed the nature of the power of the city of Alton under its corporate charter "to establish and regulate markets". The court held, at pages 418-19, that:

" * * *

The power * * * to establish and regulate markets, includes the power to purchase the site and the erection of the necessary buildings and stalls upon it, and, when provided, to adopt such rules in regard to it, and to the business to be there transacted, as may be deemed reasonable and just.

* * *

(Emphasis added.)

Subsequently, in People ex rel. Reynolds v. A., T. & S.F. Ry. Co. (1921), 300 Ill. 415, the court addressed the validity of a tax levied "for the establishment and maintenance of a detention home". It was stated therein, at page 417:

" * * *

* * * The terms 'establish' and 'maintain' do not mean one and the same thing. The term 'establish' must be given its ordinary definition, in the absence of language showing that a special meaning is intended. To establish means to create, to institute, to build. While a tax levied under the act for the establishment of a detention home would include purchasing, erecting, leasing and otherwise providing, and such tax could be used to enlarge, improve or add to such home, such purpose must not be confused with that of maintenance.

* * *

(Emphasis added.)

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Courts of other jurisdictions which have construed the meaning of the word "establish" in comparable contexts have adopted a similar construction. See Ronnow v. City of Las Vegas (S.Ct. Nev. 1937), 65 P.2d 133, 139-40 (citing, inter alia, Caldwell v. City of Alton and People ex rel. Reynolds v. A., T. & S.F. Ry. Co.); State v. Ulibarri (S.Ct. N.M. 1929), 279 P. 509, 512-13 (power granted to the State to establish water reservoirs included power to improve existing reservoir and to explore for natural underground reservoirs); Hurd v. City of Fairbury (S.Ct. Neb. 1910), 128 N.W. 638, 640-41 (power granted to city to establish a system of electric lights included power to purchase and improve existing power plant); City of Jacksonville v. Ledwith (S.Ct. Fla. 1890), 7 So. 885, 888 (power granted to city to establish markets included power to purchase or provide a site and to erect necessary buildings thereon).

When a word has acquired a well-settled meaning through judicial interpretation, it must be understood, when used in a statute, to have that meaning unless a different meaning is unmistakably indicated. (Murrell v. Industrial Comm'n (1920), 291 Ill. 334, 336.) There is no indication in section 14-135.01 of the Illinois Pension Code that the word "establish" is to be given any meaning other than that which the Illinois Supreme Court has set forth in the cases cited above. Therefore, it is my opinion that the Board of Trustees of the State Employees' Retirement System of Illinois is

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authorized, pursuant to section 14-135.01, to either build or purchase an office building. I assume, for the purposes of this opinion, that the Board will comply with the provisions of the Capital Development Board Act (Ill. Rev. Stat. 1981, ch. 127, par. 771 et seq.) and all other applicable statutes pertaining to the acquisition or construction of capital facilities by State agencies.

Very truly yours,



ATTORNEY GENERAL