



**TYRONE C. FAHNER**  
ATTORNEY GENERAL  
STATE OF ILLINOIS  
SPRINGFIELD

October 7, 1980

FILE NO. 80-034

**SPORTS AND GAMING:**  
Authority of the Illinois Racing  
Board to Review Decisions of  
Stewards and Judges

Charles E. Schmidt, Jr.  
Chairman  
Illinois Racing Board  
State of Illinois Building, Room 1800  
160 North LaSalle Street  
Chicago, Illinois 60601

Dear Mr. Schmidt:

I have your letter wherein you request my opinion on two questions relating to the authority of the Illinois Racing Board under sections 15 and 16 of the Illinois Horse Racing Act of 1975 (Ill. Rev. Stat. 1979, ch. 8, pars. 37-15, 37-16). You have asked:

- "1. May the Illinois Racing Board review, on its own motion, an unappealed stewards' ruling?
- 2. After an appeal has been filed and discovery commenced, but before a hearing is held, if an appellant asks to withdraw his appeal, can the Board refuse to permit the appeal to be withdrawn?"

Charles E. Schmidt, Jr. - 2.

In my opinion, the answer to both questions is in the affirmative.

Subsection 16(c) of the Act (Ill. Rev. Stat. 1979, ch. 8, par. 37-16(c)) expressly authorizes the Board, on its own motion, to hold a hearing on any action of a steward or the judges with respect to any occupation license, including a suspension thereof. That hearing must be in accordance with all of the requirements and procedures set forth in section 16 of the Act.

The provisions governing the issuance, refusal, suspension, or revocation of an occupation license are set forth in sections 15 and 16 of the Act. Subsection 15(a) (Ill. Rev. Stat. 1979, ch. 8, par. 37-15(a)) authorizes the Board to issue occupation licenses to:

" \* \* \* horse owners, trainers, harness drivers, jockeys, agents, apprentices, grooms, stable foremen, exercise persons, veterinarians, valets, blacksmiths, concessionaires and others designated by the Board whose work, in whole or in part, is conducted upon race track grounds within the State which are owned by race track organizations. \* \* \* "

Subsection 15(d) provides that the Board may suspend or revoke an occupation license for any of the violations or causes specified therein. Subsection 16(a) authorizes the Board and the steward and judges to suspend occupation licenses:

"The Board shall, \* \* \* have the power to revoke or suspend an occupation license, and the steward or judges at a race meeting shall have the power to suspend an occupation license \* \* \* subject to the procedures outlined in subsections (b) through (e) of this Section."

Subsection 16(b) provides in pertinent part:

¶(b) In the event the Board, for violation of the provisions of this Act or the rules and regulations of the Board or other just cause, refuses, revokes or suspends an occupation license, or a steward or the judges at any race meeting suspend an occupation license \* \* \* then the occupation license of the person shall be suspended pending a hearing of the Board." (Emphasis added.)

Subsection 16(c) prescribes the procedure for initiating the hearing:

"(c) The person affected by such action at any race meeting may request a hearing before the Board within 5 days after receipt of notice of the suspension from the Board, the steward or the judges at any race meeting. The hearing shall be held by the Board within 7 days after such request has been received by the Board. Any action of a steward or the judges with respect to any occupation license may be heard by the Board on its own motion by giving the aggrieved party at least 3 days' notice in writing of the time and place of the hearing."

The last sentence of subsection 16(c) states clearly:

" \* \* \* Any action of a steward or the judges with respect to any occupation license may be heard by the Board on its own motion \* \* \*" (Emphasis added.)

Sections 15 and 16 are carefully drafted and integrated. The Board's control of the action of a steward or the judges is firmly established by the statute and is not dependent in any case on whether or not the person affected requests a hearing. Thereby the Board's power to regulate horse racing comprehensively and to enforce the Act, and its own rules, is made equal to its

broad responsibilities. The words quoted above are ordinary words that raise no question as to their meaning. It is well-settled that a statute which is plain and unambiguous is not open for construction since the legislature should be considered to have intended to mean what it has plainly expressed. Bovinette v. City of Mascoutah (1973), 55 Ill. 2d 129, 133; Chicago Home for Girls v. Carr (1921), 300 Ill. 478, 485.

In your second question you inquire whether the Board has power to refuse to permit the withdrawal of a request for a hearing after it has been filed. In this situation also, it is clear that the Board can refuse to permit withdrawal as part of its power and duty to control and supervise the action of its stewards and judges. Further, nothing in the Act or in the rules and regulations of the Board provides, expressly or impliedly, that a petitioner for review may withdraw his request after filing. Such a withdrawal would bring the review process to a halt, and permit that process initiated by the petitioner to be controlled by him and not by the Board. Denial of an application to withdraw avoids delay, and can be viewed as another facet of the Board's power, on its own motion, to hold a hearing on any action of a steward or the judges. (Ill. Rev. Stat. 1979, ch. 8, par. 37-16(c).)

Finally, subsection 15(d) of the Act provides that it is the Board which can suspend or revoke an occupation license, not

Charles E. Schmidt, Jr. - 5.

a steward or the judges. The only power of a steward or the judges is to suspend a license "pending a hearing of the Board" (subsection 16(b)). Therefore a hearing must be held on every such suspension of an occupation license in order to make the suspension effective over any period of time. Otherwise the suspension is effective only "pending a hearing of the Board".

Therefore, it is my opinion that the Illinois Racing Board has the power (1) on its own motion, to hold a hearing on any action of a steward or the judges with respect to any occupation license even though no request for a hearing has been filed by any affected person; and (2) to deny any application to withdraw a request for a hearing.

Very truly yours,

  
ATTORNEY GENERAL