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FILE NO. S-586

HEALTH:
Unsafe Buildings

Honorable James M. Carr
State's Attorney
DeKalb County
Court House
Sycamore, Illinois 60178

Dear Mr. Carr:

I have your predecessor's letter wherein he states:

"We are writing to request an interpretation of Public Acts 77-1416 and 77-1417, both effective September 1, 1971, and amending Illinois Revised Statutes, Chapter 24, Section 11-31-1 and Illinois Revised Statutes, Chapter 34, Section 429.8 respectively.

The first mentioned, namely, Illinois Revised Statutes, Chapter 24, Section 11-31-1 provides authority for municipalities to repair or demolish unsafe and dangerous buildings within its territory and then continues, 'except that in any county having adopted by referendum or otherwise, a county health department as provided by [Chapter 111 1/2, Section 20c et seq.], the county board of any such county may demoliah, repair or cause the

> demolition or repair of dangerous and unsafe buildings or uncompleted and abandoned buildings within the territory of any city, village or incorporated town having less than 50,000 population'.
>
> The last mentioned act, in its second sentence, authorizes the county board to repair or demolish unsafe buildings in identical language.
>
> The question with which we are confronted is whether these two acts, read in conjunction with each other, confer concurrent jurisdiction on the city and county to repair or demolish unsafe buildings in cities of less than 50,000 population where the county has established a public health department, or whether the county board is the only agency possessing such authority."

As your predecessor has stated in his letter, section 11-31-1 of the Illinois Municipal Code, (Ill. Rev. Stat. 1971, ch. 24, par. 11-31-1) has been amended by Public Act 77-1416. Prior to its amendment, section 11-31-1, supra, provided in part:

> "The corporate authorities of each municipality may demolish, repair or cause the demolition or repair of dangerous and unsafe buildings or uncompleted and abandoned buildings. * * *."

As amended, section 11-31-1 now reads in part as follows:

> "The corporate authorities of each municipality may demolish, repair or cause the demolition

> or repair of dangerous and unsafe buildings or uncompleted and abandoned buildings within the territory of any such municipality, except that in any county having adopted by referendum or otherwise, a county health department * * * the county board of any such county may demolish, repair or cause the demolition or repair of dangerous and unsafe buildings or uncompleted and abandoned buildings within the territory of any city, village or incorporated town having less than 50,000 population. * * *"
>
> Ill. Rev. Stat. 1971, ch. 24, par. 11-31-1.

Prior to Public Act 77-1416, a county board did not possess the authority to demolish, repair or cause the demolition or repair of dangerous and unsafe buildings within the territory of a city, village, or incorporated town. Ill. Rev. Stat. 1969, ch. 34, par. 429.8.

It is a familiar principle that amendments are to be construed together with the original acts to which they relate as constituting one law, and are also to be considered together with other statutes upon the same subject as a part of a coherent system of legislation. (People ex rel. Brenza v. Gebbie, 5 Ill. 2d 565). Thus, in construing the amendment together with the original act, it is my opinion that a county board can now exercise concurrent jurisdiction with municipal authorities to demolish, repair, or cause the demolition or

repair of dangerous and unsafe buildings within the territory of a city, village or incorporated town having less than 50,000 population.

Statutes enacted for the purpose of preserving the public health should be liberally construed to carry out such purpose. 39 C.J.S. Health sec. 2.

A liberal construction of the aforementioned statutory provision indicates the placement of authority in both county and municipal government to take affirmative action in regard to the alleviation of unsafe conditions in buildings resulting in a public nuisance. There is no mandatory direction to either a municipal or county government which amounts to a grant of exclusive authority to eradicate the unsafe conditions of buildings. The statute employs the word "may" in its grant of authority to both municipalities and counties. The use of the word "may" in a statute implies permissive or discretionary action as opposed to mandatory action or conduct. Rankin v. Rankin, 322 Ill. App. 90.

It is inconceivable that the legislature would vest exclusive authority within either a county or a municipal

government to control and eradicate the problem of unsafe building conditions where a concurrent exercise of authority would ensure a thorough detection and alleviation of this problem. This is especially so in instances where a municipality or county would have limited resources available to promote the effective enforcement of the aforementioned statutory provision.

Protection of the public health is one of the first duties of government. (People v. Robertson, 302 Ill. 422.) Thus, in a concurrent exercise of authority, both county and municipal governments can effectively accomplish one of their foremost duties.

Very truly yours,

ATTORNEY GENERAL