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PUBLIC SAFETY
Smoke Detectors in Motels

Mr. Thomas L. Armstead
State Fire Marshal
James R. Thompson Center
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Chicago, Illinois 60601

Dear Mr. Armstead:

I have your letter wherein you inquire whether, under subsection 3(e) of the Smoke Detector Act (425 ILCS 60/3(e) (West 1994)), the Office of the State Fire Marshal is precluded from requiring, by rule, that a hotel or motel that was in existence on July 1, 1988, provide a smoke detector that is wired into the building's electrical power system in each sleeping room. For the reasons hereinafter stated, it is my opinion that the Smoke Detector Act does not apply to hotels and motels; therefore, the Office of the State Fire Marshal may require hard-wired smoke detectors in hotel or motel rooms, notwithstanding that the Smoke

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Detector Act specifically allows smoke detectors in dwelling units either to be wired into the electrical system or powered by battery.

According to the correspondence you have supplied, personnel of the Office of the State Fire Marshal inspected four motels located in a municipality and cited them for violations of the applicable rules because their sleeping rooms were equipped with battery powered, rather than hard-wired, smoke detectors. Officials of the municipal fire department declined to enforce the rules as required by section 9 of the Fire Investigation Act, however, on the basis that the Smoke Detector Act specifically authorized the use of battery powered smoke detectors in facilities that were in existence on July 1, 1988.

Section 9 of the Fire Investigation Act (425 ILCS 25/9 (West 1994)) provides:

"§ 9. * * *

The Office of the State Fire Marshal shall adopt and promulgate such reasonable rules as may be necessary to protect the public * * * Such rules shall require the installation, inspection or maintenance of necessary fire extinguishers, fire suppression systems, chemical fire suppression systems and fire alarm and protection devices. * * *

All local officers charged with the duty of investigating fires shall enforce such rules, under the direction of the Office of the State Fire Marshal, except in those localities which have adopted fire prevention

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and safety standards equal to or higher than such rules adopted by the Office of the State Fire Marshal.

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Pursuant to this grant of authority, the Office has adopted a rule making the National Fire Protection Association's "Code for Safety to Life from Fire in Buildings and Structures" (Life Safety Code, 1985 edition), a part of the Office's rules. This rule, which became effective on August 1, 1988 (12 Ill. Reg. 8017 (1988)), requires existing hotels and motels to have, in each sleeping room, a smoke detector that is wired directly into the building's electrical system.

The Smoke Detector Act (425 ILCS 60/1 et seq. (West 1994)) was enacted in 1987. Section 3 thereof (425 ILCS 60/3 (West 1994)) requires that "dwelling units" be equipped with smoke detectors, and that:

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* * *

(e) The requirements of this Section shall apply to any dwelling unit in existence on July 1, 1988, beginning on that date. Except as provided in subsections (f) and (g), the smoke detectors required in such dwelling units may be either battery powered or wired into the structure's AC power line, and need not be interconnected.

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Section 2 of the Smoke Detector Act (425 ILCS 60/2 (West 1994)) defines the term "dwelling unit" as follows:

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" * * *

'Dwelling Unit' means a room or suite of rooms used for human habitation, and includes a single family residence as well as each living unit of a multiple family residence and each living unit in a mixed-use building.

* * * "

The issue, therefore, is whether a motel or a room therein can be classified as a room or a suite of rooms "used for human habitation". There are several principles of statutory construction that can be applied to these circumstances, each of which results in a negative conclusion.

The term "habitation" is not defined in the Act. In the absence of a statutory definition indicating a different legislative intention, the words in a statute are to be given their ordinary and popularly understood meaning, and one may look to dictionaries in order to determine that meaning. (People v. Taylor (1990), 138 Ill. 2d 204, 212.) According to the dictionary, "habitation" means:

"1a: the act of inhabiting: state of inhabiting or dwelling or of being inhabited: OCCUPANCY b: the right of one with his family to occupy the residential property of another as a home 2: a dwelling place : HOUSE, HOME, RESIDENCE * * *". (Webster's Third New International Dictionary 1017 (1981))

At page 1163, the same source defines "inhabit", in its pertinent sense, as meaning "to occupy as a place of settled residence or habitat: live or dwell in". Thus, the term "habitation" denotes

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a much more permanent, residential style of occupancy than would ordinarily be associated with the temporary sleeping accommodations available in a hotel or a motel.

Further, it is axiomatic that the express inclusion of one thing in a statute excludes all other things which are not mentioned. (Welch v. Johnson (1992), 147 Ill. 2d 40, 52.) When a statute lists several things to which it refers, there is an inference that all omissions should be understood as exclusions, despite the lack of any negative words of limitation. (Burke v. 12 Rothschild's Liquor Mart, Inc. (1992), 148 Ill. 2d 429, 442.) The definition of the term "dwelling unit" in section 2 of the Smoke Detector Act employs a general description - rooms used for human habitation - before listing single family residences, each living unit in multiple family residences and each living unit in a mixed-use building as being included therein. This listing clearly implies a legislative intent to apply the Act only to places of residential style occupancy, and, consequently, to exclude from its coverage places of overnight accommodation.

Statutes are also to be interpreted as a whole with each provision being construed in connection with every other section. (Bonaguro v. County Officers Electoral Bd. (1994), 158 Ill. 2d 391, 397.) In this regard, it is noteworthy that section 2 of the Smoke Detector Act was amended in 1989, by Public Act 85-1404, effective July 1, 1989, to include the following definition:

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'Hotel' means any building or buildings maintained, advertised, or held out to the public to be a place where lodging is offered for consideration to travelers and guests. "Hotel" includes inns, motels, tourist homes or courts, bed and breakfast establishments and lodging houses."

Public Act 85-1404 also added a new subsection 3(g) which deals specifically with the equipping of hotels with portable smoke detectors for the deaf and hearing impaired. None of the terminology used in the definitions of "dwelling unit" and "hotel" remotely suggests that hotels are to be considered simply one class of dwelling unit; rather, the General Assembly has drawn a clear distinction between residences and places of public accommodation.

In construing a statute, the objectives which the General Assembly sought to accomplish and the evils it desired to remedy should also be considered. (People v. Jeffries (1995), 164 Ill. 2d 104, 110.) An examination of the statute's legislative history, including legislative debates, may also be appropriate in determining intent. (People v. Lowe (1992), 153 Ill. 2d 195, 203.) Such an examination lends further support to my conclusion that the term "dwelling unit" should not be construed to include hotels or motels.

In 1987, when the Smoke Detector Act was enacted, the Office of the State Fire Marshal had already adopted rules implementing section 9 of the Fire Investigation Act entitled

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"Fire Prevention and Safety". (41 Ill. Adm. Code Part 100 (1985).) These rules recognized three types of "residence buildings", including: Class I(A), buildings used as a residence for one or two families; Class I(B), buildings used for three or more apartments; and Class I(C), buildings used as a hotel or rooming house with sleeping accommodations for eight or more persons. (41 Ill. Adm. Code § 100.30(a) (1985).) The rules prescribed no fire alarm requirements for Class I(A) or I(B) buildings, but required installation in Class I(C) buildings of a manually and automatically operated fire alarm system equipped with automatic detectors for the purpose of notifying occupants and the local fire department. (41 Ill. Adm. Code §§ 100.60 and 100.190 (1985).) Thus, it appears that the intention of the General Assembly was not to require smoke detectors in structures such as hotels and motels, which were already required by the Fire Marshal to have automatic detectors, but in residential buildings to which no statewide requirements applied. A review of the legislative debates on the Smoke Detector Act reveals a concern as to the extent to which the General Assembly should impose its will on private residences, but nothing in the debates indicates any intention to regulate the hotel/motel industry. (See House Debate on House Bill No. 3, May 12, 1987, 49-57; Senate Debate on House Bill No. 3, June 26, 1987, 78-88.) The Senate sponsor of the bill, for example, stated:

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* * * I will point out to those who might have some kind of a problem with mandating this that ... that we really mandate a lot of things in people's homes. We have building codes. We require building permits when people go to improve a garage or to build a new garage or an addition to their home. We have all kinds of requirements that people put certain things in those homes to make them safe. All this says is, they ought to have a smoke detector in there as well.

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(Remarks of Senator Kustra, Senate Debate on House Bill No. 3, June 27, 1987, 79.)

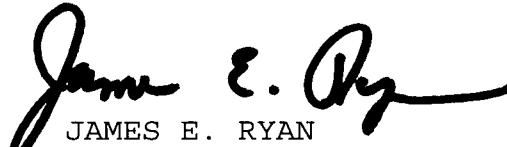
Moreover, the death of a well-respected member of the General Assembly the year before the enactment of the Smoke Detector Act was also on the minds of those voting on the bill. (See Remarks of Senators Schaffer and Kustra, Senate Debate on House Bill No. 3, June 26, 1987, 86 and 87, respectively.) Senator Prescott Bloom died of smoke inhalation as a result of a fire in his home during the night. (William Recktenwald, "Peoria Police Sift for Clues in Bloom Fire", Chi. Trib., January 13, 1986, News, at 3.) The danger of fires in private residences was clearly the focus of the legislation creating the Act.

It is my opinion, therefore, that a hotel or motel is not a "dwelling unit", for purposes of the provisions of the Smoke Detector Act. Therefore, subsection 3(e) of the Act does not except motels which were in existence on July 1, 1988, from the rule of the Office of the State Fire Marshal that requires

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the installation of smoke detectors that are wired into a motel's AC power supply. Appropriate local officials charged with the duty of investigating fires are obligated under section 9 of the Fire Investigation Act to enforce that rule.

Sincerely,


JAMES E. RYAN
Attorney General