



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

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FILE NO: 08-001

MUNICIPALITIES:  
Redistricting After a Special Census

The Honorable Patricia Reid Lindner  
Assistant Republican Leader  
State Representative, 50<sup>th</sup> District  
32 Main Street, Suite A  
Sugar Grove, Illinois 60554

Dear Representative Lindner:

I have your letter inquiring whether a municipality that is required to redistrict as a result of a special census may, pursuant to subsection 3.1-20-10(b) of the Illinois Municipal Code (the Municipal Code) (65 ILCS 5/3.1-20-10(b) (West 2006)), adopt an ordinance providing for fewer aldermen than the number fixed by statute for municipalities of that population. For the reasons stated below, it is my opinion that subsection 3.1-20-10(b) is applicable only to municipalities redistricting "following the \* \* \* receipt of the new federal decennial census results[.]" Therefore, a municipality that redistricts on the basis of the results of a special census, rather than a Federal decennial census, may not adopt an ordinance restricting the number of aldermen under subsection 3.1-20-10(b).

## BACKGROUND

Your district includes the United City of Yorkville (Yorkville), a municipality located in Kendall County. In the 2000 Federal decennial census, Yorkville's population was 6,189. Illinois Blue Book 455 (2003-2004). Based on information that you have provided, Yorkville's current population is 11,204,<sup>1</sup> and, accordingly, the city currently has eight aldermen.<sup>2</sup> Yorkville has requested a special census and anticipates that it "will yield a population count greater than 15,000[.]"

Pursuant to subsection 3.1-20-25(c) of the Municipal Code (65 ILCS 5/3.1-20-25(c) (West 2007 Supp.)), a city council must immediately redistrict a city's wards if the results of an "official census" show, among other things, that the city's population has increased to a size that requires a greater number of aldermen. A special census is considered an "official census." 13 U.S.C.A. §196 (West 1990) (authorizing the Secretary of Commerce to conduct special censuses for municipalities on a cost-reimbursable basis, and providing that "[t]he results of each such special census shall be designated 'Official Census Statistics'"). Cities of more than 15,000 but less than 20,000 inhabitants must elect ten aldermen. 65 ILCS 5/3.1-20-10 (West 2006). Therefore, assuming that Yorkville's special census reflects the anticipated increase in population, you have inquired whether, pursuant to subsection 3.1-20-10(b), Yorkville may adopt an ordinance establishing its number of aldermen at eight, rather than ten.

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<sup>1</sup>We will assume that Yorkville previously contracted for the conduct of a special census.

<sup>2</sup>Illinois law generally requires eight aldermen to be elected in cities exceeding 3,000 but not exceeding 15,000 inhabitants. 65 ILCS 5/3.1-20-10 (West 2006).

## ANALYSIS

Section 3.1-20-10 of the Municipal Code (65 ILCS 5/3.1-20-10 (West 2006))

provides:

(a) Except as otherwise provided in subsections (b) and (c) of this Section, Section 3.1-20-20,<sup>[3]</sup> or as otherwise provided in the case of aldermen-at-large, *the number of aldermen*, when not elected by the minority representation plan, *shall be as follows*: in cities not exceeding 3,000 inhabitants, 6 aldermen; *exceeding 3,000 but not exceeding 15,000, 8 aldermen; exceeding 15,000 but not exceeding 20,000, 10 aldermen*[.] \* \* \*

(b) *Instead of the number of aldermen set forth in subsection (a), a municipality with 15,000 or more inhabitants may adopt, either by ordinance or by resolution, at least 180 days prior to the first municipal election following the municipality's receipt of the new federal decennial census results, the following number of aldermen: in cities exceeding 15,000 but not exceeding 20,000, 8 aldermen*[.] (Emphasis added.)

The primary objective of statutory construction is to ascertain and give effect to the intent of the General Assembly. The most reliable indicator of legislative intent is the statutory language itself. Where the language is clear and unambiguous, it must be applied as written, without resort to extrinsic aids to statutory construction. *People v. Perry*, 224 Ill. 2d

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<sup>3</sup>Subsection 3.1-20-10(c) (65 ILCS 5/3.1-20-10(c) (West 2006)) authorizes municipalities with between 40,000 and 50,000 inhabitants to adopt an ordinance or resolution increasing the number of aldermen from 14 to 16.

Section 3.1-20-20 (65 ILCS 5/3.1-20-20 (West 2006)) permits cities with fewer than 100,000 inhabitants to reduce, pursuant to referendum, the number of aldermen to one-half the total authorized by section 3.1-20-10 or to reduce the number of aldermen to one alderman per ward plus an additional number of aldermen at large.

312, 323 (2007). Further, statutes must be construed so that each word, clause, and sentence is given a reasonable meaning and not rendered superfluous. *Lohr v. Havens*, 377 Ill. App. 3d 233, 237 (2007), *appeal denied*, 226 Ill. 2d 616 (2008).

Assuming that the special census shows that the population of Yorkville has increased to between 15,000 and 20,000 inhabitants, subsection 3.1-20-10(a) will require Yorkville to increase its number of aldermen from eight to ten, unless otherwise excepted. Under subsection 3.1-20-10(b), a municipality with a population of between 15,000 and 20,000 inhabitants may establish its number of aldermen at eight, if the municipality adopts the necessary ordinance "at least 180 days prior to the first municipal election following the municipality's receipt of the *new federal decennial census results*["] (Emphasis added.) Subsection 3.1-20-10(b) expressly references the receipt of "new federal decennial census results["] Although a special census may be an "official census," it is not a "federal decennial census."<sup>4</sup> Accordingly, under the plain and unambiguous language of subsection 3.1-20-10(b), Yorkville is not authorized to adopt an ordinance to establish the number of aldermen at eight based on the results of a special census. To construe the language of subsection 3.1-20-10(b) otherwise would render the term "federal decennial census" superfluous. This interpretation is

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<sup>4</sup>Under Federal law, the Secretary of Commerce is required to take a decennial census of the population as of the first day of April "in the year 1980 and every 10 years thereafter["] 13 U.S.C.A. §141 (West 1990). The most recent Federal decennial census was conducted in the year 2000.

13 U.S.C.A. §196 (West 1990) authorizes the Secretary to conduct a special census for cities or other political subdivisions within a state upon payment of the costs of conducting the special census. Results of such special census may be designated as "Official Census Statistics" and may be used in the manner provided by applicable law.

consistent with other provisions of the Municipal Code (65 ILCS 5/1-1-1 *et seq.* (West 2006)) in which the General Assembly has expressly directed that the results of an official census - and not a Federal decennial census - be used for a particular purpose. *See, e.g.*, 65 ILCS 5/3.1-20-25 (West 2007 Supp.) ("Whenever *an official census* shows that a city contains more or fewer wards than it is entitled to, the city council \* \* \* shall redistrict the city") (emphasis added); 65 ILCS 5/3.1-20-30 (West 2006) ("After *an official census* is officially published, if a city is divided into a greater number of wards and has elected a greater number of aldermen than the city is entitled to \* \* \* all acts, resolutions, and ordinances of the city council \* \* \* are valid") (emphasis added); *contra* 65 ILCS 5/7-6-7 (West 2006) ("If \* \* \* there is in existence any municipality in which the Bureau of the Census did not determine the population when the last preceding decennial census was taken, the county board of the county in which such municipality is located may \* \* \* arrange with the Bureau of the Census to take a special census of such municipality").

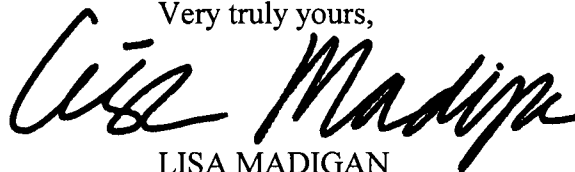
### CONCLUSION

Because subsection 3.1-20-10(b) of the Illinois Municipal Code is expressly limited to redistricting based on the receipt of "new federal decennial census results," municipalities that are required to redistrict based on the results of other types of censuses may not, pursuant to this subsection, adopt an ordinance establishing the number of aldermen at a figure below the statutorily required number. Therefore, it is my opinion that a municipality which redistricts as a result of a special census must establish the number of aldermen in accordance with subsection 3.1-20-10(a) of the Municipal Code.

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I would further note, however, that there is no significant distinction between the redistricting required by the results of a special census, in contrast to the redistricting required by the results of the Federal decennial census, that would argue against permitting municipalities that conduct a special census to adopt an ordinance providing for fewer aldermen than the law would otherwise require. Accordingly, in light of the rapid population growth in Kendall County (and other metropolitan areas of this State), the General Assembly may wish to consider whether to amend the provisions of subsection 3.1-20-10(b) of the Municipal Code to apply to redistricting based on any official census results, including special censuses conducted during the period between Federal decennial censuses.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lisa Madigan". The signature is written in a cursive, flowing style with a large initial "L".

LISA MADIGAN  
ATTORNEY GENERAL