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SPRINGFIELD

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FILE NO. 83-020

STATE MATTERS:

Power of Space Needs Commission to
Approve Contracts Relating to the
Renovation of the Capitol Complex
Electrical Power Supply

Mal Hildebrand, Executive Director
Legislative Space Needs Commission
Suite 602 William G. Stratton Building
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Dear Mr. Hildebrand;

I have your letter wherein you state that the Capital Development Board and the Secretary of State have entered into certain construction contracts for the upgrading of the electrical supply service to the State buildings of the capitol complex, and for modifications to the State power plant which supplies power and heat to these buildings. You ask the following questions with regard to these contracts:

1. Must the Capital Development Board and the Secretary of State submit these contracts to

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the Space Needs Commission for review and approval?

2. If so, are these contracts valid if they have not been submitted to and approved by the Space Needs Commission?

For the reasons hereinafter stated, it is my opinion that these contracts must be submitted to the Space Needs Commission for approval or disapproval pursuant to section 3.06 of the Space Needs Act (Ill. Rev. Stat. 1981, ch. 63, par. 223.06). It is also my opinion that until these contracts have been submitted to and approved by the Space Needs Commission, they are invalid and unenforceable against the State.

Based upon the proposal and study of the consulting engineers on the capitol complex utility project, it appears that this project will consist of a number of major modifications to the existing electrical distribution system supplying power to the buildings of the capitol complex. Specifically, the distribution system will be upgraded from the present 4.16 kilovolt capacity to 12.47 kilovolt capacity. This will require the modification of the State power plant located at Klein and Madison Streets by the construction of a new service substation capable of accepting increased electrical power from the supplying utility and transmitting increased power to the distribution system. Several underground distribution centers containing transformers and switchgear will be constructed

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within the grounds of the capitol complex. A new underground ductline-manhole system will be constructed to carry the electric distribution cable from the State power plant to the distribution centers, and from there to the buildings served by the system. The electrical service entrances to all capitol complex buildings will be renovated, including the transformer vaults where appropriate. The completion of the project will result in an entirely renovated and upgraded electrical distribution system serving the State buildings in the capitol complex. The total cost of the project is estimated at \$8,500,000.

Section 3 of the Space Needs Act (Ill. Rev. Stat. 1981, ch. 63, par. 223) provides that the Space Needs Commission shall have the powers and duties specified in sections 3.01 through 3.07 of that Act (Ill. Rev. Stat. 1981, ch. 63, pars. 223.01 through 223.07). Section 3.06 of the Space Needs Act requires the Space Needs Commission:

"To review and approve all contracts for the repair, rehabilitation, construction or alteration of all State buildings in the Capitol complex of buildings in Springfield, Illinois, including all tunnels, power and heating plants and surrounding grounds." (Emphasis added.)

Contracts relating to the construction or alteration of tunnels, power and heating plants, and the grounds surrounding the buildings of the capitol complex are expressly included

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under section 3.06 of the Space Needs Act. Whether the contracts described above fall within the provisions of section 3.06 of the Space Needs Act depends upon the construction to be accorded to the Act's terms.

The primary object in construing a statute is to ascertain and give effect to the true intent and meaning of the General Assembly in enacting it. (People v. Elgin Home Pro. Ass'n (1935), 359 Ill. 379, 383.) The intent of a statute should be sought primarily from the language used therein. (Certain Taxpayers v. Sheahen (1970), 45 Ill. 2d 75, 84.) Words appearing in a statute are to be given their commonly accepted meaning unless otherwise defined by the General Assembly, and the specific meaning of a word or term is to be determined by the object sought to be accomplished by the statute in which they are used. Bowes v. City of Chicago (1954), 3 Ill. 2d 175, 201.

It is clear that it is the purpose of section 3.06 of the Space Needs Act to empower the Space Needs Commission to review all contracts relating to the construction or alteration of State buildings located in the capitol complex. (1977 Ill. Att'y Gen. Op. 119, 120.) The inclusion therein of a reference to "power and heating plants" establishes the intent to include within the purview of the Space Needs Commission the authority

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to review and approve contracts for the construction or alteration of State-owned plants furnishing power or heat to the buildings of the capitol complex wherever such plants may be located. Further, the term "power plant" includes not only an electric generating plant, but also electric power distribution stations and their distribution equipment, wires and transmission lines. (Poor v. Incorporated Town of Duncombe (S.Ct. Iowa 1942), 2 N.W.2d 294, 300-301; see also Brown v. Tuskegee Light and Power Co. (S.Ct. Ala. 1936), 168 So. 159, 160; Brown v. Gerald (S.Ct. Me. 1905), 61 A. 785, 786; contra, State v. Public Service Commission of Missouri (Ct.App. Mo. 1960), 343 S.W.2d 177, 183.) Thus, all of the modifications to the electrical distribution system described above constitute the repair, rehabilitation, construction or alteration of a power plant within the meaning of section 3.06 of the Space Needs Act. Therefore, it is my opinion that all contracts relating to the upgrading of the capitol complex electrical supply system must be submitted to and approved by the Space Needs Commission pursuant to that provision.

In response to your second question, it is generally recognized that where a statute provides for the approval of an officer or a body of officers to validate, consummate, or make effective the act of another, it is the intention of the General Assembly that such officer or officers be vested with

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the option to approve or disapprove the act. (Gustafson v. Wethersfield Township High School District 191 (1943), 319 Ill. App. 255, 259-60; 1981 Ill. Att'y Gen. Op. 43, 46.) Where a statute requires an officer to approve a contract, the transaction is validated only upon receipt of his or her approval. (Lincoln Highway Realty, Inc. v. State (Sup.Ct. N.J. 1974), 318 A.2d 795, 798; Blatt Bowling and Billiard Corp. v. State (S.Ct. N.Y. 1961), 217 N.Y.S.2d 766, 767.) A contract entered into by a State officer without first meeting all prerequisites is invalid and unenforceable. Dement v. Rokker (1888), 126 Ill. 174, 193-96; see also Ashton v. County of Cook (1943), 384 Ill. 287, 300-301.

As stated above, the Space Needs Commission is required to review and approve all contracts for the construction, repair or alteration of buildings in the capitol complex, including tunnels, power and heating plants, and the grounds surrounding the complex. Such contracts may be validated only after receiving the approval of the Space Needs Commission. Therefore, until the contracts in question have been submitted to and approved by the Space Needs Commission as required by section 3.06 of the Space Needs Act, it is my opinion that they are invalid and unenforceable against the State.

Very truly yours,


A T T O R N E Y G E N E R A L