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SPRINGFIELD

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FILE NO. S-349

CRIMINAL LAW:
Civil Rights Article -
Public Accommodations

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Honorable William R. Ketcham
State's Attorney
Kane County
Geneva, Illinois 60134

Dear Mr. Ketcham:

I have your recent letter wherein you pose this problem:

"Within the last day or two here in Kane County a member of a minority race attempted to rent a power saw from a company in our county who is in the business of leasing tools and equipment. The complainant was denied the right to lease or rent the power saw and it seemed to appear that the proprietor's refusal was based upon the complainant's religion or national origin.

"The issue has now been raised as to whether or not the complainant should be permitted to sign a formal complaint under the Civil

> Rights Act of Illinois, Chapter 38, Article 13 which I believe depends upon whether or not the leasing company is a 'place of public accommodation or amusement' as defined by Chapter 38, Section 13-1 subsection A. I find no case law of any help with regard to a determination of this issue and I would, therefore, appreciate your opinion as to whether or not the leasing company comes within statutory provision."

The Civil Rights Article of the Illinois Criminal Code of 1961 defines a "Public Place of Accommodation or Amusement" as follows:

> "A public place of accommodation or amusement includes inns, restaurants, eating houses, hotels, soda fountains, soft drink parlors, taverns, roadhouses, barber shops, department stores, clothing stores, hat stores, shoe stores, bathrooms, restrooms, theatres, skating rinks, public golf courses, public golf driving ranges, concerts, cafes, bicycle rinks, elevators, ice cream parlors or rooms, railroads, omnibusses, busses, stages, airplanes, street cars, boats, funeral hearses, crematories, cemeteries, and public conveyances on land, water, or air, public swimming pools and other places of public accommodation and amusement."
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> (Ill. Rev. Stats. 1969, Ch. 38, Sec. 13-1(a)).

That Article further provides in Section 13-2(a) that a person commits a violation of civil rights when "He denies to another the full and equal enjoyment of the facilities and services of any public place of accommodation or amusement because of race, religion, color or national ancestry."

The purpose of the Civil Rights Article is to regulate, for promotion of the public good, certain businesses in which the public has an interest (City of Chicago v. Corney, 13 Ill. App. 2d 396), and is designed to assure to the public free and equal access to all public places of accommodation or amusement. The Article enumerates thirty-eight (38) establishments which are specifically defined as places of public accommodation or amusement. Section 13-1(a) indicates that this enumeration is not exclusive. Thus, we glean a legislative intention that broad classes of establishments open to the public be open to all the public.

Because of the breadth of the enumeration, the legislature obviously intended that the term "public accommodation" be ascribed a construction of concomitant breadth and not be restricted to the traditional common law concept of an innkeeper's duty to serve travelers. The inclusion of stores of various kinds in Section 13-1(a) indicates a legislative intention to open the public marketplace to all persons regardless of race, creed or color. The history of civil rights legislation in Illinois, from the date of first legislative enactment (Ill. Laws 1885, P. 64, §§ 1, 5) to the present, has been that of a steady expansion of State-guaranteed equal access to public facilities.

When the first reference to stores of various kinds appeared in the statutory definition of "public accommodations" or "public places" (Ill. Laws 1937, P. 485, § 1) the most common access to goods was by cash purchase; but things have changed. Today many of the goods and services our economy has to offer are accessible on a rental

basis. Large businesses, renting everything from hammers to cement mixers, hold themselves open to the general public. There is no question that a store which sells merchandise to the general public is covered. To deny free access to rental goods on the basis of race, creed or color is every bit as invidious as denial of access to a store for purposes of making a cash purchase. I can perceive no rational basis for exempting a business which caters to the general public from coverage under the Civil Rights Article because the business rents rather than sells its goods.

It has been held that the Civil Rights Article is not subject to strict rules of construction. Rather, it must be construed according to its intent and meaning; and a situation that is within the object, spirit and meaning of the statute is regarded as within the statute although not within the letter. McGill v. 830 S. Michigan Hotel, 68 Ill. App. 2d 351.

It is also worthy of note that the Illinois Constitution of 1970 provides in Article I, Section 17:

> "All persons shall have the right to be free from discrimination on the basis of race, color, creed, national ancestry and sex in the hiring and promotion practices of any employer or in the sale or rental of property." (Emphasis supplied)

The Constitution makes no distinction between real and personal property.

It is my opinion that a business establishment engaged in the renting of tools, equipment or other paraphernalia to the general public is a "Place of Public Accommodation or Amusement" within the meaning of the Civil Rights Article of the Criminal Code of 1961.

Very truly yours,

ATTORNEY GENERAL