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ATTORNEY GENERAL
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FILE NO. 85-009

PUBLIC RECORDS AND INFORMATION:
Jurisdiction Over Records of the
Chicago World's Fair - 1992 Authority.

Honorable Jim Edgar
Illinois Secretary of State
State House, Room 213
Springfield, Illinois 62756

Dear Mr. Edgar:

I have your letter wherein you inquire whether the Chicago World's Fair - 1992 Authority (see Ill. Rev. Stat. 1984 Supp., ch. 127, par. 2101.01 et seq.) is subject to the provisions of either The State Records Act (Ill. Rev. Stat. 1983, ch. 116, par. 43.4 et seq.) or The Local Records Act (Ill. Rev. Stat. 1983, ch. 116, par. 43.101 et seq.). For the reasons hereinafter stated, it is my opinion that The Local Records Act is applicable to the public records of the Chicago World's Fair - 1992 Authority.

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Section 16 of The State Records Act (Ill. Rev. Stat. 1983, ch. 116, par. 43.22) created the State Records Commission and charged that body with determining which public records within its jurisdiction should be destroyed or otherwise disposed of. (1977 Ill. Att'y Gen. Op. 94, 95.) Records within the jurisdiction of the State Records Commission include the records of "all parts, boards and commissions of the executive branch of the State government" and of State colleges and universities. (Ill. Rev. Stat. 1983, ch. 116, par. 43.5.)

The Local Records Act, in contrast, establishes a system for the management and disposal of public records by units of local government. Pursuant to section 6 of The Local Records Act (Ill. Rev. Stat. 1983, ch. 116, par. 43.106), two local records commissions were created to administer its provisions. (See Ill. Att'y Gen. Op. 83-013, issued October 7, 1983, at 3-4.) Jurisdiction over the public records of "agencies" located within Cook County is vested in the Local Records Commission of Cook County.

Section 7 of The Local Records Act (Ill. Rev. Stat. 1983, ch. 116, par. 43.107) provides:

"Except as otherwise provided by law, no public record shall be disposed of by any officer or agency unless the written approval of the appropriate Local Records Commission is first obtained.

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For purposes of the Act, the term "agency" is defined as follows:

" * * *

'Agency' means any court, and all parts, boards, departments, bureaus and commissions of any county, municipal corporation or political subdivision.

* * *

(Ill. Rev. Stat. 1983, ch. 116, par. 43.103.) "

The Chicago World's Fair - 1992 Authority Act provides for the creation of the Chicago World's Fair - 1992 Authority to finance, construct and operate a universal category world's fair in Chicago. (Ill. Rev. Stat. 1984 Supp., ch. 127, par. 2101.02.) Section 1.04 of the Chicago World's Fair - 1992 Authority Act (Ill. Rev. Stat. 1984 Supp., ch. 127, par. 2101.04) provides:

"The Chicago World's Fair - 1992 Authority is hereby created. It is a body corporate and politic, a political subdivision of the State and public instrumentality. The territory of the Authority is the County of Cook of the State of Illinois." (Emphasis added.)

The Chicago World's Fair - 1992 Authority, having been created by the General Assembly as a "political subdivision of the State", is clearly an "agency" for purposes of the application of The Local Records Act. Therefore, it is my opinion that the Authority is subject to the requirements of The Local Records Act.

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You have also referred in your letter to section 11 of the Chicago World's Fair - 1992 Authority Act (Ill. Rev. Stat. 1984 Supp., ch. 127, par. 2102.11), which provides:

"The Authority is authorized to enter into an agreement with the Chicago Historical Society under which agreement (1) the Authority would transfer all the official documents and records of the Authority to the Society from time to time as such documents and records were no longer required for the operation of the Authority and would also deposit with the Society examples of all of the official artifacts of the Fair and such other materials relating to the Fair as the Authority and the Society determine to be appropriate for archival preservation and (2) the Society would undertake to receive, organize, catalog and preserve such records, documents, artifacts and other materials for the benefit of the public as the agent of the Authority."

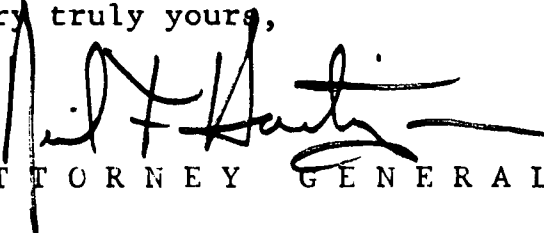
Although section 11 would appear to permit the transfer of the Authority's records to the Chicago Historical Society without prior approval of the Local Records Commission of Cook County, it is my opinion that such records, if transferred, will remain under the jurisdiction of that Commission.

Section 11 of the Chicago World's Fair - 1992 Authority Act provides that if the Authority and the Chicago Historical Society agree to the transfer of the Authority's records, the Society will receive and preserve the records as the agent of the Authority. It is axiomatic that a principal cannot do through an agent that which he cannot do himself (J. H. Marshall & Associates v. Burleson (App. Ct. D.C. 1974),

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313 A.2d 587, 597), nor can authority lawfully be delegated to an agent to do that which is illegal or opposed to public policy. (Rich Painting Co. v. McKellar's Estate (App. Ct. Tenn. 1959), 330 S.W.2d 361, 380.) Thus, the Chicago World's Fair - 1992 Authority cannot, by transferring its records to its agent, the Chicago Historical Society, remove them from the purview of The Local Records Act. Rather, those records, when in the custody of its agent, will be subject to the requirements of that Act to the same extent as if they were in the custody of the Authority itself and may not be destroyed or otherwise disposed of without the approval of the Local Records Commission of Cook County.

Very truly yours,



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