640602.1

TRAILER COACH PARKS: Licenses.

Parcel or tract of land under the control of any person containing 3 or more trailer coaches located in leased parking spaces subject to licensing provisions of Act 243, P.A. 1959, as amended.

Availability or non-availability of common sanitary facilities does not affect requirement to be licensed pursuant to Act 243.

Act 243 may be made applicable where lots within tract of land sold by land contract under circumstances evidencing intent of vendor to evade licensing provisions of the statute, vendor retaining control over lots sold.

Act 243 applicable when trailer coaches placed on permanent or semi-permanent foundations or where axles or undercarriage removed.

Provisions of Act 243 apply where more than one person jointly own land harboring three or more trailer coaches.

No. 4320 June 2, 1964.

Albert E. Heustis, M.D.
State Health Commissioner
3500 N. Logan Street
Lansing 4, Michigan

You have requested my opinion concerning specific questions which have arisen in connection with your department's administration of the Michigan Trailer Coach Park Act of 1959, as amended.[1]

You inquire as follows:

"1. Would the provisions of Act 243, P.A. of 1959 apply to a person harboring three or more trailer coaches on a large parcel of land if he provided land to the individual for parking a trailer on a lease basis and furnished no common facilities such as a water supply, sewage disposal system, or laundry facility?

"2. Would your answer be altered if such person furnished one or more of such common facilities?

"3. Would your answers to questions 1 and 2 be altered if such land was sold on land contract between parent and minor child or where the seller and buyer are otherwise related or under other circumstances where the seller retains control over the parcel or parcels of land so conveyed?

"4. Would the answers in questions 1, 2, or 3, cited above be altered if the wheels were removed and the trailer coach was placed on a foundation?

"5. If your answer to question 4 is in the negative, would further alteration such as removal of the axle, axles, or undercarriage of the trailer exclude it from the definition under Section 2(a) of the act?

[1] Act 243, P.A. 1959, as amended by Act 2, P.A. 1961 and Act 161, P.A. 1963 (C.L.S. 1961 §§ 125.1001 et seq.; M.S.A. 1961 Rev. Vol. and 1963 Cum. Supp. § 5.278(31) et seq.)

"6. Would the provisions of Act 243, of the P.A. of 1959 apply to a group of persons who jointly own a piece of property on which they place their own trailer coaches, each of whom pays a proportionate share of the cost of development, upkeep, operation and maintenance of such a project?"

Act 243 defines "trailer coach park" in Section 2(d) as follows:

" 'Trailer coach park' or 'park' means any parcel or tract of land under the control of any person, upon which 3 or more occupied trailer coaches are harbored, or which is offered to the public for that purpose, regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment or facility used or intended for use incident to the harboring or occupancy of trailer coaches; except as provided by section 91 of this act."[2]

With reference to the sale or leasing of lots within a plat restricting occupancy to trailer coaches, the Attorney General, in a previous opinion, dated October 28, 1957, has stated as follows:

"In the event that the plotter leases unsold lots, and three or more occupied trailer coaches are harbored on lots owned by him, it is evident that he retains control of said property, and it is my opinion that such individual would come within the purview of the licensing provisions of said Act 143 and would be required to be licensed in accordance therewith."[3]

The foregoing opinion was given in response to a request from the State Health Commissioner relating to provisions of Act 143, P.A. 1939, as amended.[4] Act 143 (Trailer Coach Park Act of 1939) has since been repealed by the Trailer Coach Park Act of 1959.[5] The definition of "trailer coach park" appearing in both acts is, however, substantially the same and the 1957 opinion of the Attorney General would appear to apply as equally to the present law as it did to the 1939 statute then in effect.

In a further opinion of the Attorney General, dated January 8, 1959, it is stated that the Trailer Coach Park Act of 1939 does not require the furnishing of toilet, lavatory and shower facilities in a community service building where the owner of the park restricts its use to trailers with self-contained facilities.[6]

The latter opinion appears in no way to relate to the definition of "trailer coach park" as contained in the 1939 Act or in the present state law. Likewise, I find no provision within the present Trailer Coach Park Act itself which in any way conditions the definition of "trailer coach park" contained therein on whether or not the operator provides or fails to provide common facilities.

---

[2] Sec. 91 as amended by Act 161, P.A. 1963 exempts state and county parks and fair grounds, housing for agricultural labor forces, and grounds used temporarily by county 4-H associations and religious organizations.

[3] O.A.G. 1957-58, Vol. 1, No. 3132, p. 486.

[4] C.L. 1948 and C.L.S. 1956, § 125.751 et seq., M.S.A. 1955 Cum. Supp. § 5.278(1) et seq.

[5] Sec. 97, Act 243, P.A. 1959.

[6] O.A.G. 1959-60, Vol. 1, No. 3343, p. 1.

In response to your first and second questions, it is my opinion that the provisions of Act 243, P.A. 1959 as amended, apply where three or more trailers occupy one parcel of land even though the land provided for the parking of any individual trailer or trailers is on a lease arrangement. It is my further opinion that the applicability of the licensing provisions of the statute is not affected by either the availability or non-availability of common sanitary facilities such as water supply, sewage disposal or laundry facilities.

Considering now your third question, Attorney General Opinion No. 3132 (1957), supra, also indicates in relation to the sale of lots as follows:

> "It is clear that when the plotter has sold lots within his plat, he retains no control over the use of said lots except as may be contained in the restrictive covenants of the plat. The proposed plat, of course, must comply with all of the applicable statutes of the State of Michigan as well as the ordinances of the city, village or township in which the plat will be located.
>
> "It is my opinion that under the factual situation you cite, a plotter who sells lots restricted to occupancy by trailer coaches is not an operator of a trailer coach park within the provisions of Act 143, P.A. 1939, as amended, and is not required to secure a license under the provisions of said act."

The foregoing is as applicable to the Trailer Coach Park Act of 1959 as it was to the provisions of Act 143, P.A. 1939. Therefore, it is apparent that the provisions of Act 243 do not apply where there is a bona fide sale of lots by means of land contract where the vendor retains no control over the use of said lots, but only retains bare legal title as security.[7] It is, however, my further opinion in response to this question that where the sale of lots by land contract is, as evidenced by the circumstances, intended solely to evade the clear intent of Act 243 and to contravene the policy and spirit of the statute (as where the sale is between parent and minor child, near relative, or where the vendor retains control over the use of the lots), then in such event said contracts are subject to being set aside by the courts and the provisions of Act 243 could thereby be made applicable. As stated in *Dettloff v. Hammond, Standish & Co.*, 195 Mich. 117, 136:

> "A contract is void if it contemplates acts that are illegal or contrary to public policy. *Drake v. Lauer,* 182 N.Y. 533 (93 App. Div. 86, 75 N.E. 1129). A contract which in its execution contravenes the policy and spirit of a statute is equally void as if made against its positive provisions. *Hunt v. Knickerbacker,* 5 Johns, (N.Y.) 327; *Wetmore v. Brien,* 3 Head (40 Tenn.), 723."
>
> "We are impressed with the claim that the agreement in question was void *ab initio,* because opposed to public policy and express statute."

See also other Michigan cases supporting this principle: *Richardson v. Buhl,*

[7] The subdividing of land into five or more lots requires the making and recording of a Plat thereof in accordance with the Plat Act of 1929 being Act 172, P.A. 1929 as amended (C.L. 1948 and C.L.S. 1956, § 560.2 et seq., M.S.A. 1953 Rev. Vol. and 1961 Cum. Supp. § 26.431 et seq.)

77 Mich. 632 (6 L.R.A. 457); *Mulliken v. Naph-Sol Refining Co.,* 302 Mich. 410; *Mahoney v. Lincoln Brick Co.,* 304 Mich. 694.

With specific reference to your fourth and fifth questions, an earlier opinion of the Attorney General[8] has indicated that the provisions of Act 143, P.A. 1939 (Trailer Coach Park Act of 1939) are not applicable where trailer coaches are placed upon concrete block or concrete or brick wall foundations. The definition of "trailer coach" contained in Section 1 of Act 143 specifically defined trailer coach as

> "any vehicle used or so constructed as to permit its being used as a conveyance upon the public streets * * * and having no foundation other than wheels, jacks or skirtings when located in a duly licensed trailer coach park * * *."

The Legislature, in enacting Act 243, P.A. 1959, as amended, has redefined the term "trailer coach" as follows:

> "Sec. 2(a) 'Trailer coach' or 'trailer' means any vehicle with or without motive power, designed for carrying property or persons and for being drawn by a motor vehicle, and so constructed as to permit occupancy as a dwelling or sleeping place by one or more persons, and licensable as a 'trailer coach' under Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Compiled Laws of 1948,[9] and any vehicle with motive power designed primarily for living or sleeping or used to carry a unit so designed, except 'tent trailer' which means a vehicle less than 20 feet in length with an expandable enclosure of canvas, fabric or metal used as a living or sleeping place."

In *Richards v. City of Pontiac,* 305 Mich. 666, 671, 672, the Michigan Supreme Court, in interpreting Act 143, P.A. 1939, as amended, as said act related to the then existing housing law of Michigan[10], decided that the 1939 Trailer Coach Park Act was designed for the specific purpose of regulating THE TRAILER TYPE OF HOUSING and was intended to apply to trailers as permanent dwellings, as well as temporary dwellings. The Court further stated that:

> "The above act permits a trailer coach to remain in a given location for an indefinite length of time. Its intent and purpose is to take over the entire field of regulation and supervision of trailer parks in the State."

It is evident that the present state law regulating trailer coach parks is intended to apply to trailer type housing used as permanent dwellings, as well as temporary dwellings. The redefinition of "trailer coach" appearing in Act 243, likewise, indicates legislative intent that trailers set upon semi-permanent or permanent foundations are not excluded from authority to regulate under the statute.

---

[8] O.A.G. 1956, Vol. II, No. 2592, p. 378.

[9] Act 300, P.A. 1949, is the Michigan Motor Vehicle Code. Sec. 74 as amended by Act 262, P.A. 1951 (C.L.S. 1956 § 257.74; M.S.A. 1960 Rev. Vol. § 9.1874.)

[10] Act 167, P.A. 1917, as amended by Act 303, P.A. 1939; Act 143, P.A. 1939, as amended by Act 255, P.A. 1941.

In response to your fourth and fifth questions, it is my opinion that the provisions of Act 243 are not made inapplicable because a trailer coach is placed on a foundation or because axles or undercarriage are removed.

In response to your sixth question, Act 243, P.A. 1959, regulates trailer housing units numbering 3 or more located on a single tract or parcel of land UNDER THE CONTROL OF ANY PERSON.

The statute does not define the word "person" as used therein. Consequently, Michigan rules of statutory construction apply. Section 3(b) of Act 189, P.A. 1959 (M.S.A. 1961 Rev. Vol. § 2.212(2)) provides as follows:

> "Every word importing the singular number only may extend to and embrace the plural number, and every word importing the plural number may be applied and limited to the singular number. Every word importing the masculine gender only may extend and be applied to females as well as males."

Section 31 of Act 189 (M.S.A. 1961 Rev. Vol. § 2.212(12) also indicates that:

> "The word 'person' may extend and be applied to bodies politic and corporate, as well as individuals."

In conclusion, it is my opinion that the provisions of Act 243, P.A. 1959, apply to persons who jointly own a tract or parcel of land upon which three or more trailer coaches are located.

FRANK J. KELLEY,
Attorney General.

640609.1

MACKINAC ISLAND STATE PARK COMMISSION: Powers of Commission.

Mackinac Island State Park Commission is possessed of statutory authority to acquire an approved airport on Mackinac Island subject to determination by the proper Federal authority that such exercise will not affect the title of the State to the land to be used for airport purposes.

No. 4162A June 9, 1964.

Mr. Walter J. Murray, Chairman
Mackinac Island State Park Commission
3965 Penobscot Building
Detroit, Michigan

On November 18, 1963, in opinion No. 4162, a ruling was made by the Attorney General that the Mackinac Island State Park Commission was without statutory authority to construct and acquire an approved airport. Further ruling was made that the Mackinac Island State Park Commission was powerless to do indirectly through lease to the City of Mackinac Island what it was without statutory duty to do directly. Thus, the Commission was without authority to enter into a 25 year lease for approved airport purposes to the City of Mackinac Island of state park lands.