



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

KWAME RAOUL  
ATTORNEY GENERAL

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I-24-009

COUNTIES:

Authority of Veterans Assistance  
Commission to Purchase Real Property

The Honorable Joseph R. Navarro  
State's Attorney, LaSalle County  
LaSalle County Governmental Complex  
707 Etna Road, Suite 251  
Ottawa, Illinois 61350

Dear Mr. Navarro:

We have your letter inquiring whether a county veterans assistance commission (Commission) may purchase and own real property for the Commission's office. If so, you inquire whether the county may fund the just, necessary, and needed costs of the purchase from the proceeds of the tax levied pursuant to section 5-2006 of the Counties Code (55 ILCS 5/5-2006 (West 2022)), along with appropriations from the county's general fund if expenses exceed the amount levied pursuant to section 5-2006. For the reasons stated below, a Commission does not have authority to purchase and own real property to use for the Commission's office.

BACKGROUND

Commissions are organized pursuant to the Military Veterans Assistance Act (the Act) (330 ILCS 45/0.01 *et seq.* (West 2022)) to provide financial assistance and services to military veterans whose last discharge was honorable or general under honorable conditions, their families, and the families of deceased veterans. 330 ILCS 45/2 (West 2022). The Act authorizes the organization of a Commission in any county having two or more veteran service



organizations.<sup>1</sup> 330 ILCS 45/9(a) (West 2022). A Commission is comprised of delegates and alternates from each qualifying veteran service organization within the county. 330 ILCS 45/9(a) (West 2022). The delegates, together with the Commission superintendent, are charged with administering the provisions of the Act. 330 ILCS 45/9(a), (b), 10(a) (West 2022).

According to the information you provided, historically, the LaSalle County Commission's office was located in the courthouse in Ottawa. However, in 2021, the Commission began leasing a building outside the courthouse. The Commission is now considering purchasing a building to house its office. LaSalle County has funded the Commission by the property tax levied for the Commission pursuant to section 5-2006 of the Counties Code and has not used any funds from the county general corporate fund to fund any of the Commission's activities.<sup>2</sup> The Commission's superintendent has noted that the Act does not explicitly prohibit the Commission from purchasing and owning real property.

After receipt of your inquiry, this office received correspondence from a private attorney representing the Commission.<sup>3</sup> According to the correspondence, the Commission believes the current space is insufficient to provide the necessary assistance and services to veterans. The Commission's attorney has opined that the Commission has authority to purchase and own real property.<sup>4</sup>

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<sup>1</sup>Section 1 of the Act (330 ILCS 45/1 (West 2022)) defines "veteran service organization" to mean "a post, ship, camp, chapter, or detachment of a congressionally chartered or state chartered organization that (i) is formed by and for veterans, (ii) has a paid membership of at least 15 individuals, and (iii) provides responsible aid, assistance, or services to the veteran community." See also 330 ILCS 46/1 et seq. (West 2023 Supp.) (setting out the requirements for veteran service organization state charter status). The number of delegates and alternates that comprise a county's Commission is dependent upon how many veteran service organizations are in the county. See 330 ILCS 45/9(a) (West 2022).

<sup>2</sup>Commissions do not have the authority to levy taxes. Funding for the Commission may be derived from three sources, if applicable: (1) a special property tax levied pursuant to section 5-2006 of the Counties Code and section 12-21.13 of the Illinois Public Aid Code (the Public Aid Code) (305 ILCS 5/12-21.13 (West 2022)); (2) appropriations from the county's general corporate fund; and (3) State funds from the Department of Human Services. 330 ILCS 45/2(1)(A)(i) through (1)(A)(iii) (West 2022).

<sup>3</sup>Letter from Joshua Herman, Miller, Hall & Triggs, LLC, to Illinois Attorney General Kwame Raoul (September 5, 2024) (Herman Letter I); Letter from Joshua Herman, Miller, Hall & Triggs, LLC, to Illinois Attorney General Kwame Raoul (October 11, 2024) (Herman Letter II).

<sup>4</sup>Herman Letter I.

## ANALYSIS

As units of local government,<sup>5</sup> Commissions, like non-home-rule counties, may exercise only the powers expressly granted to them by the constitution or by statute, together with those powers that are necessarily implied therefrom to effectuate the powers expressly granted.<sup>6</sup> Ill. Att'y Gen. Inf. Op. No. I-06-001, issued January 6, 2006, at 3. It therefore must be determined whether the Act expressly or impliedly authorizes a Commission to purchase and own real property.

Nothing in the Act expressly authorizes the Commission to purchase and own real estate. Compare with 55 ILCS 5/5-1005(1), (2) (West 2022) (county has authority to purchase, hold, sell, convey, or lease real estate); 55 ILCS 5/5-1049.2 (West 2023 Supp.) (county board may lease real estate held by the county for less than 99 years when "the real estate is no longer necessary, appropriate, required for the use of, profitable to, or for the best interests of the county"); 55 ILCS 5/5-1083 (West 2022) (county board may purchase or lease real estate or personal property for public purposes under contracts providing for payment in installments); 55 ILCS 5/5-25016 (West 2022) (county board of health authorized to purchase and lease real estate); 405 ILCS 20/3e(2)(n) (West 2023 Supp.), as amended by Public Acts 103-592, effective June 7, 2024; 103-605, effective July 1, 2024 (community mental health board has authority to own, lease, or purchase real estate). The issue, therefore, is whether such authority may be implied from powers that are expressly granted to the Commission.

Section 10 of the Act (330 ILCS 45/10 (West 2022)) addresses the provision of office space and funding to the Commission and provides, in pertinent part:

(d) *The designated superintendent of the Veterans Assistance Commission of the county shall \* \* \* have charge of and maintain an office in the county building or a central location within the county, to be used solely by the Commission for providing the just, necessary, and needed services mandated by law.*

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<sup>5</sup>Ill. Att'y Gen. Op. No. 99-022, issued November 4, 1999, at 6-8 (a county Commission is a unit of local government exercising limited governmental powers with respect to limited governmental subjects and a political subdivision of the State); 305 ILCS 5/2-14 (West 2022) (designating Commissions as "local governmental unit[s]" under the Public Aid Code); see also *Veterans Assistance Comm'n of Grundy County v. County Board of Grundy County*, 2016 IL App (3d) 130969, ¶ 64, citing *Hazen v. County of Peoria*, 138 Ill. App. 3d 836, 842 (1985); *Veterans Assistance Comm'n of Will County v. County Board of Will County*, 274 Ill. App. 3d 32, 35 (1995).

<sup>6</sup>It is well established that the principle of law commonly referred to as "Dillon's Rule" (see 1 J. Dillon, *Municipal Corporations* 448-50 (5th ed. 1911)) provides that non-home-rule units possess only those powers expressly granted to them by the Illinois Constitution or by statute, powers incident to those expressly granted, and powers indispensable to the accomplishment of the declared objectives of the non-home-rule unit. Ill. Const. 1970, art. VII, §§ 7, 8; *Pesticide Public Policy Foundation v. Village of Wauconda*, 117 Ill. 2d 107, 112 (1987); see also *Commacho v. City of Joliet*, 2024 IL 129263, ¶¶ 18-19.

(e) The county shall provide for the funding of the office and provide all necessary furnishings, supplies, and services as passed by the county board in its annual appropriation, and the county shall provide or fund services, including, but not limited to, human resources and payroll support; information technology services and equipment; telephone services and equipment; printing services and equipment; postage costs; and liability insurance. (Emphasis added.)

The primary purpose of statutory construction is to give effect to the intent of the General Assembly, the most reliable indicator of which is the language of the statute, given its plain and ordinary meaning. *People v. Casler*, 2020 IL 125117, ¶ 24. In determining the plain meaning of a statute, one must consider the statute in its entirety, the subject it addresses, and the apparent intent of the General Assembly in enacting it. *Midwest Sanitary Service, Inc. v. Sandberg, Phoenix & Von Gontard, P.C.*, 2022 IL 127327, ¶ 24.

Subsection 10(d) of the Act (330 ILCS 45/10(d) (West 2022)) requires the superintendent to "have charge of and maintain" the Commission's office "in the county building or a central location within the county[.]" The Commission's office must be used "for providing the just, necessary, and needed services mandated by law." 330 ILCS 45/10(d) (West 2022). Subsection 10(e) of the Act (330 ILCS 45/10(e) (West 2022)), in turn, places an obligation on the county to provide the funding for the Commission's office.<sup>7</sup>

While subsection 10(d) of the Act provides the Commission's superintendent with some operational control over the Commission's office,<sup>8</sup> the language cannot reasonably be interpreted to impliedly include the authority to purchase or own real property. *Compare* Ill.

<sup>7</sup>In informal opinion No. 1-16-002, issued February 25, 2016, this office concluded, in part, that section 10 of the Act established a mandatory obligation for counties to provide office space to Commissions. At that time, section 10 required that "[the county shall provide the office[.]]" (Emphasis added.) 330 ILCS 45/10 (West 2014). In 2022, the General Assembly amended section 10 of the Act to require the county to "provide for the funding of the office[.]" (Emphasis added.) Public Act 102-732, effective January 1, 2023. The correspondence from the Commission's private counsel suggests that section 10, as amended, does not place an obligation on the county to provide the office, but only to provide funding for the office. See Herman Letter I, at 3. The legislative debates on House Bill 5184, which upon enactment became Public Act 102-732, provide no rationale for the change from the county's obligation to "provide the office" to "provide for the funding of the office[.]" (Emphasis added.) See Remarks of Rep. Kifowit, April 7, 2022, House Debate on House Bill No. 5184, at 109-10; Remarks of Sen. Wilcox, March 31, 2022, Senate Debate on House Bill No. 5184, at 14; Remarks of Rep. Kifowit, March 4, 2022, House Debate on House Bill No. 5184, at 19-21. Nor are there any recent Illinois cases interpreting the new language.

<sup>8</sup>See *Lavite v. Dunstan*, 2016 IL App (5th) 150401, ¶ 35 (the Commission's superintendent stated a plausible claim for mandamus under section 10 of the Act by alleging he had been unable to carry out his duties by being denied access to the Commission's office space); *Makowicz v. County of Macon*, 78 Ill. 2d 308, 310 (1980) ("The superintendent \* \* \* is authorized \* \* \* to maintain an office").

Att'y Gen. Op. No. 93-004, issued March 2, 1993, at 4 (while regional board of school trustees is expressly granted the authority to accept conveyances of real property, nothing in the language of the pertinent statute either expressly or impliedly authorized a regional board of school trustees to convey, sell, or dispose of property that it had accepted); 1974 Ill. Att'y Gen. Op. 64, 67 (county's statutory authority to lease property did not authorize the county to lease the property for a nominal consideration because it did not have authority to "make a gift or donation of the rental value of its real property"); Ill. Att'y Gen. Inf. Op. No. I-06-022, issued March 16, 2006, at 4 (county emergency telephone system board did not have authority to purchase or hold real property because "the authority to construct, lease, or maintain a building does not imply the authority to purchase or acquire the property upon which the structure sits"); Ill. Att'y Gen. Inf. Op. No. I-07-047, issued September 13, 2007, at 6 (same); *with* 1991 Ill. Att'y Gen. Op. 11, 11-12 (county had authority to acquire open space lands based, in part, on its authority to own and purchase real estate); *see also Redmond v. Novak*, 86 Ill. 2d 374, 384 (1981) (county board of election commissioners had implicit authority to pay for office space leased from county based on statutory authority to "secure office space and open an office" because no other statutory provision directed or authorized any other agency or unit of government to provide such office space).

The Commission's counsel posits that the Commission's authority to purchase real estate is "otherwise intrinsic to or necessarily implied" to carry out its duty to provide assistance and services to veterans and its authority to incur expenses incident to that purpose. *See Herman Letter I*, at 2. Pursuant to the Act, the Commission acts as the central service office for all veterans and their families and "shall be clothed with all the powers and may be charged with all the duties theretofore devolving upon the different veteran service organizations within the county as provided in Section 2." 330 ILCS 45/9(a) (West 2022). Section 2 sets out the Act's purpose, addresses funding, provides for mandamus relief, and addresses the manner of making expenditures (330 ILCS 45/2 (West 2022)). A Commission has oversight of the distribution of all moneys and supplies appropriated for the benefit of military veterans and their families (330 ILCS 45/9(b) (West 2022)); has charge of the administration of any benefits or assistance provided under the Public Aid Code for military veterans and their families (55 ILCS 5/5-2006 (West 2022); 330 ILCS 45/9(k) (West 2022)); and represents veterans in their application for or attempts to obtain other State and Federal benefits and service (330 ILCS 45/9(l) (West 2022)). The authority to purchase real estate cannot reasonably be implied from a statutory duty to provide services to veterans.

The Commission's counsel also contends that subsection 9(a)(8) of the Act (330 ILCS 45/9(a)(8) (West 2022)) indicates that the Commission has authority to own property. *See Herman Letter II*, at 1. Subsection 9(a)(8) of the Act provides as follows:

The county may, at its discretion, appoint a representative to the Commission who may attend any public meeting of the Commission. That representative shall be a veteran, may not have

voting rights, may not hold any office or title on the Commission, and may not be present during any nonpublic meeting of the Commission, except as authorized in this Act. *For matters of executive session, the non-voting county appointee may attend meetings that are closed in accordance with paragraphs (1),<sup>191</sup> (3),<sup>1101</sup> (5),<sup>1111</sup> (6), or (11)<sup>1121</sup> of subsection (c) of Section 2 of the Open Meetings Act for litigation matters not relating to litigation between the Commission and the County. (Emphasis added.)*

Subsection 9(a)(8) references subsection 2(c)(6) of the Open Meetings Act (OMA) (5 ILCS 120/2(c)(6) (West 2023 Supp.)), which permits a closed meeting when a public body discusses "[t]he setting of a price for sale or lease of property owned by the public body." The Commission's counsel argues that the General Assembly would not have included this provision in the Act if the Commission did not have the authority to purchase real estate. This argument, which seeks to bootstrap the Commission's authority, is unavailing for several reasons.

First, nothing in subsection 9(a)(8) of the Act grants the Commission the authority to purchase property. Rather, subsection 9(a)(8) provides that the county board may appoint a non-voting representative to attend the Commission's public meetings. Subsection 9(a)(8) further provides that the non-voting county representative may not be present at non-public meetings of the Commission "except as authorized in this Act." Subsection 9(a)(8) thus provides

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<sup>9</sup>See 5 ILCS 120/2(c)(1) (West 2023 Supp.) (authorizing a public body to hold closed meetings to consider the appointment, employment, compensation, discipline, performance, or dismissal of specific employees, as well as specified independent contractors or volunteers and legal counsel of the public body).

<sup>10</sup>See 5 ILCS 120/2(c)(3) (West 2023 Supp.) (authorizing a public body to hold closed meetings to consider the selection of a person to fill a public office, including a vacancy in a public office, when the public body is given power to appoint under law or ordinance, or the discipline, performance or removal of the occupant of a public office, when the public body is given power to remove the occupant under law or ordinance).

<sup>11</sup>See 5 ILCS 120/2(c)(5) (West 2023 Supp.) (authorizing a public body to hold closed meetings to consider the purchase or lease of real property for the use of the public body).

<sup>12</sup>See 5 ILCS 120/2(c)(11) (West 2023 Supp.) (authorizing a public body to hold closed meetings to consider "[l]itigation, when an action against, affecting or on behalf of the particular public body has been filed and is pending before a court or administrative tribunal, or when the public body finds that an action is probable or imminent").

that the non-voting county representative may attend Commission meetings that are closed to the public under certain, specific paragraphs of subsection 2(c) of OMA (5 ILCS 120/2(c) (West 2023 Supp.).<sup>13</sup>

Second, nothing in the OMA exceptions referenced in subsection 9(a)(8) or in any other provision of OMA grants a public body the authority to purchase property. Rather, the purpose of OMA is "to ensure that the actions of public bodies be taken openly and that their deliberations be conducted openly." 5 ILCS 120/1 (West 2022). As such, OMA requires all meetings of public bodies to be open to the public, unless an exception is satisfied. 5 ILCS 120/2(a) (West 2023 Supp.). The exception set out in subsection 2(c)(6) of OMA merely identifies one topic that a public body may consider during a closed meeting.<sup>14</sup>

Moreover, subsection 2(c)(6) of OMA permits a closed meeting only when a public body discusses: (1) property it already owns; and (2) the price of that property. See *Wyman v. Schweighart*, 385 Ill. App. 3d 1099, 1107 (2008) (section 2(c)(6) only applied to meeting discussing "the sale or lease of property *already owned by the municipality*") (emphasis added); Ill. Att'y Gen. Pub. Acc. Op. No. 23-005, issued April 25, 2023, at 5 ("The clear and unambiguous language of section 2(c)(6) of OMA, which must be strictly construed, does not allow a public body to discuss the sale or lease of public property in closed session *other than to set a price*") (emphasis added); Ill. Att'y Gen. Pub. Acc. Op. No. 15-003, issued March 20, 2015, at 5 ("[T]he language of that exception is narrow and in any event *would not extend to the discussion of general issues concerning the disposal of publicly-owned property*") (emphasis added). Accordingly, subsection 9(a)(8) provides that when the Commission closes a meeting to discuss certain topics—such as "the setting of a price for sale or lease of property owned by the public body" under subsection 2(c)(6) of OMA—the county representative may attend such

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<sup>13</sup>The legislative history of subsection 9(a)(8) further supports this conclusion. Subsection 9(a)(8) was added by Public Act 102-1132, effective February 10, 2023. Public Act 102-1132 made several amendments to the Act. With regard to subsection 9(a)(8) of the Act, the legislative debates for House Bill 2369, which as enacted became Public Act 102-1132, evince an intent to "give the county a seat on the VAC board so that they can participate and be more in line." Remarks of Rep. Kifowit, January 10, 2023, House Debate on House Bill No. 2369, at 72.

<sup>14</sup>See Ill. Att'y Gen. Pub. Acc. Op. No. 23-005, issued April 25, 2023, at 5-8 (a board of education meeting could not be closed under subsection 2(c)(6) of OMA because the board did not discuss the narrow topic of setting a price for property); Ill. Att'y Gen. Pub. Acc. Op. No. 15-003, issued March 20, 2015, at 5 (community college board could not close meeting to discuss general issues concerning the disposal of publicly-owned property because the topics of discussion at the meeting did not satisfy the "narrow" exception of subsection 2(c)(6) of OMA).

meetings.<sup>15</sup> The statutory language referencing attendance of the non-voting county representative at closed meetings addressing certain subjects cannot reasonably be interpreted to mean that the General Assembly granted the Commission the authority to purchase property when there is nothing in the Act to suggest this intent.

Therefore, the Commission does not have authority to purchase and own real property for the Commission's office. Because the Commission has no authority to purchase a building to house its office, it is not necessary to address your additional inquiry.

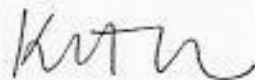
*What was the additional inquiry?*

**CONCLUSION**

For the reasons stated above, the Military Veterans Assistance Act does not authorize a veterans assistance commission to purchase and own real property.

This is not an official opinion of the Attorney General. If we may be of further assistance, please advise.

Very truly yours,



KRISTIN M. CREEL  
Assistant Attorney General  
Chief, Public Access and Opinions Division

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<sup>15</sup>Subsection 9(a)(8) of the Act also references subsection 2(c)(5) of OMA, which permits a closed meeting when a public body discusses "[t]he purchase or lease of real property for the use of the public body, including meetings held for the purpose of discussing whether a particular parcel should be acquired." Had the Commission's counsel relied on subsection 2(c)(5), the argument would fail for similar reasons. See *Galena Gazette Publications, Inc. v. County of Jo Daviess*, 375 Ill. App. 3d 338, 344 (2007) ("A closed meeting is permissible if it is held to consider the type of proposed subleasing arrangement at issue here"); Ill. Att'y Gen. Pub. Acc. Op. No. 23-005 at 5 (comparing the scope of subsections 2(c)(5) and 2(c)(6) of OMA and noting that neither provision "authorizes comparatively general discussions regarding the sale or lease of property already owned by a public body"); Ill. Att'y Gen. Pub. Acc. Op. No. 22-012, issued September 30, 2022, at 10 (school board's broad discussion of building a new school did not satisfy section 2(c)(5) of the Open Meetings Act just "because the District eventually would have to acquire property if it were to build a new school").