



**WILLIAM J. SCOTT**

ATTORNEY GENERAL  
STATE OF ILLINOIS  
500 SOUTH SECOND STREET  
SPRINGFIELD

March 21, 1974

File No. S-722

**COUNTIES:**  
County zoning

Honorable Elmer H. Flesner  
State's Attorney  
Ford County  
P. O. Box 97  
Paxton, Illinois

Dear Mr. Flesner:

This is to acknowledge receipt of your letter in  
which you state:

"Ford County has adopted a Zoning Ordinance, which ordinance in addition to regulating land use, prescribing minimum road widths and road construction requirements, setting forth building setback lines, etc., also adopts standards and regulations promulgated by the Environmental Protection Agency of the State of Illinois. Three municipalities within the County have enacted zoning and land use ordinances somewhat similar in contents. The remaining municipalities within the County are small, having fewer than one thousand inhabitants each, and have no such ordinances. Residential and commercial developments of varying

sizes have occurred and are occurring in and about these small communities. Such developments are on land within existing corporate limits or on land recently annexed to the communities. Commercial and residential developments in these situations have not and do not comply with the Ford County Zoning Ordinance.

\* \* \*

You then ask my opinion as to whether the county zoning ordinance may be enforced within the corporate limits of a municipality that has not enacted a zoning or land use ordinance.

Section 1 of "AN ACT in relation to county zoning" (Ill. Rev. Stat. 1973, ch. 34, par. 3151) provides, in part:

"§ 1. \* \* \* [T]he board of supervisors or board of county commissioners, as the case may be, of each county, shall have the power to regulate and restrict the location and use of buildings, structures and land for trade, industry, residence and other uses which may be specified by such board, to regulate and restrict the intensity of such uses, to establish building or setback lines on or along any street, trafficway, drive, parkway or storm or floodwater runoff channel or basin outside the limits of cities, villages and incorporated towns which have in effect municipal zoning ordinances; to divide the entire county outside the limits of such cities, villages and incorporated towns into districts of such number, shape, area and of such different classes, according to the use of land and buildings, the intensity of such use (including height of buildings and structures and surrounding open space) and other classification as may be deemed best suited to carry out the purposes of this Act; \* \* \* \*  
(Emphasis added.)

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The primary purpose of statutory construction is to ascertain and give effect to the intention of the legislature. (Droste v. Kerner, 34 Ill. 2d 495, app. dis., cert. den., 385 U.S. 456.)

In order to ascertain the legislative intent, it is appropriate to consider the occasion and necessity for the law, the previous condition of the law on the subject, and the defects, if any, in the former law which were intended to be remedied. People ex rel. Cason v. Ring, 41 Ill. 2d 305.

Prior to August 2, 1965, section 1 of "AN ACT in relation to county zoning" (Ill. Rev. Stat. 1963, ch. 34, par. 3151) limited the applicability of county zoning ordinances to areas outside the limits of cities, villages and incorporated towns. It appears that the General Assembly felt that by municipal inaction, segments of counties that had enacted zoning ordinances were left without the benefits of zoning regulations to promote orderly growth.

House Bill 1232, approved August 2, 1965 (Laws of 1965, p. 2195) amended section 1 of the Act by adding the phrase "which have in effect municipal zoning ordinances." It is presumed when the legislature amends a statute, it intends to change existing law. (Quinn v. Retirement Bd. of Firemens' Annuity &

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Benefit Fund of Chicago, 7 Ill. App. 3d 791.) By this amendatory act, it appears that the General Assembly intended to remedy the defect of section 1 of the Act and make county zoning ordinances effective throughout the county unless the individual municipalities of the county adopted zoning ordinances of their own. It is, therefore, my opinion that Ford County can enforce its zoning ordinances within the limits of any municipality that has not adopted a zoning ordinance of its own.

Very truly yours,

A T T O R N E Y   G E N E R A L