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ELECTIONS:

Nomination of independents for
county board membership

Honorable Jack Hoogasian
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Dear Mr. Hoogasian:

I have your letter in which you state, in part:

"Would you give us an interpretation
* * * of Section 10-3 of the Election
Code. Does 'the next preceding General
Election in such district or political
subdivision in which such district
or political subdivision voted as
a unit for the election of officers to
serve its respective territorial area.'
---does that mean that in calculating
the number of signatures for an

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Independent candidate for County Board District, we hark back to the number of participants in the last GENERAL election (i.e. Nov. '72) or do we hark back to the last General Election for County Board Members (i.e. Apr. '72) * * *"

Section 10-3 of the Election Code (Ill. Rev. Stat. 1972 Supp., ch. 46, par. 10-3 as amended by Public Act 78-285) provides:

"Nomination of independent candidates (not candidates of any political party), for any office to be filled by the voters of the State at large may also be made by nomination papers signed in the aggregate for each candidate by not less than 25,000 qualified voters of the State; Provided, however, that no more than 13,000 signatures from the same county may be counted toward the required total of 25,000 signatures. Nominations of independent candidates for public office within any district or political subdivision less than the State, may be made by nomination papers signed in the aggregate for each candidate by qualified voters of such district, or political division, equaling not less than 5%, nor more than 8% of the number of persons, who voted at the next preceding general election in such district or political subdivision in which such district or political sub-division voted as a unit for the election of officers to serve its respective territorial area; Provided, that the maximum number of voters signing such petition may be increased to 25 whenever such amount is greater than the 8% limit hereinabove specified. For the first election following a redistricting of congressional districts, nomination papers for an independent candidate for congressman

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shall be signed by at least 5,000 qualified voters of the congressional district. For the first election following a redistricting of legislative districts, nomination papers for an independent candidate for State Senator or Representative in the General Assembly shall be signed by at least 3,000 qualified voters of the legislative district. * * * " (Emphasis added.)

The primary rule in the interpretation and construction of statutes is that the intention of the legislature should be ascertained and given effect. (Certain Taxpayers v. Sheehan, 45 Ill. 2d 75.) The legislative intent should be sought primarily from the language used in the statute. If the legislative intention can be ascertained from the language used, it should prevail and be given effect without resort to other aids for construction. Department of Public Works & Bldgs. v. Schon, 42 Ill. 2d 537.

The language of section 10-3 of the Election Code clearly indicates that the General Assembly intended that the number of qualified voters' signatures necessary for nomination of an independent candidate for a district or subdivision office be calculated by using the number of persons voting in the closest preceding election where the voters of that district or subdivision voted as a unit for officers to serve

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or represent the district or subdivision.

This position is supported by the provisions provided for the nomination of an independent candidate for a seat in congress or for a position in the General Assembly following a redistricting. In redistricting, the area served would not have voted as a unit for an officer to serve the area of the new district. Calculation of a number of signatures needed for an independent's nomination by using election figures from the last election for a similar officer held in the parts of old districts covered by the new unit would be difficult. This would also disrupt the plan that the number of signatures needed for nomination be calculated based on the unit served by the official elected. The General Assembly has, therefore, provided a fixed minimum number of qualified voters' signatures necessary to secure an independent's nomination in these situations. These signatures are to be drawn from within the boundaries of a new district to be served by the official elected.

A county board district established under "AN ACT relating to the composition and election of county boards in certain counties" approved October 2, 1969, as amended, (Ill.

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Rev. Stat. 1971, ch. 34, pars. 831 et seq.) is a district less than the state. The only official to be elected in the county board district as a unit to serve the district's geographic area is the county board member. Therefore, in order to calculate the number of qualified voters' signatures necessary to secure an independent's nomination for county board membership from such district, it is necessary to use the number of persons who voted in that district in the last general election for county board members. It is my opinion that the election figures to be used are those from the general election that took place in April of 1972.

Very truly yours,

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