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Legal Interpretation of Day Care Center Classification

FACTS:

A group of Lewiston residents have been offered the use of the basement of the Elk's Club to open a day care facility. The insurance Department has found the building to be adequate.

QUESTION NO. 1.

Would there be any provision of the Law which would probibit the use of this facility?

ANSWER NO. 1.

See opinion.

OPINION NO. 1.

22 M.R.S.A. \$3797, as amended by P.L. 1965, c. 401 ss 1-2 provides:

No person, firm, corporation or association shall conduct or maintain ... day care facilities for three or more children under sixteen years of age ... without having in full force, subject to the rules and regulations of the department, a written license therefor from the department. No such license shall be issued until the applicant has furnished the department with a written statement signed by one of the officials designated in Title 25, Section 2360, that the home and premises comply with said section 2360; or a written statement signed by one of the officials designated in Title 25, Section 2392, that the home and premises comply with said Section 2392 or the insurance Commissioner shall, if requested, direct such inspection to be made in accordance with Title 25, Section 2391

The term "day care facilities" as used in this chapter shall be held to mean a house or other place conducted or maintained by anyone who advertises himself or holds himself out as providing care and protection for children under sixteen years of age, unattended by parents or guardians, for any part of a day, except that any facility, the chief purpose of which is to provide education shall not be considered to be a day care facility. Dean Fisher, M. D.

If the requirements of these provisions are complied with as well as the Rules and REgulations of the Department, a day care facility can be licensed.

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QUESTION NO. 2.

Would this day care center be interpreted as a school or other facility which would prohibit the issuance of a liquor license to the Elk's group?

ANSWER NO. 2.

See opinion.

OPINION NO. 2.

This question is not properly within the jurisdiction of this attorney to answer as the question does not pertain to a problem of the Department of Health and Welfare. The issuance of the Department's license apparently is not affected by the proximity of such a club.

Whether or not a liquor license issues is for the Liquor Commission to decide.

JMC: rhk

cc: Attorney General

/s/ James M. Cohen James M. Cohen Assistant Attorney General