

MAINE STATE LEGISLATURE

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March 11, 1974

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Maine Guarantee Authority

Eliot Field, Assistant

Attorney General

Project Eligibility

In your memo (December 21, 1973) you requested an opinion on the eligibility of a project for Maine Guarantee Authority (MGA) aid, if the project includes some commercial shops and commercial office space in addition to a marina, motel, restaurant, and parking facilities.

The Recreation Authority statute (10 M.R.S.A. § 5001 et seq.) authorizes MGA aid for "recreational projects" (§ 5052 (6)), which term is defined in § 5003(9), as follows:

"Recreational Project shall mean any building or other real estate improvement and, if a part thereof, the land upon which they may be located, or any interest in land by lease or otherwise, or any machinery or equipment used or usable in connection with public recreational facilities consisting of some combination of such improvements as approach roads, parking facilities, marinas, swimming pools, golf courses, campgrounds, picnic areas, hotels, motels, lodges, ski resorts, arenas or other similar recreational facilities, provided that such facility or facilities are part of a recreational development furthering the stated purposes of this chapter for which a comprehensive plan has been prepared."

The scope of an eligible project can be discerned by reference to the examples cited in the definition and to the purposes of the statute. Note that the definition of "recreational project" requires that the improvements or recreational facilities be "part of a recreational development furthering the purposes of this chapter. . . ." The purposes of the legislation are set out in § 5002 specifically and other sections evince them generally (e.g. § 5052(11)). The principal aims are to encourage economically feasible projects which "will attract recreational visitations and expenditures within the State of Maine, encourage peripheral land development . . . and thereby expand employment opportunities for residents of the State."

AN INFORMAL OPINION

From the examples in the definition and the purposes of the statute, it is clear that the general rule is that commercial shops and office space are not properly includable in a recreational project because they are not usually recreational in nature.

However, it is apparent from the examples in the definition above that there are a few exceptions to this general rule. The examples include "marinas, . . . hotels, motels, lodges, ski resorts, arenas or other similar recreational facilities." Marinas, hotels, and particularly ski resorts often include small commercial shops and office space which are ancillary to the core recreational capacities of such facilities. For instance, a ski resort may include a shop or shops to rent and sell ski equipment, and to sell ski apparel, food, and perhaps gifts, and it may have office space for the management of the facility and for the sale or lease of land and/or housing in the area around the ski area. Or a marina might have similar shops for boat-related equipment and services, and office space for the facility's management. But, it should be noted that the "recreational project" definition was amended once (in 1967) to narrow, or at least further specify, its scope because of concern that a "downtown hotel", a "stock car race track", and similar ventures might be judged eligible for MRA aid (1967 Me. Legis. Record, p. 3358).

From the above discussion it is clear that for a project, which includes commercial shops and office space, to qualify as a recreational project, each of these project components must be functionally related to the recreational aspects of the project and must augment the project's ability to achieve the recreational and economic goals of the statute.

EF/mf