

MAINE STATE LEGISLATURE

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November 12, 1975

Honorable Philip C. Jackson
Senate Chairman
Committee on Local and County Government
Main Street
Harrison, Maine 04040

Honorable C. Everett Dam
House Chairman
Committee on Local and County Government
102 Beech Street
Skowhegan, Maine 04976

Gentlemen:

Thank you for your inquiry regarding Maine Village Corporation.

You ask:

1. May a quasi-municipal public corporation, such as a village corporation or municipal services district, which undertakes to provide and maintain roads and ferry services, restrict the use of the facilities to members of the corporation (i.e., bar their use by the general public)?

No. A village corporation or service district, such as your letter contemplates, is a political subdivision of the State with powers and duties of a town. It may not use such public power for private advantage. Although a municipality may restrict access to its dumps, beaches and parks to its own residents, a village corporation or a municipal services district may not restrict use of municipal facilities to members of the corporation or district to the exclusion of all other municipal residents. See Attorney General's Opinion, February 2, 1966; 30 M.R.S.A. § 5401, et seq.; and McQuillan Municipal Corporations, Vol. 2, § 4.139 and Vol. 10, § 30.40; Municipal Corporations, 56 Am. Jur.2d 13-15 at 79-81. Further, restriction of public facilities for private use may impede an individual's constitutional right to travel.

2. May the charter for a special municipal services district, not in the form of a village corporation, provide for voting rights and participation in control by nonresident owners of property served by such corporation? Yes. The voting rights of a special municipal services district, like the village corporation, may be extended to nonresident property owners; however, any expression of voting rights to be effective must be included in the proposed charter and approved by the Legislature. See Constitution of Maine, Art. IV, Part Third, § 14, and, for an example of a voting rights charter provision, c. 108, § 11, P. & S.L. of 1917, "AN ACT to Incorporate the Birch Point Village Corporation."

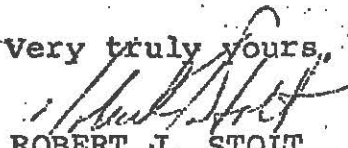
3. May the charter for a village corporation or municipal services district provide for voting rights by persons under contract to purchase property served by such corporation in the election to adopt such charter? Yes. The legal voters for adoption of the charter are those defined as legal voters by the charter. They may include persons residing in the village or district area, persons in possession or entitled to possession of property as well as owners of property. See Constitution of Maine, Art. IV, Part Third, § 14.

4. May the charter for a village corporation or municipal services district provide the same voting rights to a person under contract to purchase property served by the corporation as it may to deeded property owners? Yes. The right to vote may be premised upon possession or right of possession as well as ownership. For example, see c. 108, § 11, P. & S.L. of 1917, "AN ACT to Incorporate the Birch Point Village Corporation." See also Constitution of Maine, Art. IV, Part Third, § 14.

5. May the charter for a village corporation or municipal services district restrict the voting rights of property owners to allow only natural persons that right? Yes. The right to vote is by its very nature restricted to natural persons. A legal voter is a citizen vested by law with the right to vote. The charter for a village corporation restricts the right to vote to natural persons by not conferring that right upon artificial persons, i.e., corporations. See Elections, 29 C.J.S. §§ 1 and 2 at 22, 29-33.

6. May any property assessment levied by a village corporation or municipal services district be assessed against improved property, and not against unimproved property? No. Assessment must be made against each type of property according to its just value. See 36 M.R.S.A. § 701-A for definition of just value.

Very truly yours,


ROBERT J. STOLT

Assistant Attorney General