

MAINE STATE LEGISLATURE

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12 M.R.S.A. § 682.1

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DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

June 14, 1976

The Honorable John P. McKernan, Jr.
Assistant Minority Leader
House of Representatives
State House
Augusta, Maine 04333

Dear Representative McKernan:

This is in response to your letter of April 27, 1976 requesting an opinion as to whether or not plantations are included within the jurisdiction of the Land Use Regulation Commission (hereinafter "LURC" or the "Commission") pursuant to Title 12 M.R.S.A. §682.1.

A review of the pertinent legislation and legislative history indicates that plantations are included within the jurisdiction of the Commission.

The LURC statute currently provides that the Commission has jurisdiction "in all of the unorganized and deorganized areas of the State," 12 M.R.S.A. §683. Unorganized and deorganized areas are defined as "all areas located within the jurisdiction of the State of Maine, except areas located within organized cities and towns, and Indian reservations," 12 M.R.S.A. §682.1, as enacted by P.L. 1973, c. 569.

The general provisions of state law do not specifically define the term "city"; however, the term "town" is defined as including "cities and plantations, unless otherwise expressed or implied," 1 M.R.S.A. §72.25. In the present

situation, the exclusion of plantations from the general term "town" is implied by the use of the adjective "organized" and by the context in which the term "town" is used. Further, plantations are generally discussed in the context of unorganized areas, not towns, in the municipal code, 30 M.R.S.A. §5601 et seq. and although "organization of a plantation" is mentioned, 30 M.R.S.A. §5605, such organization is not the same as organization for towns as addressed in 1 M.R.S.A. §72.25.

The definition of the area within the Commission's jurisdiction has been the subject of frequent legislative review and amendment. This statutory history is relevant for ascertaining the meaning the Legislature intended for "unorganized and deorganized areas", see State v. Norton, 335 A.2d 607 (Me. 1975). The original legislation provided that the statute applied "only to unorganized and deorganized townships and mainland plantations and shall not apply to Indian reservations," P.L. 1969, c. 494. In 1971, this definition was expanded to include "the unorganized and deorganized townships and mainland and island plantations," P.L. 1971, c. 457. This definition was ambiguous as to at least some fifty islands which were not plantations. Ultimately, an effort was made to broaden the definition by naming only those areas excluded, P.L. 1973, c. 569, 12 M.R.S.A. §682. Although on its face this definition removed the specific reference to plantations, it was not intended to remove such areas from the Commission's jurisdiction. The statement of fact for the bill provided that the amendment of the definition of unorganized or deorganized areas was to make it "clear that the Commission's jurisdiction extends to coastal islands not falling within the jurisdiction of a city or town", Maine Legislative Documents, 1973, L.D. 851.

That plantations were still intended to be included within the definition is further demonstrated by review of related legislation, see Finks v. Maine State Highway Commission, 328 A.2d 791 at 797 (Me. 1974). Section 685-A.7 of the statute was amended concurrent with the change in Section 682.1. Section 685-A.7 is concerned with the provision of notice to landowners of the adoption of land use standards and district boundaries. Prior to 1973, the section provided that notice be given to landowners as "shown on the records of the Bureau of Taxation," P.L. 1971, c. 457. This was revised to read "as shown on the records of the Bureau of Taxation and plantation tax assessors," P.L. 1973, c. 569. The statement of fact concerning this revision indicated that this change "specifies

that the records of Plantation Tax Assessors would be used to notify landowners of affected land since the Bureau of Taxation does not have a record of the landowners in plantations." Maine Legislative Documents, L.D. 851. It is an established principle of statutory construction that no term of the statute is to be treated as surplusage if there is a reasonable interpretation which gives meaning to its use; see, e.g. Finks, supra at 799. It would have been surplusage for the Legislature to add a provision to assure notification to landowners in plantations while at the same time removing plantations from the LURC jurisdiction.

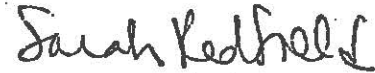
The debate on the amendment of §684 concerning procedures for incorporation also indicates the legislative understanding that plantations were to remain within the Commission's jurisdiction. In discussion of the procedures to be required where an area incorporates as a new municipality, Representative John Martin characterized the amendment as one designed to "provide a procedure so that an area that becomes organized, an area that was either unorganized or was a plantation and becomes a municipality, has the options available to them in a more direct way than the law presently. . .", Legislative Record, 1973 at 4386-8.

In addition to the support of the legislative history, the inclusion of plantations in the LURC jurisdiction is consistent with the general legislative purpose in creating the Commission. That purpose was to "extend principles of sound planning, zoning and subdivision control." In construing a statute, it must be considered in relation to the whole system of which it is a part, Finks, supra at 795. At the time of enactment of the LURC legislation, townships and plantations did not have the authority to have a planning board, to zone or to regulate subdivision, see 1 M.R.S.A. §72, 30 M.R.S.A. §1901, 30 M.R.S.A. c. 239. Plantations were specifically included within the purview of LURC. Plantations still have no such authority; see, 30 M.R.S.A. c. 201-A, as well as citations above. The Legislative purpose remains the same, compare 12 M.R.S.A. §681 with P.L. 1969, c. 494. It would not be logical that plantations would now be excluded from this purpose.

In conclusion, a review of the legislative history clearly demonstrates that plantations are included within the jurisdiction of the Commission. This has consistently been

the interpretation of the agency since its creation, including the period since the revision of the definition in question in 1973.

Sincerely,

A handwritten signature in cursive script that reads "Sarah Redfield".

SARAH REDFIELD
Assistant Attorney General
Natural Resources Division

cc: Kenneth G. Stratton

SR/cmb