

Attorney General Madigan Opines that School Districts are Subject to Local Zoning Ordinances

Attorney General Lisa Madigan has addressed the issue of whether public school districts are subject to either municipal or county zoning ordinances. The Attorney General opined while school districts follow a specialized building code established under the Illinois School Code, that public school districts are subject to municipal and county zoning ordinances, except to the extent that compliance with a local zoning ordinance would frustrate the district's statutory objectives.

While no statute or constitutional provision explicitly states whether local school districts are subject to local zoning ordinances the Attorney General noted the Municipal Code and the Counties Code explicitly grant school districts the right to appear and present evidence at zoning commission, board of appeals, or other authorized zoning hearings. The Attorney General reasoned that those provisions would be unnecessary if school districts were exempt from local zoning ordinances. She also relied on Section 10-20 of the School Code, which provides that the grant of powers enumerated to local school boards "does not release a school board from any duty imposed upon it by . . . any other law."

The Attorney General also recognized the competing interests of two units of local government with overlapping responsibilities or competing interests. To remedy these conflicts, the Attorney General opined that school districts may seek judicial review to be permitted relief from local zoning ordinances if complying with the zoning ordinance would frustrate the school district's statutory objectives. "If compliance with the local zoning ordinances would unduly interfere with or otherwise frustrate the achievement of the school districts' statutory objectives, then the school district may seek judicial relief." 2011 Ill. Att'y Gen. Op. 5, 11.

The full opinion can be found at:

[Attorney General Opinion](#)

The full decision by Judge Chmiel in Case No. 13 CH 1319 can be found at:

[Judge Chmiel Memorandum Opinion](#)

For more information about matters discussed in this issue, please feel free to contact Klein, Thorpe and Jenkins, Ltd.

The most recent decision on this same issue is that of McHenry County Circuit Court Judge Michael Chmiel in *Gurba v. Community High School District 155*, Case No. 13 CH 1319 (McHenry County, December 18, 2013) wherein he concluded school districts are subject to local zoning ordinances. The decision has been appealed.

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