

STATE BOARD OF HEALTH: FOOD AND DRUG: Every building or structure held out to public where sleeping accommodations are furnished for pay in which ten or more rooms are furnished shall pay hotel license inspection fees.

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May 3, 1935.



Hon. Lee Montgomery
Chairman
State Committee of Y. M. C. A.
Sedalia Trust Building
Sedalia, Missouri

Dear Sir:

This will acknowledge your letter for an opinion as follows:

"This morning Mr. A. C. Reibert, the Secretary of the State Committee of the YMCA, advised me that the State Board of Health had requested him to pay the hotel inspection fee upon the YMCA Camp at Hollister, Missouri, claiming that this camp was a hotel within the meaning of Section 13091. One of the deputies sent Mr. Reibert a letter quoting from your ruling that Young Men's Christian Associations in Missouri which are operating buildings in which more than ten rooms are furnished for sleeping accommodations for pay to transient or permanent guests, should pay the regular hotel license fees.

"The Health Department seems to be of the opinion that under your opinion this would make the YMCA Camp liable to pay a hotel license fee.

"I am quite sure that when the facts in relation to the YMCA Camp are presented to you, you will agree with me that the Camp is not subject to the hotel license fees.

"The YMCA Camp is erected on a tract of land at Branson, Missouri. The camp consists of a central eating hall where campers may obtain food. If anyone sleeps

in that building, the number of such rooms to such uses would not be over three ~~or~~ four and therefore it could not be held that it was a building or other structure constituting a place where more than ten rooms are furnished for sleeping accommodations to guests. If anyone sleeps in the building at all they would be employees of the Camp.

"The rest of the Camp consists of an auditorium where meetings are held and of individual cottages which are rented by the day, week, or month to guests. While my memory regarding the size of these cottages may not be absolutely correct, I do know that no cottage contains over two or three sleeping rooms and no cottage is equipped or intended for occupancy by more than four or five people. There is absolutely no building upon the premises which provides sleeping accommodations for as many as ten people. This fact I know positively. It is therefore an absolute fact that the Camp does not have any building or other structure kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are furnished for pay to transients or permanent guests, in which ten or more rooms are furnished for the accommodation of such guests. Therefore, the Camp does not come within the letter or the spirit of Section 13091. I have sent a copy of this letter to Mr. Reibert and have requested him to inform you if the letter contains any misstatement of fact. I am very sure that it does not, but I want to be very sure that you get an exact statement of the material facts. If, for instance, the dining hall contains sleeping accommodations for less than ten servants or employees, or other persons, that fact would not be material because it would not bring that building within the terms of the statute.

"It will aid the State Board of Health if you will advise it and us whether, under the facts above stated, the Camp comes within the law."

Section 13091, R. S. Mo. 1929, provides as follows:

"That every building or other structure, kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are furnished for pay to transient or permanent guests, in which ten or more rooms are furnished for the accommodation of such guests, whether with or without meals, shall for the purpose of this article be deemed a hotel, and upon proper application the food and drug commissioner shall issue to such above described business a license to conduct a hotel; Provided, that it shall be unlawful for the owner of any such building or other structure to lease or let the same to be used as a hotel until the same has been inspected and approved by the food and drug commissioner."

Section 13094, R. S. Mo. 1929, provides:

"In all hotels within the meaning of this article the parlor, dining room, kitchen and office shall be construed to mean guest rooms."

In construing the above statutes, it is our opinion that every building or other structure, kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are furnished for pay to transient or permanent guests in which ten or more rooms are furnished for accommodations of such guests whether with or without meals shall be deemed a hotel; that if any such building or structure comes within the purview of the above cited section of the statute, such owner shall pay a hotel inspection fee.

It is obvious that if any of the buildings or cottages mentioned in your letter, hereinabove set out, contain ten or more rooms that are kept, used, maintained or held out to the public where sleeping accommodations are furnished for pay to transient or permanent guests they shall be liable for such hotel inspection fees.

We are of the opinion from the facts stated in your letter, that such camp is not liable for a hotel inspection fee; on the other hand, should it be that any building or structure located in said camp have ten or more rooms under conditions set forth in Section 13091, supra, such building or structure shall pay a hotel inspection fee.

Yours very truly,

J. E. TAYLOR
Assistant Attorney-General.

APPROVED:

ROY MCKITTRICK
Attorney-General.

RCS/JET:afj