

HEALTH:  
HOTELS:  
TOURIST CAMP:

Distinction between hotels and tourist camps for  
inspection purposes.

October 6, 1949

10/14/49

Honorable C. F. Adams  
Acting Director  
Division of Health  
Jefferson City, Missouri



Dear Dr. Adams:

This is in reply to your request for an  
opinion, which reads as follows:

"This Division would like to have  
an official opinion as to a satis-  
factory definition between a tourist  
camp or court and a hotel.

"We have in this state a number of  
establishments which consist of ten  
or more rooms under one roof, which,  
according to existing laws, may be  
licensed either as a hotel or as a  
tourist camp. Some of these estab-  
lishments prefer to be licensed as  
a tourist camp or courts, while others  
prefer to be licensed as hotels, there-  
fore, we would appreciate an opinion  
designating the type of license such  
establishments should be issued."

The definition of buildings to be licensed as  
hotels is set out in Section 9931, R.S. Mo. 1939, as fol-  
lows:

"That every building or other struc-  
ture, kept, used, maintained, adver-  
tised 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 accommoda-  
tion of such guests, \* \* \* ."

Section 9955, R.S. Mo. 1939, provides for inspec-  
tion and licensing of tourist camps and resorts, and reads,  
in part, as follows:

"\* \* \* all tourist camps, cabins or resorts of whatever kind kept, used, maintained or 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 two or more cabins, whether in combination or under separate roofs, are furnished for the accommodations of guests. \* \* \* ."

Section 9931, supra, defines a hotel as a building in which ten or more rooms are furnished for the accommodation of guests.

Section 9955, supra, defines tourist camps, cabins or resorts as a place where sleeping accommodations are furnished, in which two or more cabins are furnished for the accommodation of guests. Therefore, in order for an establishment to be licensed as a tourist camp, or resort, there must be operated in connection therewith, at least two or more cabins.

Under date of August 30, 1949, this office rendered an opinion (Adams) in which it was concluded that Section 9931 did not apply to an establishment where two buildings are located adjacent to each other, but separated, when both buildings contain less than ten rooms. Therefore, it would seem that one of the main distinctions would be whether or not the establishment consisted of one building or two or more cabins.

However, a difficulty may well arise when the cabins or rooms are in combination and not under separate roofs. In these instances the physical structure of the establishment and nature of services rendered would have to be studied, so as to determine whether they contain the characteristics of a hotel or of a tourist camp or court.

It is a rule of statutory construction that words and phrases shall be taken in their plain or ordinary and usual sense. (Section 655, R.S. Mo. 1939; Kinyon vs. Kinyon, 71 S.W. (2d) 78, 230 Mo. App. 633.)

The problem for our determination is, which section, 9931 or 9955, applies to cases of establishments which may come under either classification. The Legislature has defined



only in general terms the meaning of the words "hotel" and "tourist camp". We are unable to obtain much help from the lexicographers, for, turning to Webster's New International Dictionary, Second Edition, we find the following definitions:

Hotel--"A house providing lodging and usually meals for the public, esp. for transients; \* \* \* ."

Tourist-adj.--"Of, pertaining to, suitable for, or serving, tourists; as a tourist \* \* \* camp, or cabin; \* \* \* ."

From these definitions we see that the one may be applied to the other, at least in the modern sense.

The St. Louis Court of Appeals had for consideration a case wherein the question was, "Is a tourist camp a hotel within the meaning of a statute permitting cities of the fourth class to license restaurants, taverns, hotels, public boarding houses, and numerous other specifically named businesses and occupations?"

In the case of Juengel et ux. vs. City of Glendale, 164 S.W. (2d) 610, the Court said, l.c. 613:

"A hotel is defined as a house which is held out to the public as a place where all transient persons who come will be received and entertained as guests for compensation; or a house where travelers are furnished, as a regular matter of business, with food and lodging while on their journey; or a house where travelers are furnished with everything which they have occasion for while upon their way; or a place provided for the lodging and entertainment of travelers; or a place for the accommodation of travelers with food and lodging; or a place where transient guests are admitted to lodge, as well as one where they are fed and lodged; or a place where every well-behaved stranger or traveler, who is willing to pay reasonable rates for accommodation, is entitled to receive food, drink, and lodging; or

a place kept for the entertainment of travelers and casual or transient guests; or a place where the proprietor makes it his business to furnish food or lodging, or both, to travelers. It is not now essential to constitute a hotel that there should be provision for furnishing food or drink as well as lodging for the guests. Distinctive features of a hotel are that it receives transient guests and furnishes them with lodging. An essential characteristic of the business or occupation of keeping a hotel is that it shall be the regular business of the person so engaged. 32 C.J. 527, 528, 529; Bunn v. Johnson, 77 Mo. App. 596, loc. cit. 599; Metzler v. Terminal Hotel Co., 135 Mo. App. 410, loc. cit. 416, 115 S.W. 1037; City of St. Louis v. Siegrist, 46 Mo. 593; Kennedy v. City of Nevada, 222 Mo. App. 459, loc. cit. 467, 281 S.W. 56, loc. cit. 60.

"It is quite obvious that the business or occupation carried on by plaintiffs through their tourist camp has all the essential characteristics of the business or occupation of keeping a hotel. It would be strange indeed if the business or occupation of keeping a hotel conducted through the use of a single building should be subject to regulation while the same business or occupation conducted through the use of a group of buildings, such as a tourist camp, should be exempt from regulation. A tourist camp is none the less a hotel because the business or occupation is conducted through the use of a group of buildings rather than through the use of one. It thus appears that cities of the fourth class have power and authority to regulate tourist camps by virtue of express statutory grant.

"Plaintiffs contend, however, that section 1 of the ordinance under review here, defining a tourist camp, is out of accord with section 13091, article 7, chapter 93, R.S. 1929, Mo. St. Ann. Section 13091, p. 4152, defining a hotel as a building or other structure having ten or more rooms for the accommodation of guests, and that the ordinance for that reason is invalid. As to this contention it will suffice to say that the definition of a hotel as given in said section of the statute is expressly for the purpose of the article



in which it appears. It has no application or reference to a hotel as that term is used in the statute relating to cities of the fourth class."

From the above case it is seen that for certain purposes courts have determined that there is no distinction between a tourist camp and a hotel. However, as noted in the Juengel case, the court was not confronted with the definition contained in the present Section 9931. The definitions of a hotel by the court would also be applicable to many tourist camps.

A tourist camp has been defined by a court as follows:

"\* \* \* A group of ten cabins on one fifty-foot lot conducted as rental property where overnight guests or guests for two or three days or by the week were registered and accommodated speaks for itself and is what is generally termed a tourist camp. \* \* \* ."

(Cantiency vs. Boze, et al., 296 N.W. 491, l.c. 493.)

However, it is apparent that none of the above aids are available for the determination of our present question. Since this is so, we must seek for ourselves some standard whereby establishments may be classified for the present purposes of licensing.

One of the commonest characteristics of a hotel which comes quickly to mind is that they have a common entrance, a common stairway and a common hallway giving access to the rooms available for lodging. Access to tourist camp rooms, or cabins, are through outside doors opening directly into the rooms; to commute from room to room one must go outside.

Hotels very generally consist of more than one floor in height. In this writer's observation at least, he has never seen a tourist camp with more than one floor, in other words, cabin upon cabin.

Hotels are generally located in the center of cities and towns, particularly near the business section. Tourist

camps are usually located adjacent to highways and may usually be found on the outskirts of cities and towns.

Hotels draw for their trade, not only transients traveling by motor car, but also those traveling in public conveyances. Because of their location, tourist camps draw their trade primarily and almost exclusively from those traveling by motor car.

Hotels furnish common garage space or on-street parking, while tourist camps generally provide parking facilities, very often enclosed, adjacent to the cabins, or common parking facilities on the property.

Hotels generally furnish bell boy, switchboard and desk services in many more cases and to a greater degree than tourist camps. In addition to furnishing rooms for lodging and eating purposes, hotels very often provide rooms for large gatherings and meetings; tourist camps, as a rule, do not.

From all the above it may be seen that the matter of classification of establishments is not one for absolute accurate determination. In the last analysis, since we are minded to construe words and phrases in their usual and ordinary sense, we think that the percentage of accurate classification will be in your favor if you license hotels and tourist camps according to what you and the public consider them to be, making use of what aids we have been able to furnish.

#### CONCLUSION

Therefore, it is the opinion of this department that it is not possible to precisely define tourist camps as distinguished from hotels and the Division of Health must classify such establishments by giving consideration to form and kind of building (or buildings), layout, location, service offered and other factors which will aid such determination.

Respectfully submitted,

APPROVED:

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