

Opn. 98-52

VILLAGE LAW § 18-804.

Property located within the boundaries of the Village of Attica may not be excluded from the boundaries of the Village as long as it is benefited by fire protection services.

November 18, 1998

Timothy F. Moran, Esq.
Village Attorney
Village of Attica
2 Main Street
Post Office Box 268
Attica, New York 14011

Informal Opinion
No. 98-52

Dear Mr. Moran:

You have requested an opinion regarding whether certain property located within the boundaries of the Village of Attica may be excluded from the boundaries of the Village.

You informed us that the Village will be receiving a petition signed by the requisite number of individuals seeking to have their property excluded from the boundaries of the Village. The property at issue is not serviced by Village streets, sidewalk improvements, electric lights, sewers or water works systems. However, the Village does provide fire protection to the property and to the entire Village through a contract with the Attica Fire Department. In a telephone conversation, you informed us that the Attica Fire Department is an independent not-for-profit entity, but that most of the equipment used by the Department is owned by the Village.

Village Law § 18-1804 provides the procedure for diminishing the boundaries of a village. This section provides that:

[t]he boundaries of a village may be diminished by excluding from its corporate limits territory not adjacent to nor benefited by either street or sidewalk improvements, electric lights, sewers, water works system or fire protection, when any of such benefits, improvements or system have been completed in a village.

The language of the statute is clear. As we stated in an earlier opinion, "[t]he receipt of any one of [the improvements or services listed in Village Law § 18-1804], which has been completed by the village, makes the property ineligible for exclusion from the boundaries of the village." Op Atty Gen (Inf) No. 95-42. In this instance, because fire protection is provided to the property at issue through a contract with the Attica Fire Department, the property may not be excluded from the boundaries of the Village.

We conclude that as long as fire protection is provided to the property at issue, it may not be excluded from the boundaries of the Village of Attica.

The Attorney General renders formal opinions only to officers and departments of State

government. This performe is an informal and unofficial expression of the views of this office.

Very truly yours,

YVONNE M. HOVE
Assistant Attorney General



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