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OPINION
OF
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Opinion No. 87-78

By: Jeff Foster McElroy
Assistant Attorney General

To: John J. McMullan
New Mexico State Representative
1512 California, N.E.
Albuquerque, New Mexico 87110

QUESTION:

Whether the Horse Racing Act, Section 60-1-1 to 60-1-23 NMSA (1978), permits the State Racing Commission to approve a licensee's application for a race meet that begins at one of the licensee's facilities and concludes at another of the licensee's facilities?

CONCLUSION:

Yes.

ANALYSIS:

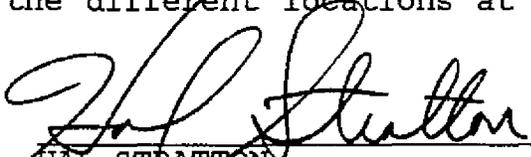
The New Mexico State Racing Commission authorized a 73-day race meet for Santa Fe Racing, Inc. with the first 25 days of the meet to be held at the State Fair track it leases in Albuquerque and the remainder of the meet to be held at a track it owns in Santa Fe. You point out that there is no authority in the statute for a split meet. You also believe that the Horse Racing Act shows clear legislative intent that a race meet is to be held at a single location. You particularly cite the use of such singular words as "location" and "race track" that describe the word "meet" to support your argument.

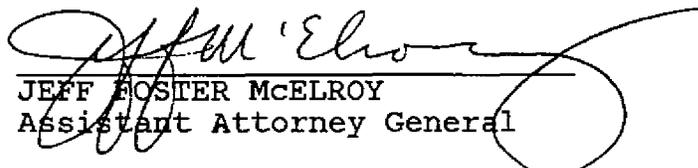
We have reviewed carefully the Horse Racing Act and have found nothing to prohibit the Commission from allowing a race meet

to occur at two different locations. Section 60-1-3(F)(2) NMSA (1978) gives the Racing Commission the power to make rules and regulations for "the holding, conducting and operating of all race meets and races held in the State and to fix and set racing dates." And while Sections 60-1-3(F)(5), 60-1-7 and 60-1-11(D) NMSA (1978) use the singular of such words as "racetrack," "location," and "track" when referring to a race meet we must consider the general rule of statutory construction found at section 12-2-2(B) NMSA 1978: "Words importing the singular number may be extended to several persons or things, words importing the plural number may be applied to one person or thing and words importing the masculine gender only may be extended to females." When a singular word is used it can be construed as plural and vice versa. New Mexico & S.P.R.R. v. Madden, 7 N.M. 215, 217, 34 P.50, 51 (1893).

The Commission's Rules Governing Horse Racing in New Mexico, Rule 2.25, defines the term "meeting or race meeting" to mean "the entire period a person has been granted a license to conduct horse racing. Such meetings shall be deemed to open when the Racing Secretary opens the office for entries for the first day of the racing and to close Midnight of the final day." The Commission interprets a race meeting as a period of time and not as a location. We find nothing in the Horse Racing Act to be inconsistent with the Commission's interpretation of the term. The Commission's interpretation of its Act is persuasive and should not be lightly overturned. See Perea v. Baca, 94 N.M. 624, 627, 614 P.2d 541, 544 (1980).

Section 60-1-7 NMSA 1978 provides: "The application for a license shall be in writing and signed by the applicant or applicants and the facts therein recited shall be sworn to. The application shall specify...the location and the enclosure where the [races or meetings] are to be held." Rule 3.03 of the Rules Governing Horse Racing in New Mexico enumerates information to be included in the verified application, including the legal description of the proposed site, dimensions of the track, a description of the grandstand and other such information peculiar to each location. It is therefore our opinion that the Commission may only entertain a request for a split meet upon receipt of a sworn application setting forth the different locations at which the meet will be conducted.


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