

OFFICE OF THE ATTORNEY GENERAL



97-00295

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SEP 24 1997

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Honorable Grady Rose, Sheriff
Lawrence County Sheriff's Office
750 Main Street, Suite 3
Courthouse Annex
Moulton, Alabama 35650

Community Notification Act
- Rental Property -
Ownership

In areas covered by sections (a)(1) and (2) of the Community Notification Act, the chiefs of police must give notice to persons having their legal residence in the area. In areas covered by section (a)(3), however, the sheriff must give notice to both persons having their legal residence in the area and all owners of property in the area.

Questions concerning any allegation on behalf of a property owner to prospective tenants and/or buyers for not notifying such person that the owner has been notified pursuant to § 15-20-22 may depend on the facts of each case and are to be properly determined by the Court.

Dear Sheriff Rose:

This opinion of the Attorney General is issued in response to your request.

QUESTION 1

1. If there is rental property within the notification boundaries of a registered sex offender, is the Sheriff's Office required to notify only the owner of the property or both the owner and the current occupant?

FACTS AND ANALYSIS

The Community Notification Act provides a method by which chiefs of police and sheriffs notify residents in a specified area of the intent of a sex offender to live in the area. ALA. CODE § 15-20-22 (all cites are to the CODE). Section 15-20-22(a)(1) provides in part:

In the cities of Birmingham, Mobile, Huntsville, and Montgomery, the Chief of Police shall notify all persons who have legal residence within 1,000 feet of the declared residence of the released offender, that the offender will be establishing his or her residence in proximity to the residents.

Section 15-20-22(a)(2) provides in part:

In all other cities in Alabama with a resident population of 5,000 or more, the chief of police shall notify all persons who have a legal residence within 1,500 feet of the declared residence of the released offender that the offender will be establishing his or her residence in proximity to the residents.

The above-quoted provisions provide for notification to "persons who have a legal residence" within the specified area. Under the established rules of statutory construction, words used in a statute must be given their natural, plain, ordinary, and commonly understood meaning. State Dep't. of Transp. v. McLelland, 639 So.2d 1370, 1371 (Ala. 1994). "Legal residence" is commonly defined as "the place of domicile or permanent abode. . . . Place recognized by law as residence of the person." BLACK'S LAW DICTIONARY 807 (5th ed. 1979). The plain language of § 15-20-22(a)(1) and (2) mandates that the chief of police notify only individuals with a legal residence in the area. In the event the property is rental property, the chief of police must notify the person(s) currently residing on the property. The chiefs of police have no duty to notify the owners of the property in addition to the persons who have their legal residence on the property.

Section 15-20-22(a)(3), which mandates notification by the sheriff of the county, is worded differently than the sections quoted above. Section 15-20-22(a)(3) provides in part:

In all other municipalities with a resident population of less than 5,000, and in all unincorporated areas, the sheriff of the county in which the released offender intends to reside shall notify all persons who have a legal residence, or who own property, within 2,000 feet of the declared residence of the released offender, that the offender will be establishing his or her residence in proximity to the residents.

Section 15-20-22(a)(3) directs the sheriff to provide notification to those persons who own property or legally reside in the area. In areas covered by subsection (3), the sheriff must notify both the legal resident and the owner. In the event there is rental property in the area, the sheriff must notify the owner of the rental property and the persons who have their legal residence on the property.

CONCLUSION

In areas covered by sections (a)(1) and (2) of the Community Notification Act, the chiefs of police must give notice to persons having their legal residence in the area. In areas covered by section (a)(3), however, the sheriff must give notice to both persons having their legal residence in the area and all owners of property in the area.

QUESTIONS 2, 3 & 4

2. If the occupant of rental property changes, is the owner of the property required to notify prospective occupants prior to renting the property?

3. If the new occupant has not been advised that he is living within the notification boundaries of a registered sex offender, and if the sex offender commits an offense against said occupant, is the owner of the property liable?

4. Would it make any difference if the property were being sold as opposed to rented?

FACTS AND ANALYSIS

The Community Notification Act does not require property owners to notify prospective tenants and/or buyers of registered sex offenders living in the area. The question of whether a property owner could be liable to prospective tenants and/or buyers is a question of speculation which would depend on the individual facts of each case. Questions of fact, such as these, are properly determined by the Court.

CONCLUSION

Questions concerning any allegation on behalf of a property owner to prospective tenants and/or buyers for

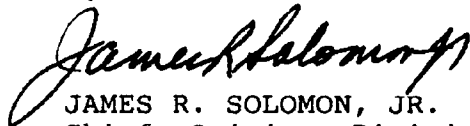
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not notifying such person that the owner has been notified pursuant to § 15-20-22 may depend on the facts of each case and are to be properly determined by the Court.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact James R. Solomon, Jr., of my staff.

Sincerely,

BILL PRYOR
Attorney General
By:


JAMES R. SOLOMON, JR.
Chief, Opinions Division

BP/JRSjr/wb