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ARIZONA ATTORNEY GENERAL

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Mr. C. Thad Mullen
Secretary, Arizona Racing Commission
707½ West Thomas Road
Phoenix, Arizona

Dear Mr. Mullen:

We have your letter of April 9 wherein you state:

"With reference to Sec. 1, Chapter 56,
H.B. 29, 1st SS, Laws of 1950, amending
Chapter 61, Sections 6E and 6F, laws of
1949.

We would appreciate a written opinion as
to the meaning of this section. In case a
horse track which has operated prior to
May 15, 1949 should, for some reason, fail
to operate for any specific period of time,
would the operator, under the law, be
forced to relinquish his right to apply
for a permit to race again at the same
location; * * *

Subdivision (e), Section 6 of the Act referred to is as
follows:

"The commission shall not issue a permit to
conduct a horse racing, harness racing or
dog racing meeting at any place, * * * not
used for racing purposes pursuant to permits
* * * issued * * * prior to May 15, 1949,
unless before the beginning of construction
or preparation of such place * * * the com-
mission shall by such means as it deems
sufficient, determine that the conducting
of horse, harness or dog meetings at such
place will be in the public interest, and
unless the place, * * * is situated at least

twenty miles distant from any other such place, * * * at which during the period of two years next preceding the filing of the application, one or more horse, harness or dog racing meetings shall have been conducted with wagering as authorized by law, but nothing in this subsection shall be construed to permit the use of any place, * * * used for dog racing on or before May 15, 1949, to be used for horse or harness racing, or to permit any place * * * used for horse or harness racing on or before May 15, 1949, to be used for dog racing meetings."

The effect of the amendment is to change the date stated in the original act from March 15, 1949 to May 15, 1949 and the only restriction placed therein on the Commission is that the Commission shall not issue a racing permit to any place not used for racing purposes pursuant to a permit issued prior to May 15, 1949.

There is nothing in the racing act requiring a race track to continue to operate as such at intervals, once it has established its qualifications to operate under the law, nor does the law provide that a track loses its rights by failing to hold regular meets after it once qualifies.

Therefore, it is our opinion if a track meets the requirements of Subdivision (e) of said Section 6 as to date of issuance of a permit and otherwise qualifies under the law, it does not lose its rights to apply for a permit to again conduct a race meet at such track because the track has not operated for any specified time.

Your second inquiry is:

" * * * also would he have the right to apply for a permit to race at any other location within the same County?"

Subdivision (f) of Section 6 of said Chapter 56 reads as follows:

"In the event the owner of any place * * * used for racing purposes pursuant

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to permit issued as authorized by law on or before May 15, 1949, is obliged for any reason to abandon the use of such place, * * * for such purposes, he may transfer the use and rights to use such premises for racing purposes to another location in the same county." (Emphasis supplied)

This subdivision prescribes the conditions under which the owner of a track may change location without being subject to the restrictions set forth in Subdivision (e) above quoted.

If the owner of a track used for racing purposes pursuant to a permit issued prior to May 15, 1949, authorizing racing at such track, is obliged for any reason to abandon the track for racing purposes, the owner may transfer his rights to another location in the same county and the restrictions in said subdivision (e) do not apply. The owner must be obliged to abandon the track. He cannot change the location merely because he could get a more desirable or advantageous spot.

Very truly yours,

FRED O. WILSON
Attorney General

EARL ANDERSON
Assistant Attorney General

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