

Opinion No. 2013-139

February 27, 2014

The Honorable Johnny Key
State Senator
Post Office Box 350
Mountain Home, Arkansas 72654

Dear Senator Key:

You have requested my opinion regarding Act 1243 of 2013, which amended the law on the annexation of surrounded lands by a municipality. You state that a question has arisen regarding this law and land owned at Bull Shoals Lake by the United States Corps of Engineers, and you ask:

Does land owned by the United States Corps of Engineers, a branch of the United States Department of the Army, qualify as a military reservation and/or military base?

RESPONSE

A definitive application of the law in question to any particular situation or any particular land is outside the scope of an opinion from this office, which extends primarily to the general interpretation of state law.¹ This opinion is therefore limited to the scope of your general question and should not be interpreted as a conclusive determination regarding any specific set of facts.

The law in question, as amended by Act 1243 of 2013, provides in relevant part as follows:

¹ See A.C.A. § 25-16-706 (Repl. 2002) (requiring the Attorney General to render his opinion to legislators and other state officials on certain matters of state law).

Whenever the incorporated limits of a municipality have completely surrounded an unincorporated area, the governing body of the municipality may propose an ordinance calling for the annexation of the land surrounded by the municipality.

(ii) Subdivision (a)(1)(A)(i) of this section shall include situations in which the incorporated limits of a municipality have surrounded an unincorporated area on only three (3) sides because the fourth side is a boundary line with another state, *a military base, a state park, or a national forest.*²

The answer to your question thus turns on the meaning of “military base” as used in this statute. There is no controlling statutory definition of the term, and this office cannot provide a definition where the legislature has not done so.³ We are guided, however, by well-established principles of statutory construction in determining its meaning. As I have previously observed:

With respect to a single statute, the fundamental rule of statutory construction is to give effect to the intent of the legislature. In the absence of ambiguity, legislative intent is determined from the ordinary and usually accepted meanings of the language used. If a statute is clear and unambiguous, it is given its plain meaning, without further search for legislative intent. In such a case, there is ‘no need to resort to rules of statutory construction.’⁴

Additionally, the Arkansas Supreme Court has held that in the absence of a stated definition, it is appropriate to give the words of a statute their commonly understood meanings.⁵ The court has sometimes resorted to dictionary definitions

² A.C.A. § 14-40-501(a)(1)(A)(i) (Supp. 2013) (emphasis added). Act 1243 of 2013 added the emphasized language.

³ See Op. Att’y Gen. Nos. 2010-002 and 2008-116 (and opinions cited therein). See also Op. Att’y Gen. 1998-025 (“This office has consistently taken the position that in the absence of a legislatively-or judicially-formulated definition, it is inappropriate for the Attorney General, being a member of the executive branch of government, to formulate a controlling definition.”).

⁴ Op. Att’y Gen. 2009-168 (internal citations omitted, observing that “[a] statute is ambiguous only where it is open to two or more constructions, or where it is of such obscure or doubtful meaning that reasonable minds might disagree or be uncertain as to its meaning,” citing *Talbert v. U.S. Bank, N.A.*, 372 Ark. 148, 155, 271 S.W.3d 486 (2008)).

⁵ *K.N. v. State*, 360 Ark. 579, 584, 203 S.W.3d 103 (2005).

in order to determine the meaning of a word or phrase.⁶ In this regard, the *New Oxford American Dictionary* 136 (3d ed. 2010) defines the term “base,” in the “chiefly [m]ilitary” sense, as “a place used as a center of operations by the armed forces or others; a headquarters[.]”

In my opinion, a court would likely look to this common definition to interpret the term “military base” as used in A.C.A. § 14-40-501. According to the U.S. Corps of Engineers’ (“Corps”) Little Rock District website, the Corps owns approximately 60,000 acres of land surrounding Bull Shoals Lake, and it manages Bull Shoals and Norfolk Lakes “to provide opportunities for quality outdoor experiences through sound stewardship and responsible management of the natural resources on public and private lands and water.”⁷ Assuming the land under your question is part of this Corps civil works project, it seems highly unlikely that such land constitutes a “military base” for purposes of A.C.A. § 14-40-501. As indicated above, however, a definitive application of A.C.A. § 14-40-501 in any specific situation is not a matter that falls within the scope of an Attorney General opinion.

Deputy Attorney General Elisabeth A. Walker prepared the foregoing opinion, which I hereby approve.

Sincerely,

DUSTIN MCDANIEL
Attorney General

DM:EAW/cyh

⁶ *E.g.*, *Arkansas Tobacco Control Board v. Santa Fe Natural Tobacco Company*, 360 Ark. 32, 39, 199 S.W.3d 656 (2004).

⁷ See <http://www.swl.usace.army.mil/Missions/Recreation.aspx> (under “Bull Shores Lake” and “Missions”).