



Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

Interpretive Letter #823
March 1998
12 U.S.C. 92

February 27, 1998

Mr. Donald A. Dowdell
Director
Division of Legal Services
Department of Insurance
The Capitol, LL-26
Tallahassee, Florida 32399-0307

Dear Mr. Dowdell:

This is in response to your letter to the Office of the Comptroller of the Currency (“OCC”) dated January 23, 1998, inquiring about the definition of the term “place” in 12 U.S.C. § 92 (“section 92”). In particular, you asked if the OCC has concluded that a “census designated place” is a “place” for purposes of section 92. You also asked for information on “census designated places” in Florida.

For the reasons discussed below, we treat an area designated a “place” by the United States Bureau of the Census (“Census Bureau”) as a “place” under section 92. This has been our practice for the past several years.

Section 92

The OCC’s interpretation of the word “place” is based upon the language used in section 92 that provides:

. . . national banking associations. . . located and doing business in any **place** the population of which does not exceed five thousand inhabitants, **as shown by the last preceding decennial census**, may. . . act as the agent for any fire, life, or other insurance company. . . . (emphasis added)

Section 92 was introduced in the Senate in 1916 as an amendment to the Federal Reserve Act.¹

There are two well accepted principles of statutory construction that aid us in interpreting the proper scope of the term “place” as used in section 92.

First, it is a well established rule of statutory interpretation that “absent sufficient indication to the contrary. . . Congress intends the words in its enactments to carry ‘their ordinary, contemporary, common meaning.’”² The Supreme Court has frequently relied on dictionaries for guidance for the common meaning, and thus proper interpretation of words and phrases used in statutes.³

The definition of “place” found in the Webster’s New International Dictionary in use in 1916 provides that the term includes “. . . an area. . . an open space. . . a square, in a city or town. . . a village, town, or city. . . a spot set apart for a special purpose. . . .”⁴ This dictionary lists synonyms for “place” to include: “locality, location, site, (and) spot.”

Black’s Law Dictionary in use in 1916 provides:⁵

This word [”place”] is a very indefinite term. It is applied to any locality, limited by boundaries, however large or however small. It may be used to designate a country, state, county, town, or a very small portion of a town. The extent of the locality

¹ The provision was offered by Senator Robert L. Owens, with reference to a letter received from the incumbent Comptroller of the Currency, John Skelton Williams. Comptroller Williams’ letter notes that the authority of section 92 could be exercised from “small communities.” See 53 Cong. Rec. 11001. We could find no other relevant legislative history.

² Pioneer Investment Services Co. v. Brunswick Associates Ltd. Partnership, 507 U.S. 380, 388 (1993); Sutherland Stat. Const. § 46.01 (5th ed. 1992).

³ For example, the Supreme Court has relied on the Webster’s New Collegiate Dictionary for the definition of the word “neglect” as used in the Rules of the Bankruptcy Court (*Id.*); the American Heritage Dictionary for the definition of the word “has” as used in the Civil Rights Act of 1964 (Walters v. Metropolitan Educational Enterprises, Inc., 519 U.S. ___, 136 L. Ed. 2d 644, 652 (1997)); and both Webster’s New International Dictionary and Black’s Law Dictionary to define the word “use” found in a federal firearms statute (Bailey v. U.S., 516 U.S. 137, 145 (1995)).

⁴ Webster’s New International Dictionary at 1646 (1913).

⁵ Black’s Law Dictionary at 901 (2d ed. 1910).

designated by it must generally be determined by the connection in which it is used.

Thus, relying on its common ordinary meaning, the word “place” indicates “an area,” “a village, town or city,” “a spot set apart for a special purpose,” or more generally “any locality limited by boundaries” including “a state, country, town, or a very small portion of a town.”

The second principle of statutory construction directs us to consider not only the plain meaning of the word “place,” but the *context* in which it is used.⁶ As the Supreme Court has often explained: “We consider not only the bare meaning of the word but also its placement and purpose in the statutory scheme. The meaning of statutory language, plain or not, depends on context.”⁷ Thus, in interpreting the language of a statute, courts do not look at one provision in isolation, but rather look to the entire statutory scheme for clarification and contextual reference.⁸

In this case, the word “place” is immediately followed by the words “the population of which does not exceed five thousand inhabitants, as shown by the last preceding decennial census. . . .” Thus, in context, the word “place” clearly contemplates a “place” that the Census Bureau has identified and for which a population total may be computed using census data. This would include “census designated places.”

In summary, both the plain meaning of the word “place” and the context in which it is used in section 92, provide substantial guidance in defining what types of locations constitute a “place” for purposes of that section. As commonly understood, the term refers to a locality that can be geographically identified by some type of boundary. Based on the context in which the word is used, it should also be a “place” for which a population total is ascertainable using census information.

Accordingly, where the Census Bureau has designated certain “places” for purposes of measuring the population in that particular geography, we have concluded that those “places”

⁶ Sutherland Stat. Const. § 46.05 (5th ed. 1992). In this instance, not only do the rules of statutory construction direct us to consider context, but the Black’s Law Dictionary definition of “place” also instructs the reader to determine the meaning of this word by reference to the “connection in which [the word ‘place’] is used.” Black’s Law Dictionary at 901, discussed supra.

⁷ Bailey v. U.S., 516 U.S. 137, 145 (1995).

⁸ U.S. v. McLemore, 28 F.3d 1160, 1162 (11th Cir. 1994).

should qualify as “places” for purposes of section 92. We have relied heavily on this type of census designation in concluding that particular locations qualify as section 92 “places.”⁹

Census’ Definition of “Place”

In the 1990 census, the Census Bureau defined “places” to include incorporated places and “census designated places” (“CDPs”).¹⁰ Incorporated places are cities, boroughs, towns, and villages legally in existence in their respective states and reported as such to the Census Bureau.¹¹

CDPs are currently defined as densely settled concentrations of population that are identifiable by name, but are not legally incorporated places.¹² To qualify as a CDP for the 1990 census, an unincorporated community must generally¹³ have met the following criteria: (i) 1,000 or more persons if outside the boundaries of an urbanized area;¹⁴ or (ii) 2,500 or more persons if inside the boundaries of an urbanized area.¹⁵ A list of CDPs in the state of Florida is attached for your convenience.

Conclusion

⁹ The OCC recognizes that there may be unusual circumstances where other localities also could qualify as a “place” -- where the locality met the commonly understood definition of a place, and the population within the boundaries of that place was measurable according to census data. Each particular situation would require specific analysis.

¹⁰ See 1990 Census of Population and Housing, Finders Guide to Census Tract Reports, p. A-9.

¹¹ There are some exceptions to this definition of “incorporated places.” For more information, see Bureau of the Census, Geographic Areas Reference Manual (1994).

¹² See 1990 Census of Population and Housing, Finders Guide to Census Tract Reports, p. A-9.

¹³ Alaska, Hawaii, American Indian Reservations, and Puerto Rico, for example, are subject to different standards. See Id. at pp. A-9 and A-10.

¹⁴ An urbanized area is defined as comprising one or more places and the adjacent densely settled surrounding territory that together have a minimum of 50,000 persons. See Id. at p. A-12.

¹⁵ See Id. at p. A-10.

In sum, we treat an area designated as a “place” by the Census Bureau as a “place” for purposes of section 92. We have followed this approach for the last several years.

Sincerely,

/s/

Julie L. Williams
Chief Counsel

Enclosure(s)