

cel of land owned, maintained or used for public camping, primarily by automobile tourists whether the same shall be owned, used or maintained by any person, persons, co-partnership, firm or corporation upon which tract of land persons may camp or secure cabins or tents, either free of charge or by the payment of a fee, and whenever the words, tourist camp ground, are used in this act they shall be construed to mean a tourist camp ground as herein described and defined."

"69-114. License for Tourist Camp Ground — Fee — Sanitation Required. It shall be unlawful for any person, persons, co-partnership, firm or corporation to conduct a tourist camp ground without having a license issued by the state board of health of Montana. Licenses shall be furnished upon request for that purpose. An annual fee of two dollars (\$2.00) shall be required for each license. Licenses shall be made to expire on the last day of December of the current year in which they are issued. No license shall be issued to any tourist camp ground that is conducted in a grossly unsanitary manner."

You have stated that a prospective licensee has refused to obtain a license on the grounds that motels are the same as hotels which are not subject to the license section.

Section 69-112, supra, is a comprehensive definition including all tourist camps, motor courts and similar public places which do not provide the same services of a hotel, such as dining room service, etc. These businesses are primarily conveniences for the motor traveling public. The term "motel" is synonymous with the term "motor court". A motor court is the modern development of the tourist camp contemplated by the 1929 Legislature, which enacted the above section.

The distinction between motel and hotel has been considered only by the New York courts, and the results therein have been inconclusive of the question here involved. *Von Der Heide v. Zoning Bd. of App. of Town of Somer, Westchester County*, 123 N.Y.S. (2d) 726, 730, 204

Opinion No. 48

Motels — Licensing — Public Health

HELD: Motels are included within the definition of "tourist camps" contained in Section 69-112, R.C.M., 1947, and must be licensed in accordance with the provisions of Section 69-114, R.C.M., 1947.

December 23, 1955.

Dr. G. D. Carlyle Thompson
Executive Officer
State Board of Health
Helena, Montana

Dear Dr. Thompson:

You have requested my opinion as to whether or not motels are included within the terms of Section 69-112, R.C.M., 1947, and as a consequence are subject to the license requirements of Section 69-114, R. C. M., 1947. The sections are herein set forth:

"69-112. Tourist Camp Ground Defined. The term, tourist camp ground, as used in this act, shall include and mean any tract or par-

Misc. 746; *Maturi v. Balint*, 130 N.Y.S. (2d) 122, 123, 283 App. Div. 624.

The distinction is of little consequence, for even if the refined motor court, i.e. motel, can be considered to have reached or graduated into the hotel classification, it has not, by so doing, necessarily lost its characteristics as a tourist camp. On the other hand, the motel must comply with the health requirements not only of tourist camps but also of hotels.

It is therefore my opinion that a motel is within the definition of "tourist camp" as contained in Section 69-112, R.C.M., 1947, and is subject to the licensing provisions of Section 69-114, R.C.M., 1947.

Very truly yours,
ARNOLD H. OLSEN,
Attorney General.