

## **INTERPRETIVE LETTER 85-2 (MARCH 4, 1985)**

**Permitted distance for branch from bank's main premises is measured from closest point of main premises to closest point of branch, not from retaining wall of shared parking lot of leased premises.**

This is in response to a proposed "third facility" location.

The facts you have presented for this Agency's review are as follows: The main banking premises of the \* is in a shopping center located at \* in \*. \* has leased at least a portion of real estate in the shopping center for its main banking premises. From your letter, it is unclear whether \* has the exclusive right as lessee to use or maintain the area contiguous to its main banking premises for ingress, egress or for parking. In any event, according to the land surveyors' Certificate which accompanied your letter, no portion of the contiguous area being used for ingress, egress or parking is within one mile of the site of \*'s proposed "third" facility. A portion of a retaining wall separating the shopping center in which \* is located, from an adjoining property is within one mile of \*'s proposed site. You have inquired whether on the basis of the facts described above, \* may establish its "third" facility in accordance with the provisions of the Illinois Banking Act.

Section 5(15)(g) of the Illinois Banking Act provides as follows:

The distance referred to in this paragraph (15) shall be measured in a straight line from the nearest point of one premises to the nearest point of the other premises, the word "premises" being deemed to mean the boundaries of the real estate on which the facility or the maintaining bank is located, as the case may be, and the area contiguous thereto which the bank has the exclusive right as owner or lessee to use or maintain for egress from or ingress to or for parking in connection with the main banking house, or as the case may be the facility permitted hereby (emphasis added).

In measuring the distance between \* and \*'s proposed facility, the area contiguous to the \* real estate would be included in determining its premises only if \* has the exclusive right as owner or lessee to use or maintain such area for egress from or ingress to or for parking. The retaining wall, which is not being used for this purpose, is not considered part of the premises of \*. Therefore since no portion of the area contiguous to \* is within one mile of the site of \*'s proposed "third" facility, the location of \* need not be considered in determining compliance with the home office prohibition contained in the Illinois Banking Act.

As each case depends upon the factual situation presented, this opinion is limited to the specific facts set forth in your letter and enclosures. There may be additional facts which would warrant a different opinion.