

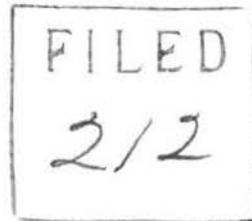
HOUSING AUTHORITY:
OFFICERS:

A tenant, is not eligible to be appointed to the office of commissioner in a municipal housing project created under provisions of Chapter 99, RSMo 1959.

August 11, 1969

OPINION NO. 212

Honorable Jack E. Gant
Senator, 16th District
9517 East 29th Street
Independence, Missouri



Dear Senator Gant:

This opinion is written to respond to your request for an opinion on whether there is a conflict between Sections 110 and 204 of the Housing & Urban Development Act of 1968, and Section 99.060, RSMo 1959. Your specific inquiry is whether a tenant of a Housing Authority created under Chapter 99 RSMo can be one of the commissioners of the authority.

Section 99.060, RSMo 1959, reads as follows:

"No commissioner or employee of an authority shall acquire any interest direct or indirect in any housing project or in any property included or planned to be included in any project, nor shall he have any interest direct or indirect in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project. If any commissioner or employee of an authority owns or controls an interest direct or indirect in any property included or planned to be included in any housing project, he immediately shall disclose the same in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Failure so to disclose such interest shall constitute misconduct in office. Upon such disclosure such commissioner or employee shall not participate in any action by the authority affecting such property."

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Section 110 of the Housing & Development Act of 1968, (Pub Law 90-448) deals, in summary, with the establishing of the National Advisory Commission on Low Income Housing, its composition, the appointment of its members, etc. We see no conflict in any area with Section 99.060, set out above.

Section 204, as amended, of the Housing & Development Act of 1968 provides in part that:

"The Secretary is authorized to enter into contracts to make grants to public housing agencies to assist, where necessary, in financing tenant services for families living in low-rent housing projects. In making such contracts and grants, the Secretary shall give preference to programs providing for the maximum feasible participation of the tenants in the development and operation of such tenant services. For purposes of this paragraph the term 'tenant services' includes the following services and activities for families living in low-rent housing projects: counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and placement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies when necessary for the provision of such services. * * *'" (Emphasis ours)

Again, we have carefully perused Section 204, supra, and we see no conflict with Section 99.060. It is our view that the Missouri statute governs the qualifications of a public officer of an agency created by the State in the absence of a constitutional prohibition or an area preempted by legislation of the federal government.

Section 99.060, may be summarized as prohibiting a commissioner from exercising his authority and judgment on any matter in which he has an interest in the housing project. As a tenant, his interest would encompass the entire operation of the project from the amount of rent to the state of repair and sanitation. We see no area, as a practical matter, where the tenant does not have an interest in the housing project.

We believe that the phrase "interest direct or indirect in any housing project" applies to the relationship a commissioner has which would affect his official actions because of

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his determination of matters affecting himself as a tenant and is not limited to contracts for services or materials to be furnished by him or his interest in property of the project. Section 99.060, specifically prohibits a commissioner having any interest in any project property or project contract but goes further and prohibits his having any interest in a housing project. This "interest" proscribed by the statutes demonstrates a legislative intent to prohibit a commissioner from having an interest in the project as a tenant which in turn could affect his actions as commissioner in any way.

In interpreting this section, we may not attempt to supply, insert or read words into a statute unless there is an obvious omission or unless the statute is incongruous, unintelligible or leads to absurd results. May Dept. Stores Co. v. Weinstein, 395 SW2d 525. We are bound to read this statute so as to give the words their plain and ordinary meaning. Rosedale-Skinker Imp. Assn. v. Board of Adjustment of the City of St. Louis, 425 SW2d 929. The statute appears clear and precise. As we read the above section, a tenant would be precluded from acting as a commissioner in matters of operation of the project because of his direct, personal interest as a tenant. This would include any interest and would appear to cover the entire spectrum of operation of the project.

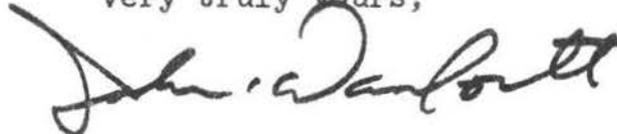
Any change of the statutes in its application or qualifications of the commissioners should be addressed to the legislature. We conclude that Section 99.060, RSMo 1959, would apply and its provisions define the qualifications of a commissioner of the housing authority.

CONCLUSION

It is the opinion of this office that a tenant is not eligible to be appointed to the office of commissioner in a municipal housing project created under provisions of Chapter 99, RSMo 1959.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Richard C. Ashby.

Very truly yours,



JOHN C. DANFORTH
Attorney General