

MUNICIPAL AIRPORTS:
CITIES, TOWNS & VILLAGES:
AIRPORTS:
COOPERATIVE AGREEMENTS:

The mayor of a constitutional charter city may not, without an enabling ordinance, contract with an adjoining state for the construction of an airport.

OPINION NO. 381

June 19, 1970

Honorable Walter L. Meyer
State Representative
District No. 27
9495 Yorktown Drive
Bellefontaine Neighbors, Missouri 63137



Dear Representative Meyer:

You have requested an official opinion as to the authority of the mayor of a first class city, not within a county, to contract with a bordering state. You have informed us by telephone that the city in question is St. Louis, a constitutional charter city, not a first class city, and that the subject of the contract is construction of an airport by the city and the State of Illinois.

The charter of the City of St. Louis vests the city with power to contract and to exercise all powers granted by law (Article I, Section 1 (4), (35), Charter of St. Louis). The legislative power of the city is vested in the Board of Aldermen (Article IV, Section 1, Charter of St. Louis).

"The board of aldermen shall have power by ordinance not inconsistent with this charter to exercise all the powers of the city and provide all means necessary or proper therefor; . . ." (Article IV, Section 23, Charter of St. Louis)

The mayor is designated the chief executive officer and is given all executive power of the city (Article VII, Section 1, Charter of St. Louis).

Section 305.170, RSMo, authorizes the local legislative body of any city to acquire, construct, own and operate airports, and to do so alone or jointly with others, and either within or without the limits of the city.

Section 305.240, RSMo, authorizes the governing body of any political subdivision to acquire, construct, own and operate airports in an adjoining state subject to the laws of this state in all matters relating to financing such projects.

Honorable Walter L. Meyer

The Supreme Court of Missouri in *Dysart v. City of St. Louis*, 11 S.W.2d 1045 (Mo. en banc 1928) upheld the power of the city by ordinance to issue bonds for the financing of an airport pursuant to the Charter of St. Louis, Article I, Section 1, Paragraphs 8, 15, 32, 33 and 35; Article I, Section 2.

Any municipality or political subdivision of this state may contract and cooperate with a duly authorized agency of another state for the construction, acquisition or operation of any public improvement or facility if the subject and purposes of the contract are within the scope of the municipality's or political subdivision's independent powers (Section 70.220, RSMo; Article VI, Section 16, Constitution of Missouri, 1945). A municipality exercising this power must do so by duly enacted ordinance (Section 70.230, RSMo).

Accordingly, it is my opinion that the Board of Aldermen of the City of St. Louis may by ordinance authorize a contract between the City of St. Louis and the State of Illinois for construction of an airport, either within or without the limits of the city or within this state or the State of Illinois. It is also my opinion that the mayor of the City of St. Louis, without such an ordinance, may not enter into such a contract (*Lockwood v. Wabash R. Co.*, 26 S.W. 698, 700 (Mo. 1894)).

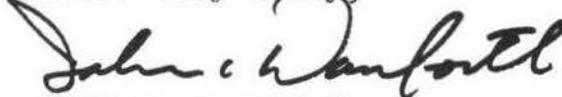
"The mayor's permit alone conferred no authority on defendant to occupy the street with railroad tracks, and operate trains drawn by locomotives over it. The sole power to grant such a franchise is vested in 'the mayor and assembly' by article 3, § 26, par. 11, of the Scheme and Charter, and can be exercised only by an ordinance duly enacted for that purpose; . . ."

CONCLUSION

It is the opinion of this office that the mayor of a constitutional charter city may not, without an enabling ordinance, contract with an adjoining state for the construction of an airport.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Louren R. Wood.

Yours very truly,



JOHN C. DANFORTH
Attorney General