

Answer by letter-Wieler

OPINION LETTER NO. 478

September 11, 1970

Honorable Thomas B. Burkemper  
Prosecuting Attorney  
Lincoln County Court House  
Troy, Missouri 63379



Dear Mr. Burkemper:

This is in response to your request for an opinion concerning the question of whether the City of Elsberry, Missouri, is entitled to reimbursement for the use of a city hall as a polling place in the recent primary election, said hall having been designated as a polling place by the county clerk pursuant to Section 111.121, RSMo 1969.

Section 111.121 provides:

"The county clerk, board of election commissioners, or other proper election official having authority over any general, special or local election may designate tax-supported public buildings to be used as polling places, and no official having charge or control of any public building shall refuse to permit the use of the building for election purposes."

With the exception of Section 118.160, RSMo 1969, the Missouri statutes are completely silent with regard to the payment of rent for the use of tax-supported public buildings as polling places. Section 118.160 provides that a political subdivision or governmental agency which controls the building or facility selected as a polling place in St. Louis City may charge a limited rental fee for the use of such building. It seems clear then that if the legislature had intended that political subdivisions be allowed to charge rental fees for the use of their buildings and facilities as polling places in all instances, it would have said so specifically.

Honorable Thomas B. Burkemper

In the absence of any specific provision authorizing the City of Elsberry to charge a rental fee for the use of its city hall as a polling place and in view of the provisions of Section 111.121 permitting no interference with the use of a public building as a polling place by any official having charge or control of such building, it is our opinion that the city cannot charge for the use of its building as a polling place where such building has been so designated by the county clerk pursuant to Section 111.121.

Yours very truly,

JOHN C. DANFORTH  
Attorney General