

July 7, 1971

OPINION LETTER NO. 366
Answered by Klaffenbach

Honorable David A. Dalton
Prosecuting Attorney
St. Charles County
Court House
St. Charles, Missouri 63301



Dear Mr. Dalton:

This letter is in answer to the opinion request made by your Assistant Mr. Robert M. Wohler, which is stated as follows:

"Fairway Estate is a subdivision, almost completely developed and housing approximately 212 homes, situated in St. Charles County, and outside the incorporated limits of the City of St. Charles, Missouri. The subdivision has paved streets and no sidewalks. The streets have been dedicated and all necessary plats recorded.

"1. May the County Court of St. Charles County, or any other body, authorize stop signs, or any other traffic control signs, to be erected at appropriate places for traffic safety within the subdivision? If so, under what authority?

"2. If so, may enforcement be had if violations occur as to those signs?

"If your answer to Question No. 1 is in the negative, is there any recourse as to the residents of the subdivision under existing law for traffic control and safety?"

We previously issued and herewith enclose our Opinion No. 456, dated October 14, 1970 to the Honorable Fred W. Meyer, which is self-explanatory.

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We note that the 75th General Assembly enacted Senate Bill 180 which is now designated in part as Section 304.351, RSMo 1969. That section provides in part as follows:

"4. The state highway commission with reference to state highways and local authorities with reference to other highways under their jurisdiction may designate through highways and erect stop signs or yield signs at specified entrances thereto, or may designate any intersection as a stop intersection or as a yield intersection and erect stop signs or yield signs at one or more entrances to such intersection.

"(1) Preferential right-of-way at an intersection may be indicated by stop signs or yield signs as authorized in this section:

"(a) Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection, indicated by a stop sign, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic in the intersecting roadway before entering the intersection. After having stopped, the driver shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on the highway as to constitute an immediate hazard during the time when such driver is moving across or within the intersection.

"(b) The driver of a vehicle approaching a yield sign shall in obedience to the sign slow down to a speed reasonable to the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time such traffic is moving across or within the intersection."

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We also call your attention to Section 304.341, RSMo 1969, which was also a part of Senate Bill No. 180 of the 75th General Assembly. Subsection 3 of section 1 of that section provides:

"(3) The highway commission or local authorities in their respective jurisdictions may cause official traffic-control devices to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when such devices are so placed no driver of a vehicle shall turn a vehicle at any intersection other than as directed and required by such devices."

Section 301.010, subsection (9) defines "highway" as used in these sections. That subsection provides:

"'Highway', any public thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways or alleys in any municipality;"

Under Section 304.271, RSMo 1969, there is a statutory presumption that official traffic-control devices placed in position approximately conforming to the requirements of the law are presumed to have been so placed by the official act or direction of lawful authority.

Under Section 304.361, RSMo 1969, the violation of any of the provisions of these sections constitutes a misdemeanor.

It is our view then that the broad language of these sections confers authority upon the county court to exercise such control over roads under its jurisdiction. We assume that the roads in question are under the jurisdiction of the county court.

In our Opinion No. 315, dated September 24, 1969 to the Honorable John J. Johnson, copy enclosed, we concluded that these sections authorizing the establishment of such controls by the local governing body, including the county courts, were not unconstitutional as an impermissible delegation of legislative power.

Very truly yours,

JOHN C. DANFORTH
Attorney General

Enclosures: Op. No. 456
10/14/70, Meyer

Op. No. 315
9/24/69, Johnson