



Attorney General of Missouri

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ATTORNEY GENERAL

65101

June 27, 1979

OPINION LETTER NO. 104

The Honorable Clifford W. Gannon
Senator, District 22
State Capitol, Room 330
Jefferson City, Missouri 65101

Dear Senator Gannon:

This letter is in reference to Opinion Request No. 104, which you submitted to this office.

The opinion request asks whether the change of a county's classification from second class to first class terminates the existence of a sewer district organized under §§ 249.763, et seq., RSMo, and whether § 249.666, RSMo, applies to a sewer district organized under § 249.763, et seq., when such a sewer district existed prior to the revival of the municipal charter and the county in which both sewer district and the city are located has changed its classification from second to first class.

It is our understanding after talking to Mrs. Dorothy Meng of the sewer district and Joseph Cunningham, attorney for the district, that they appear to agree with our view that an opinion of this office should not be issued on this question under these circumstances.

It is our view that after talking to Mr. Cunningham that the question is novel and that there are no exact precedents that we are able to find that would answer the question, and in view of the serious consequences that would follow if the law is not correctly interpreted, it would be unwise to attempt to answer this question by an Attorney General's opinion. It is our view that the only way to resolve the question so that all parties will be protected is to have some sort of court

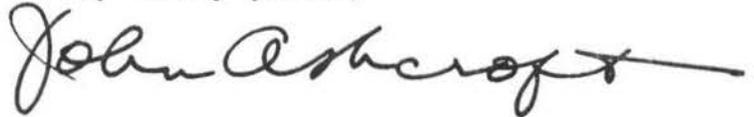
The Honorable Clifford W. Gannon

action, perhaps a declaratory judgment, which would inform all the parties, that is, the city and the sewer district and the general public, of their rights and liabilities in the present confused situation due to the fact that the county attained first class status.

I might add that we have discussed this matter with several bond attorneys, and they are of the view that it is a novel question and that there is no exact precedent in this state for making any definitive holding.

Inasmuch as we have not heard from either Mr. Cunningham or Mrs. Meng since our last conversations with them, we assume that they agree with our views and that the opinion is no longer desired. We are, therefore, marking your request withdrawn.

Very truly yours,

A handwritten signature in cursive script that reads "John Ashcroft". The signature is written in dark ink and has a long, sweeping horizontal line extending to the right at the end.

JOHN ASHCROFT
Attorney General

ccs to:
Mr. Cunningham
Mrs. Meng