

AUDITS: A municipal housing authority,
HOUSING AUTHORITY: established under Chapter 99,
MUNICIPAL HOUSING AUTHORITY: RSMo, which does not own or
maintain property or projects
as defined in Chapter 99,
RSMo, is subject to the requirements of Section 99.055,
RSMo Supp. 1988, that the board of commissioners conduct an
annual audit and hold public hearings.

October 11, 1989

OPINION NO. 28-89

The Honorable Harold Caskey
Senator, District 31
State Capitol Building, Room 320
Jefferson City, Missouri 65101

Dear Senator Caskey:

This opinion is in response to your question asking:

If a municipal housing authority, as
established under chapter 99, RSMo, does
not own or maintain "property" or
"projects" as defined in chapter 99, RSMo,
is that housing authority subject to the
requirements of section 99.055, RSMo, -
specifically, requirements that the board
conduct an annual audit and hold public
hearings?

In the statement of facts you submitted with your opinion
request, you state: "Many municipal housing authorities do
not own or operate property, they merely administer section
8 HUD programs using existing privately owned housing
stock."

Section 99.055, RSMo Supp. 1988, provides:

99.055. Annual audit, content--annual
hearings.--The board of commissioners of
each housing authority shall conduct an
annual audit of all operations and
activities undertaken by said housing
authority pursuant to this chapter,
including, but not limited to, reports of
revenues and expenditures of said housing
authority and such related entities as

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described in subsection 3 of section 99.080, divided and broken out by each project or undertaking as defined in paragraph (b) of subdivision (12) of section 99.020. The board of commissioners shall issue a detailed report of said audit and shall make said report available to the public upon its completion. In connection therewith and after the final issuance of such audit, each board of commissioners shall conduct not less than one public hearing and, with respect to authorities which own and operate one thousand or more rental units prior to the final issuance of such audit as part of audit procedure not less than two hearings and after the final issuance of such audit not less than one hearing, at locations reasonably accessible to tenants of housing project, for the purposes of obtaining tenant and public responses regarding the activities of the authority during the preceding year and suggestions for future activities of the authority. (Emphasis added.)

Housing authorities have broad authority to carry out activities in addition to the acquisition or maintenance of "property" or a "project." The powers set forth in Chapter 99, RSMo, indicate that a housing authority may be involved in many operations and activities which do not involve the ownership or maintenance of property or projects.

Pursuant to rules of statutory construction, language should be given its plain and ordinary meaning if it is not ambiguous. Metro Auto Auction v. Director of Revenue, 707 S.W.2d 397, 401 (Mo.banc 1986); State ex rel. D.M. v. Hoester, 681 S.W.2d 449, 450 (Mo.banc 1984). Section 99.055, RSMo Supp. 1988, provides, in part, that "[t]he board of commissioners of each housing authority shall conduct an annual audit of all operations and activities undertaken by said housing authority pursuant to this chapter. . . ." The use of the word "shall" indicates that this section is mandatory. State ex rel. Dreer v. Public School Retirement System of City of St. Louis, 519 S.W.2d 290, 296 (Mo. 1975); Citizens For Rural Preservation, Inc. v. Robinett, 648 S.W.2d 117, 132 (Mo. App. 1982). Thus, the plain meaning of the statutory section indicates that the section applies to all operations and activities of the housing authority, not just those operations or activities

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involving the ownership or maintenance of property or projects.

With respect to the hearings required by Section 99.055, RSMo Supp. 1988, the statute likewise uses the word "shall." Because the legislature again used the word "shall," it is mandatory for the board of commissioners to hold the public hearings specified in the statute.

The fact that a housing authority does not own or maintain "property" or "projects" does not mean that the housing authority does not have activities and operations that are required to be audited and subjected to public scrutiny and comment at a public hearing.

CONCLUSION

It is the opinion of this office that a municipal housing authority, established under Chapter 99, RSMo, which does not own or maintain property or projects as defined in Chapter 99, RSMo, is subject to the requirements of Section 99.055, RSMo Supp. 1988, that the board of commissioners conduct an annual audit and hold public hearings.

Very truly yours,



WILLIAM L. WEBSTER
Attorney General