

BONDS:
COUNTY COURT:
OFFICE SPACE:
PUBLIC ADMINISTRATOR:

1. County court is not required to but may furnish an outgoing public administrator with an office.
2. County court has no obligation to pay the bond premium of incumbent or outgoing public administrator.

November 10, 1964

OPINION NO. 331

Honorable Don E. Burrell
Prosecuting Attorney
Greene County
Springfield, Missouri 65802



Dear Mr. Burrell:

Your recent request for an opinion raised two questions concerning public administrators.

Your first question may be restated as follows:

Does the county court have an obligation to provide an office for an outgoing public administrator during the course of the year within which he can wind up matters pending after his successor in office has qualified?

Section 473.767, RSMo, permits a public administrator, who was defeated or did not run for re-election, one year after his successor has qualified within which to file his final settlement of estates in his charge as public administrator. It is to be noted that the one year period is permissive rather than mandatory. An outgoing public administrator may settle up at any time before the one year period expires.

There is a general statute concerning the duty of the county to provide office space for county officers. It is Section 49.510, RSMo, which provides:

"It shall be the duty of the county to provide offices or space where the officers of the county may properly carry on and perform the duties and functions of their respective offices. Said county shall maintain, furnish and equip said offices and provide them with the necessary stationery, supplies, equipment, appliances and furniture, all to be taken care of and paid out of the county treasury of said county at the time and in the manner that the county court may direct."

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However, with regard to public administrators, the Legislature has enacted a special statute regarding office space, Section 473.737, RSMo. This statute provides for such office if there is space available in the courthouse and only when the court is of the opinion that the business is such as to reasonably require a separate office as a public convenience. Section 473.737 provides as follows:

"Each public administrator elected, as now or as hereafter provided for in sections 473.730 to 473.767, is hereby declared to be an officer for the county in which he is elected and for the city of St. Louis, if elected therein. The county courts of each county in this state shall make suitable provision for an office for the public administrator in the courthouse of the county if suitable space may be had for same, and shall be provided as soon as the county court shall be of the opinion that the business in charge of the public administrator is such as to reasonably require a separate office for the convenience of the public. The public administrator of the city of St. Louis shall have suitable and convenient offices provided for him in the civil courts building by said city."

It is a general rule of statutory construction that special statutory provisions prevail over general broad provisions. *Baker v. Goodman*, 364 Mo. 1202, 274 SW2d 293. Where two statutes relate to the same subject, they must be read together, and provisions of one having special application to a particular subject are to be deemed qualifications of or exceptions to the other act in its general terms. *Veal v. City of St. Louis*, 365 Mo. 836, 289 SW2d 7.

Therefore, the special provisions regarding offices for public administrators found in Section 473.737, RSMo, prevails over the general provisions for county officers' offices found in Section 49.510, RSMo. The county court has no duty to furnish the public administrator an office. The county court need only furnish the public administrator an office if there is space available in the courthouse and if the court is of the opinion that the work load is such that it would be a public convenience to grant him such office.

It is the opinion of this office that Section 473.737, RSMo, applies not only to the incumbent public administrator but also to his predecessor during the one year period he is allotted to make

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his final settlement. Certainly the Legislature did not intend that the county court have a greater obligation with respect to furnishing office space to the outgoing public administrator than to the incumbent. Therefore, the county court is not required to furnish the outgoing public administrator with an office during the period he has to settle his estates. However, the county court may furnish him an office if space is available in the courthouse and if it finds that the public convenience so requires.

Your second question reads as follows:

"I would also like your opinion as to whether or not the County Court has the obligation to pay the bond premium required by a Public Administrator and whether the County Court would be required to pay the bond premium to cover the outgoing Public Administrator during the year which he has to wind up his affairs if the Court does have this obligation."

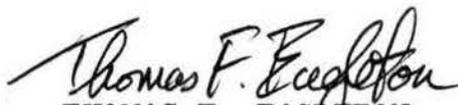
We are enclosing a copy of an opinion of this office to Honorable James D. Clemens under date of April 10, 1941, which answers your question. The opinion concludes that "the County Court is not authorized to pay the premium on the bond required of a public administrator." This opinion applies to outgoing public administrators as well as incumbents. The Legislature did not intend that the outgoing public administrator be placed in a better position than the incumbent.

CONCLUSION

Therefore, it is the opinion of this office that: (1) The county court is not required to but may furnish an outgoing public administrator with an office during the course of the year that he has to wind up matters pending after his successor in office has qualified if there is space available in the courthouse and if the public convenience so requires; (2) The county court has no obligation to pay the bond premium of incumbent public administrator or of the outgoing public administrator.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Jeremiah D. Finnegan.

Yours very truly,


THOMAS F. EAGLETON
Attorney General