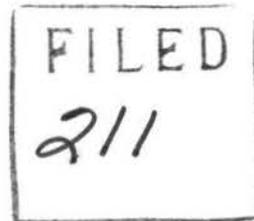


May 20, 1971

Answered by Letter - Mansur  
OPINION NO. 211



Honorable Bill J. Crigler  
State Representative  
One Hundred Sixteenth District  
Room 313, Capitol Building  
Jefferson City, Missouri 65101

Dear Representative Crigler:

This is in response to your request for an opinion in part as follows:

"A Levee District organized under Chapter 245 RSMo. provides that a Board of Supervisors shall be elected to govern the District. Section 245.060 states in part that the landowners shall gather 'for the purpose of electing a Board of five supervisors, to be composed of owners of real estate in said District'. No other provisions of law are found which define the statute. A member of the Board of Supervisors of the South Howard Levee District is the owner of eighteen percent (18%) of the outstanding stock in a family owned corporate farm. The other stockholders of that corporation are his father, mother, brother, and sister. The family corporation of which he is an owner holds title to a substantial number of acres which are located within the confines of the Levee District and this person is actively engaged in farming that real estate. He does not

own any real estate in his own name which is located within the Levee District. All of the real estate in which he has an interest is held by the corporation in its corporate name.

"The questions presented are as follows:

"1. Does this member's eighteen percent (18%) interest in the family corporation qualify him as a landowner within the purview of Section 245.060? If it does not, can he legally serve on the Board of Supervisors?

"2. Is a family owned corporation, such as the one outlined above, entitled through its Board of Directors to appoint someone to stand in its shoes as a landowner and serve on the Board of Supervisors?"

Section 245.060, RSMo provides for the election of the board of five supervisors for levee districts organized under Chapter 245, RSMo. It provides for the circuit clerk of the court organizing that levee district to call a meeting of the owners of real estate or other property in the district to meet at a day and hour specified in some public place in the district:

". . . for the purpose of electing a board of five supervisors, to be composed of owners of real estate in said district, two of whom at least shall be residents of the county or counties in which said district is situate, or some adjoining counties; . . ."

Section 245.010, RSMo provides in part:

"2. The word 'owner' as used in sections 245.010 to 245.280 shall mean the owner of the freehold estate, as appears by the deed record, and it shall not include reversioners, remaindermen, trustees, or mortgagees, who shall not be counted and need not be notified by publication, or served by process, but shall be represented by the present owners of the freehold estate in any proceeding under sections 245.010 to 245.280."

Honorable Bill J. Crigler

According to the information you submit, the individual you inquire about owns 18% of the outstanding stock of a corporation that owns real estate in the district but does not own any real estate in the district in his own name. A stockholder of a corporation does not own any property that belongs to the corporation. Spurlock v. Missouri Pac. Ry. Co., 90 Mo. 199, 2 S.W. 219.

In answer to your first question, it is the opinion of this office that the ownership of 18% of the outstanding stock of a corporation which owns real estate in a drainage district does not qualify such person as an owner of real estate under the terms of the above statute and such person is not qualified to serve on a board of supervisors unless he owns real estate in his own name within the district.

In answer to your second question, it is our opinion, that the board of directors of a corporation cannot appoint someone to stand in its shoes as a landowner and serve on the board of supervisors of a drainage district. Under the above statute no person is qualified to serve on the board of directors of the levee district, unless he owns a free-hold interest in the real estate in his own name.

Very truly yours,

JOHN C. DANFORTH  
Attorney General