

August 22, 1973

OPINION LETTER NO. 269
Answer by Letter - Klaffenbach

Honorable Robert O. Snyder
State Representative, 95th District
506 Olive Street, Suite 605
St. Louis, Missouri 63101

Dear Representative Snyder:

This letter is in response to your request for a ruling on the following questions relating to House Bill No. 1156 of the 76th General Assembly:

"1. Section 3 of the act relates to a petition to a City Council which must be signed by a majority of the owners of the real property within the proposed district. Does this section include both resident and nonresident owners? Does an owner sign only once regardless of how much property he owns within the district or does he sign for each parcel of property he may own?

"2. Section 7 of the Act provides for an election relating to the incurring of indebtedness and the issuing of bonds or notes. Are the qualified electors specified in this section the residents of the district who are duly registered and qualified to vote? Or are the owners of property within the district, regardless of their residence, intended to be qualified electors?

"3. Is the governing body of the city also the governing body of the special business district for purposes of the act and particularly for the purposes of Sections 7 and

Honorable Robert O. Snyder

8 relating to the issuance of general obligation bonds, revenue bonds and refunding bonds?

"4. It would be helpful for cities which contemplate acting under this legislation if the Attorney General would issue some general guide lines in connection with its implementation."

Section 3 of the bill provides in part:

"A special business district may be established, enlarged or decreased in area as provided herein in the following manner:

"Upon petition which shall recite the proposed maximum tax rate signed by a majority of the owners of the real property on which is paid the ad valorem real property taxes within the proposed district, the governing body of the city may adopt a resolution of intention to establish, enlarge or decrease in area a special business district. The resolution shall contain the following information:

- (a) Description of the boundaries of the proposed area;
- (b) The time and place of a hearing to be held by the governing body considering establishment of the district;
- (c) The proposed uses to which the additional revenue shall be put and the initial tax rate to be levied.

"Whenever a hearing is held as provided hereunder the governing body of the city shall publish notice of said hearing on two separate occasions in at least one newspaper of general circulation not more than fifteen (15) days nor less than ten (10) days before said hearing; and shall mail a notice by registered or certified United States mail with a return receipt attached of said hearing to all owners of record of real property and licensed businesses located in the proposed district; and

Honorable Robert O. Snyder

shall hear all protests and receive evidence for or against the proposed action; rule upon all protests which determination shall be final; and continue the hearing from time to time." (Emphasis added)

Section 3 does not require residency and does not refer to the extent of land owned by such owners. Compare Sections 249.450, RSMo, 249.010 (Laws of 1972), 249.763, RSMo, respecting certain sewer districts; Section 233.175, RSMo, respecting certain road districts; and Section 235.030, RSMo, respecting certain street light maintenance districts. Clearly, if the legislature had intended to impose restrictions with regard to acreage or residency it could have done so as it has in other statutes. ~~Wh~~ikewise, it appears obvious that a large proportion of owners in a business district would be nonresident owners.

We thus conclude in answer to your first question that such owners do not have to be residents and that the terminology "a majority of the owners of real property on which is paid the ad valorem real property taxes within the proposed district" means simply a majority of such owners without regard to the extent of acreage or part thereof owned. In addition, since the legislature did not define the word owner to include a leasehold interest (compare Section 249.760, RSMo, with respect to certain sewer districts), we conclude that "owner" refers to the owner of the fee.

In answer to your second question concerning Section 7, it is our view that the terminology "upon a vote of two-thirds of the qualified electors of the district voting thereon" means precisely what it says. Only those eligible to vote, which necessarily excludes nonresidents of the district, may vote and it is necessary to have two-thirds of such votes in order to incur such indebtedness.

Your third question asks whether the governing body of the city is also the governing body of the special business district for purposes of the act and particularly for the purposes of Sections 7 and 8, relating to the issuance of general obligation bonds, revenue bonds and refunding bonds. Our view is that the governing body of the city is also the governing body of such district. This seems clear from the terminology employed by the legislature in Sections 1, 2, 3, 4, 5, 6, 9 and 10, with respect to the functions and duties of the "governing body" of the city. No provision is found authorizing any other entity to govern the district.

Honorable Robert O. Snyder

Finally, in answer to your fourth paragraph requesting guidelines for the implementation of the act, we regret that we can issue opinions only on specific questions.

Very truly yours,

JOHN C. DANFORTH
Attorney General