

COUNTY COURT,)
SEWER SYSTEM:)

The county court has no authority to contribute county funds to aid in the construction of a sewer system.



May 12, 1952

Mr. Roger Hibbard
Prosecuting Attorney
Marion County
Hannibal, Missouri

Dear Mr. Hibbard:

We have given careful consideration to your request for an opinion, which request is as follows:

"The county court of Marion County has asked that I request of your office an opinion concerning the following matter:

"At the city limits of the city of Hannibal there presently exists a condition wherein raw sewage is being expelled into Bear Creek from homes located within the county, and also from homes located within the city limits. The city of Hannibal has proposed to take into the city limits a portion of the county wherein this condition exists, with the understanding that property owners pay to install the sewer and that the city will erect a lift station in the sewer line to pump the sewage up and into the sewage system of the city. After the completion of this system there will still be certain homes located within Marion County which will use the sewer system and benefit from the lift station. In addition some of the county residents will no longer be discharging raw sewage into the creek which flows through the city.

Mr. Roger Hibbard

The City Council has requested of the Marion County Court an appropriation of Sixteen Hundred Dollars (\$1600.00), which share is approximately one-third (1/3) of the costs of this lift station and the county court is desirous of knowing if they have a legal right to contribute to this purpose outlined above.

"We respectfully request an opinion from your office concerning the authority of the county court in the above matter."

The Constitution of Missouri, in Section 16 of Article VI, authorizes municipalities and political subdivisions of the state to enter into contract and cooperate in the construction and operation of public improvements, in the manner provided by law. The legislature made this provision effective in 1947 by enactment of what is now Section 70.220, RSMo 1949. This section, however, provides "that the subject and purposes of any such contract or cooperative action made and entered into by such municipality or political subdivision shall be within the scope of the powers of such municipality or political subdivision."

The question now under consideration is whether or not a county, through its county court, may appropriate county funds to aid in the construction of a sewer system. Does any such purpose lie within the scope of the powers of the county or its governing board? We fail to find any statute giving, either by expression or by implication, any such authority to the county court.

The Supreme Court of Missouri has in numerous cases held that the county court has only such powers as have been granted to it by law. In *King v. Maries County*, 297 Mo. 488, 1.c. 496, the court said: "It has been held uniformly that county courts are not the general agents of the counties, or of the State. Their powers are limited and defined by law. They have only such authority as is expressly granted them by statute." In *Jensen v. Wilson Township*, 346 Mo. 1199, 1.c. 1203, the court said: "A county court is only the agent of the county with no powers except those granted and limited by law, and like all other agents, it must pursue its authority and act within the scope of its powers."

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CONCLUSION

It is the opinion of this office that the county court does not have a legal right to contribute county funds to a city for the purpose of aiding in the construction of a sewer system.

Respectfully submitted,

B. A. TAYLOR
Assistant Attorney General

APPROVED:



J. E. TAYLOR
Attorney General

BAT/fh