

COUNTIES: Jackson, Platte, Clay, and Cass counties may  
COUNTY CONTRACTS: contract for county planning jointly with  
REGIONAL PLANNING: Federal government.  
COUNTY COOPERATION:  
PLANNING AGENCY.

November 12, 1958



Honorable Randall S. Jessee  
Executor Director  
Metropolitan Area Planning Council  
701 Railway Exchange Building  
Kansas City 6, Missouri

Dear Sir:

This is in answer to your letter of recent date, requesting an official opinion of this department and reading as follows:

"Sometime ago you were kind enough to prepare and forward to us an opinion concerning the powers for metropolitan area planning available to the Counties of Clay, Platte and Cass. I refer to your letter of May 29, 1958. A copy of this letter was forwarded to Albert M. Cole, Administrator of the Housing and Home Finance Agency in Washington.

"I have just received a letter from Mr. Cole, a copy of which is enclosed. Apparently he feels that a further clarification from your office is required on two points:

- "1. Can the Counties of Jackson, Clay, Cass and Platte join in the formation of a planning agency with regional planning jurisdiction of their combined area, including Kansas City?

(It has probably been called to your attention that Cass County recently, through a referendum vote, acquired the power to do planning in the county.)

- "2. Would such a planning agency have authority to receive and expend funds including Federal grants and to contract with the Federal Government with respect thereto?"

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It is our understanding that the proposal for a contractual relationship between the counties of Jackson, Clay, Cass and Platte is one to make recommendations and plans which may or may not be adopted by any of such counties. It is further our understanding that any of such counties may ignore all or any part of a plan formulated by the joint efforts of the counties, or may adopt whatever part of the plan such county feels is desirable.

In the opinion of May 29, 1958, the Attorney General held that the counties of Platte, Clay and Cass have power to contract, singly or jointly, with a planning agency to formulate plans for general land use, upon the approval by the voters of each of such counties of the proposal to adopt county planning and zoning.

The basis for the holding in the opinion of May 29, 1958, was that under the provisions of Section 70.220, Cum. Supp. 1957, counties may contract to engage in activities jointly, if they are authorized to engage in such activities individually. Section 70.220 Cum. Supp. 1957, provides as follows:

"Any municipality or political subdivision of this state, as herein defined, may contract and cooperate with any other municipality or political subdivision, or with an elective or appointive official thereof, or with a duly authorized agency of the United States, or of this state, or with other states or their municipalities or political subdivisions, or with any private person, firm, association or corporation, for the planning, development, construction, acquisition, or operation of any public improvement or facility, or for a common service; provided, 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. If such contract or cooperative action shall be entered into between a municipality or political subdivision and an elective or appointive official of another municipality or political subdivision, said contract or cooperative action must be approved by the governing body of the unit of government in which such elective or appointive official resides."

Sections 64.010 to 64.160, RSMo 1949, provide for the creation and functioning of a county planning commission in counties of the first class. Since Jackson County is a county of the first class, such sections provide the authority for Jackson County to engage in county planning. Since Jackson

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County is authorized to engage in county planning, and since the counties of Clay, Platte, and Cass are authorized to engage in county planning when an affirmative vote is received in such counties on the proposal to adopt county planning and zoning, the provisions of Section 70.220 authorize a co-operative agreement between such counties, jointly, to engage in formulating a plan for the area of such counties.

Section 70.220 further authorizes counties to contract with an agency of the United States.

Therefore, it is our view that Jackson County and the counties of Clay, Platte and Cass, when the voters of such counties have authorized the adoption of county planning and zoning, may enter into a contract for planning for the area of such counties, and may contract with an agency of the Federal Government to receive and expend funds, including Federal grants. However, it is our view that such counties have no authority to enter into a contract to formulate a plan which would include the area of Kansas City.

The basis for the contractual relationship entered into under Section 70.220 is that the subject of the contract or co-operative action is within the scope of the powers of the political subdivisions so contracting.

Section 400 of the Charter of Kansas City provides as follows:

"There shall be a city plan commission consisting of eight members who shall serve without pay and who shall be appointed by the mayor. The mayor shall designate one of such members as chairman of the commission. The members of the city plan commission at the time this charter takes effect shall constitute the first commission hereunder for the remainder of their terms. Appointment of successors shall be for a term of four years, said term beginning on the tenth day of April in the year the appointment is made. In addition, the city manager, president of the board of park commissioners, director of public works, director of the water department, and director of welfare shall be advisory members without vote. The commission shall have power to prepare or recommend plans for (a) the location, extension, widening, construction, or improvement of streets, trafficways, boulevards, parks, playgrounds, community centers, other recreation facilities, public buildings, bridges, viaducts and subways; (b) a system or systems of widening and opening various through streets so as to relieve traffic con-

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gestion; (c) matters of transit and transportation; (d) districting and zoning the city as to use to which property may be put, and regulating the height, area and use of buildings and premises; (e) the improvement of the river front and flood protection; (f) the supervision and regulation of platting and opening sub-divisions; (g) the future physical development of the city. The commission shall recommend such state and municipal legislation as may be necessary to carry out its plans."

It is clear that planning jurisdiction of the area of Kansas City is by Section 400 of the Charter of that city given to the Kansas City Plan Commission. Therefore, it is our view that planning for Kansas City would not be within the scope of the powers of the Planning Commission of Jackson County. It would follow that the cooperative agreement entered into between Jackson County and the counties of Clay, Cass, and Platte, if the voters of such county approve county planning and zoning, would not authorize such counties to formulate a plan which would include the area of Kansas City.

#### CONCLUSION

It is the opinion of this office that Jackson County and the counties of Clay, Cass and Platte, if county planning and zoning is authorized by vote in such counties, have authority to enter into a contract for the formulating of a plan for the area of such counties. Such contract would not confer authority on such counties to formulate a plan which would include the area of Kansas City. Such counties would be authorized to contract with an agency of the United States and could receive and expend funds including Federal grants.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, C. B. Burns, Jr.

Very truly yours,

John M. Dalton  
Attorney General

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