

SPECIAL ROAD -
DISTRICTS:

Organized under Article 9, Chapter 42, R. S. Mo. 1929
A special road district not dis-
incorporated until Section 8057,
Chapter 42, R. S. Missouri, 1929,
has been complied with.

August 30, 1940

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Hon. D. W. Clayton
Presiding Judge
County Court
Lawrence County
Mt. Vernon, Missouri

Dear Judge:

We acknowledge receipt of your letter of August 27, 1940, wherein you request an opinion from our office. Your request reads as follows:

"We have two road districts, (Vinyard and Red Oak) in this (Lawrence) County that were organized years ago as Eight Mile Special Road Districts, with City Councils, Article 9, Chapter 42, R.S. Mo. 1929.

"Some years thereafter the cities around which these two districts were organized were disorganized with the result, of course, there were no city councils.

"For some years these two districts have continued to operate as Eight Mile Special Road Districts with three Commissioners.

"Our present County Court refused to appoint Commissioners this year on the assumption that the districts are not now legally organized since there are

no city councils. We advised these districts to dissolve under Section 8057 Road Laws of Missouri as revised for the years 1939-1940, and organize as Benefit Assessment Districts.

"There is some contention that these two districts were automatically dissolved when the cities were disorganized, since there were no city councils thereafter.

"Our question is this: Were these districts automatically dissolved when the cities disorganized, and if so can they organize as Benefit Assessments without any dissolution proceedings? If they are not automatically dissolved, what should be the procedure?"

Upon the reading of Article 9, Chapter 42, R. S. Missouri, 1929, we find that this article deals with special road districts in certain counties. Section 8024 R. S. Missouri, 1929 reads as follows:

"Special road districts may be organized, where--how.--Territory not exceeding eight miles, square, wherein is located any city, town or village containing less than one hundred thousand inhabitants, may be organized as hereinafter set forth into a special road district: Provided, however, the provisions of this section shall not apply to counties under township organization, and shall not apply to all counties in this state now containing or which may hereafter contain 50,000 inhabitants or more and lying adjoining any city of this state containing 300,000 inhabitants or more."

It will be observed that upon the close reading of the aforesaid section, and other sections contained in Article 9, that the legislature has set up a complete method of organization.

Section 8057 R. S. Missouri, 1929, reads as follows:

"Proposition may be resubmitted, when.
-- If any district shall have adopted the provisions of this article, the question may be resubmitted after the expiration of four years, upon the petition of fifty resident taxpayers of said district, at the ensuing general election, and if a majority of the votes of the district be cast against it, the operation of the law shall cease in said district."

It will be observed that Section 8057, supra, provides that the question may be resubmitted after the expiration of four years upon the petition of fifty resident taxpayers of said district, at the ensuing general election, and if a majority of the votes of the district be cast against it, the operation of the law shall cease in said district. Upon reading the other sections in this article, when taken together with Section 8057, supra, we are of the opinion that it is clearly the legislative intent that special road districts formed under this article can only be disorganized through the strict following of Section 8057, supra. It will be noted in the reading of Article 10, R. S. Missouri, 1929, that special road districts organized under county courts are disincorporated under sections contained in this article, which clearly shows that the legislature intended to provide distinct methods for the organization and disorganization of special road districts formed under either plan.

In your request you asked the question: Were these districts automatically dissolved when the cities dis-

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organized, and if so can they organize as Benefit Assessments without any dissolution proceedings? We are enclosing an opinion which has been heretofore rendered by this office, to Mr. Robert W. Hawkins, Prosecuting Attorney, Pemiscot County, Caruthersville, Missouri, wherein this office went on record as holding that county courts are without authority to elect commissioners after city in district has ceased to exist as such.

We are of the opinion that even though the cities in the district cease to exist and even though the county court does not have authority to elect commissioners, as is provided in the opinion enclosed, that this does not automatically dissolve the district for the reason that the district is in the first instant a creature of the statute and after once having been created, in compliance with the several statutes, and once having procured its corporate life from the state, this corporate life cannot be taken away unless it is done in compliance with statutes which conform the method of taking away that corporate life, namely, the disorganization.

Therefore, the presence of Section 8057, supra, wherein a distinct method is set forth for the disorganization of a district once organized under other sections contained in this article it is absolutely incumbent that the procedure be followed in order to bring about a disorganization. Of course, after the disorganization has once been perfected and all the conditions have been fully complied with, then the resident taxpayers could take the benefit of any plan of organization that would be afforded them by the statutes, for the obvious reason that after they had once been disincorporated they would be placed in the position that they were in before they were incorporated.

CONCLUSION

In conclusion it is therefore our opinion that Section 8057 R. S. Missouri, 1929, will have to be complied with before a disorganization can be perfected in a special road

Hon. D. W. Clayton

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district organized under Article 9, Chapter 42, R. S.
Missouri, 1929.

Respectfully submitted,

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Assistant Attorney General

APPROVED:

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