

FIRE PROTECTION DISTRICTS,
BOUNDARIES:

) A fire protection district may not
) extend its boundaries to include
) only a part of an incorporated city,
) town or village.



April 29, 1953

Mr. Edwin Rader
Assistant Prosecuting Attorney
St. Louis County
Clayton, Missouri

Dear Mr. Rader:

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

"Will you please let us have your opinion as to the following:

"Under the following facts may the Wellston Fire Protection District extend its boundaries to include all of the City of Vinita Park except that part of the City which is now in the community Fire District or does the wording 'and not within only a part of a city' used in section 321.300 R.S. Mo. 1949 preclude such action.

"FACTS:

- "1. The City of Vinita Park is adjacent to and borders the western line of the Wellston Fire Protection District.
- "2. In October of 1952 the City of Vinita Park annexed a small area which is in the Community Fire Protection District. This area is indicated on the attached map of the City of Vinita Park.
- "3. The City of Vinita has no fire protection presently other than a contract for secondary protection with University City, Missouri.
- "4. The Board of Directors of the Community Fire

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Protection District has gone on record that they would not consider extending their boundaries to include the City of Vinita Park.

- "5. The proposed annexation would include all of the City of Vinita Park with the exception of that portion of the City which is now within the Community Fire Protection District.

"Thanking you in advance for your kind cooperation, I am."

Boundaries of fire protection districts may be changed as Provided in Section 321.300, RSMo 1949. A portion of this section is as follows:

"Seventy-five per cent of the owners of any territory or tract of land near or adjacent to a fire district who own not less than fifty per cent of the real estate in such territory or tract of land and not located within only a part of any municipality or another fire protection district may file with the board a petition in writing praying that such real property be included within the district. The petition shall describe the property owned by the petitioners, and shall be deemed to give assent of the petitioners to the inclusion in said district * * * * *"

This statute has never been construed by the appellate courts of the state. We must, therefore, rely upon the general rules of statutory construction.

A general principle which seems to apply in this case is defined in 59 C. J. 968-969, as follows:

"As courts are not at liberty to construe a statute when the language is plain, but must give effect to the legislative intent as expressed by the language, it follows that where the language adequately expresses the intention of the legislature, it must

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be given effect regardless of the consequences; and the fact that such effect causes hardship or inconvenience, or even injustice, or will render another statute redundant, cannot be considered by the court * * * * * ."

This rule has been sustained by the Supreme Court of Missouri in numerous cases. In *Betz v. K. C. Southern Ry. Co.*, 314 Mo. 390, 410, the court said:

"However, the language of the statute (and particularly the language of the amendatory clause of 1905, creating a fourth class of beneficiaries, in which class plaintiff falls) is plain, clear and unambiguous. In 36 Cyc. 1106, it is said: 'The great fundamental rule in construing statutes is to ascertain and give effect to the intention of the Legislature. This intention, however, must be the intention as expressed in the statute, and where the meaning of the language used is plain, it must be given effect by the courts, or they would be assuming legislative authority.' And in 36 Cyc. 1114, it is furthermore said: 'In the interpretation of statutes, words in common use are to be construed in their natural, plain and ordinary signification. It is a very well-settled rule that so long as the language used is unambiguous, a departure from its natural meaning is not justified by any consideration of its consequences, or of public policy, and it is the plain duty of the court to give it force and effect. ! * * * * * "

The language of Section 321.300 seems to be clear and unambiguous, and we think the general rule defined by the Supreme Court of the State should apply. It simply means that only a part of an incorporated city, town or village may not be annexed to a fire protection district.

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CONCLUSION

It is the opinion of this office that the Wellston Fire Protection District in St. Louis County may not extend its boundaries to include only a part of the City of Vinita Park.

Section 321.300 is being amended, however, by the passage of House Bill No. 104, which contains a proviso, as follows: "provided that in the case of a municipality having less than twenty per cent of its total population in one fire protection district the entire remaining portion may be included in another district so that none of the city is outside of a fire protection district at the time."

This act has been signed by the Governor and will take effect ninety days after the adjournment of the 67th General Assembly.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. B. A. Taylor.

Yours very truly

JOHN M. DALTON
ATTORNEY GENERAL

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