

LAND CLEARANCE FOR
REDEVELOPMENT
AUTHORITY:

The land clearance for redevelopment au-
thority is a political subdivision of the
state, within the meaning of the Social
Security Act and Section 105.300, RSMo
Cum. Supp. 1955.

June 12, 1956



Honorable Newton Atterbury
Comptroller and Budget Director
Division of Comptroller and Budget
Department of Revenue
Jefferson City, Missouri

Dear Mr. Atterbury:

Your recent request for an official opinion reads as fol-
lows:

"The Federal Social Security Agency has
presented a question to this office re-
garding the Land Clearance and Redevelo-
pment Authority of St. Louis City and St.
Louis County, Mo.

"Is the Land Clearance and Redevelopment
Authority a political subdivision of the
State within the meaning of the Social
Security Act and Section 105.300 RS Mo
Supplement 1955? This agency was organ-
ized under Section 99 RS Mo Supplement
1955."

We first note that paragraph (8) of Section 105.300, RSMo
Cum. Supp. 1955, reads:

" 'Political subdivision', any county,
township, municipal corporation, school
district, or other governmental entity
of equivalent rank; "

From this we see that a municipal corporation is a political
subdivision of the state. Therefore, if a person is an employee
of either a political subdivision or of a municipal corporation,
he comes within the compass of Section 105.300, supra. We also
see that, if the land clearance for redevelopment authority is
either a political subdivision or a municipal corporation, its
employees come within the compass of Section 105.300.

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In the 1939 case of *Larst Inv. Co. v. Dickmann*, 134 S.W. 2d 65, at l.c. 68 et seq., the Missouri Supreme Court stated in part:

"The Act does not expressly provide that the property of the Authority shall be exempt from taxation, but does expressly declare that the Authority is a municipal corporation incorporated for essential public purposes. Section 9743, Revised Statutes Missouri, 1929, Mo. St. Ann. § 9743, p. 7863, exempts from taxation 'lands and other property belonging to any city, county or other municipal corporation in this state.' However, the absence of any express exemption in the Act is of no consequence, because the constitutional provision above quoted is self enforcing and controlling. If the Housing Authority created under the Act is a valid municipal corporation performing an essential public function, then the property of the Authority is exempt from taxation without any statutory declaration to that effect, and its property would be exempt even if the Act had declared it taxable.

"What is a 'municipal corporation' within the meaning of the Missouri constitution? This court has never given an answer to that question which will apply to the facts of the instant case.

"The term 'municipal corporation' is sometimes used in a strict sense to designate a corporation possessing some specified power of local government. In a broader sense it includes public, or quasi public, corporations designed for the performance of an essential public service. See Dillon

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on Municipal Corporations, Fifth Ed. Sec.32.

"This court has adopted the broader definition. In State ex rel. Caldwell v. Little River Drainage District, 291 Mo. 72, loc. cit. 79, 236 S.W. 15, loc. cit. 16, we said: 'In its strict and primary sense the term "municipal corporation" applies only to incorporated cities, towns, and villages, having subordinate and local powers of legislation. Heller v. Stremmel, 52 Mo. 309. But in the larger and ordinarily accepted sense the term is applied to any public local corporation, exercising some function of government, and hence includes counties, school districts, townships under township organization, special road districts and drainage districts.'

"See also State ex rel. Kinder v. Little River Drainage District, 291 Mo. 267, 236 S.W. 848; Grand River Drainage District v. Reid, 341 Mo. 1246, 111 S.W. 2d 151; State ex rel. Caldwell v. Little River Drainage District, 291 Mo. 72, 236 S.W. 15; Harris v. William R. Compton Bond Co., 244 Mo. 664, 149 S.W. 603.

"The broad definition of a municipal corporation requires that it be formed for the purpose of performing some governmental function. The General Assembly, in the Act under consideration, declared the Housing Authority to be a municipal corporation, defined its purposes, declared them to be governmental functions, and declared the existence of an urgent necessity for its services.

"The finding and declaration of the General Assembly are not binding on this court, but

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are entitled to great weight. We do not know, and are not at liberty to ascertain, what evidence they had before them; we can only indulge the presumption that the evidence was sufficient to justify them in finding the existence of the conditions set forth in their declaration. We must presume that the declared purposes are 'public purposes' and 'governmental functions' unless it clearly appears that they are not in harmony with the provisions of the constitution. Ex parte Renfrow, 112 Mo. 591, loc. cit. 595, 20 S.W. 682; Halbruegger v. St. Louis, 302 Mo. 573, 262 S.W. 379; Jennings v. St. Louis, 332 Mo. 173, 58 S.W. 2d 979, 87 A.L.R. 365."

In the case of St. Louis Housing Authority v. St. Louis, 239 S.W. 2d 289, at l.c. 291, the Missouri Supreme Court said:

"This action by St. Louis Housing Authority, a chartered municipal corporation organized under our state 'Housing Authorities Law', R.S. Mo. 1949, §§ 99.010 to 99.230, originally approved May 15, 1939, Laws Mo. 1939, p. 488 (hereinafter called plaintiff) against the City of St. Louis, Missouri, a municipal corporation (hereinafter called defendant), is one under the Declaratory Judgment Act. Plaintiff seeks a judgment declaring that (1) plaintiff and defendant have constitutional and statutory authority to execute a certain contract called the 'Cooperation Agreement', and (2) that said 'Cooperation Agreement' is valid and legally commits plaintiff and defendant to the terms and conditions thereof. The validity and effect of that Cooperation Agreement is in issue here. A justiciable controversy is presented."

At l.c. 294 et seq., the court further stated:

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"A 'municipal corporation' is commonly called a 'municipality'. 62 C.J.S., Municipal Corporations, § 1, page 64; State ex rel Koontz v. Board of Park Commissioners, 131 W.Va. 417, 47 S.E.2d 689, 694. By both judicial recognition and common usage 'municipality' is a modern synonym of 'municipal corporation'. 'Municipality' is all embracing. It includes, of course, cities of all classes, as well as towns, but it includes also a non-profit agency, such as plaintiff, which is authorized to exercise public and essential governmental functions. By the General Assembly plaintiff's status is declared to be a municipal corporation exercising public and essential government functions. Webster's New International Dictionary, 2nd Ed., defines municipality as a municipal corporation. The suffix 'ity' denotes state, or condition of being. Thus municipality connotes the state or condition of being municipal in nature. The word 'municipal' is derived from the latin 'municipalis', and implies the right of local self government. Municipality now has a broader meaning than 'city' or 'town', and presently includes bodies public or essentially governmental in character and function and distinguishes public bodies, such as plaintiff, from corporations only quasi-public in nature. 42 C.J., p. 1413; 61 C.J.S., Municipal, page 945; Curry v. Sioux City Dist.Tp., 62 Iowa 102, 17 N.W. 191. But the two terms (municipality and municipal corporation) are often interchangeably used. Likewise, 'municipal corporation', in the broader sense now includes public corporations created to perform an essential public service and 'is applied to any public local corporation exercising some function of government'. 'Municipal corporation' now also includes a corporation created principally as an instrumentality of the state but not for the purpose of regulating the internal local and

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special affairs of a compact community. Columbia Irrigation Dist. v. Benton County, 149 Wash.234, 270 P. 813; 62 C.J.S., Municipal Corporations, § 5, page 76; State ex rel. Caldwell v. Little River Drainage District, 291 Mo. 72, loc. cit. 79, 236 S.W.15; Laret Inv. Co. v. Dickmann, supra; Dillon on Munic. Corp. 5th Ed. Sec. 32. Under the instant circumstances we are constrained to rule that both plaintiff and defendant are a 'municipality' as contemplated and used in Section 16 of Article VI of our Constitution and in R.S.Mo 1949, § 70.220. Both are likewise a 'municipal corporation'. Under the above considered sections plaintiff and defendant clearly possess the constitutional and statutory authority to execute the instant Cooperation Agreement."

An examination of the Municipal Housing Law, Chapter 99, RSMo 1949, which the two above cases held created municipal corporations, is so similar to the land clearance for redevelopment authority, Chapter 99, RSMo Cum. Supp. 1955, that it seems apparent that if the former creates a municipal corporation, as it is held to do in the cases above cited, the latter does also, and that since the definition of "political subdivision," numbered paragraph (8), Section 105.300 RSMo Cum. Supp. 1955, supra, includes "municipal corporation," supra, that the land clearance for redevelopment authority creates a political subdivision.

The Municipal Housing Law, Chapter 99, Section 99.080, RSMo 1949, reads in part as follows:

"An authority shall constitute a municipal corporation, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to others herein granted:

"(1) To sue and be sued; to have a seal and to alter the same at pleasure; to have per-

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petual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; and to make and from time to time amend and repeal bylaws, rules and regulations, not inconsistent with this chapter, to carry into effect the powers and purposes of the authority;

"(2) Within its area of operation: To prepare, carry out, acquire, lease and operate housing projects; to provide for the construction, reconstruction, improvement, alteration or repair of any housing project or any part thereof;

"(3) To arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works, or facilities for, or in connection with, a housing project or the occupants thereof; and (notwithstanding anything to the contrary contained in this chapter or in any other provision of law) to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid of the project;

"(4) To lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project and (subject to the limitations contained in this chapter) to establish and revise the rents or charges therefor; to own, hold, and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or otherwise any real or personal property or any interest therein; to acquire by the exercise of the power of

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eminent domain any real property in fee simple or other estate; to sell, lease, exchange, transfer, assign pledge, or dispose of any real or personal property or any interest therein; to insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards; to procure or agree to the procurement of insurance or guarantees from the federal government of the payment of any bonds or parts thereof issued by an authority, including the power to pay premiums on any such insurance;

*(5) To invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; to purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be canceled; * * *

The land clearance for redevelopment law, Section 99.420, RSMo Cum. Supp. 1955, reads in part as follows:

"An authority shall constitute a public body corporate and politic, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this law, including the following powers in addition to others herein granted:

*(1) To sue and to be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; and to make and from time to time amend and repeal by-laws, rules and regulations, not inconsistent

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with this law, to carry out the provisions of this law;

"(2) To prepare or cause to be prepared and recommend redevelopment plans and urban renewal plans to the governing body of the community or communities within its area of operation and to undertake and carry out land clearance projects and urban renewal projects within its area of operation;

"(3) To arrange or contract for the furnishing or repair, by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities or other facilities for or in connection with a land clearance project or urban renewal project; and notwithstanding anything to the contrary contained in this law or any other provision of law, to agree to any conditions that it may deem reasonable and appropriate attached to federal financial assistance and imposed pursuant to federal law relating to the determination of prevailing salaries or wages or compliance with labor standards, in the undertaking or carrying out of a land clearance project or urban renewal project, and to include in any contract let in connection with such a project provisions to fulfill such of the conditions as it may deem reasonable and appropriate;

"(4) Within its area of operation, to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, eminent domain or otherwise, any real or personal property or any interest therein, including fee simple absolute title, together with any improvements thereon, necessary or incidental to a land clearance project or urban renewal project; to hold, improve, clear or prepare for redevelopment or urban renewal any such

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property; to sell, lease, exchange, transfer, assign, subdivide, retain for its own use, mortgage, pledge, hypothecate or otherwise encumber or dispose of any real or personal property or any interest therein; to enter into contracts with redevelopers of property and with other public agencies containing covenants, restrictions and conditions regarding the use of such property for residential, commercial, industrial, recreational purposes or for public purposes in accordance with the redevelopment or urban renewal plan and such other covenants, restrictions and conditions as the authority may deem necessary to prevent a recurrence of blighted or insanitary areas or to effectuate the purposes of this law; to make any of the covenants, restrictions, or conditions of the foregoing contracts covenants running with the land, and to provide appropriate remedies for any breach of any such covenants, or conditions, including the right in the authority to terminate such contracts and any interest in the property created pursuant thereto; to borrow money and issue bonds and provide security for loans or bonds; to insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards, including the power to pay premiums on any such insurance; and to enter into any contracts necessary to effectuate the purposes of this law; provided, however, that no statutory provision with respect to the acquisition, clearance or disposition of property by other public bodies shall restrict an authority or other public bodies exercising powers hereunder, in such functions, unless the legislature shall specifically so state; * * *

As we stated above, in view of the similarity of the law and the authority granted, it is obvious that if the municipal housing law creates a municipal corporation, as it has been held to do, then the land clearance for redevelopment law does the same thing.

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CONCLUSION

It is the opinion of this department that the land clearance for redevelopment authority is a political subdivision of the state, within the meaning of the Social Security Act and Section 105.300, RSMo Cum. Supp. 1955.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Hugh P. Williamson.

Very truly yours

John M. Dalton
Attorney General

HPW:lc