

CITIES:
TOWNS AND VILLAGES:
CONSOLIDATION:
MUNICIPAL CORPORATIONS:

Every municipality to be consolidated under Section 72.150 RSMo 1959, must be adjoining and contiguous to every other municipality involved in the consolidation.

November 6, 1961



Honorable Raymond R. Roberts
Prosecuting Attorney
St. Francois County
Farmington, Missouri

Dear Sir:

We are in receipt of your request for an opinion of this office, which request is as follows:

"A question has arisen here relative to the consolidation of several incorporated communities in the 'Lead Belt' Area under House Bill No. 289, Sections 72.157 to 72.200 inclusive, Missouri Revised Statutes, 1959. In this area there are some four towns and several villages with populations of less than five thousand. They are so arranged geographically, that Flat River forms a hub, adjoined on the east by Esther, and on the south by Leadington, on the north by Desloge, and on the west by Elvins. Elvins, Esther, Desloge and Leadington border Flat River but do not touch each other. One or two more or less inactive villages are also in the area.

"Our question concerns the construction of the language 'adjoining and contiguous to each other', as that language is embodied in Section 72.150, specifically whether the three or more incorporated municipalities which form a continuous area not separated by intervening land, the two of which do not touch each other, may properly consolidate in one Section under Chapter 72, Missouri Revised Statutes, 1959."

As you note in your letter, House Bill No. 289 of the 71st General Assembly, repealing Sections 72.150 through 72.200, RSMo 1949, provides for the consolidation of cities. However, the language crucial to the question you present remains unchanged in the new Section 72.150, RSMo 1959, which is as follows:

"When two or more cities, towns or villages, other than those located in counties containing a city, or a part thereof, of more than 400,000 and less than 700,000 inhabitants, in this state adjoining and contiguous to each other in the same or adjoining county shall be desirous of being consolidated, it shall be lawful for them to consolidate under one government, in the manner and subject to the provisions herein prescribed."
(Emphasis supplied.)

Although the meaning of the terms "adjoining and contiguous" when used loosely will sometimes vary with the context, technically and legally they mean to join; to abut; to be in contact with. *Rose v. Smiley, Mo.*, 296 SW 815, 817; *Bolen v. Ryan*, 48 Mo. App. 512, 515. The terms are distinguishable from "adjacent," meaning to be near to, or in close proximity to. *Hauber v. Gentry, Mo.*, 215 SW2d 754, 758 (citing Webster's New International Dictionary, 2d Ed.). Therefore, it can be concluded that Section 72.150, RSMo 1959, applies only to municipalities, the boundaries of which are at some point actually in contact; are touching.

The question remains, which municipalities must be adjoining? The statute provides that they must be "adjoining and contiguous to each other." It is evident that the proposed ordinance enclosed with your letter was drafted on the theory that a series of municipalities may consolidate under this section when they form a chain in which every municipality affected is adjoining and contiguous to at least one other municipality in the chain, but every one is not adjoining and contiguous to every other one in the chain. The determination of the question must turn on the interpretation of the phrase "to each other," used in Section 72.150. It is our opinion that the word "each" is a distributive term and, as used here, is all-inclusive and has reference to every affected municipality. Thus, every municipality to be consolidated must be adjoining and contiguous to every other one involved. Since the terms "adjoining and contiguous" denote actual contact, only those cities, towns and villages sharing a common boundary at some point or points may vote to consolidate.

We are supported in this conclusion by the case of State ex rel. Ives v. City of Kansas City, Kan., 31 P. 1100. In that case, the applicable statute provided for mandatory consolidation of certain cities "lying adjacent to each other and not more than three fourths of one mile apart," and meeting certain other qualifications. The cities of Kansas City, Wyandotte, and Armourdale were consolidated pursuant to the statute and an action was brought some time later to dissolve the newly created city on the ground that the requirements of the consolidation statute were not met. It appears that there was a common boundary between Kansas City and Wyandotte and between Kansas City and Armourdale but that a railroad right of way 750 feet wide separated Wyandotte and Armourdale. The court held Wyandotte and Armourdale to be "adjacent" within the statutory limit of three fourths of a mile. The significance of the case for present purposes lies in the fact that it was apparently conceded by the parties and assumed by the court that the language "adjacent to each other" means that every city within the group to be consolidated had to be adjacent to every other such city. Were this not so, it would not have been necessary to determine whether the intervening railroad strip prevented Wyandotte and Armourdale from being adjacent, since, admittedly, Armourdale was adjacent to Kansas City which was adjacent to Wyandotte. The case is distinguishable from the present situation inasmuch as the statute required only that cities be "adjacent to each other" rather than "adjoining and contiguous to each other" as prescribed by Section 72.150. However, it does serve to illustrate the construction placed, at least by implication, on the words "to each other," common to both statutes.

CONCLUSION

It is therefore the opinion of this office that consolidation may be accomplished under Section 72.150, et seq., RSMo 1959, only when every affected municipality is adjoining and contiguous (meaning connected) to every other affected municipality.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, James J. Murphy.

Yours very truly,

THOMAS F. EAGLETON
Attorney General