

August 12, 1963



Board of Public Buildings  
State Capitol  
Jefferson City, Missouri

Gentlemen:

We have been requested by Mr. John D. Paulus, Jr., to furnish an opinion whether he may legally receive a salary as Acting Director of Public Buildings in addition to his salary as Chief of Planning and Construction.

Mr. Paulus holds the statutory position of Chief of Planning and Construction, and Section 8.290, RSMo 1959, provides that his compensation as such "shall be fixed by the comptroller, with the approval of the governor, at a sum not to exceed twelve thousand dollars annually payable in equal monthly installments".

The position of Director of Public Buildings is created by Section 8.020, RSMo 1959, which provides that such officers shall receive an annual salary of \$7500.00. That position has not been filled during the present state administration but the Board of Public Buildings has designated Mr. Paulus as Acting Director of Public Buildings and he has been serving as such since 1961. Under Section 8.030, RSMo 1959, the Director of Public Buildings, with the approval of the Board of Public Buildings, employs and fixes the compensation of other officers and employees of the Division of Public Buildings. Since he is Acting Director, rather than Director, Mr. Paulus would not be entitled by law to the statutory salary, but he could receive such salary as might be approved by the Board of Public Buildings, unless this is prevented by the fact that he is Chief of Planning and Construction.

The first question is whether Mr. Paulus may legally hold both of the positions now held by him. There is no general constitutional or statutory prohibition against the holding of two state offices or employments in Missouri and we find no specific prohibition against the same person holding the two positions now held by Mr. Paulus. There is a common law rule, followed in this state, which is to the effect that the same person may not hold two incompatible offices. However, from an examination of the

pertinent statutes, we find no basis for holding that the powers and duties which Mr. Paulus might have as Acting Director of Public Buildings are incompatible with those of the Chief of Planning and Construction. Moreover, it would appear that this question was resolved, as a practical matter, when the Board of Public Buildings designated Mr. Paulus as Acting Director of Public Buildings over two years ago.

The second question is whether there is any reason why Mr. Paulus may not legally receive separate salaries for each of the two positions legally held by him. Here, again, we find no general or specific constitutional or statutory prohibition against the payment of compensation for both positions. In the absence of such a prohibition, we know of no reason why Mr. Paulus legally may not be paid a salary for the added responsibilities assumed by him as Acting Director of Public Buildings as well as his statutory salary as Chief of Planning and Construction.

The question whether, as a matter of policy, Mr. Paulus should be paid two salaries is, of course, one for determination by the Board of Public Buildings and one concerning which no opinion is expressed herein.

Yours very truly,

THOMAS F. EAGLETON  
Attorney General

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