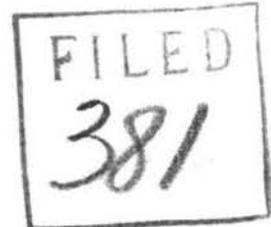


September 30, 1963



Honorable Milton Litvak  
Vice Chairman  
Missouri Commission on  
Human Rights  
Room 234, Capitol Building  
Jefferson City, Missouri

Dear Sir:

We have your letter of September 16, 1963, in which you request an opinion of this office as follows:

"I am enclosing a copy of Public Accommodations Ordinance (Ordinance No. 3499) recently passed by the Council of the City of St. Joseph, Missouri and a copy of the St. Joseph city charter.

"I would like your opinion whether the city has the power to enact such an ordinance dealing with public accommodations."

We have examined Ordinance No. 3499 and the Charter of the City of St. Joseph in the light of the decision of the Missouri Supreme Court in *Marshall v. Kansas City, Mo.*, 355 SW2d 877.

In the *Marshall* case, the Supreme Court ruled that an ordinance of Kansas City designed to prohibit discrimination because of race or color in places of public accommodation was within the powers conferred upon the city council by the city charter. We note that Ordinance No. 3499 is nearly

identical in its pertinent provisions to those sections of the Kansas City ordinance set out in the Supreme Court's decision.

Moreover, it appears that the St. Joseph city charter contains provisions substantially similar to those provisions of the Kansas City charter quoted by the Court in its opinion and upon which the Court's decision was grounded. In particular, we refer to Subsections (12), (19), (20), (22) and (29) of Section 2.13, and Section 19.1, all of the Charter of the City of St. Joseph.

In upholding the Kansas City public accommodations ordinance, the Supreme Court said (1.c. 355 SW2d 883):

"We are constrained to hold that this municipal ordinance, designed to prevent discrimination by reason of race or color in restaurants, bears a substantial and reasonable relation to the specific grant of power to regulate restaurants and to the health, comfort, safety, convenience and welfare of the inhabitants of the city and is fairly referable to the police power of the municipal corporation." [Citing cases.]

In view of the near identity between the relevant provisions of the Kansas City ordinance and charter and the St. Joseph ordinance and charter, it is apparent that the Supreme Court's decision on the Kansas City public accommodations ordinance is controlling and that the City of St. Joseph does have the authority to enact Ordinance No. 3499.

Yours very truly,

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THOMAS F. EAGLETON  
Attorney General

JJM:ml