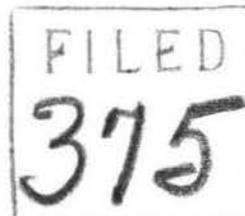


Senator Raymond Hopfinger-

Opinion No. 375
Answered by Letter (Ashby)

October 11, 1965



Senator Raymond Hopfinger
3227 Cross Keyes Drive, Apt. 1
Florissant, Missouri

Dear Senator:

This letter is in response to your telephone call wherein you submitted the following facts and based on these facts, this question which is set out below:

The City of Florissant is a constitutional charter city. It has nine council members and a mayor. Assuming a bill was properly before the council, and three councilmen voted "for" the bill; three voted "against" and three abstained from voting, what is the status of such a bill?

Article III of the Charter of Florissant deals with the council, its organization and powers. Section 3.1, thereof, provides that the council shall consist of nine members. Section 3.5 provides that the council shall determine by ordinances its own rules. Section 3.7 states "the affirmative vote of a majority of the members of the council shall be necessary to adopt any ordinance, resolution, or motion."

Section 2 of Ordinance 1340 adopted September 23, 1963, provides in part that the president shall decide all questions of order and procedure in accordance with Robert's Rules of Order.

In discussing the subject of tie votes Robert in his "Rules of Order," Section 46 at page 191, has this to say:

" * * * On a tie vote the motion is lost, * * * "

It is clear that when the vote is three "for" and three "against" there is a tie vote and there is no majority regardless of the number of abstentions.

Senator Raymond Hopfinger

This ruling is to be distinguished from Attorney General's Opinion No. 249, Schechter, dated August 6, 1965, on the law and facts. On the facts here, you have a tie vote and under Robert's Rules of Order, the motion then pending must be considered lost. In opinion no. 249 there was a clear majority of the votes cast by the aldermen for the bill.

We therefore conclude that on the facts stated and the question asked that the bill failed to meet the requirements of the city charter for passage.

We trust this explanation will constitute a satisfactory answer for your purposes.

If there is anything further we can do for you, please feel free to call upon this office for assistance.

Yours very truly,

NORMAN H. ANDERSON
Attorney General

RA:am/df