

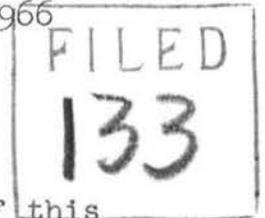
PARKS:
DAMS:
RESERVOIR:
COUNTY PARKS:
COUNTIES:
RECREATION GROUNDS:

Clay County cannot spend its funds for the improvement of a reservoir located in Clinton County until such time as Clay County and Clinton County adopt a plan to cooperate under the authority of Sections 64.750 and 64.780 Cum. Supp. 1965, and said two counties may then properly develop the projects of their natural resources for the mutual benefit of the people of each county.

OPINION NO. 133

Honorable Gerald Kiser
Clay County Prosecuting Attorney
Liberty, Missouri

December 6, 1966



Dear Mr. Kiser:

Your letter of January 13, 1966, requesting an opinion of this office is as follows:

"I have been asked by the Clay County Park and Recreation Planning Commission for an opinion regarding the use of Clay County Funds in any other area outside of Clay County.

"This question concerns the proposed dam and reservoir at Smithville (Clay County), Missouri. This reservoir will back up into Clinton County. At the present time, Clinton County does not have a park commission, and therefore has no monies available for the purpose of developing recreation areas adjacent to that part of the reservoir in Clinton County.

"The Clay County Park and Recreation Planning Commission has asked me to obtain an opinion from you relating to the legality of spending Clay County Funds in Clinton County, for this purpose."



Section 64.755 Cum. Supp. 1965, provides that political subdivisions may establish a system of public recreation and that they may create such a system jointly with other counties.

In substance, Section 64.755, supra, provides that county courts may provide for parks and recreation centers and that funds may be set up in their respective budgets by the county courts, and this section further defines the powers of such counties in connection with such a program.

Honorable Gerald Kiser

Section 64.760 provides for a joint operation of a recreation system. This section is as follows:

"Any two or more governing bodies may establish and conduct jointly a system of public recreation and may exercise all the powers authorized by sections 64.750 to 64.780. The respective governing bodies administering programs jointly may provide by agreement among themselves for all matters connected with the programs and determine what items of cost and expense shall be paid by each."

Section 64.755 (supra) grants to a governing body of a political subdivision the broadest possible power to establish, equip, develop, operate, maintain and conduct a system of public recreation including parks and other recreational grounds.

This section indicates that a county court has the broadest possible power, for the reason that it contains no limitation on the establishment and maintenance of such recreation facilities within the limits of the county or political subdivision.

However, the following section, Section 64.760, expressly authorizes two or more governing bodies of political subdivision to establish, and conduct jointly, a system of public recreation. It provides for an agreement between the governing bodies administering the program jointly, to determine what items of cost and expense shall be paid by each.

The power delegated to political subdivisions by these two sections is actually unnecessary in the light of Section 70.220, RSMo 1959, which section provides for the cooperation of political subdivisions to contract and cooperate in the planning development and operation of public improvements.

Therefore, we must assume that the Legislature, when it enacted Section 64.760, meant to imply that the powers granted to a county by Section 64.755 were limited.

In other words Section 64.760, when applied to counties, impliedly limits counties from spending county funds outside of the county limits, unless they cooperate with an adjoining county in the manner prescribed in Section 64.760.

It is to be seen by a reading of Sections 64.750 to 64.780 that Clay County and Clinton County may cooperate in the establishment of a recreation center, provided they proceed as outlined in these statutes.

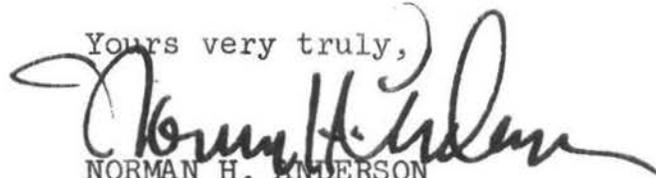
Honorable Gerald Kiser

CONCLUSION

It is therefore the opinion of this office that Clay County, cannot spend its funds for the improvement of a reservoir located in Clinton County until such time as Clay County and Clinton County adopt a plan to cooperate under the authority of Sections 64.750 and 64.780, Cum. Supp. 1965, and said two counties may then properly develop the projects of their natural resources for the mutual benefit of the people of each county.

The foregoing opinion which I hereby approve was prepared by my assistant, O. Hampton Stevens.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Norman H. Anderson".

NORMAN H. ANDERSON
Attorney General