

January 12, 1970



OPINION LETTER NO. 21

Honorable Charles S. Broomfield  
State Representative  
District 87  
4801 North Lister  
Kansas City, Missouri 64119

Dear Representative Broomfield:

This letter was prepared to answer your question whether a city ordinance of North Kansas City is valid when such ordinance requires that the members of a planning and zoning commission be freeholders.

Section 71.150 of the Revised Statutes of Missouri, 1959, reads, in pertinent parts, as follows:

"Property qualifications for officers prohibited.--No property qualification shall be required of any person to render him eligible to any office in any city or incorporated town."

The ordinance of North Kansas City reads as follows:

"Sec. 2-51. The planning and zoning commission shall consist of six members, five of whom shall be freeholders. The membership of the first commission appointed shall serve respectively, one for one year, one for two years, one for three years, one for four years, and one for five years. Thereafter members shall be appointed for terms of five

Honorable Charles S. Broomfield

years each. The mayor of the city shall be an ex officio member of the planning and zoning commission. (Ord. No. 2509, § 4.)"

In the case of *Fore v. Hoke*, 48 Mo.App. 254, it was held that the word "freeholder" means the owner of an estate in fee in land.

Section 89.070, RSMo 1959, reads as follows:

"Zoning commission--appointment--duties.--  
In order to avail itself of the powers conferred by sections 89.010 to 89.140, such legislative body shall appoint a commission, to be known as 'The Zoning Commission', to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report and such legislative body shall not hold its public hearings or take action until it has received the final report of such commission. Where a city plan commission already exists, it may be appointed as the zoning commission."

Section 71.150, supra, is a statute of general application governing the "qualifications \* \* \* of any person to render him eligible to any office in any city or incorporated town." It would apply to members of the "planning and zoning commission" appointed under Section 89.070, supra. Thus, the requirement of the city's Section 2-51, supra, requiring its members be freeholders would run contrary to and be in violation of the provisions of Section 71.150, supra.

We conclude that Section 2-51 of the ordinance requiring the members of the Planning and Zoning Commission to be freeholders is in violation of Section 71.150, RSMo 1959, for the reasons stated above and illegal.

Very truly yours,

JOHN C. DANFORTH  
Attorney General