

Answer by letter-Bartlett

July 31, 1970

OPINION LETTER NO. 216

Honorable Frank L. Mickelson
State Representative
District No. 110
Freeman, Missouri 64746



Dear Representative Mickelson:

This is a reply to your letter of February 27, 1970, in which you requested the opinion of this office on the validity of Ordinance 69-438.

Last year you requested an opinion on the validity of Belton City Ordinance 69-394. This office held, in Opinion Letter No. 302, September 24, 1969, Mickelson, that this ordinance was unconstitutional because it did not purport to regulate all used car lots in the City of Belton. It applied only to those used car lots not operated in conjunction with new car sales. Specifically, the ordinance was held to be (1) an unreasonable and discriminatory classification; and (2) a special law in a situation where a general law could have been made applicable. We also concluded that Belton had the power to regulate used car dealers and that such regulation was intended to protect the safety and general welfare of the inhabitants. The application of the ordinance to a limited group of used car dealers was the sole basis for finding the ordinance unconstitutional.

Ordinance 69-438, referred to in your present letter, makes the terms of the earlier ordinance applicable to all used cars lots. The pertinent part of Ordinance 69-438 reads as follows:

"Section 1. AMENDMENT: Ordinance No. 69-394 is hereby amended by deleting Section 1 in its entirety and substituting in its place and stead the following:

Honorable Frank L. Mickelson

"Section 1. AUTHORITY: Sections 79.470 M.R.S. as amended and 94.270 M.R.S. as amended, authorizes the City of Belton to establish norms and requirements which shall apply to the location and operation of used vehicle lots in the City of Belton."

Section 1 of Ordinance 69-394 which is amended by Ordinance 69-438 was written as follows:

"Section 1. AUTHORITY: Sections 79.470 M.R.S. as amended and 94.270, M.R.S. as amended, authorizes the City of Belton to establish norms and requirements which shall apply to the location and operation of used vehicle lots in the City of Belton which are not operated in conjunction with new car vehicle sales."
(Emphasis ours)

Because Ordinance 69-438 extends the coverage of Ordinance 69-394 to all used car lots, the basis of our objection to the constitutionality of Ordinance 69-394 has been removed.

Yours very truly,

JOHN C. DANFORTH
Attorney General

Enclosure: Op. Letter No. 302
9-24-69, Mickelson