

*Missouri*

PLANNING  
COMMISSION

Answer by letter-Klaffenbach

OPINION LETTER NO. 455

August 21, 1970

Honorable G. William Weier  
Prosecuting Attorney  
Jefferson County Court House  
Hillsboro, Missouri 63050

Dear Mr. Weier:

This letter is in response to your opinion request in which you ask the following:

"Jefferson County, a second class county, adopted planning and zoning in 1962 under Sections 64.510 through 64.690. Since the adoption, a Planning Commission was appointed under 64.540, subdivision regulations were adopted under 64.580 and zoning regulations were adopted on July 30, 1970, under 64.640. Said regulations were not to be enforced until 90 days from the 30th day of July 1970 and neither an officer, nor a court of adjustment has been appointed under 64.650 and 64.660.

"On August 4, a special election was held, along with the primary election in Jefferson County, under Section 64.885 of the Revised Statutes and Sections 64.800 through 64.905 were adopted in place of Sections 64.510 through 64.690. Thus, the alternate planning and zoning was enacted to replace planning and zoning under 64.510 through 64.690. Under 64.905, the Statute states that the alternate plan should be effective in the county and the County Planning and Zoning shall be conducted thereafter

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as provided in the alternate plan, rather than as provided in Section 64.510 to 64.690.

"The questions that we have are: 1. Under 64.905 is the County Court required to appoint a new Planning Commission, or does such Planning Commission continue as is, but under the alternate planning and zoning sections? 2. Will it be necessary for the County Court to readopt both subdivision regulations and zoning regulations under the procedure set out in 64.800 through 64.905, or do these regulations continue to be enforceable under the new sections?"

We note that the alternate planning and zoning was adopted under the provisions of Section 64.885, RSMo 1969, and that under said provisions if the majority of the votes cast is in favor of county zoning and planning, the county court is required to proceed with a program of county planning and zoning as provided in Sections 64.800 to 64.840 and 64.845 to 64.880, RSMo 1969.

Further, as you indicate, Section 64.905, RSMo 1969, provides:

"1. The provisions of sections 64.800 to 64.905 are established as an alternative to the provisions of sections 64.510 to 64.690.

"2. If the voters of any second or third class county adopt county planning or zoning under the provisions of sections 64.800 to 64.905 after having previously adopted county planning or zoning under the provisions of sections 64.510 to 64.690, the provisions of sections 64.800 to 64.905 shall be effective in the county and the county planning or zoning shall be conducted thereafter as provided in sections 64.800 to 64.905 rather than as provided in sections 64.510 to 64.690."

While we find no decided cases on the precise questions you pose, it is our view that, under these circumstances, the provisions of Sections 64.800 to 64.905, RSMo 1969, are effective and supersede the provisions of Sections 64.510 to 64.690, RSMo 1969. As a result the Planning Commission appointed pursuant to the sections which were superseded has no authority to continue to

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act under the adopted alternative plan. Further, it is our view that the regulations adopted under the prior plan which were to be effective on a date later than the date of the adoption of county planning and zoning under Sections 64.800 to 64.905, RSMo 1969, have no effect after the adoption of the alternative plan and all regulations must be made pursuant to the provisions of the alternative plan.

Very truly yours,

JOHN C. DANFORTH  
Attorney General