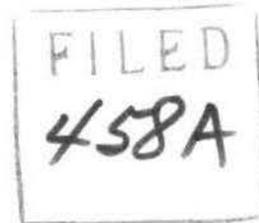


Answer by letter- Wood

OPINION LETTER NO. 458A

Honorable Charles S. Broomfield
State Representative
District No. 87
4801 North Lister
Kansas City, Missouri 64119



Dear Representative Broomfield:

Mr. Richard Watson has written us requesting a reconsideration of our Opinion Letter No. 458 issued to you on September 17, 1970.

In Opinion Letter No. 458 we concluded that the hospital board has a continuing judgment with respect to its utility contract, and therefore, a board member who is an employee or officer of the Gas Service Company is in violation of Section 105.490, RSMo.

Mr. Watson has advanced the additional information that the board member in question is not in an executive or supervisory capacity with the Gas Service Company but is rather a sales representative for a district of the Gas Company totally separate from the district where the hospital is located. We do not feel that this information would alter the conclusions stated in Opinion Letter No. 458. Even though this employee of the Gas Service Company is not in an executive or supervisory position, he would still be an "agent or member" or a person having a "substantial interest" in the company and therefore would be subject to the prohibition of Section 105.490.

Mr. Watson further states that once the natural gas burning equipment is installed in the hospital, the hospital board of trustees thereafter has no discretion (i.e., "transacts [no] business") in regard to procuring natural gas from the Gas Service Company, since the company is a regulated utility (Chapter 393, RSMo) and is the sole provider of natural gas for that area at rates that are not subject to negotiation between the company and the hospital.

Honorable Charles S. Broomfield

We fail to see the relevancy of the fact that the gas rates are set by law. A continuing obligation that a member of the board of trustees has is to determine whether the use of natural gas shall be continued, discontinued or supplemented by other fuels.

Yours very truly,

JOHN C. DANFORTH
Attorney General