



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

October 26, 1977

ATTORNEY GENERAL OPINION NO. 77-350

Mr. John Dekker
Director of Law
City Hall
455 North Main
Wichita, Kansas 67203

Re: Cities--Public Offices--Board of Zoning Appeals

Synopsis: A member of the Citizen Participation Organization, created by ordinance of the City of Wichita, holds a "public office of the city," and is thereby ineligible for appointment to or service upon the board of zoning appeals, so long as such person continues a member of the Citizen Participation Organization.

* * *

Dear Mr. Dekker:

K.S.A. 12-714 provides for the appointment of a board of zoning appeals, and states in pertinent part thus:

"None of the members shall hold any other public office of the city except that one member may be a member of the planning commission."

You inquire whether a member of the Citizen Participation Organization is thereby disqualified under this provision from appointment to and service upon a board of zoning appeals. The question becomes, then, whether a member of the Citizens Participation Organization holds a "public office of the city."

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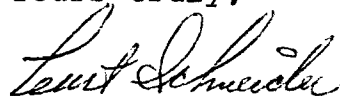
In November, 1975, the question was presented to this office by the office of the Sedgwick County District Attorney whether the Sedgwick County Election Commissioner is authorized or required to conduct an election for the City of Wichita for the election of members of the 15 Neighborhood Councils which, together with the Central Council, comprise the Citizen Participation Organization of that city, which is created by and exists solely under the authority of city ordinance. K.S.A. 25-2110 provides that all city elections must be conducted by the county election officer of the county in which the city is located. The term "city election" is defined by K.S.A. 25-2103, to mean "the election of such city officers as are provided by law to be elected." If members of the Organization were not "officers" of the city, the county election commissioner was not authorized to conduct an election for the purpose of electing persons to membership on the constituent Neighborhood Councils. In Opinion No. 75-437, we stated thus:

"Members of the Neighborhood Councils hold positions created by city ordinance, perform duties assigned to them under the terms of that ordinance, and take an oath of office before entering upon their duties. For the purpose of chapter 25, K.S.A., such persons are officers provided by city ordinance to be elected, and the election of such persons must be conducted by the county Election Commissioner."

I see no justification whatever for concluding that members of the Citizen Participation Organization are "officers of the city" under ch. 25, K.S.A., but do not hold "public offices of the city" within the meaning of K.S.A. 12-714.

Accordingly, it is my opinion that a member of the Citizen Participation Organization does in fact hold a public office of the city within the meaning of K.S.A. 12-714, and is thereby ineligible for appointment to or service upon the board of zoning appeals so long as such person continues a member of the Organization.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj