

STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

June 23, 1978

ATTORNEY GENERAL OPINION NO. 78-211

Mr. Morris J. Krouse
Acting Chairman
Urban Renewal Agency
Post Office Box 1003
Wichita, Kansas 67201

Re: Urban Renewal--Commissioners--Removal and Conflict of Interest

Synopsis: A notice to a member of an urban renewal commission advising the member that removal is contemplated by the city governing body, of the grounds for such proposed action, and that a hearing may be had by the commissioner complies with K.S.A. 17-4757(d). K.S.A. 17-4758 does not disqualify a member of the urban renewal commission from conveying property which said member owns in an urban renewal project to the agency, but does require that the member abstain from participation in any action by the agency regarding such transaction.

* * *

Dear Mr. Krouse:

As acting chairman of the Wichita Urban Renewal Commission you raise two questions concerning the business of the board.

You enclose a copy of a letter dated March 23, 1978, from Kenneth H. Kitchen, executive director of the board, addressed to vice-chairman, Robert A. Cowdrey, notifying him that he is subject to removal from the commission under § 2.12.070 of the city code because of questionable residency in the city. Mr. Kitchen further advised Mr. Cowdrey that a vacancy would be declared unless he requested a hearing before the board of city commissioners within ten days. You question whether the letter complies with K.S.A. 17-4757(d), which states thus:

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"For inefficiency or neglect of duty or misconduct in office, a commissioner may be removed only after a hearing and after he shall have been given a copy of the charges at least ten (10) days prior to such hearing and have had an opportunity to be heard in person or by counsel."

The letter purports to notify the commissioner of the grounds upon which removal action is proposed to be taken, *i.e.*, nonresidence in the city and lack of attendance at meetings of the Urban Renewal Commission, and offers the commissioner an opportunity for a hearing on these questions. So far as appears, the letter does not indicate that the city commission is to follow any procedure for removal other than that prescribed by the quoted language. You question whether the letter of notification of the proposed removal should properly have originated from the governing body of the city, rather than from the executive staff of the Urban Renewal Commission itself. So long as the letter is authorized by the governing body or its representatives, the notice is sufficient, in my judgment. The letter in question here indicates on its face that it was written at the direction of the city manager, and that is sufficient, in my judgment, to constitute the notice a valid notification required by the statute.

Secondly, you inquire whether, under K.S.A. 17-4758, a member of the Urban Renewal Commission may sell property to the agency and receive expenses for moving to a new property merely by abstaining from any action of the commission regarding the transaction. K.S.A. 17-4758 provides in pertinent part thus:

"[N]o commissioner . . . of an urban renewal agency . . . shall voluntarily acquire any interest, direct or indirect, in any urban renewal project, or in any property included or planned to be included in any urban renewal project or in any contract or proposed contract in connection with such urban renewal project."

It continues to provide further thus:

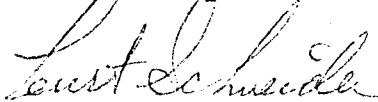
"If any such . . . commissioner presently owns or controls or owned or controlled within

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the preceding two (2) years, any interest, direct or indirect, in any property which he knows is included or planned to be included in an urban renewal project, he shall immediately disclose this fact in writing to the local governing body, and such disclosure shall be entered upon the minutes of the governing body and . . . such commissioner . . . shall not participate in any action by the . . . agency affecting such property."

This section prohibits the acquisition of an interest in any property in an urban renewal property, but it does not prohibit a commissioner from disposing of ownership of a property in the project to the agency, although it does require the commissioner to abstain from any action of the agency in regard thereto. Indeed, such a commissioner may not participate in any way in action by the agency affecting such property. He may not initiate the transaction, seek to influence the judgment of the other commissioners and of the agency staff regarding its terms, or in any other way act in any manner so as to affect or influence such a proposed transaction.

Yours truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj