



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

August 26, 1976

ATTORNEY GENERAL OPINION NO. 76- 271

Mr. Thomas C. Lysaught
Wyandotte County Counselor
Suite 511 - Huron Building
Kansas City, Kansas 66101

Re: Cities--Council Members--Eligibility

Synopsis: Where as a result of the redrawing of ward boundaries of a city of the second class, members of the council reside in wards other than those from which they were originally elected, despite the fact that no such members have effected a change in the place of residence during such time, such members may continue to serve in office until the expiration of their terms.

* * *

Dear Mr. Lysaught:

K.S.A. 14-204 states in pertinent part thus:

"Each ward of each city governed by this act shall have two councilmen, who shall be chosen by the qualified electors of their respective wards; and no person shall be eligible to the office of councilman who is not at the time of his or her election an actual resident of the ward for which he or she is elected, and if any councilman shall remove from the ward for which he or she was elected, his or her office as councilman shall thereby become vacated."

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You advise that the Wyandotte County Election Commissioner has redistricted the ward boundaries in the City of Bonner Springs. As a result, certain council members do not now reside in the wards from which they were elected at the last municipal election.

The question then arises whether the offices of the affected council members have been vacated by the redistricting. I agree fully with you that the offices have not become vacant as a result of the redistricting. Under K.S.A. 14-201, the mayor and council members shall hold their offices for a term of two years. The reasoning of the court in *Brungardt v. Leiker*, 42 Kan. 206 (1889) is fully applicable here, that the redrawing of ward or district boundaries does not operate to disqualify the incumbent officeholder from serving the balance of the term, notwithstanding that, as a result of the redrawn boundaries, the individual may reside in a district other than that from which he was elected. Where, as here, there has been no voluntary removal by any of the officers from the ward or wards from which each was elected, I concur fully in your judgment that the council members in question may continue in office until the end of the terms they are now serving.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj