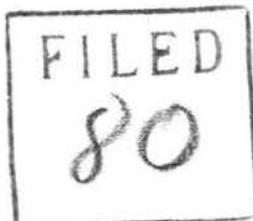


BOARD OF PUBLIC BUILDINGS:
DIRECTOR OF PUBLIC BUILDINGS:
CHIEF OF PLANNING AND
CONSTRUCTION:
PUBLIC BUILDINGS:

Chief of Planning and Construction
is not authorized or directed to
exercise any authority in conjunc-
tion with construction of medium
security penal institution at
Moberly, Missouri.



January 18, 1960

Honorable John W. Schwada
Comptroller and Budget Director
Capitol Building
Jefferson City, Missouri

Dear Sir:

Reference is made to your request for an official opinion,
which request reads as follows:

"A question has been raised with this office relative to the supervision of construction of the Medium Security Institution at Moberly, and as to the proper authority for the approval of payments against the appropriations for that institution.

"The 68th General Assembly in Extra Session approved Senate Committee Substitute for Senate Bill 1, which provided that the Board of Public Buildings shall 'prepare plans and specifications and shall proceed to construct or reconstruct on the site under the general supervision of the director of public buildings and from funds available for such purpose, a modern, medium security penal institution.'

"The 69th General Assembly, in its 2nd Extra Session by House Substitute for Senate Bill 3, established a Planning and Construction Unit of this Division and authorized the chief of that unit to supervise construction of certain types.

"The legal question would seem to be this: In view of the provisions of the above mentioned legislation, is the Chief of Planning and Construction required to exercise his duties with

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respect to the planning and construction of the Medium Security Institution?

"Since plans for the Moberly facilities are well underway and since it is my understanding that bids for construction will shortly be opened, I would appreciate a prompt reply from you."

The office of Chief of Planning and Construction was created in 1957. The powers and duties pertaining to said office are found in Sections 8.290 to 8.360, V.A.M.S. The principal duties of said office insofar as they pertain to the question here under consideration are found in Section 8.310, V.A.M.S., which section provides as follows:

"The chief of planning and construction shall serve as advisor and consultant to all department heads in obtaining architectural plans, letting contracts, supervising construction, purchase of real estate, inspection and maintenance of buildings. No contracts shall be let for repair, rehabilitation or construction of buildings without approval of the chief of planning and construction, and no claim for repair, construction or rehabilitation projects under contract shall be accepted for payment by the state without approval by the chief of planning and construction; except that after the need for the construction, repair, maintenance or improvement of any building or facility serving a state institution of higher learning has been determined and the proposed construction or improvement has been approved as part of the state's building program by the planning and construction section and has been authorized by the general assembly and the governor through a proper appropriation, the boards of curators of the state university and Lincoln University and the several boards of regents of the state colleges may contract for architectural and engineering services for the design and supervision of the construction, repair, maintenance or improvement of such educational buildings or institutions and may contract for such construction, repair, maintenance or improvement."

The duties to be performed by the Chief of Planning and Construction under the above section are to be exercised

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throughout the state, except at the seat of government and except as may otherwise be provided by law. This, for the reason that under the provisions of Section 8.120, V.A.M.S., the duty to contract for and superintend the repair and construction of any public buildings or improvements that are required by law at the seat of government is enjoined upon the Director of Public Buildings.

A medium security institution for the detention, confinement and rehabilitation of prisoners was established by an act of the General Assembly in 1956. See Laws of Missouri, 1955, Extra Session, page 27.

The act creating said institution provided for the creation of a commission to select a proper site, and further provided that, upon selection of the site, the Board of Public Buildings shall prepare plans and specifications and shall proceed to construct or reconstruct on the site, and under the general supervision of the Director of Public Buildings, a medium security penal institution. Said provision reads, in part, as follows (Laws of Mo., 1955, Ex. Sess., pp. 28 and 29):

"Upon the selection of the site for the institution, and the acquisition of the land if necessary, the board of public buildings shall prepare plans and specifications and shall proceed to construct or reconstruct on the site under the general supervision of the director of public buildings and from funds available for such purpose, a modern, medium security penal institution. * * *"

It is abundantly clear from the above provision that it is the duty of the Board of Public Buildings to secure plans and specifications and to construct, under the general supervision of the Director of Public Buildings, a medium security penal institution.

It is a familiar rule of statutory construction that where two laws relate to the same subject they must be read and construed together and provisions of one having special application to a particular subject are to be deemed a qualification of or an exemption to another act general in terms. *Veal v. City of St. Louis*, 365 Mo. 836, 289 SW2d 7.

Sections 8.290 to 8.360, V.A.M.S., relating to the duties of the Chief of Planning and Construction, are general in nature and relate to all construction. The provisions of Senate Committee Substitute for Senate Bill No. 1 of the 68th General

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Assembly, Laws of Missouri, 1955, Extra Session, page 27, are special, having application only to the construction of a medium security penal institution. Following the above-referred to rule of statutory construction, the special statute must prevail over the general. We are, therefore, led to the conclusion that the act charging the Board of Public Buildings with the duty of securing plans and specifications and constructing a medium security penal institution is a qualification of or exception to the provisions of Sections 8.290 to 8.360, V.A.M.S., and that the Chief of Planning and Construction is not required to exercise any duties in connection with the planning and construction of the medium security penal institution.

The Board of Public Buildings would be the proper authority to approve payments against the appropriations made for building such institution.

CONCLUSION

It is, therefore, the opinion of this office that the Chief of Planning and Construction is not authorized or directed to exercise any authority in conjunction with the construction of the medium security penal institution at Moberly, Missouri. The Board of Public Buildings is charged with the duty of constructing said medium security penal institution and such work is to be carried on under the general supervision of the Director of Public Buildings.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Donal D. Guffey.

Yours very truly,

JOHN M. DALTON
Attorney General

DDG:mc