CHAPTER 462

PLANNING, ZONING

ZONING

462.01 MUNICIPALITIES MAY PASS ZONING ORDINANCE

Denial of right of abutting owners to access to the street by driveway. 31 MLR 292.

Restrictive covenants in conveyances; waiver by acquiescence; estoppel. 32 MLR 524.

Validity of the Federal Housing and Rent Act of 1949; delegation of powers. 34 MLR 246.

A zoning ordinance which permits in a residential area public schools and churches, and schools accessory thereto, and prohibits therein private schools, is unconstitutional as applied to a private school owned and conducted by a non-stock and non-profit corporation the purpose of which is to train young men for competitive examinations for entrance into schools conducted by the armed services of the United States, and for appointment to a service in certain of the armed services. State v Northwest Preparatory School, 228 M 363, 37 NW(2d) 370.

Where violation of a zoning ordinance provision was dependent solely upon motive or purpose of the actor, and it did not clearly appear from the ordinance that the village council intended thereby to establish a standard of conduct to measure civil liability for negligence, the trial court properly refused to instruct the jury that violation of the ordinance constituted negligence per se. Hutchinson v Cotton, 236 M 366, 53 NW(2d) 27.

A provision in a zoning ordinance authorizing the erection in a residence district of accessory buildings, including one private garage, should be construed as authorizing the construction of a private garage in such a district only when it also is an accessory building, where the ordinance divides the city into a business district and a residence district, permits in the latter only specified uses deemed suitable for a residential district, excludes therefrom business enterprises, and defines separately accessory buildings and private garages, and where the use of a private garage other than one which also is an accessory building would emasculate and defeat the purpose of the ordinance in dividing the city into the two districts mentioned. A building permit issued in violation of a zoning ordinance by an official lacking power to alter or vary the ordinance is void, and the zoning regulation may be enforced notwithstanding the fact that the permittee may have commenced building operations. Lowry v City of Mankato, 231 M 108, 42 NW(2d) 553.

Reasonable setback lines may be adopted as a part of zoning ordinances, or separately in the absence of a general zoning ordinance, and the violation of an ordinance by others than the defendant does not preclude its enforcement against the defendant. Where the defendant has knowingly and wilfully violated a city ordinance, plaintiffs will not be denied a mandatory injunction to compel the undoing of defendant's wrong merely because it will cause defendant hardship or expense. McCavic v De Luca, 233 M 372, 46 NW(2d) 873.

Where transportation of a tenant by the landlord to work and other acts of hospitality were made by the landlord in a spirit of friendship and without any intention by the landlord ever to exact remuneration, the landlord could not maintain a counterclaim for such services in an action by the tenant to recover alleged rent overcharges under the Federal Housing and Rent Act. Albright v Nelson, 87 F. Supp. 737.

Where a zoning ordinance allows creamery and milk distribution plants and bottling works, a permit may be granted to a milk pasteurizing plant and retail milk and ice cream bar. OAG May 15, 1947 (59-A-32).

The provisions of the Sleepy Eye charter are construed to preclude the erection of a non-conforming building within a residential area unless the petition for a special permit therefor is accompanied by the written consent of the owners of at least 75 percent of the real property within 300 feet of the proposed non-conforming use. OAG Aug. 11, 1947 (59-A-32).

It is for the municipal council in the first place to determine whether a certain building does or does not violate the provisions of the zoning ordinance with reference to the residential area. OAG March 9, 1948 (59-A-32).

Where the state owns a fee title it is an owner within the meaning of a zoning ordinance requiring the consent of two-thirds of the owners of real estate within 100 feet. The owner of an easement is not an owner within the meaning of a zoning ordinance. OAG March 13, 1948 (58-A-32).

"Structural alterations" means alterations that will change the physical structure of a building. OAG Sept. 2, 1948 (59-A-32).

An ordinance which prohibits the establishment of living quarters in a basement except as to servants employed by the owner is not violated where a married woman servant lives in such quarters with her husband. OAG Feb. 17, 1949 (59-A-32).

Provisions in a zoning ordinance that residences must have an area of not less than 5,000 square feet applies only to residences constructed after the enactment of the ordinance. OAG Sept. 6, 1950 (59-A-32).

A railroad right-of-way located in a village, a city of third class, or city of fourth class is subject to zoning regulations. OAG Jan. 28, 1952 (59-A-32).

A zoning ordinance of a village is not controlled or superseded by a permit to operate an airport granted by the commissioner of aeronautics. OAG Sept. 25, 1947 (234-B).

This section does not specifically relate to villages but only to cities of third class or fourth class, but a village may adopt a zoning ordinance thereunder. OAG July 10, 1950 (411-H).

A town containing a platted portion wherein reside 1,200 or more people may adopt a zoning provision. OAG Dec. 4, 1947 (441-H).

A zoning ordinance should not operate retroactively. It must not violate vested rights. OAG Aug. 19, 1947 (477-B-34).

In a zoning ordinance a church is construed as an "institution." OAG Aug. 9, 1947 (477-B-34).

An ordinance restricting the height of buildings would not affect the right of an owner to complete a building where a plan has been adopted and the building is in the course of construction. OAG Aug. 21, 1947 (477-A-34).

Villages have power to pass a zoning ordinance and amend same. Such ordinance may be amended, prohibiting multiple dwellings in a certain area except on special permit. Such amendment requires two-thirds vote of the council. The action of the council either granting or denying an application for a special permit must be taken in good faith and is subject to review by certiorari. OAG Dec. 5, 1947 (477-B-34).

Whether the use of a dwelling for selling insurance, drivers licenses, and acting as a notary public is a violation of the village zoning ordinance is a question of fact. OAG June 16, 1948; July 7, 1948 (477-B-34).

The owners or operators of wagons or cars operating and making sales on streets in the residential district may be amenable to licensing or other regulatory ordinances of the village, but the matter of sales on streets is not forbidden by the zoning ordinance. OAG June 8, 1949 (477-B-34).

In considering the legality of spot zoning there seems to be no general rule laid down by the courts but each case is determined by its individual facts. If the situation is such that the spot may be zoned the matter rests in the discretion of the mu-

nicipal council and such spot rezoning may be accomplished without the consent of the property owners. OAG June 12, 1951 (477-B-34).

Village ordinances do not require building permits in residential districts. The village, therefore, is not in a position to question the title to the land upon which it is proposed to build the building. Where a zoning ordinance permits churches in a residential district, the authorities cannot refuse a building permit. OAG June 29, 1951 (477-B-34).

462.02 ENFORCEMENT

Restricted covenants in furtherance of a general plan are recognized under certain circumstances. Where the owners of a tract of land have platted same into many lots and formed and carried out a plan to sell the lots subject to covenants restricting them to the construction of homes of a certain character, equity will protect the rights of other grantees who accepted deeds in the same locality with similar restrictions. The burden of proving a general plan of improvement is upon the plaintiff. The existence of the plan is determined by examining and appraising the conditions of the platting, the sale of the lots, and all surrounding circumstances as indicated verbally or in writing. The intentions of the original owners in platting the district is germane. It was not the intentions of the owners to include defendant's lots in such general plan and the plaintiffs are not permitted, in this case, to obtain a restraining order and enjoining the defendant from erecting a building to be used exclusively for religious purposes. Rose v Kenneseth Israel Congregation, 228 M 240, 36 NW(2d) 791.

462.05 BUILDING AND ZONING REGULATIONS

Denial of right of abutting owners to access to the street by driveway. 31 MLR 292.

Cities of the second class may adopt a zoning ordinance under sections 462.05, 462.06, and 462.07. Such ordinance must be reasonable and not arbitrary but need not cover the entire municipal area. OAG March 30, 1949 (59-A-32).

A license to operate an airport granted by the commissioner of aeronautics does not supersede the zoning ordinance of a village. OAG Sept. 25, 1947 (234-B).

462.08 RESIDENCE DISTRICTS DESIGNATED

The failure to expressly provide in the zoning ordinance that an accessory building and the one to which it is accessory should be upon the same premises, was not, in this instance, decisive in view of otherwise clearly manifested intentions. Lowry v City of Mankato, 231 M 108, 42 NW(2d) 553.

It is the province of the city council to determine whether a certain building violates the provisions of the zoning ordinance with reference to residential districts. OAG March 9, 1948 (59-A-32).

462.10 DESIGNATION OF INDUSTRIAL DISTRICTS

Where a factory manufacturing farm equipment had been located in its present location for more than 50 years a continuance of a non-conforming use of the property after adoption of a zoning ordinance was permitted on condition that no structural alterations would be made. The question whether an increase from four to eleven hammers in size weighing more than 100 tons each constitutes "structural alterations" is one of fact. OAG Sept. 2, 1948 (59-A-32).

462.11 CHANGE OF DISTRICTS

Where a certain piece of property, previously zoned as residence property, was re-zoned to business property, upon a petition signed by owners of property within 1,000 feet, change of zoning classification back to residential was not spot zoning, within the general meaning of the term, and did not place upon property involved

any restrictions greater than those placed upon surrounding property. OAG June 12, 1951 (471-B-34).

462.12 RESTRICTED RESIDENCE DISTRICTS

The ordinances of the village of Hibbing which granted to the planning commission thereby created the power, with the approval of the village council, in cases of unnecessary hardships or practical difficulties, to issue special permits which would otherwise be in violation of the zoning ordinance of the village do not authorize the commission, with the approval of the council, to grant a permit to lot owners to so remodel a garage on their premises as to create three dwelling units on a single lot 50x100 feet in violation of the zoning ordinance, where the only hardship involved was created by the owners themselves in knowingly commencing to remodel without a permit. Newcomb v Teske, 225 M 223, 30 NW(2d) 354.

Where the council of a city of the first class created a residential district embracing relator's property providing that on petition of 50 percent of the owners of realty in the district a city may upon condemnation proceedings redistrict the district to residence structures only, and thereafter the city passed a comprehensive zoning ordinance authorizing commercial structures on relator's property, without making any reference to the original zoning provision, the adoption of the ordinance did not remove earlier restrictions and did not entitle the relator to a building permit to erect a commercial structure. State ex rel v City of Minneapolis, 235 M 174, 50 NW(2d) 296.

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A building used for strictly residential purposes at the time a restricted residential district is created may not thereafter be used for a purpose for which a new building may not be erected, even though no alteration, change, or remodeling is made or contemplated. OAG March 26, 1952 (59-A-32).

462.18 REGULATION OF THE USES OF REAL PROPERTY, MINNEAPOLIS; ZONING

HISTORY. 1921 c 217 s 1; 1923 c 364 s 1; 1925 c 284 s 1; 1937 c 239 s 1; 1953 c 579 s 1.

The city of St. Paul cannot enforce compliance with its building code as against the state. OAG Dec. 26, 1950 (55).

The city of Minneapolis may adopt a new and comprehensive zoning plan subject to the limitations contained in sections 462.18 to 462.20. OAG July 19, 1949 (59-A-32).

The city of St. Paul adopted a zoning ordinance which specifically prescribes the heights of buildings in various districts. Such regulations are a part of the zoning plan. The state law prescribes that they can only be altered with the written consent of the owners of two-thirds of the real estate situated within 100 feet of the real estate affected. No action by the city council can change this requirement of the state law under which the city ordinance was adopted. Any city of the first class may adopt a new and comprehensive re-zoning plan without obtaining the consent of two-thirds of the property owners within 100 feet of the real estate affected. The "consent clause" is limited to alterations in a present existing zoning plan which applies to piecemeal or reorganized variations. OAG Jan. 13, 1950 (59-A-32).

462.24-462.35 Local.

NOTE: Sections 462.24 to 462.35 apply only to the city of Duluth.

HOUSING, REDEVELOPMENT

462.411 Unnecessary.

462.415 PURPOSE; PUBLIC INTEREST; DECLARATION OF POLICY

HISTORY. 1947 c 487 s 2.

Municipal Housing and Redevelopment Act. 33 MLR 51.

Housing, public aid to. 34 MLR 610.

Sections 462.411 to 462.711 do not delegate or mitigate the power and authority existing in municipalities under charters to provide temporary housing facilities to meet emergencies. OAG June 17, 1947 (59-A-40).

An authority had been established under the Housing and Redevelopment Act. The "project fund" should be in the custody of the county treasurer; vouchers should be signed by the chairman of the authority; the vouchers are not the village vouchers nor are the moneys in the special fund village funds; the power of the authority to levy a special tax is subject to the consent by resolution of the governing body of the municipality and the power to levy the special tax is fixed "in the authority" whose duty it is to cause the tax so levied to be certified to the auditor of the county. OAG Feb. 24, 1949 (430).

The acquisition of an area of open land located in the city of Virginia west of the developed area of the city for housing and redevelopment purposes was illegal and void. The area acquired should be deeded back to the original owner and the money paid out by the city returned to the city treasury. The parties should be restored to the status quo. OAG Nov. 28, 1952 (430).

Under the provisions of section 168.012, as amended, motor vehicles of the housing and redevelopment authority of St. Paul are exempt from motor vehicle taxes. OAG Oct. 2, 1951 (632-E-12).

462.421 DEFINITIONS

HISTORY. 1947 c 487 s 3; 1949 c 505 s 1, 2; 1951 c 32 s 1; 1951 c 568 s 1; 1953 c 699 s 16, 17.

In formulating a budget under authority of Laws 1947, Chapter 487, the authority should indicate as closely as possible the areas of redevelopment work contemplated. OAG March 8, 1948 (430).

The provisions of Laws 1947, Chapter 487, Sections 3, 8, 28, 35, authorizes municipalities to render financial aid to housing and redevelopment authorities by way of loans or direct contributions so long as the purposes of the loan or contribution are "necessary or convenient to aid and co-operate in the plan, undertaking, construction or operation" of a redevelopment project. The proceeds of any special tax levy may be used to devise specific redevelopment projects annually. The municipal aid may be furnished to cover expense of planning redevelopment projects in advance of setting up a definite project and this includes administrative expense. If funds are advanced for preliminary purposes and a definite project is effectuated and implemented, the municipality may be reimbursed from the funds accruing to the project; but if the municipality has advanced funds for preliminary work and no definite project is thereafter undertaken, the statute does not authorize the use of any part of the "redevelopment project fund" for purposes of reimbursement. OAG March 8, 1948 (430).

462.425 MUNICIPAL HOUSING AND REDEVELOPMENT AUTHORITY

An employee of the U. S. post office is not eligible for appointment on the commission. OAG March 10, 1948 (430).

Each year the term of one of the five commissioners expires and the successor appointed is appointed for a term of five years commencing as of the dates of the expiration of the one-year term and of the two-year term. Term of office must be dis-

tinguished from tenure of office. In a term of office, there may be several tenures, but the term of office remains the same. Commissioners hold office until their successors have been appointed and qualified. An automatic vacancy results when a commissioner ceases to be an inhabitant of the city. OAG Aug. 17, 1949 (430).

Members of the housing and redevelopment authority must be appointed by the mayor with approval of the governing body. Selection may not be made in any other way. OAG Dec. 29, 1949 (430).

Where length of term and appointing authority is designated by statute but no date is set for the beginning of the term, the term commences on the date of the appointment and not on the date the appointee qualifies. OAG March 16, 1950 (430).

There is no provision in the law for a dissolution or winding up of a municipal housing and redevelopment authority. When resigning, a commissioner should submit his resignation to the mayor and the governing power of the municipality. OAG Sept. 29, 1850 (430).

Where a commissioner of the housing authority of the city of Virginia moves to another part of the county outside of the housing authority area, such removal creates a vacancy in the office. Under the law the commissioner must have residence in the area of operation. OAG Aug. 13, 1953 (430).

462.431 INTEREST IN PROJECT FORBIDDEN

HISTORY. Amended, 1951 c 568 s 10.

462.441 POWERS; QUORUM; OFFICERS; MEETINGS; EXPENSES

HISTORY. 1947 c 487 s 7; 1949 c 505 s 3.

Section 350.11 does not apply to the housing and redevelopment authority in Minneapolis and the commissioner may be entitled to receive transportation expense. OAG Jan. 30, 1953 (430).

462.445 POWERS, DUTIES

HISTORY. 1947 c 487 s 8; 1949 c 505 s 4; 1951 c 32 s 2; 1951 c 568 s 2.

The legislature may confer upon a board or commission a discretionary power to ascertain under and pursuant to a law, some fact or circumstances on which the law by its own terms makes or intends to make its own action depend. The legislature has prescribed in sufficient detail the standards for exercising power by the local housing authority to determine who may live in housing projects and the rentals to be charged. This is not an unlawful delegation of power. Thomas v Housing and Redevelopment Authority, 234 M 221, 48 NW(2d) 175.

The housing authority is required to purchase insurance on bids and grant the contract to the lowest responsible bidder. The liability on each risk is limited to one-tenth of the total assets. The housing authority has the right to include in any contract for financial assistance with the federal government any conditions which the federal government may attach to its financial aid of a project not inconsistent with the provisions of sections 462.411 to 462.711. OAG Nov. 21, 1951 (59-A-25).

Where the provisions of sections 282.01, 462.421, 462.425, 462.445, and 462.521, were complied with, the commissioner of taxation could convey by deed, in the name of the state, a tract of tax-forfeited land held in trust in favor of tax districts, to housing and redevelopment authority in and for the city of Minneapolis to complete a redevelopment plan. OAG June 28, 1950 (410-B).

A declaration of trust such as commonly used in housing and redevelopment proceedings is not a mortgage nor subject to the mortgage registry tax. OAG Nov. 6, 1952 (418-B-22).

In formulating a budget under Laws 1947, Chapter 487, the authority should indicate as closely as possible the areas of redevelopment work contemplated. OAG March 8, 1948 (430).

The provisions of Laws 1947, Chapter 487, Sections 3, 8, 28, 35, authorizes municipalities to render financial aid to housing and redevelopment authorities by way of loans or direct contributions so long as the purposes of the loan or contribution are "necessary or convenient to aid and co-operate in the plan, undertaking, construction or operation" of a redevelopment project. The proceeds of any special tax levy may be used to devise specific redevelopment projects annually. The municipal aid may be furnished to cover expense of planning redevelopment projects in advance of setting up a definite project and this includes administrative expense. If funds are advanced for preliminary purposes and a definite project is effectuated and implemented, the municipality may be reimbursed from the funds accruing to the project; but if the municipality has advanced funds for preliminary work and no definite project is thereafter undertaken, the statute does not authorize the use of any part of the "redevelopment project fund" for purposes of reimbursement. OAG March 8, 1948 (430).

Under provisions of Laws 1947, Chapter 487, Article VIII, Section 35, a municipality is prohibited from using any of its revenues for money to pay bonds or make loans or contributions to any redevelopment or public housing project; and a municipality may not pay for services of an architect employed by authority to make plans and specifications of a housing project. OAG Aug. 2, 1948 (430).

Municipal housing and redevelopment authority was a public body corporate and an arm and agency of the state. As no provision was made for its discontinuance, legislation is necessary to authorize its discontinuance or dissolution or winding up. OAG Sept. 29, 1950 (430).

To authorize a modification of the redevelopment land after the project area or parts thereof have been sold or leased (1) the modification must be consented to by the lessee or purchasers in the project area; (2) the modification must be adopted by the authority; and (3) the modification must be adopted by the governing body of the political subdivision in which the project is located. OAG May 27, 1952 (430).

Under section 168.012, as amended by Laws 1951, Chapter 690, motor vehicles of the housing and redevelopment authority of St. Paul are exempt from motor vehicle taxes. OAG Oct. 2, 1951 (632-E-12).

462.451 ACCOUNTING

HISTORY. Amended, 1951 c 568 s 3.

The commissioner of administration may not audit the books and records of a local housing and redevelopment authority and charge it for the cost thereof. OAG March 17, 1950 (430).

462.461 LETTING OF CONTRACTS; BONDS

The St. Paul housing authority must let the contract for insurance on housing projects to the lowest responsible bidder. OAG Nov. 21, 1951 (430).

462.465 LOW RENT HOUSING

HISTORY. 1947 c 487 s 12; 1949 c 505 s 5; 1951 c 568 s 4.

There is no legal authority under which a housing and redevelopment project may acquire land from a school district for redevelopment purposes. OAG Nov. 14, 1952 (430).

Under the 1951 amendment a resolution approving the site for a housing and redevelopment project is not required before submission of approval to the people for their approval. The governing body is bound by the result of the election. OAG Nov. 13, 1952 (430).

462.471 RENTALS

HISTORY. Amended, 1951 c 568 s 5.

462.475 RENTALS; TENANT ADMISSIONS

HISTORY. Amended, 1951 c 568 s 6.

Legal effects of non-recognition of governments. 36 MLR 769.

462.485 VETERANS PREFERENCE

The veterans preference provisions of section 462.485 has no application where the lands are being sold by local housing and redevelopment authority after the land has been redeveloped as a redevelopment project. OAG June 21, 1951 (430).

462.491 AVAILABLE SOLELY FOR FAMILIES OF LOW INCOME

The legislature may confer upon a board or commission a discretionary power to ascertain under and pursuant to a law, some fact or circumstances on which the law by its own terms makes or intends to make its own action depend. The legislature has prescribed in sufficient detail the standards for exercising power by the local housing authority to determine who may live in housing projects and the rentals to be charged. This is not an unlawful delegation of power. Thomas v Housing and Redevelopment Authority, 234 M 221, 48 NW(2d) 175.

462.495 PERIODIC INVESTIGATION OF TENANT; VETERANS PREFERENCE

HISTORY. 1947 c 487 s 18; 1949 c 505 s 6.

462.501 DURATION OF OCCUPANCY

HISTORY. 1947 c 487 s 20; 1949 c 505 s 7.

462.515 REDEVELOPMENT PLAN

HISTORY. Amended, 1951 c 568 s 7.

The acquisition of an area of open land located in the city of Virginia west of the developed area of the city for housing and redevelopment purposes was illegal and void. The area acquired should be deeded back to the original owner and the money paid out by the city returned to the city treasury. The parties should be restored to the status quo. OAG Nov. 28, 1952 (430).

462.521 MUNICIPAL GOVERNING BODY

HISTORY. Amended, 1951 c 568 s 8.

462.525 DISPOSAL OF PROPERTY

HISTORY. 1947 c 487 s 24; 1949 c 505 s 8.

To authorize a modification of the redevelopment land after the project area or parts thereof have been sold or leased (1) the modification must be consented to by the lessee or purchasers in the project area; (2) the modification must be adopted by the authority; and (3) the modification must be adopted by the governing body of the political subdivision in which the project is located. OAG May 27, 1952 (430).

462.541 USE VALUE

HISTORY. 1947 c 487 s 27; 1949 c 505 s 9.

462.545 PUBLIC REDEVELOPMENT COST; PROCEEDS; FINANCING

HISTORY. 1947 c 487 s 28; 1949 c 505 s 10; 1953 c 96 s 1.

In formulating a budget under Laws 1947, Chapter 487, the authority should indicate as closely as possible the areas of redevelopment work contemplated. OAG March 8, 1948 (430).

The provisions of Laws 1947, Chapter 487, Sections 3, 8, 28, 35, authorizes municipalities to render financial aid to housing and redevelopment authorities by way of loans or direct contributions so long as the purposes of the loan or contribution are "necessary or convenient to aid and co-operate in the plan, undertaking, construction or operation" of a redevelopment project. The proceeds of any special tax levy may be used to devise specific redevelopment projects annually. The municipal aid may be furnished to cover expense of planning redevelopment projects in advance of setting up a definite project and this includes administrative expense. If funds are advanced for preliminary purposes and a definite project is effectuated and implemented, the municipality may be reimbursed from the funds accruing to the project; but if the municipality has advanced funds for preliminary work and no definite project is thereafter undertaken, the statute does not authorize the use of any part of the "redevelopment project fund" for purposes of reimbursement. OAG March 8, 1948 (430).

The provisions of Laws 1947, Chapter 437, Article V, Section 24, authorizing authority to dispose of its property, do not in any manner affect the conditions imposed upon its title to tax-forfeited land acquired under authority of section 282.01, subdivision 1. The conveyance of tax-forfeited land held under conditional deed effects reversion. OAG Nov. 23, 1948 (430).

Under the Municipal Housing Authority Act disbursement of tax proceeds is by the county treasurer. OAG Nov. 23, 1948 (430).

A commissioner appointed to a local housing and redevelopment authority may not acquire any personal or private interest in the subject matters covered by the statutes. OAG May 19, 1950 (430).

A housing and redevelopment authority may audit, consider, and approve for payment debts incurred more than 30 days before such audit and approval. OAG May 28, 1951 (430).

Where a redevelopment plan has been approved by the governing body of the municipality, to be financed by federal grants, the housing and redevelopment authority is not authorized to expend moneys from the redevelopment project fund for the purpose of acquiring and demolishing a dilapidated property within the project area prior to availability of the federal funds and contrary to the method of financing the proposed project. OAG Jan. 2, 1953 (430).

462.561 ENFORCEMENT BY OBLIGEE OF PROVISIONS AND COVENANTS IN CONTRACTS

NOTE: Insofar as it is inconsistent with the procedure and practice provided by the rules of civil procedure, section 462.561 is excepted therefrom.

462.575 TAX STATUS

HISTORY. Amended, 1951 c 568 s 9.

The property of an authority under the Housing and Redevelopment Act is exempt from all special assessments levied by the city. OAG Jan. 23, 1951 (408-C).

462.581 POWERS OF MUNICIPALITY RELATING TO PROJECTS

HISTORY. 1947 c 487 s 35; 1949 c 505 s 11.

Under its charter the city of Chisholm may not lend money from its permanent improvement and replacement fund to a municipal housing and redevelopment authority. Moneys must be lent to the authority from the general fund. OAG Aug. 2, 1949 (59-A-22).

The provisions of Laws 1947, Chapter 487, Sections 3, 8, 28, 35, authorizes municipalities to render financial aid to housing and redevelopment authorities by way of loans or direct contributions so long as the purposes of the loan or contribution are "necessary or convenient to aid and co-operate in the plan, undertaking, construction

or operation" of a redevelopment project. The proceeds of any special tax levy may be used to devise specific redevelopment projects annually. The municipal aid may be furnished to cover expense of planning redevelopment projects in advance of setting up a definite project and this includes administrative expense. If funds are advanced for preliminary purposes and a definite project is effectuated and implemented, the municipality may be reimbursed from the funds accruing to the project; but if the municipality has advanced funds for preliminary work and no definite project is thereafter undertaken, the statute does not authorize the use of any part of the "redevelopment project fund" for purposes of reimbursement. OAG March 8, 1948 (430).

Under provisions of Laws 1947, Chapter 487, Article VIII, Section 35, a municipality is prohibited from using any of its revenues to pay bonds or make loans or contributions to any redevelopment or public housing project; and a municipality may not pay for services of an architect employed by authority to make plans and specifications of a housing project. OAG Aug. 2, 1948 (430).

A municipality may make its funds available to a housing authority only as an advance in anticipation of the collection of taxes levied under Laws 1947, Chapter 487, Section 28, Subdivision 6. The proceeds of taxes levied may be used only for "redevelopment projects." This would not include public low-renting housing projects. Since any advance made by a municipality must be in anticipation of the collection of the special tax, reimbursement of that advance should be promptly made when funds are available. OAG Jan. 3, 1949 (430).

The library board of the village of Hibbing has no authority to loan out money of the library fund to a housing authority. OAG July 13, 1950 (430).

The city of Chisholm may not appropriate money out of its permanent improvement and replacement fund to the housing and redevelopment authority. OAG July 21, 1950 (430).

462.591 REDEVELOPMENT COMPANY

HISTORY. 1947 c 487 s 37; 1949 c 505 s 12.

The property of an authority under the Housing and Redevelopment Act is exempt from all special assessments levied by the city. OAG Jan. 23, 1951 (408-C).

462.605 POWERS OF REDEVELOPMENT COMPANY

HISTORY. 1947 c 487 s 40; 1949 c 505 s 13.

462.611 INTEREST; AMORTIZATION; LIMITED DIVIDENDS

HISTORY. 1947 c 487 s 41; 1949 c 505 s 14.

462.615 STOCK, BONDS, INCOME DEBENTURE CERTIFICATES ISSUED FOR FULL VALUE

HISTORY. 1947 c 487 s 42; 1949 c 505 s 15.

462.621 STOCK, DEBENTURE CERTIFICATES; ISSUANCE

HISTORY. 1947 c 487 s 43; 1949 c 505 s 16.

462.625 INCOME DEBENTURE CERTIFICATES

HISTORY. 1947 c 487 s 44; 1949 c 505 s 17.

462.635 LIMITATION ON POWERS OF REDEVELOPMENT COMPANY

HISTORY. 1947 c 487 s 46; 1949 c 505 s 18.

462.651 PARTIAL TAX EXEMPTION

HISTORY. 1947 c 487 s 49; 1949 s 505 s 19.

The property of an authority under the Housing and Redevelopment Act is exempt from all special assessments levied by the city. OAG Jan. 23, 1951 (408-C).

462.655 CHANGE IN FEATURE OF PROJECT PROHIBITED

HISTORY. 1947 c 487 s 50; 1949 c 505 s 20.

462.665 RULES AND REGULATIONS

HISTORY. 1947 c 487 s 52; 1949 c 505 s 21.

462.671 SCHEDULE OF FEES

HISTORY. 1947 c 487 s 53; 1949 c 505 s 22.

462.681 DUTIES OF STATE HOUSING COMMISSION

HISTORY. 1947 c 487 s 55; 1949 c 505 s 23.

462.705 INSURANCE COMPANY DEFINED

HISTORY. 1947 c 487 s 60; 1949 c 505 s 24.

462.711 SUPERVISORY AGENCY

NOTE: Since the bills providing for the "state housing commission," the "commission," and the "director of housing" did not pass, and as no division of housing was created in the department of business research and Redevelopment Act, the implementation of the provisions of MSA, Chapter 462, devolved upon the commissioner of administration.

EMERGENCY HOUSING

462.72 Unnecessary.

462.731 DEFINITIONS

HISTORY. 1949 c 733 s 2.

Laws 1949, Chapter 733, does not apply to Laws 1947, Chapter 487. The 1949 act authorizes municipalities to undertake emergency housing by complying with the provisions of that act, or any other statutes other than Laws 1947, Chapter 487. A municipality is authorized to proceed notwithstanding the provisions of any inconsistent home rule charter provisions. Whenever home rule charter provisions are inconsistent, the state law should be superseded by such charter provisions. OAG April 25, 1949 (430).

462.741 MUNICIPALITY; POWERS OF

HISTORY. 1949 c 733 s 3.

462.751 DEVELOPMENT AND OPERATION DURING EMERGENCY

HISTORY. 1949 c 733 s 4.

462.761 PROCEDURE TO ESTABLISH

HISTORY. 1949 c 733 s 5.

462.771 RENTALS; TO WHOM; FALSE APPLICATION; PENALTY

HISTORY. 1949 c 733 s 6.

462.781 VETERANS PREFERENCE

HISTORY. 1949 c 733 s 7.

462.791 TERMINATION OF EMERGENCY

HISTORY. 1949 c 733 s 8.

462.801 WAIVER OF BUILDING CODE

HISTORY. 1949 c 733 s 9.

462.811 NOT APPLICABLE TO SECTIONS 462.415 TO 462.711

HISTORY. 1949 c 733 s 10.

462.82 REPORT TO LEGISLATURE

HISTORY. 1949 c 733 s 11.

CHAPTER 463

OTHER REGULATIONS

463.01 BUILDING LINES, EASEMENTS; EXISTING STRUCTURES

Property owner or occupier's duty to warn firemen of hidden dangers. 35 MLR 512.

The fact that a city had never adopted a general zoning ordinance did not preclude it from adopting an ordinance establishing set-back lines. McCavic v DeLuca, 223 M 372, 46 NW(2d) 873.

Where adjoining landowners jointly lay out a way between their lands, each devoting a part of his land to that purpose, the use of the way by the respective parties, for the prescriptive period, raises a presumption of the granting of an easement on the theory that each party by his use thereof has continuously asserted an adverse right in a portion of the way lying on the other's land. The parol conveyance of an easement, whether it be pursuant to a fiction of a lost grant or pursuant to an actual parol agreement void under the statute of frauds, will, if followed by an adverse user for the prescriptive period, establish an easement by prescription. Alstad v Boyer, 228 M 307, 37 NW(2d) 372.

Owners of buildings abutting a public sidewalk are liable for injuries caused by negligence in maintaining in a dangerous and defective condition facilities erected in or on the sidewalk for the convenience of the building. The property owner's knowledge of a defective facility erected on a sidewalk for the convenience of the property may be shown by evidence that the owner created the defect, that the defect had been called to the owner's attention, or that from the length of time the defect had existed the owner's knowledge thereof could be presumed. In the instant case the evidence failed to support the jury's finding that the property owner had knowledge of the defect prior to the time of the accident. Bergum v Palmborg, ... M ....., 60 NW(2d) 71.

The planning commission of a city may not lay out alleys. This authority is vested in the council. The statute provides for establishing an easement or a set-