



SB 329 Testimony

J.D. Lester, Chanute City Manager

Senate Local Government Committee

First I would like to thank Senator Umbarger for the initiation of this bill and thank Senator Reitz and this committee for taking the time to consider it.

Our objective is simple. It is to adjust statute language to clarify some of the language concerning the ability of a local entity to apply the 500'environs rule and do so in a way that makes the most sense for its particular needs related to economic development, especially as it impacts downtown revitalization and preservation of commercial buildings. The language was developed to hold harmless those communities which desire to keep in place the 500' environs rule because it fits within their preservation objectives. In other words, we don't mean to prohibit other communities from using this

rule, we only wish for communities to opt out, if they so choose, if they have demonstrated the commitment by creating mechanisms for local oversight.

Here is the history on our situation:

In 2009 at the urging of Main Street Chanute we worked towards creating a downtown historic district. We went through several public meetings where experts including the Historic Preservation Office attended and spoke to those in attendance about this designation. Main Street's overriding goal was to access financial resources available to building owners through tax credits and grants both at the state and local level to assist their members and other property owners in making improvements to their buildings and to revive some buildings which need significant investment and in some cases to bringing them up to building codes. The process took approximately over a year and a half. Some of these downtown buildings are at risk of being lost forever. The focus was to continue economic development and revitalization downtown and more specifically expand our retail business sector space.

As we began the process of approving the establishment of a local historic authority **(referred to in 75-2714- IE... Becoming a Certified Local Government - CLG)** per the statute as well as the designation of the historic district, we had individuals who came

forth on a local basis and expressed concerns .They focused on the loss of their property rights directly related the 500' environs rule. The argument was the requirement of the review of the state preservation office of those buildings within the environs would take too long and drive up the costs of their improvements. The argument was also made that even those buildings which currently did not contribute to the historic nature of a specific building would have to make unnecessary as well expensive improvements based upon these rules.

Case studies were provided as to civic/legal action that has taken place in Kansas related to the environs. Consequently, there was enough cause for the Chanute elected officials to take a step back and re-evaluate. Although there was much emotion attached to the debate, both sides could agree on one thing: Both believed that having an historic building designated should not automatically subject all the other adjoining property owners to a review of their improvements based upon the 500' environs rule.

In fact, I have been told Kansas may only be one of two states in the country that have a 500' environ condition. Regardless, based upon my reading of a West Law case study document, it would appear a court and a public official at one time may have interpreted the part of the statute which refers to a "public project" (75-2724 a) to

include any private improvement which requires a building permit. Therefore, because of their rulings, it has become the precedent. We suspect, based upon the wording the legislature, the intention was that if the state of Kansas, a city or county or a direct subdivision had their own specific project (IE... improving one of their own buildings) then it should be reviewed by the SHPO if it was within the 500' environs. Another area which has caused some confusion is; who has the final determination on a projects impact on the environs, even a private project based upon the language 75-2724 (1) where it refers to "no feasible or prudent alternatives." Is it truly the local body or the State Historic Office? The goal based upon these statutes is for all of us to do our best to preserve the Kansas as well as the local heritage of our communities. We would also believe that under Home Rule, local bodies should be able to determine what is best for its community and apply its own standard based upon local conditions.

The bottom line is, if the environs issue creates enough controversy that a building could not be designated and/or saved, these preservation goals may not be fully realized. A perfect example of this is Chanute had a local developer who purchased an old elementary school building from the local school district, which was located in a residential neighborhood. The developer worked to have it designated as a historic building, so they could leverage historic tax credits to rehab the building as senior living apartments. Housing has been a challenge in Southeast Kansas for years. In this case, if

they could not have gotten the designation and access to the funding mechanisms, because of the environs controversy, that building would have stood for years unused, continued to deteriorate, and would have ultimately devalued the homes in that area. Instead it will become a great option for a specific segment of the market.

With this in mind, we believe there absolutely is a purpose for the 500' environs rule. However, this ultimately should be a local community decision to determine its level of preservation needs. It should be a community decision as to whether they want the 500' environs to apply locally or not.

What we would like to do is have language added to the statute that would in fact make this environs rule be a local issue and individual communities should be given the opportunity to opt out, if they so choose. It should not be a state requirement or something mandated across the state without exception. It might also avoid future litigation.

In conclusion, please support this change to the statute in order to clarify the process and the roles of each party. The ultimate decisions for local projects deserve to be made locally based upon a community's desire and objective for preservation and economic

development. The language change as proposed would hold those communities who wish to enforce the environs rule based upon their desires harmless.

I believe I am speaking for all of our 5 City Commissioners in making this request. Thank you for your time.

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