

1978-1979 Ky. Op. Atty. Gen. 2-92, Ky. OAG
78-253, 1978 WL 26098 (Ky.A.G.)

*1 Office of the Attorney General

Commonwealth of Kentucky

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April 17, 1978

Honorable William I. Markwell
Henderson County Attorney
Courthouse
Henderson, Kentucky 42420

Dear Bill:

This is in answer to your letter of April 7 in which you enclose a letter addressed to you from Mr. Ted B. Clark, Executive Director of the Henderson City-County Planning Commission, in which he indicates that the Henderson County Water District is refusing to install adequate size water lines to new subdivisions resulting in inadequate fire hydrant pressure. The Henderson City-County Planning Commission on the other hand is insisting, pursuant to its subdivision regulations, that adequate water lines be installed by the water district that services the subdivisions in question. Thus, the question is raised as to whether or not the water district is required to comply with the subdivision regulations enacted pursuant to [KRS 100.281](#) which reads in part as follows:

“(3) Requirements for the design of streets, blocks, lots, utilities, recreation areas, other facilities, hazardous areas, and areas subject to flooding. Such requirements may deal with all forms of land use including residential, commercial, industrial, and other uses.

“(4) Specifications for the physical improve-

ments of streets, utilities, and other facilities, and the extent to which they shall be installed or dedicated as conditions precedent to approval of any plat, including the provision of subdivision performance bonds to insure proper completion of physical improvements.”

We believe the answer to your question may be found under the provisions of [KRS 100.324](#), which reads in part as follows:

“(1) All other provisions of this chapter to the contrary notwithstanding public utilities operating under the jurisdiction of the public service commission or the department of motor transportation or federal power commission and common carriers by rail shall not be required to receive the approval of the planning unit for the location or relocation of any of their service facilities. Service facilities include all facilities of such utilities and common carriers by rail other than office space, garage space, and warehouse space and include office space, garage space, and warehouse space when such space is incidental to a service facility. The public service commission and the department of motor transportation shall give notice to the planning commission of any planning unit of any hearing which effects locations or relocations of service facilities within that planning unit's jurisdiction.

“(2) The nonservice facilities excluded in subsection (1) of this section must be in accordance with the zoning regulations.

“(3) Upon the request of the planning commission, the public utilities referred to in this section shall provide the planning commission of the planning unit affected with information concerning service facilities which have been located on and relocated on private property.” (Emphasis added).

*2 The Henderson County Water District, organized pursuant to Ch. 74 KRS, is under the control of the Public Service Commission and must receive a certificate of necessity required by [KRS 74.015](#).

See also the case of [City of Cold Springs v. Campbell County Water District, 334 S.W. 2d 269 \(1966\)](#). The term “service facility” as used in [KRS 100.324\(1\)](#) would appear to clearly include water lines installed in this instance in the new subdivisions in Henderson County which is of course included within the water district and which are excluded from the approval of the planning commission, particularly in so far as their location or relocation.

As to whether the reference in the statute to the location or relocation of the service facilities would include the design and specifications as to size, etc., as mentioned in [KRS 100.281](#) is doubtful however and must be excluded under the rule of ejusdem generis to the effect that where in a statute, general words follow a designation of particular subjects, the meaning of the general words will ordinarily be presumed to be restricted by the particular designation, and to include only things of the same kind or nature as those specifically enumerated, unless there is a clear manifestation of a contrary purpose.

Under the circumstances, we believe that though the location or relocation of the water pipes is outside of the jurisdiction of the planning commission and its subdivision regulations, the size of the pipe and dimension of the water lines would remain within the jurisdiction of the planning commission pursuant to its subdivision regulations and that the commission could therefore compel the water district by mandamus, if necessary, to comply with its regulations.

Yours very truly,
Robert F. Stephens
Attorney General

By: Walter C. Herdman
Assistant Deputy Attorney General

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