

FILE
Subject Water - Drainage
Elections
City of _____



STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

January 21, 1974

Opinion No. 74- 20

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

Dear Mr. Lysaught:

You inquire concerning the construction of that portion of K.S.A. 24-414 which provides that

"at all elections and meetings held under the provisions of this act, only persons who are taxpayers and residents of the district who are qualified electors shall be entitled to vote."

In your opinion of January 9, 1974, concerning real property taxpayers, you state thus:

"It is my opinion that if only one name appears as the record owner of the property, both husband and wife cannot vote, only the record property owner can vote. A buyer on option contract, whether it be an individual or husband and wife, can vote as they are taxpayers and residents of the district."

As to personal property, you conclude that "[i]f the automobile is registered in the name of the husband or wife only, only the registered owner is the taxpayer and can vote."

We agree with your conclusions. Virtually by definition, those who own taxable property, whether realty or personal property such as motor vehicles, are taxpayers, and those who do not own such property are not taxpayers.

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You indicate that in the past, both husband and wife have been deemed eligible to vote notwithstanding both names do not appear as owners of record. The practice is not supported by the language of the statute, which limits the franchise to "only persons who are taxpayers and residents of the district and who are qualified electors." The spouse of a property owner of record is not, merely by virtue of that relationship, a taxpayer. Thus, we cannot but concur with your opinion and the conclusions set forth therein.

Yours very truly,



VERN MILLER
Attorney General

VM:JRM:jsm

cc: Mr. Edward J. Mayfield
Mr. William M. Bradish