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Subject

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zoning

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STATE OF KANSAS

Office of the Attorney General

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

VERN MILLER
Attorney General

February 11, 1974

Opinion No. 74- 50

Mr. Melvin M. Gradert
City Attorney
City of Burrton
809 Main Street
Newton, Kansas 67114

Dear Mr. Gradert:

You request our opinion whether private individuals may place mobile homes on privately owned lots.

You advise that a dispute has arisen between the City of Burrton and certain lot owners of the city, who contend that the placement of mobile homes on permanent foundations in the city is not subject to zoning regulations, on the basis that the mobile home is thereby converted to a permanent dwelling.

In City of Colby v. Hurtt, 212 Kan. 113 (1973), the court considered an ordinance restricting mobile homes to designated areas of the city. In pertinent part, it defined mobile homes thus:

"A vehicle used, or so constructed as to permit being used as conveyance upon the public streets or highways and constructed in such a manner as will permit occupancy thereof for human habitation, dwelling or sleeping places for one or more persons . . . and regardless of whether such vehicle is dismounted from its wheels or placed on a permanent foundation. Provided further, that this Ordinance shall not apply to those prefabricated or module units transported over highways only for location at a permanent construction site." [Emphasis supplied.]

The appellant had removed the wheels from his mobile home which was placed:

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"upon railroad ties and leveled with cinder blocks which were placed beneath the perimeter of the mobile home to form a foundation upon which the structure rests."

He was found in violation of the ordinance and appealed.

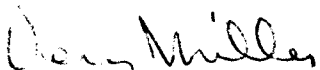
The court upheld the ordinance:

"[W]e are of the opinion the ordinance under consideration bears a substantial relationship to public health, safety, and general welfare.

"Mobile homes are used for residences but they possess special characteristics which warrant their separate regulation. They involve potential hazards to public health if not properly located and supplied with utilities and sanitary facilities. Mobile homes scattered promiscuously throughout the residential district of a city might well stunt its growth and certainly stifle development of an area for residential purposes." 212 Kan. at 116.

This decision appears conclusive upon the question you pose.

Very truly yours,


VERN MILLER
Attorney General

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