

FILE

Subject

*Cities - Public  
Improvements -  
Law*

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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

May 14, 1974

Opinion No. 74- 145

James R. Ward  
Assistant City Attorney  
Municipal Building  
215 East 7th Street  
Topeka, Kansas 66603

Dear Mr. Ward:

K.S.A. 12-693 states in pertinent part thus:

"All cities are hereby authorized to make improvements authorized by and in the manner provided for in the general improvement and assessment law . . . in those unincorporated areas . . . . Such improvements may be located in a proposed improvement district which is wholly outside the corporate limits of the city or partially within the city limits." [Emphasis supplied.]

K.S.A. 80-101 defines a township as a "body politic and corporate." You question whether a city may exercise the rights conferred by K.S.A. 12-693 in an area that is included within a township.

In our opinion it may. In Beach v. Leahy, 11 Kan. 23 (1873), the court treated at some length the distinction between a municipal corporation proper and a quasi-corporation, such as a school district, county, or township. The court stated in part thus:

"But with reference to counties, townships and school districts, the case is different. True, they are called in the statute bodies corporate . . . . Yet they are denominated in the books, and known to the law, as quasi corporations, rather than as corporations proper. They possess some corporate functions and attributes, but they are primarily political subdivisions, agencies

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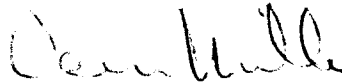
in the administration of civil government, and their corporate functions are granted to enable them more readily to perform their public duties." [Emphasis by the Court.] 11 Kan. at 29.

A distinction is to be made, the court notes, quoting from a decided case, "'between proper aggregate corporations and the inhabitants of any district who are by statute invested with particular powers without their consent.'"

Thus, the territory of a municipal corporation is properly spoken of as incorporated. A township, school district, or county, on the other hand, is not a municipal corporation proper, but is endowed with corporate attributes in certain respects, and it is properly denominated a quasi-corporation. Thus, the territory of a county, school district, or township is not incorporated in any strict sense, but is merely the territory served for certain described governmental purposes by a governmental entity which bears certain corporate attributes and characteristics.

As the term "unincorporated" is used in the cited statute, it means, in our opinion, any territory which is not within the boundaries of any municipal corporation.

Yours very truly,



VERN MILLER  
Attorney General

VM:JRM:jsm