

FILE

Subject

Census

Copy to

Records
Public



STATE OF KANSAS

Office of the Attorney General

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

VERN MILLER
Attorney General

August 16, 1974

Opinion No. 74- 281

Honorable Richard C. "Pete" Loux
House Minority Leader
House of Representatives
Capitol Building
Topeka, Kansas 66612

Dear Representative Loux:

You inquire whether a record of the annual enumeration made by the county assessor or county clerk acting as county assessor, pursuant to K.S.A. 11-101, on computer tape is subject to examination and copying pursuant to K.S.A. 19-2601 and K.S.A. 45-201.

K.S.A. 19-2601 provides in pertinent part as follows:

"Every county officer shall keep his office at the seat of justice of his county . . . ; and all books and papers required to be in their offices shall be open for the examination of any person; and if any of said officers shall neglect to comply with the provisions of this section, he shall forfeit, for each day he so neglects, the sum of five dollars (\$5)"

In *Boylard v. Warren*, 39 Kan. 301 (1888), the court considered this provision:

"Its language is plain, and needs no interpretation. All may understand it who will read it. Under its provisions 'all books and papers,' without any exception, must be kept open for inspection and examination, and 'any person,' without any exception, has the right to examine and inspect them. . . . Before closing this opinion it would perhaps be proper to state that 'any person,' even as ab-

Hon. Richard C. "Pete" Loux
August 16, 1974
Page Two

stracter of titles, who may have sufficient interest in the information to be obtained from the public county records to entitle him to an examination of the same, may, if he chooses, make copies, abstracts, extracts or memoranda therefrom. There is no statute or good reason against it. [Emphasis supplied.]
39 Kan. at 307.

A computer tape, used to maintain records just as records were, in 1888, maintained in books or ledgers, enjoys the same standing under this provision, to be subject to examination and copying. As the court stated then, there is no statute or good reason against it, and no sound reason either in law or in policy, to distinguish computer tapes, now widely used for the maintenance of county and state records, from other and traditional modes of keeping county records, such as books and papers.

K.S.A. 45-201 states in pertinent part thus:

"All official public records of the state [and] counties . . . , which records by law are required to be kept and maintained . . . shall at all times be open for a personal inspection by any citizen, and those in charge of such records shall not refuse this privilege to any citizen."

The term "records" includes any record, in whatever mode it is kept and maintained, including computer data tapes, when such tapes are so used. K.S.A. 45-202 assures, in addition to the right of access above, the right to make copies of public records. When, as is increasingly the case, a computer tape constitutes the primary record, from which all other lists and abstracts used in county business are derivative, that tape must be regarded as a record, and subject to the right of any interested person to make, necessarily at his own expense, a copy thereof, arrangements for which must be such as not to interfere with the proper conduct of the affairs of the county officer involved.

Yours very truly,



VERN MILLER
Attorney General

VM:JRM:jsm