



STATE OF KANSAS

Office of the Attorney General

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CURT T. SCHNEIDER
Attorney General

June 27, 1975

ATTORNEY GENERAL OPINION NO. 75- 262

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

RE: Ratio Study Questionnaire Conflict
between H.B. 2254 and K.S.A. 1974
Supp. 79-1436, 1442.

Dear Mr. Lysaught:

We have your letter of June 20, 1975, stating, "the requirement by the Director of Revenue of the filing of a real estate transfer questionnaire before instruments of transfer are recorded, which requirement was made by Memorandum #26 dated June 11, 1975, is in conflict with . . . House Bill 2254, amending K.S.A. 58-2223(d)." You ask our ruling affirming, overruling or modifying your opinion.

We must disagree with your opinion that Memorandum #26 dated June 11, 1975, makes recording of transfer instruments conditional upon the filling out of the Real Estate Transfer Questionnaire.

Nowhere in Memorandum #26 can we find support for your contention that the Director of Property Valuation has instructed your Register of Deeds not to record deeds unless accompanied by "Real Estate Transfer Questionnaires".

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The second paragraph of Memorandum #26 does quote almost verbatim K.S.A. 1974 Supp. 58-2223(a) which forbids a Register of Deeds to record a deed or instrument not accompanied by a "Certificate of Value". But neither that paragraph nor the law itself, mentions "Real Estate Transfer Questionnaire". H.B. 2254 of the 1975 Legislature, striking the word "substantial", simply strengthened the certificate of value form, but that change has no relation to the Director's "Real Estate Transfer Questionnaire".

It is not unusual that a deed recorded by the Register of Deeds has some unfilled blanks in the "Certificate of Value". It is probable that the same will be true with the new "Real Estate Transfer Questionnaire", if not more so. Memorandum #26 in the Assessor's instructions touches upon the need to fill in this missing information. The Assessor is asked to work with the Register of Deeds, to investigate, to get the facts. All this is aimed at refining the Sales-Assessment Ratio Study so that it contains accurate and verified information, insuring proper inclusion or exclusion of sales used in that study. The legislature has, by K.S.A. 1974 Supp. 79-1436, assigned a new duty to Register of Deeds to help gather the information needed to carry out the intent of that law. It spells out the questions to be asked. Following that law, the Director has prepared the form questionnaire, and has asked the Register of Deeds to pass it out to persons as they record deeds. The Register of Deeds is the only County official usually present when a deed is recorded and has the best opportunity to obtain the Questionnaire answers. The Director and the Ratio Study need very much the cooperation and assistance of the Register of Deeds.

It is our opinion that Memorandum #26 dated June 11, 1975, is properly issued to carry out legislative intent in K.S.A. 1974 Supp. 79-1436 and 79-1442, and that it does not affect in any way the recording of deeds and instruments by the Register of Deeds.

Very truly yours,



CURT T. SCHNEIDER
Attorney General

CTS:CJM:en