



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

Curt T. Schneider
Attorney General

July 2, 1976

ATTORNEY GENERAL OPINION NO. 76-200

The Honorable Russell W. Taylor
Mayor of Goodland
Post Office Box 57
Goodland, Kansas 67735

Re: Cities--Public Buildings--Bonds

Synopsis: A city may construct a day care center and issue general obligation bonds for that purpose pursuant to K.S.A. 12-1737 *et seq.*, and an election is not required for that purpose under K.S.A. 12-1737(h).

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Dear Mayor Taylor:

We have your letter of June 24, 1976, concerning the use of K.S.A. 12-1736 *et seq.* for the issuance of general obligation bonds to finance the construction of a building to house a day care center. K.S.A. 12-1736 describes the scope of the act thus:

"Any city in this state may erect or construct, acquire by gift, purchase, condemnation or lease a public building or buildings and procure any necessary site therefor by gift, purchase or condemnation and may alter, repair, reconstruct, remodel, replace or make additions to, furnish and equip a public building or buildings."

Nothing in the act restricts its use for the construction of buildings for a particular purpose. Clearly, if the city wishes to construct a public building to be used for a day care center, it may do so.

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The question remains whether an election must be held to authorize the issuance of bonds. K.S.A. 12-1737(h) states in pertinent part thus:

"An election upon the issuance of bonds under the authority of this act shall be required for the purpose of acquiring or constructing city offices, public libraries, auditoriums, community or recreational buildings."

Clearly, a day care center is not a city office, library, auditorium. The only question, in my judgment, is whether it constitutes a community or a recreational building. While recreation is doubtless an incident of day care for children, it is but one aspect of the total program, and in my judgment, a building for day care purposes cannot fairly and accurately be characterized as a recreational building. It may be argued, nonetheless, that a day care center constitutes a community building. That term is not defined in the act. Generally speaking, a community building is commonly regarded as a multipurpose building designed to house a wide range of community activities, and to provide facilities for the social and cultural life of the community at large. A building specifically designed to meet federal and state requirements for day care programs for children, and to provide the range of activities necessary for such a program, once again cannot accurately be described as a community building. Certainly, facilities in the building might be made available, during evening hours and on weekends, to community groups when the day care program is not in operation. Limited multiple uses of the building which are incidental to and auxiliary to its primary purpose and design, that of day care, does not, of course, alter its status as a day care center, and in my judgment, does not bring it within the class of buildings for which an election must be held to authorize the issuance of bonds under K.S.A. 12-1737(h). The legislature specifically enumerated the classes of buildings for which an election is required. A day care center is not among them, and I cannot enlarge that class by strained interpretation or implication.

Accordingly, in my judgment, a day care center may be constructed by the issuance of general obligation bonds pursuant to K.S.A. 12-1737 *et seq.*, and an election is not required to authorize the issuance of bonds for that purpose.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

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