



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider

Attorney General

December 9, 1976

ATTORNEY GENERAL OPINION NO. 76-361

Mr. Howard Blanchard, Chairman
Board of Technical Professions
c/o Blanchard Vanderweide
& Fillmore, Architects
P.O. Box 814
802 East Hazel Street
Garden City, Kansas 67846

RE: Board of Technical Professions--Practice of Land
Surveying--Practice of Architecture

Synopsis: Unless the professional actions of the architect or engineer come within the parameters of one of the exceptions found at K.S.A. 26a-143, engineers and architects may not practice land surveying as defined, without being registered or licensed as a land surveyor after meeting the requirements for such pursuant to K.S.A. 26a-129. As a general rule, the services of a registered architect are required whenever the work required is of such a nature as to be construed as being within the above definition of the term "practice of architecture" and not otherwise excepted by section 16 of Chapter 334 of the 1976 Session Laws. Any individual or person performing work of a character so as to be included within the definition of "practice of architecture" without being properly licensed renders himself subject to potential criminal liability pursuant to Section 19 of the 1976 Session Laws.

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Dear Mr. Blanchard:

You have requested my opinion concerning when the services of a registered architect are required and whether engineers and

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architects may practice land surveying without being licensed to do so pursuant to K.S.A. 26a-126, et seq.

To do so, concerning the latter question, section 3 of chapter 334 of the 1976 Session Laws states thus:

"No person shall engage in the practice of any branch of the technical professions, as defined in section 2, unless such person shall have obtained from the board a license for that purpose."

Section 2a defines the term "technical professions" to include:

"The professions of engineering, land surveying, architecture and landscape architecture as the practice of such professions are defined in article 1 and 2 of chapter 6 of Kansas Statutes Annotated and article 1 of chapter 26a of Kansas Statutes Annotated."

Land surveying is defined by section 32(b) of chapter 334 to mean:

"...the application of mathematics and the principles of law and methods of land measurement for the location or relocation of land boundaries and land monuments.

The term land surveying shall include the measurement and calculation of land areas; the preparation of the original descriptions of real property for conveyance or recording; and the preparation of maps or certificates of survey thereof."

Nowhere in the context of that statute does it authorize the Board of Technical Professions to grant licensure to an individual as a land surveyor merely upon his licensure as an engineer or architect. Furthermore, nowhere in Chapter 6, dealing with architects, or Chapter 26, treating engineers, do the Kansas Statutes authorize the practice of land surveying by architects or engineers without additionally being properly licensed as a land surveyor.

Under K.S.A. 26a-143, licensure as a land surveyor is not required for the following:

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"... (a) surveying, other than land surveying where such surveying is incidental to the design or construction of engineering or architectural works.

(b) The practice of land surveying by any officer or employee of any federal, state, county or city governmental agency while in the performance of his official duties.

(c) The practice of land surveying by an individual of his own real property or that of his employer for purposes other than the conveyance of an interest in such real property.

(d) The surveying on farms for agricultural purposes other than the conveyance of an interest in such farm property."

Unless the professional actions of the architect or engineer come within the parameters of one of the exceptions found at K.S.A. 26a-143, engineers and architects may not practice land surveying, as defined, without being registered or licensed as a land surveyor after meeting the requirements for such pursuant to K.S.A. 26a-129.

Further, you inquire as to when the services of a registered architect are required. Section 15(b) of Chapter 334 of the 1976 Session Laws defines the "practice of architecture" to mean:

"...the rendering of service for compensation by consultation, planning or designing of buildings or the responsible administration of construction projects."

The term "building" is defined at subsection (c) to mean:

"...any structure consisting of foundation, floors, walls, columns, girders, beams and roof, or a combination of any number of these parts, with or without other parts and appurtenances thereto, including the structural, mechanical and electrical systems utility services, and other facilities as may be required for said structure."

The pertinent statutes do not attempt to specifically elucidate the multiple situation in which the services of an architect are required. Rather, the statute defined the term "practice of architecture" and impose criminal penalties upon an individual practicing the same without being licensed.

However, Section 16 of Chapter 334, sets forth certain exceptions to the general requirements of licensure. Therein, Section 16 provides:

"This act shall not be construed to prevent or to affect:

(a) The practice of any other profession;

(b) the practice of any person engaging in the publication of books or pamphlets illustrating architectural designs, persons preparing plans, drawings or specifications for one and two family dwellings or for agricultural buildings;

(d) persons furnishing, individually or with subcontractors, labor and materials, with or without plans, drawings, specifications, instruments of service, or other data concerning the labor and materials to be used for any of the following:

(1) Store fronts or facades, interior alterations or additions, fixtures, cabinet work, furniture, appliances or other equipment;

(2) work necessary to provide for installation of any item designated in (1) above;

(3) alterations or additions to a building necessary to or attendant upon installation of any item designated in (1) above, if the alteration or addition does not change or affect the structural system of the building;

(e) work involving matters of rates, rating and loss prevention by employees of insurance rating organizations and insurance service organizations and insurance companies and agencies."

Each instance in which there exists a question as to whether the services of a registered architect are necessary must be judged upon the facts of that particular situation. As a general rule, the services of a registered architect is mandated whenever the

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work required is of such a nature as to be construed as being within the above definition of the term "practice of architecture" and not otherwise excepted by Section 16 of Chapter 334. Any individual or person performing work of a character so as to be included within the definition of "practice of architecture" without being properly licensed renders himself subject to potential criminal liability pursuant to Section 19 of the 1976 Session Laws.

Very truly yours,



CURT T. SCHNEIDER
Attorney General

CTS/HTW/cgm