



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

January 25, 1978

ATTORNEY GENERAL OPINION NO. 78-37

Mr. Donald E. Martin
City Attorney
Ninth Floor - Municipal Office Building
One Civic Center Plaza
Kansas City, Kansas 66101

Re: Cities--Occupational Licenses--Conditions

Synopsis: Absent a demonstrated relationship between delinquent personal property tax liability and the fitness of an applicant for a municipal occupational license to engage in the occupation involved, the city is without authority to deny issuance or renewal of an occupational license for nonpayment of personal property tax.

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Dear Mr. Martin:

You request my opinion whether a city may condition the issuance of an occupational license upon payment of delinquent personal property taxes. Stated otherwise, you ask whether the city may by ordinance authorize the refusal to issue or renew a license to engage in a business in the city on the ground that the applicant is delinquent in the payment of personal property taxes.

It is not clear for what purpose such a condition might be imposed. In *Board of County Commissioners v. Townsend*, 158 Kan. 487, 148 P.2d 509 (1944), the court stated in paragraph one of the syllabus, that "[m]ethods of collecting delinquent taxes are wholly statutory, and whatever procedures or remedies are available in connection therewith are to be found in the statutes." Thus, if the condition were imposed as a method of enforcing payment of delinquent personal property taxes, it would be subject

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to challenge on the basis of the abundant judicial authority that the city is without authority to supplement by ordinance those methods prescribed by statute alone for the collection of such delinquent taxes.

Certainly, an ordinance imposing such a condition is not in and of itself a method of enforcing directly any delinquent tax liability. However, the threat of refusal to issue or renew an occupational license for nonpayment of delinquent personal property tax may be a powerful inducement to the applicant to satisfy that liability.

If such a condition is imposed, it must be justified as a reasonable exercise of the police power of the city. The power of the city to regulate the conduct of lawful occupations in the city is substantial and, indeed, is virtually as broad as that of the state itself where the safety, health and general welfare of its people are concerned. *Delight Wholesale Co. v. City of Overland Park*, 203 Kan. 99, 453 P.2d 82 (1969). Certainly, the conditions which are imposed upon the granting or renewal of a license must be reasonably related to the purpose of the licensing power itself, which is, of course, ordinarily that of the protection of the public, health and general welfare of the public. On the face of the matter, payment or nonpayment of personal property tax liability bears little apparent relationship to the public interests the licensing powers of the city are designed to serve. Whether an applicant for issuance or renewal of municipal occupational license has little apparent relationship to the fitness of the applicant to engage in the occupation, or the likelihood that the occupation or business will be operated in any particular fashion whatever. In my judgment, absent a demonstration of some reasonable relationship between payment of personal property tax liability and the fitness of an applicant to engage in a particular occupation, such a requirement is entirely beyond the authority of the city.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj