



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

February 16, 1978

ATTORNEY GENERAL OPINION NO. 78- 73

Mr. Jerry M. Smetana
Attorney at Law
Post Office Box 205
Plainville, Kansas 67663

Re: Cities--Annexation--Authority

Synopsis: A city may not annex an area of land of less than 20 acres under K.S.A. 12-520(f) unless such land proposed to be annexed is a "tract" as defined by K.S.A. 12-519(a).

* * *

Dear Mr. Smetana:

You advise that a city of the third class wishes to annex certain land, less than 20 acres in area, pursuant to K.S.A. 12-520(f). The property proposed to be annexed is used for agricultural purposes, and is part of a tract of ground exceeding 55 acres of ground also used for agricultural purposes.

K.S.A. 12-520 provides in pertinent part thus:

"Except as otherwise hereinafter provided, the governing body of any city may by ordinance annex land to such city if any one or more of the following conditions exist:

* * *

(f) The tract is so situated that two-thirds (2/3) of any boundary line adjoins

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the city, except no tract in excess of twenty (20) acres shall be annexed under this condition.

No unplatted tract of land of fifty-five (55) acres or more which is used only for agricultural purposes shall be annexed by any city under the authority of this section without the written consent of the owner thereof." [Emphasis supplied.]

The term "tract" as used in the foregoing provision is defined by K.S.A. 12-519(a) as

"a single unit of real property under one ownership, outside the corporate limits of a city, platted and/or unplatted, title to which is publicly or privately held by an owner as defined by subsection (c) herein."

If the property comprising less than twenty acres is itself a separate tract, as defined above, it may be annexed under subsection (f) above. However, if it is merely a part of the larger tract, as I assume it to be from your letter, a portion thereof comprising less than 20 acres may not be annexed under K.S.A. 12-520(f), because that section applies only to discrete tracts, and not merely to "land," as used in several other subsections of K.S.A. 12-520, and which is defined at K.S.A. 12-519(b) to mean "a part of a tract or one or more tracts," Thus, if the land proposed to be annexed is not itself a separate tract, K.S.A. 12-520(f) may not be relied upon as authority for the annexation thereof.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj