



STATE OF KANSAS

## Office of the Attorney General

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Curt T. Schneider  
Attorney General

April 5, 1978

ATTORNEY GENERAL OPINION NO. 78- 146

Mr. Bernard V. Borst  
Assistant City Attorney  
City Hall - Thirteenth Floor  
455 North Main Street  
Wichita, Kansas 67202

Re: Cities--Airports--Powers

Synopsis: An airport authority created under K.S.A. 3-162 may exercise the power of eminent domain to acquire property for airport purposes without the concurrence or approval of the city governing body.

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Dear Mr. Borst:

On behalf of the Wichita Airport Authority, you inquire whether the Authority, created by the City of Wichita pursuant to K.S.A. 3-162 *et seq.*, may institute eminent domain proceedings in its own name to condemn private property for airport and aviation field purposes without the concurrence of the city governing body.

The Authority, you advise, was created by the city by ordinance pursuant to K.S.A. 3-162 *et seq.* Its powers, under the ordinance, are those granted by K.S.A. 3-167, which provides in pertinent part thus:

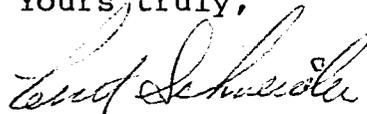
"When an airport authority has been established pursuant to K.S.A. 3-162 . . . , such airport authority shall be vested with all powers, authority and control heretofore vested

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in the governing body, the board of park commissioners or other body of such city, so far as the same relates to municipal airports, and such airport authority shall have every power, authority and control over municipal airports as is or may hereafter be vested in a board of park commissioners, governing body or other body, except that all general obligation bonds required or authorized by law to be issued relating to municipal airports and all taxes levied for the maintenance or improvement of municipal airports shall be issued and levied by the governing body of the city."

The apparent purpose of K.S.A. 3-162 *et seq.*, providing for the establishment of airport authorities, is to vest in a single body all authority of the city respecting municipal airports. One of the powers of cities relating to airports is the power to condemn property for airport purposes. Given the broad statutory language of K.S.A. 3-167, the power of the city to acquire property, insofar as that power relates to municipal airports, likewise passes to the Authority. The power of the city relating to airports passed by operation of law to the Authority, for its sole exercise, and it need not, under the statutes involved here, seek the concurrence or approval of the city governing body before invoking or exercising any of those powers, except as specifically provided by article 3, K.S.A.

Yours truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj