



STATE OF KANSAS

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January 3, 1979

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ATTORNEY GENERAL OPINION NO. 79- 3

Mr. Walter L. Cobler
Chairman
Metropolitan Topeka Airport Authority
Post Office Box 19053
Topeka, Kansas 66619

Re: Airports--Authorities--Duration and Dissolution

Synopsis: The obligations assumed by the Metropolitan Topeka Airport Authority in the form of assurances given and covenants entered into as a part of a grant agreement authorizing a grant award to the Authority by the Federal Aviation Administration or other appropriate federal agency constitute "liabilities" within the meaning of that term as it appears in K.S.A. 1978 Supp. 27-336.

* * *

Dear Mr. Cobler:

K.S.A. 1978 Supp. 27-336 provides thus:

"The authority may be dissolved by a two-thirds (2/3) majority vote of the governing body of the city and the board of county commissioners, and all property belonging to the authority shall thereupon be distributed to the city and county in the manner agreed upon by the governing bodies of the city and county. The authority shall not be dissolved hereunder unless and until all of its liabilities, bonds and other valid indebtedness have been paid in full or have been otherwise discharged." [Emphasis supplied.]

Mr. Walter L. Cobler
Page Two
January 3, 1979

In Opinion No. 78-273, we pointed out that under that provision, the Metropolitan Topeka Airport Authority could not be dissolved by a vote of the Shawnee County board of county commissioners and the governing body of the City of Topeka so long as any indebtedness of the Authority remained outstanding and undischarged.

You advise that a further question has been raised by the Federal Aviation Administration whether the obligations assumed by the Authority under an agreement entered into with the FAA in order to receive a grant under the federal Airport and Airways Development Act constitutes a "liability" within the meaning of the underscored language, *supra*, during the duration of which the Authority may not be dissolved by action of the county and city governing bodies.

As a prerequisite to the award of a grant under the referenced Act, the Authority must make certain assurances to the Federal Aviation Administration, and enter into certain covenants which define the obligations of the sponsor under the grant agreement. Paragraph 17 of FAA Form 5100-100 (4-76), describes the nature of the covenants in part thus:

"These covenants shall become effective upon acceptance by the Sponsor of an offer of Federal aid for the Project or any portion thereof, made by the FAA and shall constitute a part of the Grant Agreement thus formed. These covenants shall remain in full force and effect throughout the useful life of the facilities developed under this Project, but in any event not to exceed twenty (20) years from the date of said acceptance of an offer of Federal aid for the project. . . . Any breach of these covenants on the part of the Sponsor may result in the suspension or termination of, or refusal to grant Federal assistance under, FAA administered programs, and such other action as may be necessary to enforce the rights of the United States under this agreement."

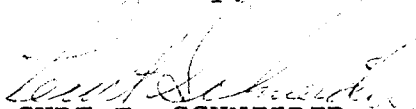
The question which is raised appears to stem from uncertainty as to the scope of the term "liabilities" underscored above.

Mr. Walter L. Cobler
Page Three
January 3, 1979

More specifically, the question is whether the term includes only financial obligations, *i.e.*, indebtedness, or whether it may include the obligations incurred by the Authority such as those prescribed by the covenants referred to above, which are assumed by the Authority as a condition of a grant award under the federal Airport and Airways Development Act. The term "liabilities" is used in a series, *i.e.*, "liabilities, bonds and other indebtedness." If the term "liabilities" includes only financial obligations, it is substantially superfluous, because the remaining terms in the series, "bonds and other indebtedness," themselves encompass, explicitly all kinds of financial obligations of the Authority. Presumptively, the legislature included the term "liabilities" advisedly, to include obligations not covered by the other two terms of the series. Accordingly, in my opinion, the term "liabilities" includes obligations, such as those included in the covenants and assurances given by the Authority under the terms of the ADAP grant agreement, which may not directly entail clearly financial obligations, but relate to the obligations and responsibilities of the Authority in the operation of the facilities for which such grants have been awarded.

Accordingly, it is my opinion that during the terms of any covenants, assurances and related grant agreement entered into by the Authority with the Federal Aviation Administration or any other agency of the Federal government, the obligations assumed by such covenants, assurances and grant agreements constitute "liabilities" which, so long as they remain in force and not fully discharged, forestall the authority of the city and county governing bodies to terminate the legal existence of the Authority.

Yours truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj