Mr. Frank L. Korte  
County Attorney, Sumner County  
Sumner County Courthouse  
Wellington, Kansas 67152

Re: Cities and Municipalities--Code of Procedure for Municipal Courts--Qualifications of Municipal Judge

Synopsis: A municipal judge in a city of the second or third class is not required by statute to be a lawyer.

Dear Mr. Korte:

In your letter of September 26, 1979, you request the opinion of this office upon the question of whether a municipal judge in a second or third class city is required to be a lawyer.

After reviewing the statutes, we would conclude that the answer to your question is provided by K.S.A. 12-4105, which states, in pertinent part:

"The municipal court shall be presided over by a municipal judge. The judge shall be selected in the manner provided by statute. The person so selected shall be a citizen of the United States and at least eighteen (18) years of age. In cities of the first class, the person selected shall be an attorney admitted to the practice of law in the state of Kansas." (Emphasis added.)
It would appear from the underscored language above that second and third class cities are exempt from the requirement that the municipal judge be a lawyer. This statute appears to be a good example of *inclusio unius est exclusio alterius* (the inclusion of one is the exclusion of another), a well-recognized principle of statutory construction. We have also examined K.S.A. 14-201 et seq., relating to the appointment of municipal judges in second class cities, and K.S.A. 15-204 and 15-1601 et seq., relating to the appointment and qualifications for municipal judges in third class cities, and find nothing there which would alter the above conclusion.

Very truly yours,

[Signature]

ROBERT T. STEPHAN
Attorney General of Kansas

Jeffrey S. Southard
Assistant Attorney General

RTS:BJS:JSS:gk