



STATE OF KANSAS

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April 28, 1981

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ATTORNEY GENERAL OPINION NO. 81-102

Nona J. Knox
City Clerk
City of Louisburg
Louisburg, Kansas 66053

Re: Cities and Municipalities--General Improvement
and Assessment Law--Services to Property Outside
Improvement District

Synopsis: The governing body of a municipality may determine the conditions under which property, located outside the boundaries of a sewer improvement district, may be served by a sewer constructed pursuant to the General Improvement and Assessment Law, K.S.A. 12-6a01 et seq. However, special assessments may not be levied against such property under the provisions of the aforesaid law. Cited herein: K.S.A. 12-6a01, 12-6a12.

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Dear Ms. Knox:

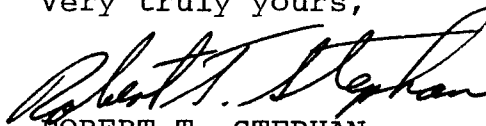
You request our interpretation of the General Improvement and Assessment Law, K.S.A. 12-6a01, et seq. Specifically, you ask whether properties located outside the boundaries of a sewer improvement district, which district was created in 1973, may be served by the district sewer which was completed in 1975. Also, you inquire as to whether special assessments may be levied against property, located outside the improvement district, if such property is permitted to connect with the district sewer.

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In response to your first question, it is our opinion that the governing body of the city of Louisburg may determine the conditions under which property, located outside the boundaries of the sewer improvement district, may be served by the district sewer. Such conditions may, in our judgment, include a requirement that property owners pay whatever amount is equitable and proper for permission to connect with the sewer. See Botts v. City of Valley Center, 124 Kan. 9, 12 (1927).

Answering your second question, it is our opinion that special assessments may not be levied against property located outside the boundaries of the sewer improvement district, even where such property is permitted to connect with the district sewer. The General Improvement and Assessment Law contains no provision which would authorize such an assessment, nor does it provide for the alteration of district boundaries so as to include additional property within the district. Although K.S.A. 12-6a12 permits a governing body to make "supplemental assessments" where there has been an error relative to the total cost of the improvement, and although the same statute permits a reassessment (in certain circumstances) as to parcels within the district, there is no provision which provides for the assessment of property outside the district. Therefore, in our judgment, such a special assessment may not be levied by the city of Louisburg.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Terrence R. Hearshman
Assistant Attorney General

RTS:BJS:TRH:jm