



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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May 30, 1984

ATTORNEY GENERAL OPINION 84- 42

Lyndus A. Henry
County Counselor
Johnson County Courthouse
Olathe, Kansas 66061

Re: Counties and County Officers -- Register of Deeds --
Custody and Recordation of Documents; Computerization
of Records

Synopsis: K.S.A. 19-1204 requires a Register of Deeds to main-
tain certain handwritten record books. Although
K.S.A. 58-2224 provides that certain other forms of
record keeping will satisfy this requirement, it does
not authorize the exclusive use of computerized re-
cording. Thus, while a Register of Deeds may use
a computer to aid in the recording functions of the
office, he or she must also maintain the books re-
quired by K.S.A. 19-1204 until the legislature
specifically allows computerized record keeping
to be substituted for the handwritten records.
Cited herein: K.S.A. 19-1204, 58-2224.

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Dear Mr. Henry:

As Johnson County Counselor and on behalf of the Johnson County
Register of Deeds, you have requested an opinion from this office
on matters related to computerization of certain records in the
Register of Deeds office.

Your specific question asks whether the Register of Deeds may
eliminate the handwritten grantor-grantee indexes if a computer

is installed to maintain those records. It is your opinion and the opinion of your staff that, in view of K.S.A. 19-1204, the Register may utilize a computer to aid in the record keeping functions of the office but must also maintain the handwritten books.

K.S.A. 19-1204 provides:

"The register of deeds shall have custody of and safely keep and preserve all the books, records, deeds, maps, papers and microphotographs deposited or kept in his office, he shall also record, or cause to be recorded, in a plain and distinctive handwriting, in suitable books to be provided and kept in his office, all deeds, mortgages, maps, instruments and writings authorized by law to be recorded in his office and left with him for that purpose, and shall perform all other duties required of him by law." (Emphasis added.)

As you point out, this statute clearly imposes a duty upon the Register of Deeds to record, "in plain and distinct handwriting, in suitable books" all instruments authorized by law to be recorded in the office. We agree with your conclusion that the language of the statute precludes dispensing with the handwritten books in favor of a computerized system.

The language of K.S.A. 19-1204 does not contemplate the use of a computer to maintain records in the office of the Register of Deeds. The statute does not, however, prohibit the use of a computer to maintain the records. The purpose of the "plain and distinct handwriting" requirement is to insure that the documents and instruments which, by law, must be recorded by the Register of Deeds are accessible to those entitled to them. The statute does not provide for other forms of access to records, such as a computer printout, and clearly requires the Register of Deeds to maintain the handwritten books. Thus even though, as you inform us in your letter of April 2, 1984, access to the computerized records will be available, K.S.A. 19-1204 precludes dispensing with the handwritten books.

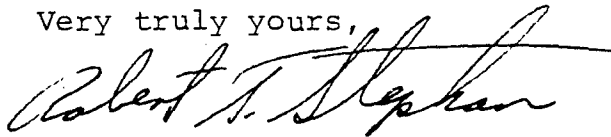
We note that in K.S.A. 58-2224 the legislature has provided that, as to documents which must be recorded in city, county or state offices, the making of photographic or microphotographic copies is deemed to constitute recording of those documents. That statute also provides that when microphotographs are placed in an accessible file which is available to those entitled to its use, such microfilms shall be deemed record books. This statute recognizes that preferred methods of record keeping may change

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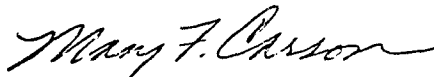
and that as long as access to the records is preserved, the methods used to keep the records may vary, at least so far as to include photocopies and microphotographs. In our opinion, however, this statute is not presently worded to recognize computerized record keeping as a substitute for the handwritten records required by K.S.A. 19-1204.

It is our opinion that K.S.A. 19-1204 requires a Register of Deeds to maintain certain handwritten record books. Although K.S.A. 58-2224 provides that certain other forms of record books may be utilized that statute does not authorize the exclusive use of computerized recording. Thus, while a Register of Deeds may use a computer to aid in the recording functions of the office, he or she must also maintain the books required by K.S.A. 19-1204 until the legislature specifically allows computerized record keeping to be substituted for the handwritten records.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Mary F. Carson
Assistant Attorney General

RTS:BJS:MFC:crw