



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

February 3, 1986

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ATTORNEY GENERAL OPINION NO. 86- 10

Joseph W. Zima
Assistant County Counselor
Shawnee County Courthouse, Room 203
200 East 7th Street
Topeka, Kansas 66603

Re: Agriculture -- Fairs in Counties over 50,000
Population -- Tax Levies for Fair Purposes; 4-H and
Grange Fairs

Synopsis: A county agricultural or fair association is organized in accordance with K.S.A. 2-125 et seq., and recognized by the State Board of Agriculture pursuant to K.S.A. 2-127. Since the Shawnee County 4-H Fair and the Auburn Grange Fair do not meet these requirements, these organizations do not qualify as "any county agricultural or fair association" within the provisions of K.S.A. 2-301. For these reasons, Shawnee County may not levy a tax pursuant to K.S.A. 2-301 to provide funds for the Shawnee County 4-H Fair or the Auburn Grange Fair. Cited herein: K.S.A. 2-125; 2-127; 2-301; 19-223; 19-2913.

* * *

Dear Mr. Zima:

As assistant county counselor for Shawnee County, Kansas, you request our opinion regarding the application of K.S.A. 2-301 to Shawnee County. Specifically, you ask whether Shawnee County may levy a tax pursuant to K.S.A. 2-301 to provide funds for the Shawnee County 4-H Fair or the Auburn Grange Fair. You inform us that there are no fairs or fair

associations in Shawnee County recognized by the State Board of Agriculture pursuant to K.S.A. 2-125 et seq.

K.S.A. 2-301 provides in pertinent part:

"Whenever any county agricultural or fair association, or whenever any livestock association or wheat show located in any county having a population of over fifty thousand (50,000) shall have provided itself, or themselves, by ownership or lease, with suitable grounds and facilities, for holding an agricultural fair, wheat show or livestock show, with a design to encourage improvement in livestock, tillage, crops, implements, mechanical fabrics, fine arts, and articles of domestic industry, by offering premiums for the best exhibits thereof, and shall have held such a fair during at least one year in said county, it shall be the duty of the county commissioner of such county to provide annually for the levy of a tax and to appropriate annually the proceeds of such tax for the payment of such premiums as may be offered by the association . . . and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county. Such tax shall not be levied until the proposition shall have been submitted to the qualified voters of such county at a general election, or a special election, called for such purpose, and the making of such levy shall have been ordered by a majority of the electors voting on the proposition." (Emphasis added.)

Shawnee County may levy a county tax to provide funds for the organizations in question if a 4-H fair or Grange fair is included within the meaning of K.S.A. 2-301 as "any county agricultural or fair association."

K.S.A. 2-301 is part of article three of K.S.A. chapter two, which concerns agriculture. The statutes under article three concern fairs in counties over 50,000 population. No statute -

under this article, however, contains a definition of the term "county agricultural or fair association." K.S.A. 2-125(a) provides the following definition:

"As used in this act, 'fair association' or 'association' means a county fair incorporated as provided in this act"

K.S.A. 2-125 is part of K.S.A. chapter two, article one, and is contained in the group of statutes that govern county fairs and agricultural societies. A county fair association must be organized according to K.S.A. 2-127:

"(a) To become a county fair association 25 or more qualified electors representing the majority of the townships of the county shall have been incorporated as a nonprofit corporation with a paid-up capital of not less than \$5,000, and have received recognition as the _____ county fair association from the state board of agriculture. The state board of agriculture shall not give official recognition to any fair association until the fair association has submitted satisfactory evidence that it owns land or buildings of an appraised value of at least \$5,000 or has paid-up stock subscriptions in its treasury to this amount appropriated to the purchase of land or buildings or both." (Emphasis added.)

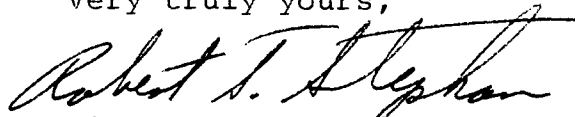
Kansas appellate courts have held that statutes relating to the same subject, although enacted at different times, are in pari materia and should be construed together to determine legislative intent. Capital Services, Inc. v. Dahlinger Pontiac-Cadillac, Inc., 232 Kan. 419, 422 (1983); Claflin v. Walsh, 212 Kan. 1, 8 (1973); In re Estate of Fortney, 5 Kan.App.2d 14, 20, rev. denied 228 Kan. 806 (1980). In Bolser v. Zoning Board for Aubry Township, 228 Kan. 6, 14 (1980), the Supreme Court stated that K.S.A. 19-223 and K.S.A. 19-2913, which both relate to judicial review of zoning decisions, were in pari materia and construed them together to determine the time limitation for appeal.

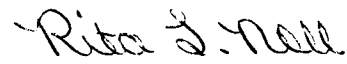
While K.S.A. 2-125 and K.S.A. 2-301 were not enacted at the same time and fall under different articles of K.S.A. chapter two, since both of these statutes relate to county fairs, they are in pari materia and should be construed together to determine legislative intent. Therefore, the definition listed in K.S.A. 2-125(a) is applicable to define the term "county agricultural or fair association" as it is used in K.S.A. 2-301.

Neither 4-H nor Grange organizations are established by statute but are privately organized and managed institutions. While the Shawnee County 4-H and Auburn Grange associations hold agricultural fairs, neither group is a county fair association incorporated pursuant to K.S.A. 2-125 et seq.

In conclusion, a county agricultural or fair association is organized in accordance with K.S.A. 2-125 et seq., and recognized by the State Board of Agriculture pursuant to K.S.A. 2-127. Since the Shawnee County 4-H Fair and the Auburn Grange Fair do not meet these requirements, these organizations do not qualify as "any county agricultural or fair association" within the provisions of K.S.A. 2-301. For these reasons, Shawnee County may not levy a tax pursuant to K.S.A. 2-301 to provide funds for the Shawnee County 4-H Fair or the Auburn Grange Fair.

Very truly yours,


ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS


Rita L. Noll
Assistant Attorney General

RTS:JSS:RLN:crw