



STATE OF KANSAS

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March 14, 1986

ATTORNEY GENERAL OPINION NO. 86- 39

The Honorable Phil Kline
State Representative, Nineteenth District
State Capitol, Room 182-W
Topeka, Kansas 66612

Re: Laws, Journals and Public Information -- Records
Open to Public -- Lists of Names Derived from
Public Records

Crimes and Punishments -- Criminal Code; Crimes
Affecting Public Trusts -- Unlawful Use of Names
Derived from Public Records

Synopsis: K.S.A. 1985 Supp. 21-3914 and K.S.A. 1985 Supp.
45-220 limit the use of information obtained from
public records so as to prohibit commercial
solicitation of persons whose names and addresses
are of record. Using information from the tax
rolls to produce land "ownership maps" is not
prohibited. In this case, names and addresses
taken from public records are not used to solicit
those persons to purchase property or services;
rather, they are used for information purposes to
determine land ownership and location. Cited
herein: K.S.A. 1985 Supp. 21-3914; 45-220; 45-221.

* * *

Dear Representative Kline:

As State Representative for the Nineteenth District, you
request our opinion regarding the Kansas Open Records Act.
Specifically, you ask whether a certain situation violates the

Act's prohibition against using names and addresses derived from public records for commercial purposes.

You inform us that a private citizen has purchased and received a copy of the tax rolls for tracts of land in Johnson County exceeding ten acres in size. You state that from these records, which contain the name of land owners and the legal descriptions of their property, a land "ownership map" is compiled and sold to the public. A copy of such a map was submitted for our examination. You also state that the landowners themselves are not solicited to purchase the maps.

Under the Kansas Open Records Act (KORA), K.S.A. 45-215 et seq., a public record is to be open for inspection unless it falls within one of the thirty-five categories of records which are not required to be disclosed or whose disclosure is specifically prohibited by statute. K.S.A. 1985 Supp. 45-221(a). The records in question (i.e. tax rolls) do not fall within any of these exceptions and therefore must be made available to the public.

There are, however, limits placed on the use of information derived from public records. One of the procedures for obtaining access to public records is K.S.A. 1985 Supp. 45-220(c):

"[T]he agency may require a person requesting the records or information therein to provide written certification that:

"(1) The requester has a right of access to the records and the basis of that right; or

"(2) the requester does not intend to, and will not: (A) Use any list of names or addresses contained in or derived from the records or information for the purpose of selling or offering for sale any property or service to any person listed or to any person who resides at any address listed; or (B) sell, give or otherwise make available to any person any list of names or addresses contained in or derived from the records or information for the purpose of allowing that person to sell or offer for sale any property or service to any

person listed or to any person who resides
at any address listed."

Furthermore, apart from certain exceptions not relevant to
this discussion, K.S.A. 1985 Supp. 21-3914(a) provides:

"No person shall knowingly sell, give, or
receive, for the purpose of selling or
offering for sale any property or service
to persons listed therein, any list of
names and addresses contained in or
derived from public records. . . ."

Violation of this statute is a class C misdemeanor. K.S.A.
1985 Supp. 21-3914(b).


This office has previously stated that neither a person who
requests a record, nor a third party who obtains the
information from a "requestor," may use a list of names and
addresses derived from public records for commercial
purposes. See Atty. Gen. Opin. Nos. 84-106 and 85-34.
In Attorney General Opinion No. 86-1, we were asked whether
either the publication by a newspaper of the names and
addresses of new customers of the city water department, or
providing the same information to a "newsletter service" which
would convey those names to its subscribers as sales
prospects, was prohibited by the KORA. We were of the
opinion that the indirect commercial purpose of the newsletter
service was within the type of activity the statutes intended
to prohibit, while inclusion of the same list in the newspaper
did not violate K.S.A. 1985 Supp. 21-3914. The distinction to
be drawn is that the purpose of the newsletter service was to
provide a list of persons for its subscribers to solicit,
while the local newspaper published the list as a matter of
public interest.

K.S.A. 1985 Supp. 21-3914 and K.S.A. 1985 Supp. 45-220 state
that names taken from public records cannot be used "for the
purpose of selling or offering for sale any property or
service to persons listed therein. . . ." These statutes
limit the use of information obtained from public records to
prohibit solicitation of persons whose names and addresses
are made record. In the situation you submit, names and
addresses are obtained from the tax roles for the purpose of
producing maps showing land ownership in Johnson County.
While selling maps to the public is a commercial activity, the
names and addresses obtained from the public records are not
used to solicit those persons, but are used for informational

purposes to determine land ownership and location. While it is possible that information from the maps could be combined with other materials in making solicitations, the same is true of lists published in a newspaper of general circulation. In either case, the material for commercial usage is too indirect to invoke the provisions of K.S.A. 1985 Supp. 21-3914, which, as a criminal statute, must be narrowly construed.

Therefore, we conclude that in this case using information from the tax rolls to produce "ownership maps" does not violate K.S.A. 1985 Supp. 21-3914 or K.S.A. 1985 Supp. 45-220.

Very truly yours,


ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Rita L. Noll
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RTS:JSS:RLN:crw