



STATE OF KANSAS

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October 30, 1987

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ATTORNEY GENERAL OPINION NO. 87- 160

Christopher Y. Meek
Cherokee County Attorney
Cherokee County Courthouse
Columbus, Kansas 66725

Re: Corporations--Agricultural Corporations--
Prohibition Against Certain Corporations Owning
Agricultural Land

Synopsis: The proscription against a corporation, directly or indirectly, owning, acquiring or otherwise obtaining or leasing any agricultural land is found in K.S.A. 1986 Supp. 17-5904, as amended by L. 1987, ch. 368, sec. 2. A hog raising operation where a corporation contracts with a farmer to raise hogs to a slaughter weight allows the corporation to indirectly acquire agricultural land in violation of the statute. Cited herein: K.S.A. 1986 Supp. 17-5903; 17-5904, as amended by L. 1987, ch. 368, sections 1 and 2; 1987 House Bill No. 2076, as introduced.

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Dear Mr. Meek:

As County Attorney for Cherokee County, Kansas you have requested an Attorney General's opinion regarding a possible violation of K.S.A. 1986 Supp. 17-5904 and amendments thereto. Specifically, you inquire whether a Kansas corporation can engage in a hog raising operation without violating the proscription against a corporation, directly or

indirectly, owning, acquiring, or otherwise obtaining or leasing any agricultural land in this state.

You indicate that Rickel, Inc., a corporation doing business in Kansas, currently operates and maintains grain elevators in Kansas and surrounding states. This corporation contracts with area farmers to maintain several hundred hogs to a slaughter weight. When the hogs reach the slaughter weight, they are removed by Rickel, Inc. and taken to market. Thereupon a new set of hogs are delivered to the contracting farmer to be raised to slaughter weight. The farmer in turn receives a weekly payment for his services. The farmer utilizes his land and facilities but Rickel, Inc., does not acquire a direct interest in the land or facilities. The contract, however, specifies that the farmer is to provide the land and necessary buildings, feeders and water troughs to perform under the contract.

K.S.A. 1986 Supp. 17-5904, as amended by L. 1987, ch. 368, sec. 2, states in part:

"(a) No corporation, trust, limited partnership or corporate partnership, other than a family farm corporation, authorized farm corporation, limited agricultural partnership, family trust, authorized trust or testamentary trust shall, either directly or indirectly, own, acquire or otherwise obtain or lease any agricultural land in this state. The restrictions provided in this section do not apply to the following. . . ."
(Emphasis added.)

The statute lists fourteen exceptions, none of which apply to your situation. The question is whether the facts as presented allow the corporation to "directly or indirectly own, acquire or otherwise obtain or lease" agricultural land in violation of the statute.

A statute is not subject to statutory construction if the intent appears from clear and unambiguous language. State v. Haug, 237 Kan. 390 (1985), Szoboszlay v. Glessner, 233 Kan. 475 (1983). The language in K.S.A. 1986 Supp. 17-5904, as amended plainly and clearly prohibits a corporation from having any direct or indirect interest in agricultural land. While the facts indicate that Rickel, Inc. obtains no direct


interest, it is our opinion that the circumstances give the corporation an indirect interest in agricultural land.

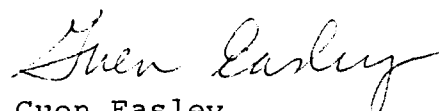
We are also persuaded that the operation described is very similar to that proposed to the legislature during the 1987 legislative session. 1987 House Bill No. 2076 amended K.S.A. 1986 Supp. 17-5904 to include two additional exemptions, where a corporation could hold or lease agricultural land to operate a poultry confinement facility or a rabbit confinement facility. Subsection 2(a)(8) of 1987 House Bill No. 2076, as introduced, also contained an exemption to permit a corporation to hold or lease agricultural land to operate a swine confinement facility. This provision, however, was deleted by the House Economic Development Committee. Minutes of the House Economic Development Committee, January 23, 1987 to March 5, 1987. Before deletion, subsection 1(p) (amending K.S.A. 1986 Supp. 17-5903) of 1987 House Bill 2076 included the following definition of a swine confinement facility:

"Swine confinement facility' means the structures and related equipment used for housing, breeding, farrowing or feeding of swine in an enclosed environment. The term includes within its meaning only such agricultural land as is necessary for proper disposal of liquid and solid wastes and for isolation of the facility to reasonably protect the confined animals from exposure to disease."

It is clear from the legislative changes that a hog enterprise resembling Rickel, Inc.'s has been rejected as an exemption to the proscription against a corporation owning or acquiring agricultural land. Thus, in conclusion, it is our opinion that until the legislature exempts the operations described from the proscription in K.S.A. 1986 Supp. 17-5904 and amendments thereto, such activity violates the statute by providing the corporation with an indirect interest in agricultural land.

Very truly yours,


ROBERT T. STEPHAN
Attorney General of Kansas


Guen Easley
Assistant Attorney General