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ATTORNEY GENERAL OPINION NO. 88- 53

The Honorable Rick Bowden  
State Representative, Ninety-Third District  
State Capitol, Room 281-W  
Topeka, Kansas 66612

Re: Corporations -- Agricultural Corporations --  
Definition of "Farming"; Hydroponic Vegetable  
Production

Synopsis: Hydroponic production of vegetables by a  
corporation on land owned by the corporation  
constitutes farming and thus violates the corporate  
farming law. Cited herein: K.S.A. 1987 Supp.  
17-5903; 17-5904.

\* \* \*

Dear Representative Bowden:

As State Representative for the Ninety-Third District, you request our opinion concerning the corporate farming law. You inform us that Kansas Gas and Electric Company wishes to pursue hydroponic vegetable production on land currently owned by KG&E for industrial purposes. Hydroponics is the growing of plants in solution.

K.S.A. 1987 Supp. 17-5904(a) provides as follows:

"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 statute then lists fourteen exceptions to the general prohibition. Pertinent to this opinion is the third exception:

"Agricultural land acquired by a corporation in such acreage as is necessary for the operation of a nonfarming business. Such land may not be used for farming except under lease to one or more natural persons, a family farm corporation, authorized farm corporation, family trust, authorized trust or testamentary trust. The corporation shall not engage, either directly or indirectly, in the farming operation and shall not receive any financial benefit, other than rent, from the farming operation." K.S.A. 1987 Supp. 17-5904(a)(3). (Emphasis added).

"Agricultural land" is defined in the act as "land suitable for use in farming." K.S.A. 1987 Supp. 17-5903(g). The above exception provides that a corporation may own agricultural land if the land is not used for farming.

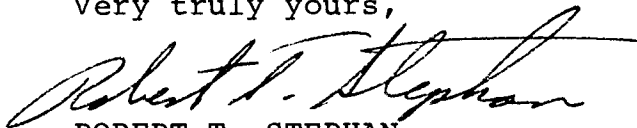
The question is whether hydroponic vegetable production constitutes "farming." The term is defined at K.S.A. 1987 Supp. 17-5903(h) as follows:

"'Farming' means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing or the production of livestock. Farming does not include the production of timber, forest products, nursery products or sod, and farming does not include a contract to provide spraying, harvesting or other farm services."


Vegetables are horticultural crops. Thus, the corporation's proposed method of producing vegetables would constitute

farming. Therefore, we must conclude that hydroponic vegetable production by a corporation would violate the corporate farming law.

Very truly yours,



ROBERT T. STEPHAN  
ATTORNEY GENERAL OF KANSAS



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