



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 92- 8

The Honorable Dale M. Sprague
State Representative, Seventy-Third District
P.O. Box 119
McPherson, Kansas 67460

Re: Cities and Municipalities--Planning and Zoning--
Manufactured Homes

Synopsis: Pursuant to section 12 of chapter 33 of the 1991 Session Laws of Kansas, "[w]henver a federal manufactured home construction and safety standard established pursuant to 42 U.S.C. § 5401 et seq. is in effect, no state agency or political subdivision shall have any authority to establish, or to continue in effect, with respect to any manufactured home covered, any standard regarding construction or safety applicable to the same aspect of performance of such manufactured home which is not identical to the federal manufactured home construction and safety standard." Accordingly, any standard adopted by a city, including any building code provision, which contravenes the above-quoted limitation is void, and does not constitute grounds for excluding a residential design manufactured home from the city's single family residential district. Additionally, under section 19 of chapter 56 of the 1991 Session Laws of Kansas, a governing body of a city is prohibited from adopting or enforcing zoning regulations which have the effect of excluding residential design manufactured homes (as defined therein) from single family residential districts solely because they are manufactured

homes. Cited herein: L. 1991, ch. 33, § 12; L.
1991, ch. 56, § 19.

* * *

Dear Representative Sprague:

You request our interpretation of L. 1991, ch. 56, § 19 and L. 1991, ch. 33, § 12. Specifically, you ask whether a residential design manufactured home (as that term is defined in section 2 of chapter 56 of the 1991 Session Laws of Kansas) can be excluded from a city's single family residential district, because it does not comply with provisions of that city's building code which are not identical to the comparable provisions of the federal manufactured home construction and safety standards established pursuant to 42 U.S.C. § 5401 et seq.

Section 2(a)(7) of chapter 56 of the 1991 Session Laws of Kansas defines a residential design manufactured home as follows:

"'Residential design manufactured home' means a manufactured home on permanent foundation which has (A) minimum dimensions of 22 body feet in width, (B) a pitched roof and (C) siding and roofing materials which are customarily used on site built homes."

L. 1991, ch. 33, § 12 limits a city's regulatory authority with respect to manufactured homes, and provides as follows:

"Whenever a federal manufactured home construction and safety standard established pursuant to 42 U.S.C. § 5401 et seq., is in effect, no state agency or political subdivision shall have any authority either to establish, or to continue in effect, with respect to any manufactured home covered, any standard regarding construction or safety applicable to the same aspect of performance of such manufactured home which is not identical to the federal manufactured home construction and safety standard. Nothing in this section shall

prohibit the adoption or enforcement of a construction or safety standard by a state agency or political subdivision applicable to a building which is open to the public for the purpose of providing services or products to the public."

In addition to the above-quoted limitations regarding construction and safety standards, L. 1991, ch. 56, § 19(a) limits a city's zoning authority with respect to manufactured homes:

"The governing body shall not adopt or enforce zoning regulations which have the effect of excluding manufactured homes from the entire zoning jurisdiction of the governing body. In addition, the governing body shall not adopt or enforce zoning regulations which have the effect of excluding residential design manufactured homes from single family residential districts solely because they are manufactured homes."

In accordance with the above-quoted statutory provisions, it is our opinion that any standard adopted by a city which contravenes the regulatory limitation prescribed by L. 1991, ch. 33, § 12, is void, and does not constitute grounds for excluding a residential design manufactured home from the city's single family residential district. Additionally, pursuant to L. 1991, ch. 56, § 19(a), no city shall adopt or enforce zoning regulations which have the effect of excluding residential design manufactured homes from single family residential districts solely because they are manufactured homes.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Terrence R. Hearshman
Assistant Attorney General