



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 92- 70

Stan Teasley
Executive Director
Kansas Commission on Veterans' Affairs
Jayhawk Towers, Suite 701
700 S.W. Jackson
Topeka, Kansas 66603

Re: State Institutions and Agencies; Historical
Property--Kansas Soldiers' Home--Persons Eligible
for Admission; Application; Discharges; Priorities
for Admission; Income Tax Returns

Synopsis: The Kansas commission on veterans' affairs may
require applicants or members of the Kansas
soldiers' home to submit copies of the individuals'
federal and state income tax returns so that the
commission may determine whether the individuals
are eligible to become or remain members of the
Kansas soldiers' home. Cited herein: K.S.A.
76-1902b; 76-1904; 76-1908; 76-1927; 79-3234; 5
U.S.C.S. § 552a note; 26 U.S.C. § 6103.

* * *

Dear Mr. Teasley:

As executive director for the Kansas commission on veterans' affairs, you request our opinion regarding whether the commission may require individuals who are applying for admission to the Kansas soldiers' home to provide, as a condition of admission, a copy of their federal and state income tax returns submitted for the previous year. You also ask whether the commission may require members of the Kansas

soldiers' home to submit annually to the commission copies of their federal and state income tax returns.

The Kansas soldiers' home located at Fort Dodge was established to provide support of disabled soldiers and sailors of the United States. K.S.A. 76-1902b. The Kansas commission on veterans' affairs has full control of the soldiers' home, the property, effects, supervision and management thereof, K.S.A. 76-1904, and may adopt rules and regulations for the management and government of the soldiers' home and its members. K.S.A. 76-1908; 76-1927. Membership in the soldiers' home is a privilege extended by the state to certain persons and upon certain conditions. Anderson v. Hedges, 160 Kan. 665, 669 (1946).

K.S.A. 76-1908 provides that those individuals eligible for admission to the soldiers' home include:

"(1) Any person who served in the active military service of the United States during any period of war, or who served in the active military service of the United States during peacetime and is entitled to veterans administration hospitalization or domiciliary care under title 38, United States code and veterans administration rules and regulations, and who has been discharged or relieved therefrom under conditions other than dishonorable, who may be disabled by disease, wounds, old age or otherwise disabled, and who, by reason of such disability, is incapacitated from earning a living.

"(2) The widow, mother, widower, father or minor child of any person who qualified under paragraph (1) of subsection (a), if such widow, mother, widower, father or minor child is incapable of self-support because of physical disability."

The commission is authorized to discharge any member of the soldiers' home who has gained admission into the soldiers' home by misrepresentation of the member's financial or physical condition or whose financial and physical condition has been so altered since admittance so that the further maintenance of the member in the soldiers' home is not justified. K.S.A. 76-1908. Veterans who have no adequate

means of support are to be given priority over other applicants for admission. Id. The commission is seeking the federal and state income tax returns of applicants and members so as to assist it in making determinations of whether an applicant or member is qualified for admission to the soldiers' home.

The dissemination of income tax returns and the information contained therein is restricted by 26 U.S.C. § 6103 and K.S.A. 79-3234. The restrictions apply to those persons set forth in the respective statutes, generally being officers or employees of the government. The restrictions do not prohibit dissemination of the income tax return by the individual who is filing the income tax return. 5 U.S.C.S. § 552a note provides that, with certain exceptions, "[i]t shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number." However, a similar provision regarding individuals who refuse to disclose income tax returns does not exist. Therefore, the Kansas commission on veterans' affairs may require applicants or members of the Kansas soldiers' home to submit a copy of the individuals' federal and state income tax returns so that the commission may determine whether the individuals are eligible to become or remain members of the Kansas soldiers' home.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Richard D. Smith
Assistant Attorney General

RTS:JLM:RDS:jm