June 1, 1992

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.

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,

[Signature]

ROBERT T. STEPHAN
Attorney General of Kansas

[Signature]

Richard D. Smith
Assistant Attorney General

RTS:JLM:RDS:jm