



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN  
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
TELECOPIER: 296-6296

August 17, 1992

ATTORNEY GENERAL OPINION NO. 92-110

Brad L. Jones  
Coffey County Attorney  
Courthouse, 110 S. Sixth St.  
Burlington, KS 66839

Re: Counties and County Officers -- County  
Commissioners -- Sale of County Property; Use of  
Trade-Ins

Synopsis: A board of county commissioners may use the  
trade-in procedure when disposing of property which  
does not exceed \$50,000 in value. Cited herein:  
K.S.A. 1991 Supp. 19-101a, as amended by L. 1992,  
ch. 133, § 13; K.S.A. 19-101c; K.S.A. 1991 Supp.  
19-211; K.S.A. 19-212; L. 1987, ch. 96, § 1.

\* \* \*

Dear Mr. Jones:

As county attorney of Coffey county, you request our opinion regarding whether the provisions of K.S.A. 1991 Supp. 19-211(b) permit the board of county commissioners of a county to dispose of county property, the value of which does not exceed \$50,000.00, by "trading-in" that property in connection with a publicly advertised purchase of replacement property by competitive bid; and, if so, whether notice is sufficient if the solicitation of bids, for a purchase of such replacement property by a transaction including a "trade-in" of used county property, is published at least two times in the official county newspaper, and the notice includes the time, place and conditions of the competitive bid letting.

Prior to 1989, K.S.A. 19-211 did not provide for the disposal of property valued at under \$25,000. (L. 1987, ch. 96, § 1). Furthermore, until 1989, K.S.A. 19-211 only pertained to Shawnee, Sedgwick and Johnson counties. The legislative intent of the 1989 amendments is relevant to the questions you pose. (See Minutes, Senate Committee on Local Government, 2-14-92; Minutes, House Committee on Local Government, 3-15-89). The amendments were prompted by the need for alternative methods for the disposal and sale of county-owned property. At this time, the legislature felt it was necessary to make the law apply uniformly statewide.

In addition, the legislature, prompted by county officials, wanted to provide for the disposal of property valued up to \$50,000. Concerns were raised that the method should operate expeditiously and efficiently in the interest of both the county and the public.

The legislative concerns indicate that the provision was to allow for the most efficient and least time consuming disposal of county property. The trade-in procedure allows for efficient disposal of property since the county receives a discount on the replacement purchase. This is also more efficient because the county completes both the disposal and repurchase in one transaction. Therefore, this method requires less time and effort be spent on the process. Since the trade-in procedure fulfills the concerns of the legislature in drafting the statute, we believe it would be appropriate under K.S.A. 1991 Supp. 19-211.

K.S.A. 1991 Supp. 19-211 does not specifically cover the use of such property as a trade-in for new property. However, application of additional statutes dealing with counties indicate that the trade-in procedure is allowable. The general powers of a county are found in K.S.A. 19-101. Relevant to this discussion is the third provision, giving the county power:

"To sell and convey any real or personal estate owned by the county, and make such order respecting the same as may be deemed conducive to the interest of the inhabitants;. . . ."

Also pertinent is K.S.A. 19-212, which sets forth the powers of the county commissioners and reads in part:

From the powers given in these provisions the board of county commissioners may use a trade-in procedure if it is "conducive to the interest of the (county's) inhabitants."

You also inquire about the notice of publication requirements as it pertains to trade-in property. Again, the legislative intent and concerns seem relevant. The discussion concerning the publication requirement indicates a desire that the public be informed of what is happening with county assets. Although the price may not be available to be placed in the notice, that is not the only "condition(s) of the sale." By including in the publication that the property will be used as a trade-in and stating the specifications, the county can satisfy the notice requirement. In addition, the purpose of the requirement, to inform the public, will be achieved.

In conclusion, it is relevant to mention K.S.A. 19-101c, which states in part:

"The powers granted counties pursuant to this act . . . shall be liberally construed for the purpose of giving to counties the largest measure of self-government."

This section further supports the board of commissioners of a county using the trade-in procedure. Liberal construction of these sections delegates broad power and authority to the county board of commissioners subject to the limitations established in K.S.A. 1991 Supp. 19-101a, as amended by L. 1992, ch. 133, § 13.

The usage of the trade-in method of disposal complies with the purposes of K.S.A. 1991 Supp. 19-211(b). If the board finds that a trade-in is "conducive to the interest of the inhabitants" of the county the broad power given the county allows the board to use that method.

Very truly yours,



ROBERT T. STEPHAN  
ATTORNEY GENERAL OF KANSAS



Mary Jane Stattelmann  
Assistant Attorney General