



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

January 6, 1977

ATTORNEY GENERAL OPINION NO. 77- 5

Mr. Bernard V. Borst, Esq.
Senior Assistant City Attorney
Office of the City Attorney
455 North Main Street
Wichita, Kansas 67202

Re: Airports and Airfields--Municipal Airports--Special
Facilities Revenue Bonds

Synopsis: Special facilities revenue bonds may be issued for
the construction, etc. of facilities located upon
airport property but not related to airport opera-
tion pursuant to K.S.A. 3-154, notwithstanding K.S.A.
3-116 and 13-1348b.

* * *

Dear Mr. Borst:

You have requested in behalf of the Wichita Airport Authority
the opinion of this office whether the Authority is authorized
per K.S.A. 3-154 to issue special facilities revenue bonds for
the construction of facilities which will be used for purposes
not directly related to aviation or the operation of the air-
port. Your letter refers to a previous opinion of this office
wherein we concluded:

". . . it is the opinion of this office
that the express language of K.S.A. 3-154
does not prohibit the use of funds derived
from the sale of special facilities revenue
bonds for the acquisition, construction,
alteration, improvement or enlargement of

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'facilities' which are unrelated to aviation operations at an airport."¹

You express reservation that this opinion inasmuch as it related specifically to a question concerned with the authority granted county airport authorities via K.S.A. 3-154 might not apply to cities. You point out that both K.S.A. 3-116 and K.S.A. 13-1348b provide categorically that any leasing of airport property is authorized only so long as the particular property is used for airport or aviation purposes. While this appears initially to restrict the leasing authority of municipalities authorized to issue bonds pursuant to K.S.A. 3-154 we are of the opinion that it does not in fact prohibit a municipality from leasing a facility which it constructs, alters, etc. under K.S.A. 3-154 *et seq.*, for purposes not related to the operation of the airport or its attendant activities.

We noted in our earlier opinion, *supra*, that employment of the modifier "any" qualifying "revenue producing facility" located on airport property manifested a clear legislative intent to empower municipalities with a wide latitude of discretion in determining what types or categories of facilities it could finance under K.S.A. 3-154. The only qualification to this express authority appears in the last clause of that one-sentence statute: ". . . subject to the terms and conditions of this act." The act itself (Chapter 6, Laws of 1974) reveals no further limitations as to the nature of the facility which may be constructed thereunder.

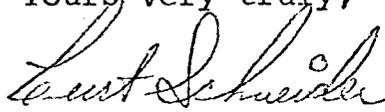
K.S.A. 3-155 and 3-156 address the nature of the principal and interest payments for these bonds; the income derived from the operation or rental of the special facilities comprises the only source from which these payments are to be made. Thus these statutes obviously empower municipalities to *lease* special facilities. In our judgment the strength of the legislative intent to permit leasing of *any* special facility prevails over leasing restrictions found in K.S.A. 3-116 and K.S.A. 13-1348b. The resultant deduction is that a municipality in its discretion may lease any revenue producing facility without the limitations which would govern other leasing of airport property.

1. Attorney General Opinion No. 76-95 addressed to Mr. Gerald C. Williams and dated March 17, 1976.

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Accordingly, we continue to adhere to the conclusion reached in Attorney General Opinion No. 76-95 that the restrictions on the leasing of airport property do not apply to the express authority granted by K.S.A. 3-154, and that a municipality may lease special facilities funded by the sale of special facility revenue bonds pursuant to K.S.A. 3-154 to be used for purposes not related to airport or aviation activities.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JPS:kj