

STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

Curt T. Schneider
Attorney General

February 8, 1977

ATTORNEY GENERAL OPINION NO. 77- 50

Mr. William H. Yandell
City Attorney
Anthony, Kansas 67003

Re: Townships--Property--Leases

Synopsis: A township may not lease township property pursuant to K.S.A. 8-104 for use for industrial sites by a municipal industrial development commission.

* * *

Dear Mr. Yandell:

Under K.S.A. 80-104, a township may acquire school buildings and grounds

"to be used for public purposes, such as meetings relating to township business, political gatherings, township fairs, entertainments, whether for free use or for hire and profit, at which an admission price may be charged, and such other meetings as may be authorized by the township board. . . ."

You advise that Spring Township owns the site of a now closed school, Springs School, located approximately six miles south of the City of Anthony. The school was operated until several years ago, when unification became effective, and the school was abandoned. U.S.D. 361, of Harper County, Kansas, has deeded the property back to the Spring Township Board.

Mr. William H. Yandell

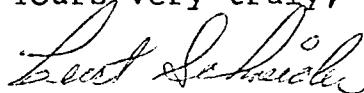
Page Two

February 8, 1977

You advise that the City of Anthony has an industrial development commission, which is organized by the city governing body. It is now proposed that the city execute a long-term lease of the former school property from the township for industrial development, and the question arises whether such a lease falls within the authority provided by K.S.A. 80-104, supra.

In Opinion No. 73-243, to which you refer, Attorney General Vern Miller concluded that under this statute, a township could lease its township hall for use as a monthly meeting place for members of a water district, and as quarters for the maintenance and secretarial staff of the district, pointing out that a water district was a public body, and the use remained essentially a public one. However, use of the property for industrial development i.e., as sites for manufacturing, commercial or other businesses located thereon, is not essentially a public use. In Opinion No. 73-243, we construed K.S.A. 80-104 broadly, to permit the greatest range of uses reasonably consistent with the language of the statute, which is not substantially changed since its enactment in 1899. Even that expansive construction, however, does not justify use of township property for municipal industrial development sites. If the city wishes to lease the school building itself, not for industrial sites, but for use as a community facility, for the holding of public meetings, gatherings, entertainments and the like, such a lease would fall within the authority of the township under K.S.A. 8-804. However, a lease of the property by the city through its industrial development commission, presumptively for industrial sites, would fall beyond the scope of that statute.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj