



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

August 16, 1977

ATTORNEY GENERAL OPINION NO. 77- 262

Mr. Phillip H. Schuley
Assistant City Attorney
City Hall
8500 Santa Fe Drive
Overland Park, Kansas 66212

Re: Cities--Funds--Use Of

Synopsis: City funds may be expended only for public purposes, and the use of such funds to make additional payments to individuals who accepted appraisals for easements, and who in return for such appraisals conveyed the required easements to the city, is entirely unauthorized, once the transactions involved have been completed.

* * *

Dear Mr. Schuley:

You request my opinion concerning the proposed payment of funds to certain persons from whom the city has acquired easements for the creation of a storm drainage project in the City of Overland Park.

The project, you advise, involved utilization of funds received from the U.S. Department of Housing and Urban Development. Pursuant to federal requirements, an independent appraiser was appointed to appraise easements which were necessary to implement the project. These appraisals, you indicate, varied from \$25 to \$50, and were accepted by six persons who were in turn paid the appraised amounts, and who executed the appropriate documents granting the required easements to the city. Others within the proposed district refused to accept this appraisal, and a condemnation action was commenced. Court-appointed appraisers returned awards ranging from \$750 to \$2000 for generally the same

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kinds of easements for which lower appraisals had been made by the earlier appraisal. The question is now raised whether the governing body may lawfully expend public funds to compensate the six individuals who accepted the lower appraisals, in order to correct an apparently inequitable situation.

Public funds may be expended only for public purposes. The six individuals who accepted the first appraisal apparently regarded those amounts as fair and adequate compensation, and received those payments in return for execution of the easements needed by the city. Those transactions are now closed, and the amounts were paid as full consideration in return for the required easements. Any additional payment to these individuals would constitute no more than a gift of public funds, for the additional payment would serve no public municipal purpose. Its sole purpose would be to place these individuals in a better economic position than they negotiated for themselves in accepting the first appraisal. In my judgment, this would constitute a use of public funds for a solely private purpose, and is therefore an entirely unauthorized expenditure.

Yours, truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj