



STATE OF KANSAS

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July 10, 1980

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ATTORNEY GENERAL OPINION NO. 80-148

Charles Seshar
Chanute City Commissioner
326 West Fifth
Chanute, Kansas 66720

Re: State Departments; Public Officers, Employees--
Open Public Meetings--Luncheon Meetings

Synopsis: The Kansas Open Meetings Act, K.S.A. 75-4317 et seq., does not permit governing bodies subject to the Act to require the payment of a fee or the making of a reservation in order to attend a public meeting. No person may be excluded from such meeting for refusal to make a reservation or pay a "fee." Where such meetings are held in a public restaurant, such establishment may require reservations for those persons who intend to dine and may charge those persons who are served meals. Cited herein: K.S.A. 75-4317, 75-4317a, K.S.A. 1979 Supp. 75-4318, and K.S.A. 75-4319.

* * *

Dear Mr. Seshar:

You request our opinion regarding the legality, under the Kansas Open Meetings Act, of a monthly luncheon attended by the Neosho County Commission, Chanute City Commission, Chanute Development Company and the Chanute Chamber of Commerce Board of Directors. Specifically, you ask whether "the public [can] be required to make a 'reservation' to attend a meeting that must be open to the public," and "whether the public [can] be required to pay a fee if they do not intend to eat but only observe the meeting."

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The Chanute Area Chamber of Commerce is not a governing body subject to the open meetings act and we are not advised as to the legal status of the Chanute Development Company, but the City and County Commissions are clearly governing bodies subject to the Act. Therefore, any meetings of those bodies for the conduct of the governmental affairs and the transaction of governmental business are required to be open. K.S.A. 1979 Supp. 75-4318.

The luncheon meetings you describe, when attended by a majority of a quorum of either governing body, are clearly within the definition of "meeting" under the act. K.S.A. 75-4317a. And even though no final decisions are made and no binding action is taken at such meetings, the meetings are still covered by the Kansas Open Meetings Law. Discussions held by such bodies as part of the decision-making process must be open to the public pursuant to K.S.A. 75-4317 et seq. See, Coggins v. Public Employee Relations Board, 2 Kan. App. 416, 423 (1978).

In responding to your first question, we note the explicit language of the Act, wherein it states: "All meetings . . . shall be open to the public." K.S.A. 1979 Supp. 75-4318.

Hence it would be impermissible to exclude members of the public who may wish to attend such meeting unless the discussion concerns matters that may be debated in a properly convened executive session pursuant to K.S.A. 75-4319. Since the Act does not permit the exclusion of the public under any other circumstances, the refusal or inability of a citizen to pay a fee or purchase a meal can not and must not be a basis for excluding such person.

The same reasoning applies to your second question regarding the requirement for reservations. Clearly, no one may be denied access to a public meeting for failure or refusal to notify the governing bodies in advance of attendance. Such requirement, if enforced, is prima facie evidence of a violation of the open meetings law and the mere suggestion that a reservation is necessary is contrary to the spirit of the Act since some citizens may be discouraged from attending by reason of these requirements.

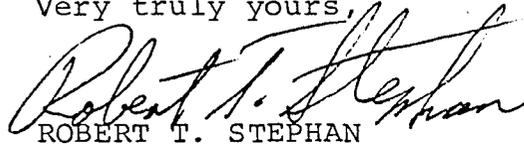
Of course, this is not to say that you must cease the luncheon meetings or hold them somewhere other than a public restaurant. Neither does our conclusion suggest that the restaurant owners may not charge for their services or require reservations for those persons who wish to purchase their food and service. Simply stated, there must be a clear distinction drawn between the act of attending, to which any citizen has a legal right, and the right to dine, to which the requirements of the restaurant must be honored. All citizens must be allowed to attend; however, those who wish to dine must comply with any reservation requirements of the restaurant management and pay the costs of lunch.

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In the event that the restaurant in question refuses to allow the attendance of persons who do not make reservations, who do not dine or who will not pay a fee, members of the City and County Commissions must refrain from attending because said meetings are, in fact, closed to the public in violation of the Kansas Open Meetings Act.

Therefore, the Kansas Open Meetings Act, K.S.A. 75-4317 et seq., does not permit governing bodies subject to the Act to require the payment of a fee or the making of a reservation in order to attend a public meeting. No person may be excluded from such meeting for refusal to make a reservation or pay a "fee." Where such meetings are held in a public restaurant, such establishment may require reservations for those who intend to dine and may charge those persons who are served meals.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Bradley J. Smoot
Deputy Attorney General

RTS:BJS:phf