



STATE OF KANSAS

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July 24, 1980

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ATTORNEY GENERAL OPINION NO. 80-163

Rosalee Sprick
Register of Deeds
Rooks County Courthouse
Stockton, Kansas 67669

Re: Cities and Municipalities--Additions--Annexation
Without Filing of Plat

Synopsis: Under the provisions of K.S.A. 12-520, land may be annexed to a city without necessarily having to be platted beforehand. However, such a plat may be required by local subdivision regulations adopted pursuant to K.S.A. 12-705 before lots may be developed therein. In the absence of such regulations, an area may simply be known as the " Addition" and the ordinance annexing such, together with any description of tracts therein, may be treated by the Register of Deeds as a plat for purposes of recording and indexing. Cited herein: K.S.A. 12-520, 12-705b, 19-1207.

* * *

Dear Ms. Sprick:

As Register of Deeds for Rooks County, you request our opinion on a question concerning the treatment of certain property by your office. The area in question was annexed to the City of Plainville without a plat having been made. Now, individual tracts contained in the area are being sold, and are referred to as being in the RGH Addition, the description of which is identical with that property annexed earlier. You inquire concerning the manner in which such property should be handled in the various record books and indexes kept by your office, in view of there still being no plat on file.

It was for many years the law in this state that a city could not, merely by passing an ordinance, enlarge its limits when the territory in question was not platted. Stewart v. Adams, 50 Kan. 560 (1893); G.S. 1929,

§12-501 (repealed by L. 1974, ch. 56, §7). However, with the eventual enactment of K.S.A. 12-519 et seq., cities were given a variety of options in the annexation of territory. One of these, found at K.S.A. 12-520(a), retains the platting requirement, together with the requirement that the land adjoin the city. However, a city is also empowered to annex any tract if 2/3 of any boundary line adjoins the city and the total area does not exceed 20 acres, with no requirement that the land be platted. K.S.A. 12-520(f).

It was apparently under this latter provision that the annexation herein was made. The area involved, identified as the RGH Addition, was described by metes and bounds in the annexation ordinance of 1977. Also filed at that time was a map describing, also by metes and bounds, five different "tracts" contained in the addition. A subsequently-filed mortgage referred to one of these tracts, and identified it as being in the addition. You wish to know how such filings should be handled, as there still has been no official plat of the area filed.

In our opinion, the description given by the annexation ordinance, together with the map filed therewith, is sufficient to serve the function of a plat in this situation. While it is true that the filing statute speaks of "plats" (K.S.A. 19-1207), such statute was first enacted in 1868, and was last revised in 1923, at which time platting was the rule. Now, however, it is not, and the term "plat" must be interpreted to be elastic enough to cover situations where, as here, an annexation ordinance contains a precise description of the area, along with the tracts contained therein. As a practical matter, such occurrences should be fairly uncommon, and will deal with small or irregular areas. Larger areas, more amenable to division into numerous tracts, will still be subject to any planning or subdivision regulations adopted by the city pursuant to K.S.A. 12-705 et seq. For example, K.S.A. 12-705b states:

"Whenever any such regulations governing the subdivision of land under the provisions of this act shall have been adopted, the owner or owners of any land located within the area governed by such regulations subdividing the same into lots and blocks or tracts or parcels, for the purpose of laying out any subdivisions, suburban lots, building lots, tracts or parcels or any owner of any land establishing any street, alley, park or other property intended for public use or for the use of purchasers or owners of lots, tracts or parcels of land fronting thereon or adjacent thereto, shall cause a plat to be made which shall accurately describe the subdivision, lots, tracts or parcels of land giving the location and dimensions thereof or the location and dimensions of all streets, alleys, parks or other properties intended to be dedicated to public use or for the use of purchasers or owners of lots, tracts or parcels of land fronting thereon or adjacent thereto. . ."

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It would accordingly be our conclusion that, under the provisions of K.S.A. 12-520, land may be annexed to a city without necessarily having to be platted beforehand. However, such a plat may be required by local subdivision regulations adopted pursuant to K.S.A. 12-705 before lots may be developed therein. In the absence of such regulations, an area may simply be known as the "_____ Addition" and the ordinance annexing such, together with any description of tracts therein, may be treated by the Register of Deeds as a plat for purposes of recording and indexing.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Jeffrey S. Southard
Assistant Attorney General

RTS:BJS:JSS:phf