



STATE OF KANSAS

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February 2, 1981

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ATTORNEY GENERAL OPINION NO. 81- 28

Mr. Robert A. Bloomer  
Osborne City Attorney  
202 West Main Street  
Osborne, Kansas 67473

Re: Aircraft and Airfields--Municipal Airports--Lease of  
Property

Synopsis: Municipal airport property may be leased only for those purposes "directly or incidentally and necessarily required for the successful and proper operation" of the airport, and cannot be leased for commercial ventures unrelated to aviation purposes. (Affirming Attorney General Opinion No. 75-402.) Cited herein: K.S.A. 1980 Supp. 3-113, K.S.A. 3-116.

\* \* \*

Dear Mr. Bloomer:

You advise that the governing body of the City of Osborne is currently negotiating a lease of its airport facilities established pursuant to K.S.A. 1980 Supp. 3-113 et seq. In addition to performing airport and aircraft-related activities, the prospective lessee desires to be permitted to operate other types of business on airport property. These other proposed businesses would include a U-haul rental business and an EFD delivery service.

K.S.A. 3-116 provides in relevant part:

"The governing body, park board or airport authority, as hereinafter provided, may lease, assign or sublease the whole or any part of any such airport or municipal

Mr. Robert A. Bloomer  
Page Two  
February 2, 1981

field for aviation purposes, to one or more responsible persons, associations or corporations, jointly or severally, for any purpose directly or incidentally and necessarily required for the successful and proper operation of such property upon such terms as shall insure the impartial operation thereof, and rendition of services and conveniences thereon, on an equal basis to all users of said airport or municipal field for aviation purposes."  
(Emphasis added.)

This section was interpreted in Attorney General Opinion No. 75-402 as prohibiting the City of Scott City from leasing airport property to a private individual for the purpose of building and operating a restaurant-private club-motel-convention center thereon. Former Attorney General Curt Schneider opined that K.S.A. 3-116 does not permit municipal airport property to be leased for "collateral and independent commercial ventures." Attorney General Opinion No. 75-402, p. 2.

We affirm General Schneider's opinion. The key language of K.S.A. 3-116, that the use must be for "aviation purposes," has been a part of that section since it was first enacted in 1929. No significant change has occurred in the statutory language since the 1975 opinion. The operation of a U-haul business and EFD delivery service are not required for the successful and proper operation of the airport and, in our judgment, are entirely unrelated to "aviation purposes" and proper airport operation.

To conclude, we affirm Attorney General Opinion No. 75-402. In our judgment, K.S.A. 3-116 does not permit the City of Osborne to lease airport property for business ventures that are unrelated to aviation purposes. A U-haul rental business and EFD delivery service are businesses unrelated to aviation purposes. K.S.A. 3-116 does not authorize the city to lease its airport property for such unrelated business purposes.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Steven Carr  
Assistant Attorney General