



STATE OF KANSAS

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ATTORNEY GENERAL

March 6, 1981

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ATTORNEY GENERAL OPINION NO. 81- 61

Mr. Gordon R. Olson
Sabetha City Attorney
809 Main Street
Sabetha, Kansas 66534

Re: Cities and Municipalities -- Additions, Vacation, and
Lot Frontage -- Annexation of Land Not Adjoining City

Synopsis: Where land not adjoining the corporate limits of
a city is annexed by such city in accordance with
the provisions of K.S.A 12-520c, persons residing
on such land are residents of the city and, if
otherwise qualified as electors, are entitled to
register and vote at the city's elections. Cited
herein: K.S.A. 12-520c, 15-911.

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Dear Mr. Olson:

You have inquired whether an employee of the City of Sabetha is a qualified elector of that city and entitled to register as such for the purpose of voting at the forthcoming city election. Your request is prompted by the fact that, acting on the advice of the county election officer, Sabetha's city clerk (functioning, apparently, as a deputy county election officer) has refused to permit said employee to register as a resident of the city.

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It is our understanding that the city employee in question works as the caretaker of the Sabetha City Lake, and he and his family live on a tract of land adjoining the lake. You also have advised that this tract of land has been annexed to the City of Sabetha pursuant to Sabetha's Ordinance No. 920, adopted by the city's governing body on May 23, 1977. At the time this ordinance was adopted, the land in question was located approximately six miles from the corporate limits of Sabetha, but the city proceeded to annex this land by virtue of the authority granted by K.S.A. 12-520c to annex lands not adjoining the city.

From our review of Ordinance No. 920, the information you provided us and the provisions of K.S.A. 12-520c, it would appear that the annexation ordinance was properly adopted in accordance with these statutory provisions. Thus, the area of land so annexed is now a part of the City of Sabetha, and persons residing within such area are residents of Sabetha.

This office has visited with the county clerk regarding his objection to the city employee's attempted registration as a resident of Sabetha. While we are somewhat uncertain as to the basis for his objection, we do not understand the county clerk as disputing the location of the city employee's residence, particularly since the county clerk has determined that the city employee should register as a resident of the township in which the Sabetha City Lake and adjoining land, on which the city employee lives, are located. Rather, it appears that the county clerk's objection is predicated on his belief that a prior opinion of this office, which considered a substantially similar factual situation, concluded that registration as a city resident is not permitted under the circumstances with which we are concerned.

We have been unable to find any such prior opinion. The only prior opinion we have located which bears any similarity to the one described by the County Clerk is the letter opinion of November 14, 1969, to Representative Bob Brown by Attorney General Kent Frizzell. In that opinion, Attorney General Frizzell concluded that persons residing in the Lake Wabaunsee Park area could not vote in the Eskridge city elections. The facts considered in that opinion, however, are entirely different from those being considered here. There, pursuant to the authority granted by K.S.A. 15-911, the City of Eskridge had adopted an ordinance attaching the Lake Wabaunsee Park area to the city for park and recreational purposes. Although the land so attached was owned by the city, it had not been annexed and made a part of the city, and General Frizzell properly concluded that residents of the Lake Wabaunsee Park Area were not qualified electors of the City of Eskridge.

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Clearly, the facts considered in that prior opinion are obviously distinguishable from the facts presented for our consideration. Here, the area in which the city employee in question resides has been annexed and made a part of the City of Sabetha. Therefore, it is our opinion that said city employee is a resident of the City of Sabetha and, if otherwise qualified as an elector, is entitled to register and vote at the city's elections.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



W. Robert Alderson
First Deputy Attorney General

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