



STATE OF KANSAS

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July 9, 1981

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ATTORNEY GENERAL OPINION NO. 81-159

Mr. Dan Edwards
City Councilman
P. O. Box 508
Goodland, Kansas 67735

Re: Constitutional Law -- Free Speech -- Special
Interest Groups

Synopsis: A special interest group cannot be deemed to be making improper threats against the city council by advertising its intent to make public the actions and attitudes of the city council which are contrary to the goals of the group. Cited herein: K.S.A. 21-3419, U.S. Const., Amend. I.

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Dear Mr. Edwards:

As spokesman for the members of the Goodland City Council, you request an opinion regarding the propriety of certain advertisements placed by the Goodland Chamber of Commerce. Generally, the advertisements, which were placed in two newspapers and read on a radio station, state that certain actions of the Goodland City Council are in conflict with the Chamber's goals, and as a result, the Chamber has appointed a committee to monitor the Council. This Committee will report to the public any actions or attitudes of the City Council which the Committee deems to be in opposition to Chamber goals. The City Council questions whether this advertisement constitutes an improper threat against the council.

The First Amendment to the Constitution of the United States, made applicable to the states by the Fourteenth Amendment, guarantees the right of freedom of speech and of the press. The primary purpose of these guarantees is "so individuals may speak as they think on matters vital to them and that

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falsehoods may be exposed through the process of education and discussion . . . essential to free government." (Citations omitted.) 16A Am.Jur.2d Constitutional Law §497. Thus, in our opinion, the actions of the Chamber of Commerce in placing the ads would be protected by the First Amendment unless unlawful behavior of some sort is involved.

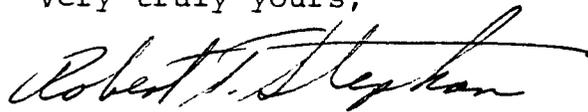
We are unaware of any statute which would prohibit or make unlawful the actions of the Chamber about which you complain. The only statute having any apparent relevance is K.S.A. 21-3419 which states:

"A terroristic threat is any threat to commit violence communicated with intent to terrorize another, or to cause the evacuation of any building, place of assembly or facility of transportation, or in wanton disregard of the risk of causing such terror or evacuation."

Certainly, the advertisement at issue threatens no violence; rather, it indicates that the public will be kept informed of the Council's actions. Hence, we find no violation of K.S.A. 21-3419 in the situation you pose.

Therefore, it is our opinion that the advertisement is not illegal and that it falls within the protections of free speech under the First Amendment.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Brenda L. Hoyt
Assistant Attorney General

RTS:BJS:BLH:hle