



STATE OF KANSAS

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October 5, 1981

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ATTORNEY GENERAL OPINION NO. 81-218

Loa Page
Lincoln County Clerk
Lincoln County Courthouse
Lincoln, Kansas 67455

Re: Townships -- Real Property -- Disposition Through
Sale

Synopsis: While K.S.A. 80-112 does not require an election to approve the sale of certain township property by townships located in certain counties, unless the criteria of that statute are met the sale of township property must be accomplished in accordance with K.S.A. 80-109, which requires that such sale be approved by the township's electors. Cited herein: K.S.A. 25-2502, 80-109, 80-110, 80-112.

* * *

Dear Ms. Page:

As County Clerk for Lincoln County, you request our opinion on a question concerning the sale of property owned by a township in the county. Specifically, you inform us that Valley Township wishes to sell a one-acre tract upon which there is situated a former school house now used as a township community building. As county election officer, you indicate that it would be preferable if the sale could be effectuated without the necessity of conducting an election, given that the population of the township is approximately 80.

In reviewing the statutes which govern townships, we have found only one which speaks directly to this question. That statute, K.S.A. 80-109, states:

"That the township officers of any township may sell and convey any land now owned by such township, or hereafter acquired, for public

purposes: Provided, That before such sale shall be made, the question shall first be submitted to a vote of the electors of such township at any general election or special election called for that purpose: And provided further, The minimum price at which such land is to be sold shall be stated in the notice of such election."

As can be seen from this language, the statute makes no distinction between large townships and those with small populations like Valley. Rather, the statute is uniform in its application, requiring an election before the sale can be made by the township officers. This vote can be either at a general election (defined at K.S.A. 25-2502 as meaning those elections held on the first tuesday of November in even numbered years) or at a special election called for that purpose. In either event, the procedures set forth at K.S.A. 80-110 regarding notice must be followed.

The only statute which provides for the sale of township land without the need for an election is K.S.A. 80-112, which states in pertinent part:

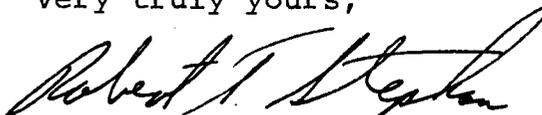
"Any township owning real property which is located in a city of the first, second or third class, is hereby authorized without a vote of the people, to dispose of such property, or any township located in a county having a population of less than two thousand five hundred (2,500) and an assessed tangible valuation of less than eleven million dollars (\$11,000,000) and owning a township hall which was converted from a schoolhouse to such purposes, is hereby authorized without a vote of the people to dispose of such township hall and the site on which it is located"
(Emphasis added.)

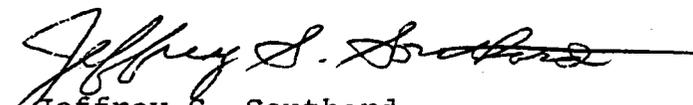
However, Valley Township would not appear to meet either of the criteria set forth there, i.e., the property does not lie within a city and the township is in a county which does not meet the population and valuation standards. As a result, this statute is of no relevance here. Accordingly, given the absence of any home rule power on the township level, Valley Township must work within the existing statutory framework set up by K.S.A. 80-109, including the requirement that an election be held.

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In conclusion, while K.S.A. 80-112 does not require an election to approve the sale of certain township property by townships located in certain counties, unless the criteria of that statute are met the sale of township property must be accomplished in accordance with K.S.A. 80-109, which requires that such sale be approved by the township's electors.

Very truly yours,


ROBERT T. STEPHAN
Attorney General of Kansas


Jeffrey S. Southard
Assistant Attorney General

RTS:BJS:JSS:hle