



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 83- 42

The Honorable Ben E. Vidricksen
State Senator, Twenty-fourth District
Room 143-N, State Capitol
Topeka, Kansas 66612

Re: State Boards, Commissions and Authorities--
State Board of Technical Professions--Practice
of Land Surveying

Synopsis: The preparation of a legal description of real property which conveys Lot 18, and the west 10 feet of Lot 17, in a certain subdivision situated in the city of Salina, does not constitute the "practice of land surveying," as said term is defined in K.S.A. 74-7003(k). Therefore, a real estate broker need not be licensed as a land surveyor in order to prepare such a description. Cited herein: K.S.A. 74-7003(k).

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Dear Senator Vidricksen:

You have requested our opinion as to whether the preparation of a legal description of real property by a real estate broker, in certain circumstances, constitutes the "practice of land surveying." Specifically, you ask whether a real estate broker must be licensed as a land surveyor in order to prepare a legal description which conveys all of Lot 18, and the west 10 feet of Lot 17, in a certain platted subdivision situated in the city of Salina.

In Kansas Attorney General Opinion No. 82-118 (copy enclosed), we noted that the practice of land surveying includes the

The Honorable Ben E. Vidricksen
Page Two

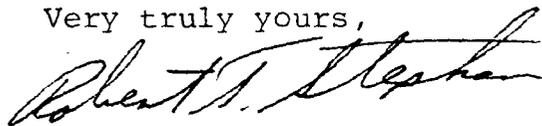
"preparation of the original description of real property for conveyance or recording," and that, except as exempted by law, unlicensed persons are expressly prohibited from practicing land surveying. Thus, it is necessary to determine whether the legal description, about which you inquire, is an "original description" of real property, as said term is used in K.S.A. 74-7003(k).

In Kansas Attorney General Opinion No. 78-59 (copy enclosed), this office construed the term "original description," as said term was used in a statute which was the forerunner of K.S.A. 74-7003(k). The following portion of that opinion is pertinent to the question you have raised:

"City lots are commonly conveyed by title documents describing them by lot number, street, and subdivision. However, subdivision plats must be recorded with the register of deeds in that county, and the plat is required to show locations of monuments; bearings and distances between monuments; closure calculations; and all horizontal lot calculations and street calculations. (K.S.A. 58-2004.) The plat thus constitutes an 'original description for conveyance or recording' within the meaning of 26a-128." (Emphasis added.)

We agree with the conclusion of the above-quoted 1978 opinion that a subdivision plat of real estate, situated within the territorial limits of a city, constitutes an "original description for conveyance or recording." Therefore, in our judgment, a legal description which conveys Lot 18, and the west 10 feet of Lot 17, in a certain subdivision situated in the city of Salina, does not constitute an "original description for conveyance or recording," and a real estate broker need not be licensed as a land surveyor in order to prepare such a description.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Terrence R. Hearshman
Assistant Attorney General

RTS:BJS:TRH:jm
Enclosures