



STATE OF KANSAS

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April 11, 1983

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ATTORNEY GENERAL OPINION NO. 83- 56

Fred W. Rausch, Jr.  
Attorney for Lakeside Village  
Improvement District  
Suite 202, Ambassador Building  
220 Southwest 33rd Street  
Topeka, Kansas 66611

Re: Counties and County Officers--Planning and  
Zoning--Zoning in Improvement Districts

Synopsis: The zoning authority granted by K.S.A. 1982 Supp. 19-2950 et seq. may be exercised only by an improvement district "which is located adjacent to any park or recreation area within Wabaunsee County." Further, no provision of the improvement district act, K.S.A. 19-2753 et seq., grants authority to the board of directors of an improvement district to zone property within the district. Cited herein: K.S.A. 1982 Supp. 19-2753, 19-2765, 19-2950, 19-2951, 19-2955.

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Dear Mr. Rausch:

As attorney for Lakeside Village Improvement District, Jefferson County, Kansas, you request our interpretation of K.S.A. 1982 Supp. 19-2950 to 19-2955. Specifically, you ask whether said statutes authorize any improvement district to exercise zoning authority, or whether such authority is limited to improvement districts which are "located adjacent to any park or recreation

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area within Wabaunsee County." Further, if it is our opinion that said zoning authority is limited as aforesaid, you ask whether there is any authority in the improvement district act (K.S.A. 1982 Supp. 19-2753 et seq.) which gives the board of directors of an improvement district the authority to zone property within the improvement district.

In regard to your first question, K.S.A. 1982 Supp. 19-2950 to 19-2955 constitute the codification of Chapter 61 of the 1982 Session Laws of Kansas. The first section of said 1982 act, K.S.A. 1982 Supp. 19-2950, sets forth the authority granted by the act, and limits its application, as follows:

"For the purpose of promoting the public health, safety, morals and general welfare and for conserving the values of property within any improvement district which is located adjacent to any park or recreation area within Wabaunsee county, the governing body of such district is hereby authorized by resolution to divide such district into zones or districts, and regulate and restrict the location and use of buildings and the uses of the land within each district or zone. Such zones or districts may be created for the purpose of restricting the use of buildings and land located within the same for dwellings, business, industry, conservation, floodplain or for other purposes deemed necessary. The use of buildings and land and the regulations and restrictions upon the use of the same shall be uniform as to each zone or district but the uses and regulations and restrictions in any one zone or district may differ from those in other zones or districts." (Emphasis added.)

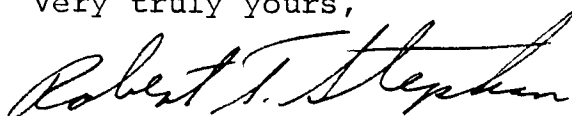
The underscored portion of the above-quoted statute reveals a clear legislative intent that the subject act applies only to "any improvement district which is located adjacent to any park or recreation area within Wabaunsee County." Although there are general references to "any improvement district" in subsequent sections of the act (K.S.A. 1982 Supp. 19-2951 and 19-2955), it is a fundamental rule of statutory construction that all parts of an act must be construed together in pari materia. Gnadt v. Durr, 208 Kan. 783, 786 (1972). Accordingly, the general references to "any improvement district," in K.S.A. 1982 Supp. 19-2951 and 19-2955, do not expand the application

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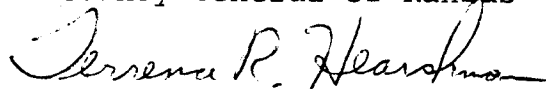
of the act, and it is our opinion that the zoning authority granted by K.S.A. 1982 Supp. 19-2950 et seq., may be exercised only by an improvement district "which is located adjacent to any park or recreation area within Wabaunsee County."

In response to your second question, the powers of improvement districts generally are set forth in K.S.A. 1982 Supp. 19-2765. In our judgment, there is no provision in said statute which would, expressly or impliedly, authorize an improvement district to establish zoning or land use controls. Further, we are unaware of any other statute, within the improvement district act (K.S.A. 1982 Supp. 19-2753 et seq.), which grants authority to the board of directors of an improvement district to zone property within the district.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Terrence R. Hearshman  
Assistant Attorney General

RTS:BJs:TRH:jm