



STATE OF KANSAS

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October 26, 1983

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ATTORNEY GENERAL OPINION NO. 83- 158

John Dekker
Wichita City Attorney
City Hall
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455 North Main Street
Wichita, Kansas 67202

Re: Cities and Municipalities--General Improvement
and Assessment Law--Levy of Assessments

Taxation--Collection and Cancellation of Taxes--
Time for Payment of Real Estate Taxes; Interest

Synopsis: In the absence of a statute directing otherwise,
interest charged upon delinquent special assess-
ments levied under the General Improvement and
Assessment Law must be credited to the county
general fund, as provided in K.S.A. 1982 Supp.
79-2004. Cited herein: K.S.A. 12-6a01, 12-6a10,
K.S.A. 1982 Supp. 79-2004, 79-2004a.

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Dear Mr. Dekker:

You request our opinion as to whether the city of Wichita is
entitled to interest charged upon delinquent special assessments
levied under the provisions of the General Improvement and Assess-
ment Law, K.S.A. 12-6a01 et seq.

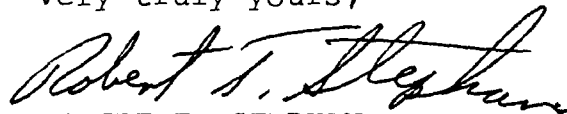
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As you correctly note, a city levying a special assessment under the aforesaid law is entitled by statute (K.S.A. 12-6a10) to receive the interest added when assessments are spread over a number of years and not paid in full. However, K.S.A. 12-6a10 also provides that assessments, certified to the county clerk under the General Improvement and Assessment Law, "shall be collected and paid over to the city treasurer in the same manner as other taxes of the city are collected and paid."

In this regard, interest is charged upon "other taxes of the city" pursuant to the collection procedures prescribed by K.S.A. 1982 Supp. 79-2004 and 79-2004a, and both of the aforesaid statutes prescribe that "[a]ll interest herein provided shall be credited to the county general fund." Accordingly, it is our opinion that, in the absence of a statute directing otherwise, interest charged upon delinquent special assessments levied under the General Improvement and Assessment Law must be credited to the county general fund, as provided in K.S.A. 1982 Supp. 79-2004. This conclusion is in accord with a previous opinion issued by this office. See Kansas Attorney General Opinion No. 82-3.

Although what has been said above is dispositive of the question presented, it should be noted that we agree with your contention that interest charged upon delinquent special assessments should "logically belong to the city," since the city has been deprived of expected funds and would be required to find moneys for the project or repayment of bonds from other sources. However, our opinion, set forth above, is based on our understanding of what the law is, rather than what we believe it should be. In our judgment, if cities are to be legally entitled to interest charged upon delinquent special assessments, the above-cited statutes must be amended by the Kansas legislature.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Terrence R. Hearshman
Assistant Attorney General

RTS:BJS:TRH:jm