



STATE OF KANSAS

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April 23, 1984

ATTORNEY GENERAL OPINION NO. 84- 36

Mr. John Eyer  
Washington County Attorney  
County Courthouse  
Washington, Kansas 66968

Re: Cities of the Third Class--General Provisions--  
City to Remain Part of Corporate Limits of  
Township.

Synopsis: K.S.A. 15-104 provides that cities of the third class "shall be and remain a part of the corporate limits of the townships in which the same are situated." However, said statutory provision does not operate retroactively so as to effect the status of cities which had become separate townships pursuant to L. 1905, ch. 126, §1, and such cities are not part of the corporate limits of the townships in which the same are situated. Cited herein: K.S.A. 15-104.

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Dear Mr. Eyer:

You request our interpretation of K.S.A. 15-104. Specifically, you advise that, in 1906, the voters of the city of Washington voted to become a separate township for all township purposes, as was then permissible under L. 1905, ch. 126, §1. Further, you state that, since 1906, voters of the city of Washington have not participated in any township election, nor have township taxes been levied against property located within the city of Washington. You ask our opinion as to whether the requirement

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of K.S.A. 15-104, whereby third class cities "shall be and remain a part of the corporate limits of the townships in which the same are situated," applies to a city, such as the city of Washington, which had voted to become a separate township prior to amendment of the aforesaid statute in 1968.

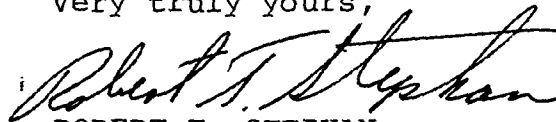
K.S.A. 15-104 provides as follows:

"Cities regulated and governed by this act [third class cities] shall be and remain a part of the corporate limits of the townships in which the same are situated."

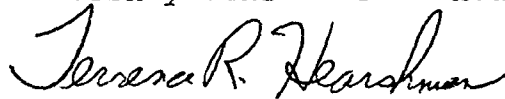
Prior to amendment in 1968 [L. 1968, ch. 274, §42], K.S.A. 15-104 permitted any city of the third class having a population of more than one thousand, and meeting certain other conditions, to submit to a referendum the question of becoming a separate township for all township purposes. See L. 1905, ch. 126, §1. If a two-thirds majority voted in favor of said proposition, the city became a separate township. Id.

It is a general rule of statutory construction that an act will not be given retrospective force and effect unless the intention of the legislature that it shall so operate is unequivocally expressed. International Mortgage Trust Co. v. Henry, 139 Kan. 154 (1934). There is no clear indication that the legislature, by amendment of K.S.A. 15-104 to its present form in 1968, intended to affect the status of cities which had become separate townships prior to the effective date of the 1968 amendment. Therefore, it is our opinion that such cities remain separate townships, and are not part of the corporate limits of the townships in which the same are situated.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Terrence R. Hearshman  
Assistant Attorney General

RTS:BJS:TRH:jm