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May 4, 1984

ATTORNEY GENERAL OPINION NO. 84- 38

The Honorable Gerald L. Karr
State Senator, Seventeenth District
State Capitol, Room 462-E
Topeka, Kansas 66612

Re: Corporations--Agricultural Corporations--Limitations;
Exceptions

Synopsis: The restrictions of K.S.A. 17-5904 do not apply to agricultural land owned or leased by a corporation on July 1, 1981, where said corporation was engaged in "livestock enterprises" (other than milking of cows for dairy purposes) or "hog enterprises" on said land, and was not otherwise in violation of K.S.A. 17-5901, prior to the aforesaid date. Cited herein: K.S.A. 17-5901, 17-5904, L. 1973, ch. 99, §1.

* * *

Dear Senator Karr:

You request our interpretation of K.S.A. 17-5904. Said statute prohibits, in part, ownership or leasing of agricultural land in this state by corporations (other than family farm corporations or authorized farm corporations), and your question relates to the scope of a "grandfather clause" included within the statute. Specifically, you ask whether the restrictions of the statute apply to agricultural land owned or leased by a corporation on July 1, 1981, where said corporation was engaged in "hog enterprises" or other "livestock enterprises" on said land prior to the aforesaid date.

The Honorable Gerald L. Karr
Page Two

K.S.A. 17-5904(a)(7) provides that the prohibition against corporate ownership of agricultural land shall not apply to

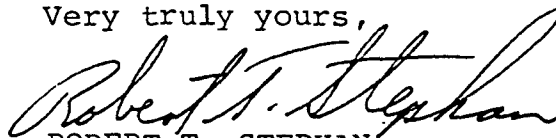
"Agricultural land owned or leased by a corporation, corporate partnership, limited corporate partnership or trust on the effective date of this act if

. . . .

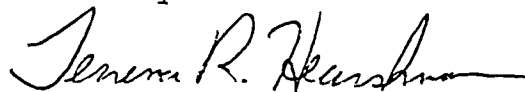
"(B) any such entity was in compliance with the provisions of K.S.A. 17-5901 prior to its repeal by this act, provided such entity shall not own or lease any greater acreage of agricultural land than it owned or leased prior to the effective date of this act unless it is in compliance with the provisions of this act." (Emphasis added.)

The provisions of K.S.A. 17-5901, which were repealed on July 1, 1981, did not prohibit corporations from engaging in "hog enterprises" or "livestock enterprises," except to the extent that the "milking of cows for dairy purposes" might be considered a "livestock enterprise." See L. 1973, ch. 99, §1. Therefore, assuming a corporation did not milk cows for dairy purposes or engage in an agricultural business proscribed by K.S.A. 17-5901, it is our opinion that its operation of "hog enterprises" or other "livestock enterprises" on owned or leased land prior to July 1, 1981, was "in compliance with the provisions of K.S.A. 17-5901 prior to its repeal." Accordingly, in our judgment, the restrictions of K.S.A. 17-5904 do not apply to agricultural land owned or leased by a corporation on July 1, 1981, where said corporation was engaged in "livestock enterprises" (other than milking of cows for dairy purposes) or "hog enterprises" on said land, and was not otherwise in violation of K.S.A. 17-5901, prior to the aforesaid date.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Terrence R. Hearshman
Assistant Attorney General

RTS:BJS:TRH:jm