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October 18, 1984

ATTORNEY GENERAL OPINION NO. 84- 108

Phillip L. Harris
City Attorney
Justice Center
8500 Antioch
Overland Park, Kansas 66212

Re: Cities and Municipalities--General Improvement
and Assessment Law--Special Assessments; Work
or Improvements Authorized

Synopsis: An extension of water lines owned and maintained
by a water district organized pursuant to K.S.A.
19-3501 et seq. does not constitute a "municipal
work or improvement," within the meaning and
intent of K.S.A. 12-6a01 et seq. Cited herein:
K.S.A. 12-6a01, 12-6a02, 19-3501, 19-3502,
19-3509.

* * *

Dear Mr. Harris:

You request our interpretation of the General Improvement and Assessment Law. Specifically, you ask whether the City of Overland Park, which does not operate a municipal water supply and distribution system, has authority under K.S.A. 12-6a01 et seq. to extend water lines (within the territorial limits of the city) owned and maintained by Water District No. 1 of Johnson County. You indicate that the water lines would be extended as part of a street improvement initiated pursuant to the above-cited statutes, but that the water lines would not lie within the curb lines of the street.

The General Improvement and Assessment Law authorizes the

governing body of any city to make municipal works and improvements which confer a special benefit upon property within a definable area of the city, and to levy and collect special assessments upon property in the area deemed to be benefited by the improvement. [K.S.A. 12-6a02.] It is specifically provided that improvements authorized by the act include service connections from water mains and pipes "necessarily lying within curb lines" [K.S.A. 12-6a02(b)] and "waterworks systems." [K.S.A. 12-6a02(e).] However, since the subject water lines would not lie within curb lines of the street, and the city does not own a waterworks system, the specific authority granted by the above-cited subsections of K.S.A. 12-6a02 does not apply, and it becomes necessary to consider whether an extension to water lines owned and maintained by Water District No. 1 of Johnson County would constitute a "municipal work or improvement" under the general authority conferred by K.S.A. 12-6a02.

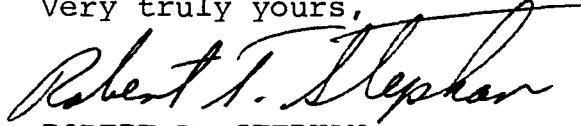
In interpreting municipal authority under the General Improvement and Assessment Law, it should be recognized that statutes granting municipal corporations the power to levy special assessments must be strictly construed. 14 McQuillin, Municipal Corporations §38.07 (3rd ed. 1970); 2 Antieau, Municipal Corporation Law §14.01 (1984). In this regard, the autonomy enjoyed by Water District No. 1 of Johnson County militates against any conclusion that an extension of its water lines, pursuant to an agreement with a city, would constitute a municipal improvement under K.S.A. 12-6a02.

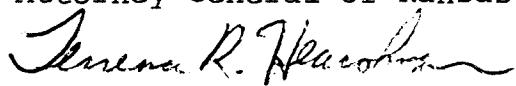
Water District No. 1 was established pursuant to K.S.A. 19-3501 et seq., with K.S.A. 19-3509 providing that the district shall construct, operate, maintain, and have exclusive control of its water supply and distribution facilities. Additionally, it is provided that no city within the territorial limits of the district shall exercise control over the administration of the water district, or establish a municipally-owned water supply and distribution system in territory served, supplied or serviced by the water district. [K.S.A. 19-3502.] In the absence of any city authority over construction and maintenance of water district facilities, it is our opinion that an extension of water lines owned and maintained by a water district organized pursuant to K.S.A. 19-3501 et seq. does not constitute a "municipal work or improvement," within the meaning and intent of K.S.A. 12-6a01 et seq. It should be noted that this conclusion

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is consistent with two previous Attorney General opinions.
See Kansas Attorney General Opinion No. 83-41 and Letter Opinion
dated December 7, 1966 (V Opinions of the Attorney General 74).

Very truly yours,


ROBERT T. STEPHAN
Attorney General of Kansas



Terrence R. Hearshman
Assistant Attorney General

RTS:JSS:TRH:sc