



STATE OF KANSAS

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August 2, 1985

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ATTORNEY GENERAL OPINION NO. 85- 94

John A. Lamb, Director
Alcoholic Beverage Control Division
Department of Revenue
700 Jackson, 2nd Floor
Topeka, Kansas 66603

Re: Intoxicating Liquors and Beverages -- Licensing and
Regulation of Clubs -- Licensing of Premises

Synopsis: Attorney General Opinion No. 85-37 concluded that
the Private Club Act, K.S.A. 41-2601 et seq.,
does not prevent a private club from including one
or more rooms in a facility which also has areas
open to the general public. The scope of Opinion
85-37 does not encompass licensing, as a single
club, an area on one floor of a building and
another area on a different floor. The two areas
are two distinct facilities and as such must be
licensed as two separate clubs. Cited herein:
K.S.A. 41-2608.

* * *

Dear Mr. Lamb:

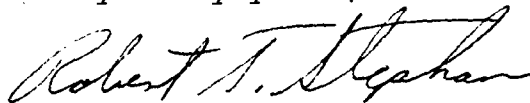
As Director of the Alcoholic Beverage Control Division of the
Kansas Department of Revenue, you request our opinion on a
question concerning the licensing of private clubs and
concerning the scope of Attorney General Opinion No. 85-37.
Specifically, you inquire whether organizations licensed under
the Private Club Act, K.S.A. 41-2601 et seq., may operate,
as one single club, an area on one floor of a building and a
separate area on another floor of the same building with only
public areas between the two locations.

In Opinion No. 85-37, we addressed your inquiry about the legality of licensing, as a private club, a facility which had portions designated as the private club area, and left other parts open to the public, with common areas, such as restrooms and hallways, shared by both groups. We concluded that the Private Club Act, K.S.A. 41-2601 et seq., did not prevent "a private club from including one or more areas open to the general public. As long as the consumption of alcoholic liquor is restricted to the areas described in the license, other portions of the facility, such as corridors and restrooms, may be shared by both club members and members of the public."

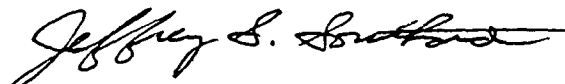
Based on Opinion No. 85-37, your agency is now being asked to license as a single private club two separate areas in the same building; one area on the first floor and one area on the fifth floor. There is no licensed area between these two locations. At present the two locations are being operated under separate club licenses and "doing business as" names.

The situation presented to our office in Opinion 85-37 is significantly different than the one involved in your current inquiry. According to your previous request, the facility in question consisted of a club area on one side of a hallway with the private club's bar and a public area on the other side. Seating for the private club was confined to one location, with all areas connected to one another. In the present situation, the private club area is two distinct areas separated by a significant distance. The two areas are not connected to each other or separated only by a corridor. The areas are, in actuality, two separate club facilities in two different locations. Such a wide separation between two areas of a club is not within the scope of Opinion No. 85-37. The two areas are not "one particular premises" as required for licensing of a club under K.S.A. 41-2608, and therefore must be licensed as two distinct clubs as in fact is currently being done.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Jeffrey S. Southard
Deputy Attorney General