



STATE OF KANSAS

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January 8, 1986

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ATTORNEY GENERAL OPINION NO. 86- 2

Keith D. Hoffman
Dickinson County Attorney
325 Broadway
Abilene, Kansas 67410

Re: Counties and County Officers -- County Appraiser --
Transfer of Powers from County Clerk

Taxation -- Property Valuation, Equalizing
Assessments, Appraisers and Assessment of Property
-- Duties of County Appraiser; Determination by
Board of County Commissioners

Synopsis: The duties of the county clerk and county appraiser are statutorily prescribed but are administered at the direction of the board of county commissioners, which has the power and authority to determine and allocate how county resources are to be used and which office has responsibility for such resources. Accordingly, the county commission may establish policies concerning the use of a county computer system by the county appraiser in listing and assessing tangible property, and by the county clerk in maintaining the tax rolls thereafter. Cited herein: K.S.A. 12-3903; 19-212; 19-426; 19-430; 79-1411b; 79-1466; 79-1467, as amended by L. 1985, ch. 311, §8 and ch. 315, §2.

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Dear Mr. Hoffman:

As the County Attorney of Dickinson County, you have requested our opinion concerning a problem of resource management between the county appraiser and the county clerk.

We are informed that Dickinson County has recently acquired a computer system and is experiencing difficulty in determining who is to have use and control over the system. You suggest that K.S.A. 79-1411b applies to give the board of county commissioners the power to resolve this issue.

Initially, it is clear that the board of county commissioners is empowered under K.S.A. 19-212, First "[t]o make such orders concerning the property belonging to the county as they may deem expedient, including the establishing of regulations, by resolution, as to the use of such property" These broad powers are given to allow a county commission to view the county's individual needs and allocate resources accordingly.

Second, the board of county commissioners is granted the power to appoint a county appraiser to list, value and assess property within the county for taxation. K.S.A. 19-430. The board is required to provide the appraiser with such office space and clerical help as may be needed to carry out the duties of the office. Once a county appraiser is appointed, the county clerk is divested of his or her powers and duties related to assessment and must turn over all books, records, maps, rolls, etc., pertaining to assessment and classification of property to the county appraiser. K.S.A. 19-426.


Finally, the board of county commissioners is required, after consultation with the county appraiser, to "determine the most practical method of providing for the listing and assessing of all tangible property" K.S.A. 79-1411b. This statute should be read together with the above-mentioned sections to resolve the issue at hand.

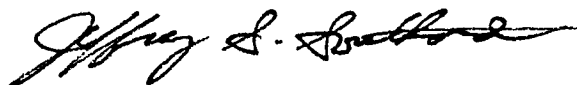
The board of county commissioners is unquestionably granted the power to decide how to best utilize the county's property. There is no statutory requirement or policy which requires the county clerk to have sole responsibility for the computer system. While the board of county commissioners may allocate such responsibility, such action is within their discretion. If the computer system is to be used in the assessment process, the county clerk has no statutory power to hold the records pertaining to appraisal. K.S.A. 19-426. Thus, he or she should have at best a secondary role in how the computer system will be used to deal with appraisal and assessment, whatever use is made of the system for maintaining the tax rolls after they are certified to the county assessor. K.S.A. 79-1466 and 79-1467, as amended by L. 1985, ch. 311, §8 and ch. 315, §2.

We would further note that the operations, procedures and functions of government agencies or offices may be consolidated. K.S.A. 12-3903. Under this section, if the board of county commissioners determined the county clerk's and county appraiser's duties and operations are duplicative and could be more efficiently performed by a single office, a resolution by the board may accomplish this object. Such a resolution may even eliminate an elective office, subject to the right of electors to vote on the question. K.S.A. 12-3903.

In conclusion, the duties of the county clerk and county appraiser are statutorily prescribed but are administered at the direction of the board of county commissioners, which has the power and authority to determine and allocate how county resources are to be used and which office has responsibility for such resources. Accordingly, the county commission may establish policies concerning the use of a county computer system by the county appraiser in listing and assessing tangible property, and by the county clerk in maintaining the tax rolls thereafter.

Very truly yours,


ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS


Jeffrey S. Southard
Deputy Attorney General

RTS:JSS:crw