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November 7, 2023

ATTORNEY GENERAL OPINION NO. 2023-11

Mr. Larry Karns
Executive Director
Kansas State Board of Technical Professions
900 SW Jackson Street, Suite 507
Topeka, KS 66612

Re: Counties and County Officers—County Surveyor or Engineer—
Recording of Survey Plats, When; Requirements

Personal and Real Property—Land Surveys—Review of Survey Plats;
Requirements; Procedure; Costs; Recording of Plat, When

Synopsis: A register of deeds cannot require a submitting land surveyor to certify
that a survey complies with all zoning ordinances and regulations.
Cited herein: K.S.A. 19-1434; 58-2005.

* * *

Dear Mr. Karns:

As the Executive Director for the Kansas Board of Technical Professions and on behalf of the Board, you ask whether a register of deeds may refuse to record a land survey until a submitting land surveyor certifies that the plat and survey meets all applicable zoning requirements.

In your request, you cite K.S.A. 19-1434(a), which simply says that “a survey plat shall be recorded with the register of deeds in the county where the survey was located within 90 days after completion of the survey.” This statute imposes no zoning certification requirements on land surveyors.

Under K.S.A. 58-2005(a), however, a register of deeds may not record a survey plat submitted under K.S.A. 19-1434, without first having the county surveyor or a surveyor designated by the county certify that it meets certain requirements.¹ Under these circumstances, a register of deeds may either (1) receive the survey plat and required fees from the submitting land surveyor and then deliver it to the county surveyor or the designated surveyor for review or (2) accept a survey plat that already has been signed by the county surveyor or designated surveyor.² No other actions are authorized.

In reviewing the plat, the county surveyor or designated surveyor must certify that it satisfies four requirements.³ An additional certification requirement may be adopted by the board of county commissioners for the “review of proposed new tracts for compliance with zoning ordinances and regulations.”⁴

Reading K.S.A. 58-2005 as a whole, we believe that county commissioners may impose the zoning compliance requirement only on county surveyors or designated surveyors, not submitting land surveyors. This is because the phrase, “additional review requirements” in subsection (b)(4) is best understood to refer to the “review[]” mandated by subsection (a).⁵ Therefore, a register of deeds may not require submitting land surveyors to certify that their plats and surveys meet all applicable zoning requirements.

Sincerely,

/s/ Kris W. Kobach

Kris W. Kobach
Kansas Attorney General

/s/ Kurtis K. Wiard

Kurtis K. Wiard
Assistant Solicitor General

¹ We interpret “land surveyor designated by the county” to exclude the submitting land surveyor. *See* K.S.A. 58-2005(d)(2) (distinguishing between county surveyor, designated land surveyor, and submitting land surveyor).

² K.S.A. 58-2005(d).

³ *Id.* at (b)(1).

⁴ *Id.* at (b)(4).

⁵ *See Roe v. Phillips Cty. Hosp.*, 317 Kan. 1, 5-6, 522 P.3d 277 (2023) (courts construe statutes in *pari materia* even when the language of the statute is clear).