

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairman Vickrey at 3:30 p.m. on March 13, 2003 in Room 519-S of the Capitol.

All members were present except: Rep. Yonally, Rep. Peterson

Committee staff present:

Mike Heim, Legislative Research Department
Kathie Sparks, Legislative Research Department
Theresa Kiernan, Office of the Revisor of Statutes
Maureen Stinson, Committee Secretary

Conferees appearing before the committee:

Sen. Jackson	Kansas Senate
Vic Miller	Shawnee County
Kim Gulley	League of Kansas Municipalities
Whitney Damron	City of Topeka
Lisa Stubbs	City Council, City of Topeka
Mike McGee	City of Topeka
Gary Price	City Council, City of Topeka
Jo Ann Peavler	City of Topeka, Property Maintenance Code Review Team Member
Patrick DeLapp	
*Mike Taylor	City of Wichita
*Bill Yanek	Kansas Association of Realtors
*Marcia Lessenden	
*Andy Landis	

*written testimony only

Others attending: See attached list

The Chairman opened the hearing on:

SB 79: cities; protest petitions, requirements on

Sen. David Jackson appeared before the committee as a proponent of the bill (Attachment 1). He explained that the bill amends the law which establishes a protest petition and election procedure to be held in the area outside and within three miles of the corporate limits of a city, when a city adopts an ordinance providing for the enforcement of building codes in this unincorporated area. He said that the bill reduces the protest petition from 20 percent to 10 percent, effective January 1, 2003.

Vic Miller, Shawnee County Commissioner, testified in support of the bill (Attachment 2). He stated that since the 5-4 vote of the Topeka City Council last January to extend the City's building codes to the three mile area surrounding the city, that he has been inundated with calls and e-mail from constituents asking that the County Commission do something to prevent it. He said a 20 percent requirement for protest petitions is unduly onerous and repressive when one considers that the action protested was taken by elected officials who were not elected by the citizens affected.

Kim Gulley, League of Kansas Municipalities, appeared as a opponent of the bill (Attachment 3). She stated that cities have been granted extraterritorial jurisdiction to regulate certain activities in the three mile zone surrounding the corporate limits of the city and that this authority includes zoning regulations, subdivision regulations, and building code enforcement. She explained that the county make take action to impose its own requirements, thereby superseding the city's requirements. She urged the committee to not recommend the bill for passage.

A written statement from Richard Eckert, County Counselor, Shawnee County, was distributed by Sen. Jackson and briefly discussed (Attachment 4). Mr. Eckert stated that the zoning and platting statutes do not support the statement made that if a county wants to adopt building codes in the three mile area that

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT at on March 13, 2003 in Room 519-S of the Capitol.

those building codes would replace or pre-empt city building codes. Mr. Eckert's testimony further stated that there is no corresponding statute for building codes and that without such a statute, the County cannot implement their own codes to either replace or pre-empt city building codes. He informed that the only option for residents in the three mile area is the protest petition method outlined in K.S.A. 12-751a.

Whitney Damron, testified as an opponent of the bill on behalf of the City of Topeka (Attachment 5). He pointed out that this legislation could be very harmful to a city's opportunity for growth and public safety. He called attention to a letter to the committee from Mayor Felker which is included in his testimony. On behalf of the City of Topeka, he urged the committee to reject the changes in municipal law proposed in the bill.

Lisa Stubbs, Topeka City Council, addressed the committee in opposition to the bill (Attachment 6). She informed the committee that many homeowners in the three mile area have raised concerns about the lack of codes and some have even experienced expensive errors in their construction that have to be addressed. She submitted that the county's lack of regulation in issuing building permits results in costly problems that the city will pay for in the future. She explained that she has dealt with dozens of significant errors caused by county building permits that do not cross-reference city/county planning strategies.

Written testimony in support of the bill was distributed from the following conferee:

- Bill Yanek, Director of Governmental Relations, Kansas Association of Realtors (Attachment 7).

The Chairman closed the hearing on **SB 79**.

The Chairman opened the hearing on:

SB 167 **cities; notice of nuisance abatement by regular mail**

Sen. David Jackson spoke as a proponent of the bill (Attachment 8). He said the bill amends the present statute regarding Notice of Nuisance Abatement to state that the initial notice to the owner of record can be served by regular mail instead of certified mail and that further notices will still be required to be sent by certified mail. He urged the committee to recommend the bill favorably for passage.

Kim Gulley, Director of Policy Development & Communications, League of Kansas Municipalities, testified in support of the bill (Attachment 9). She stated that during difficult budget times, cities are looking for ways to be more efficient and that this bill offers one such option. She requested that the committee recommend the bill favorably for passage.

Mike McGee, Department of Public Works, City of Topeka, appeared as a proponent of the bill (Attachment 10). He said that prompt code enforcement of property maintenance violations is essential in maintaining neighborhood properties, particularly in the older neighborhoods comprising the core of our community. He recommends amending K.S.A. 12-1617e to allow the use of 1st Class mail versus certified, return receipt request for notice of violations and for the billing of costs associated with any abatements performed by the city.

Gary Price, City Council, City of Topeka, testified in support of the bill (Attachment 11). He testified that elected officials are challenged to find ways to make government more fiscal and operationally efficient.

Jo Ann Peavler, Property Maintenance Code Review Team Member, City of Topeka, spoke in favor of the bill (Attachment 12). She stated that neighborhood blight can become more extensive when the offender chooses not to accept the notice of nuisance when mailed by certified mail.

Written testimony in support of the bill was distributed from the following conferee:

- Mike Taylor, Government Relations Director, City of Wichita (Attachment 13)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT at on March 13, 2003 in Room 519-S of the Capitol.

Patrick DeLapp testified as an opponent of the bill (Attachment 14). He stated that the law currently requires that when something meets the level of being a public nuisance, the government must give proper notice informing you of the problem before they are allowed to trespass on private property and take away what ever it is causing the nuisance. He urged the committee to keep the law the way it is by requiring certified mail, return receipt requested.

Written testimony in opposition to the bill was distributed from the following:

- Marcia Lessenden (Attachment 15)
- Andy Landis (Attachment 16)

The Chairman closed the hearing on **SB 167**.

SB 109: counties; donation of land for cemetery purposes

A proposed Reports of Standing Committees Report was distributed to the committee. Rep. Campbell made a motion to amend **SB 109** as recommended in the Reports of Standing Committee (Attachment 17). Rep. Reitz seconded the motion. The motion carried.

Rep. Campbell made a motion for the passage of SB 109 as amended. Rep. Reitz seconded the motion. The motion carried.

The meeting was adjourned at 5:10 p.m.

Next meeting is scheduled for March 18, 2003.

HOUSE LOCAL GOVERNMENT

DATE 3-13-2003

NAME	REPRESENTING
Whitney Damon	City of Topeka
Drew Jahn	Senate 18 th Dist

DAVID D. JACKSON
 STATE SENATOR, 18TH DISTRICT
 NORTH SHAWNEE COUNTY
 HOME ADDRESS: 2815 NE ROCKAWAY TRAIL
 TOPEKA, KANSAS 66617-2305
 (785) 357-6538
 OFFICE: STATE CAPITOL BUILDING, ROOM 458-E
 TOPEKA, KANSAS 66612-1504
 785 296-7365
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COMMITTEE ASSIGNMENTS
 WAYS AND MEANS
 ELECTIONS AND LOCAL GOVERNMENT
 TRANSPORTATION
 JOINT COMMITTEE ON SPECIAL CLAIMS
 AGAINST THE STATE
 TOPEKA STATE HOSPITAL CEMETERY
 MEMORIAL ADVISORY COMMITTEE
 JOINT COMMITTEE ON CHILDREN'S ISSUES
 SPECIAL COMMITTEE ON KANSAS SECURITY

SENATE CHAMBER

Testimony on SB-79
Before the House Local Government Committee
Jene Vickery, Chair

When a city council proposes to extend its regulatory powers beyond corporate limits, citizens must have the right to opt out of these regulations through a reasonable petition and subsequent vote on the issue. Since these electors have no voice in the selection of City Commissioners, this ability to call for a free election should not be abridged by an unfairly excessive protest petition requirement.

This bill reduces the onerous 20% requirement for protest petitions to 10%. Nothing more and nothing less.

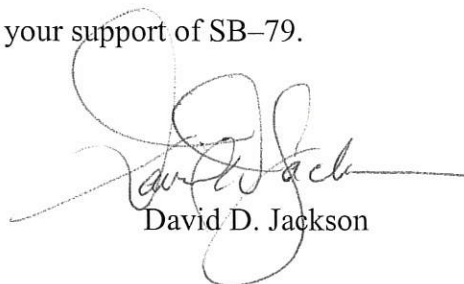
The assertion that you will hear that substandard or unsafe housing results by the absence of a city inspection defies logic. Mortgage companies are not in the business of loaning money on houses that won't support the underlying loan.

Fire prone homes will not result from your passage of this bill. Fire Districts outside the corporate limits in fact have fewer fire calls than municipal departments. Further, the Soldier Township Fire Chief reports that no fire call in his tenure of 21 years has resulted from faulty construction caused by a lack of housing code inspections.

This bill will be in effect from and after any actions initiated by a city on or after January 1, 2003, and will provide 90 days for the circulation of petitions.

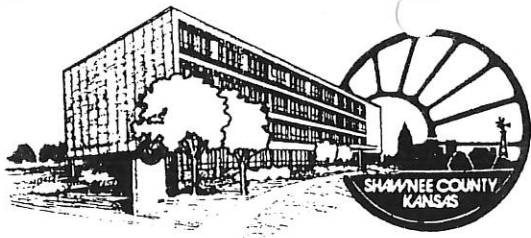
The right of citizens to elect those who would impose regulation upon them or have the right to reasonable petition for the right to vote upon regulations imposed upon them by officials who were not elected by the citizens is sacrosanct.

I would appreciate your support of SB-79.



David D. Jackson

House Local Government
 Date: 3-13-2003
 Attachment # 1



Shawnee County Board of Commissioners

Rm. B-11, Courthouse Topeka, Kansas 66603-3933

Marice Kane, 1st district

Vic Miller, 2nd district

Theodore D. Ensley, 3rd district

(785) 233-8200 ext. 4040, Fax: 785-291-4914

E-Mail: Commission@co.shawnee,ks.us

Network Address: www.co.shawnee,ks.us

Mr. Chairman and Members of the Committee:

My name is Vic Miller and I am Chair of the Shawnee County Commission.

Thank you for the opportunity to appear before you and thank you to Senators Jackson, Hensley and Bunten for sponsoring SB 79.

Since the 5-4 vote of the Topeka City Council last January to extend the City's building codes to the three mile area surrounding the City, I have been inundated with calls and e-mails from constituents asking that the County Commission do something to prevent it.

Many are confused that this is a "County" vs. "City" issue. It is not.

The only issue presented today is what is a reasonable course of redress for aggrieved citizens to protest the actions of "their" elected officials. Having actively participated in petition drives in this community, I can attest that a 20 percent threshold is unduly onerous. This requirement is particularly repressive when one considers that the action protested here was taken by elected officials who were not elected by the citizens affected.

Even the 10% threshold contained in the amended bill is significantly higher than what is typically found in the statutes. Some examples:

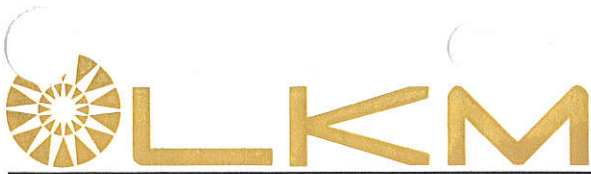
K.S.A. 12-1774	(3% of the qualified voters);
K.S.A. 12-1767	(5% of the electors);
K.S.A. 19-101b	(2% of those voters voting in the last general election); or
K.S.A. 20-2901	(5% of the electors).

I support SB 79. I believe it presents a more reasonable response to those feeling aggrieved by the City's action.

House Local Government

Date: 2-13-2003

Attachment # 2



League of Kansas Municipalities

To: House Local Government Committee
From: Kim Gulley, Director of Policy Development & Communications
Date: March 13, 2003
Re: SB 79

Thank you for allowing me to appear today on behalf of the League of Kansas Municipalities (LKM) and our 556 member cities. K.S.A.12-751a applies statewide and any changes to the authority granted by this statute would affect all 626 cities in the state. We appear today in opposition to SB 79 and we offer the following concerns for your consideration.

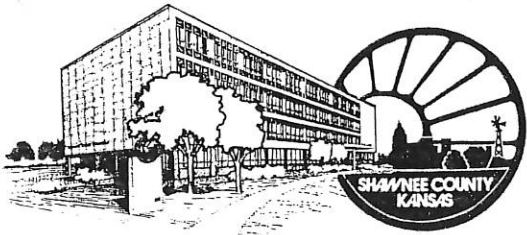
Cities in Kansas have been granted extraterritorial jurisdiction to regulate certain activities in the 3-mile zone surrounding the corporate limits of the city. This authority includes zoning regulations, subdivision regulations, and building code enforcement. Whenever a city regulates in the 3-mile zone, at least two members of the planning commission must reside within that area. Furthermore, at any time, the county may take action to impose its own requirements, thereby superseding the city's requirements (K.S.A.12-715b). These two provisions ensure appropriate representation for the citizens living in the 3-mile zone.

In addition to the ensured representation by citizens living in the 3-mile zone, there is a petition and election requirement which provides yet another layer of protection. The current petition requirement provides that 20% of the qualified electors may protest the application of city building codes in the 3-mile zone. A 20% petition threshold is found throughout the extraterritorial portion of the statutes, including the petition requirement for zoning and subdivision regulations. LKM opposes pulling out a single piece of this overall structure and reducing that petition requirement to 10%.

Extraterritorial jurisdiction has been granted to cities to help to ensure that individuals do not use the corporate boundaries of the city just to avoid zoning, subdivision, and building code requirements. There is a significant likelihood that those who live just outside the city limits may someday be included within the city limits and it is important that development be appropriately regulated in those areas. To that end, the Kansas Legislature has provided a comprehensive set of laws which authorizes zoning, subdivision, and building code enforcement in the 3-mile zone. Those laws are interrelated and offer several layers of protection for the citizens living within the area.

For these reasons, LKM opposes altering the building code portion of this jurisdiction and respectfully requests that you do not recommend SB 79 favorably for passage. Again, thank you for the opportunity to offer comment on this legislation. I would be happy to answer questions at the appropriate time.

House Local Government
Date: 3-13-2003
Attachment # 3



Shawnee County Office of County Counselor

RICHARD V. ECKERT
County Counselor

Shawnee County Courthouse
200 SE 7th St., Ste. 100
Topeka, Kansas 66603-3932
(785) 233-8200 Ext. 4042
Fax (785) 291-4902

It has been stated that if a county wants to adopt building codes in the three-mile area that those building codes would replace or pre-empt city building codes. This, however, is not supported by the zoning and platting statutes.

This statement is correct however if the subject matter was zoning regulations as opposed to building codes. K.S.A. 12-715d provides that all city zoning regulations and the authority of any city to adopt zoning regulations for land located outside the city shall cease and terminate as to any tracts of land lying within such area on the date the county places in effect zoning regulations governing the same tracts of land pursuant to a comprehensive plan.

There is no corresponding statute for building codes. Without such a statute, the County cannot implement their own codes to either replace or pre-empt city building codes. The only option for residents in the three-mile area is the protest petition method outlined in K.S.A. 12-751a.

House Local Government
Date: 3-13-2003
Attachment # 4

WHITNEY B. DAMRON, P.A.
800 SW JACKSON STREET, SUITE 1100
TOPEKA, KANSAS 66612-2205
(785) 354-1354 ♦ 354-8092 (FAX)
E-MAIL: WBDAMRON@aol.com

TESTIMONY

TO: The Honorable Jene Vickrey, Chairman
And Members Of The
House Local Government Committee

FROM: Whitney Damron
On Behalf Of
The City of Topeka

RE: SB 79 – Cities; Protest Petition; Requirements On.

DATE: March 12, 2003

Good afternoon Chairman Vickrey and Members of the House Local Government Committee. My name is Whitney Damron and I appear before you this afternoon on behalf of the City of Topeka in opposition to SB 79. Also with me today is Councilwoman Lisa Stubbs, who will present comments on this legislation as well. As written, SB 79 would cut in half the required number of signatures for a protest petition challenging the enforcement of building codes in unincorporated areas located within three miles of an incorporated city. Current law requires 20 percent of the eligible voters to sign such a petition and the bill in its current form lowers this requirement to 10 percent.

While this bill has been portrayed as a Shawnee County vs. City of Topeka bill, its ramifications are statewide. Included with this memorandum is a listing of all 105 counties and a notation whether they currently do or do not have county building codes. Cities located within those 89 counties that do not have county building codes will be materially affected by this legislation.

Authority for cities to adopt building codes outside their city limits was adopted in 1991 (K.S.A. 12-751). The protest petition language was adopted in 1998, which also included the 20 percent threshold (K.S.A. 12-751a).

House Local Government
Date: 3-13-2003
Attachment # 5

House Local Government Committee
Page Two of Two
March 13, 2003

The City of Topeka believes building codes and zoning issues are local matters for the city and county to resolve. SB 79 interjects a legislative solution that is unneeded and will additionally impact the other 88 counties that are necessarily affected by SB 79.

In closing, I would like to point out this legislation can be very harmful to a city's opportunity for growth and public safety. A lower threshold will necessarily make fewer citizens able to essentially block implementation of building code protections for the majority citizens after a thorough hearing process. It should also be noted that should a petition against such an ordinance be effective, such an ordinance cannot be brought back for consideration for at least four years.

Finally, I would like to call your attention to a letter from Mayor Felker to the Committee on this issue.

On behalf of the City of Topeka, I urge you to reject the changes in municipal law proposed in SB 79.

Thank you for your attention to this information.

WBD
Attachment

DOES COUNTY HAVE BUILDING CODES?

<u>COUNTY</u>	<u>YES</u>	<u>NO</u>	<u>COUNTY</u>	<u>YES</u>	<u>NO</u>
ALLEN		X	HODGEMAN		X
ANDERSON		X	JACKSON		X
ATCHISON		X	JEFFERSON	X	
BARBER		X	JEWELL		X
BARTON		X	JOHNSON	X	
BOURBON		X	KEARNEY		X
BROWN		X	KINGMAN		X
BUTLER	X		KIOWA		X
CHASE		X	LABETTE		X
CHATAQUA		X	LANE		X
CHEROKEE		X	LEAVENWORTH		X
CHEYENNE		X	LINCOLN		X
CLARK		X	LINN		X
CLAY		X	LOGAN		X
CLOUD		X	LYON		X
COFFEY		X	MARION		X
COMANCHE		X	MARSHALL		X
COWLEY		X	McPHERSON		X
CRAWFORD		X	MEADE		X
DECATUR		X	MIAMI	X	
DICKINSON		X	MITCHELL		X
DONIPHAN		X	MONTGOMERY	X	
DOUGLAS	X		MORRIS		X
EDWARDS		X	MORTON		X
ELK		X	NEMAHA		X
ELLIS		X	NEOSHO		X
ELLSWORTH		X	NESS		X
FINNEY	X		NORTON		X
FORD		X	OSAGE	X	
FRANKLIN	X		OSBORNE		X
GEARY		X	OTTAWA		X
GOVE		X	PAWNEE		X
GRAHAM		X	PHILLIPS		X
GRANT		X	POTTAWATOMIE		X
GRAY		X	PRATT		X
GREELEY		X	RAWLINS		X
GREENWOOD		X	RENO		X
HAMILTON		X	REPUBLIC		X
HARPER		X	RICE		X
HARVEY		X	RILEY		X
HASKELL		X	ROOKS		X

<u>COUNTY</u>	<u>YES</u>	<u>NO</u>	<u>COUNTY</u>	<u>YES</u>	<u>NO</u>
RUSH		X	STEVENS	X	
RUSSELL		X	SUMNER		X
SALINE	X		THOMAS		X
SCOTT		X	TREGO		X
SEDGWICK	X		WABAUNSEE		X
SEWARD	X		WALLACE		X
SHAWNEE		X	WASHINGTON		X
SHERIDAN		X	WICHITA		X
SHERMAN		X	WILSON		X
SMITH		X	WOODSON	X	
STAFFORD	X		WYANDOTTE	X	
STANTON		X			

Total Counties 105
Counties with building codes: 16
Counties with no building codes 89



CITY OF TOPEKA

Harry "Butch" Felker, Mayor
215 S.E. 7th Street, Room 352
Topeka, Kansas 66603
Phone 785-368-3895
Fax Number 785 368-3850

March 11, 2003

House Local Government Committee

Re: SB 79 Protest Petitions; Building Codes

I am writing in opposition to SB 79, which would reduce the election petition requirements for those opposing the extension of city building codes into a surrounding urban area. As you know, current statutes require twenty percent of the impacted registered voters to sign a petition in order to have the question of whether to extend the building codes placed on a ballot. SB 79 would reduce the petition requirement to ten percent (as originally introduced, the petition requirement would have been five percent).

The current twenty percent threshold was established by a previous legislature after it was discovered that affected property owners would otherwise have no voice in whether building codes should or shouldn't be extended into a county. The twenty percent petition requirement met little or no opposition from either the public or the legislature.

What has changed that necessitates a change in the petition requirement? Nothing, other than the City of Topeka has expressed its desire to extend the enforcement of the City of Topeka building codes into part of Shawnee County. No testimony has been presented that the petition requirement has caused a problem anywhere in the state, including Shawnee County.

SB 79 was introduced in reaction to a continuing controversy over who should regulate land use in the urban growth area surrounding the City of Topeka: the Topeka City Council or the Shawnee County Commission. This controversy has touched on virtually all aspects of city extraterritorial jurisdiction, from plat approvals and subdivision regulations, to annexation and building code enforcement. Disputes over urban growth and regulation are not new anywhere in the state. Fortunately, state statutes (including the building code statute) establish processes that allow everyone a voice in urban growth and management decisions.

5-5

To plan for the growth of cities and to ensure some consistency in building regulation and land use patterns between cities and surrounding urban areas, state law allows a city to have some regulatory say over platting, subdivision design and building code enforcement generally within three miles of a city's borders. Statutes allow for participation of non-city residents in these decisions via county commission participation in subdivision regulation decisions, and petition and referendum possibilities in the case of building code enforcement. This statutory framework works. While there is plenty of speculation, there is no objective evidence that the twenty percent requirement is unworkable. Controversy and anticipated difficulty in obtaining the necessary number of signatures on a petition is not a justification for changing the law.

In the case of building code enforcement, state statutes clearly attempt to achieve a balance between the interests of non-city residents and the interests of a city in ensuring some regulatory consistency within the metropolitan area. SB 79 will upset this balance.

Again, the legislature has already adequately addressed this issue. I ask you to vote against SB 79.

I appreciate this opportunity to address the issues surrounding SB 79. Please feel free to contact me if you have any questions.

Sincerely,



Harry "Butch" Felker
Mayor of Topeka

5-6


WHITNEY B. DAMRON, P.A.
800 SW JACKSON STREET, SUITE 1100
TOPEKA, KANSAS 66612-2205
(785) 354-1354 • 354-8092 (FAX)
E-MAIL: <WBDAMRON@aol.com>



CITY OF TOPEKA

City Council
215 S.E. 7th Street Room 255
Topeka, Kansas 66603
Phone 785-368-3710

TO: The Honorable Jene Vickrey, Chairman
And Members of the House Elections and Local Government Committee

FROM: Lisa Stubbs
Topeka City Council 

RE: Senate Bill 79

DATE: March 13, 2003

SUMMARY OF CONTENTS

1. State government has long recognized the importance of the joint area of jurisdiction surrounding urbanized areas – 3-mile area.
2. 20% petition represents a fair amount of petition given the importance of these areas to the orderly growth of our cities. It also allows for the necessary check and balance with regard to urban/rural issues.
3. Orderly growth promotes the well being of Kansas and is the most efficient use of infrastructure dollars.
4. 20% is consistent with other petition requirements in similar legislation. 40% is the highest level of petition necessary in state legislation.
5. Two remedies are already available for County residents in the 3-mile area to stop City building codes. Adopting County building codes will always trump City codes; 20% petition calling for a ballot question. (The only people who can vote on this are residents within the 3-mile area.)
6. Building codes into the county is extremely common in Kansas. Areas included are Leavenworth County, Sedgwick County, Johnson County, Douglas County and Wyandotte County.
7. Many homeowners in the 3-mile area have raised concerns about the lack of codes and some have even experienced expensive errors in their construction that have to be addressed. They are thankful that the City is providing a measure of protection.
8. A retroactive date in this bill is likely ex post facto.

House Local Government
Date: 3-13-2003
Attachment # 6

9. Shawnee County Election Commissioner Ensley raised several administrative problems that you may want to address. She made no comment on the need to lower the petition percentage.

10. The County's lack of regulation in issuing building permits results in costly problems that our City will pay for in the future. As a member of the Topeka City Council, I have dealt with dozens of significant errors caused by County building permits that do not cross-reference City/County planning strategies. These cause expensive remedies to individuals as well as the community as a whole.

Thank you for your thoughtful consideration in leaving the petition percentage at the reasonable 20% level and thank you for the opportunity to appear before you today.



TO: HOUSE LOCAL GOVERNMENT COMMITTEE
FROM: BILL YANEK -- KAR, TOPEKA BUILDER-REALTOR COALITION
DIRECTOR OF GOVERNMENTAL RELATIONS
DATE: March 13, 2003
SUBJECT: Senate Bill 79 (As amended)

City-county strife is nothing new to cities and counties across Kansas. Normally, Builders and Realtors® believe that this conflict is best dealt with by the city and county governments. However, when these conflicts impact the process through which cities and counties regulate growth and development, we believe citizens ought to have a strong voice in the matter. More importantly, when these conflicts enact regulation on citizens outside city corporate limits, the situation becomes “regulation without citizen representation”.

Currently under K.S.A. 12-751, a protest petition against the enforcement of an ordinance outside the corporate limits of a city would require a petition “signed by at least 20% of the qualified electors protesting the enforcement of such an ordinance”. By lowering the requirement to 10%, as does the amended SB 79, the petition process is more manageable for citizens to navigate.

We believe that SB 79 (as amended) is good public policy for the State of Kansas. First, the bill is narrowly tailored to situations where a city ordinance is impacting county residents outside the corporate limits of the city. Second, the petition process does not automatically void the city ordinance; the bill only removes enforcement provisions of the ordinance and submits the ordinance to the next regular primary or general county election.

Thank you for the opportunity to present testimony in this matter.

We urge that Senate Bill 79 (as amended) be passed favorably.

House Local Government
Date: 3-13-2003
Attachment # 7



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DAVID D. JACKSON
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TOPEKA, KANSAS 66612-1504
785 296-7365
email: Jackson@Senate.state.ks.us



COMMITTEE ASSIGNMENTS
WAYS AND MEANS
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TRANSPORTATION
JOINT COMMITTEE ON SPECIAL CLAIMS
AGAINST THE STATE
TOPEKA STATE HOSPITAL CEMETERY
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JOINT COMMITTEE ON CHILDREN'S ISSUES
SPECIAL COMMITTEE ON KANSAS SECURITY

SENATE CHAMBER

**Testimony on SB 167
Before the House Local Government Committee
Jere Vickery, Chair**

SB 167 amends the present statute regarding Notice of Nuisance Abatement to state that the initial notice to the owner of record can be served by regular mail instead of certified mail. Further notices will still be required to be sent by certified mail.

This bill not only would save tax dollars, but nuisances could be corrected much more quickly. Neighborhood Improvement Associations favor this legislation because the time frame reduction would assist them in their efforts to revitalize twice respective neighborhoods.

Those who testified against this bill were in opposition mainly because possible errors in mailing can occur, and because occasionally there have been errors by city officials in program administration. I understand the frustration of these owners and have experienced these errors myself as a landlord of residential property here in Topeka.

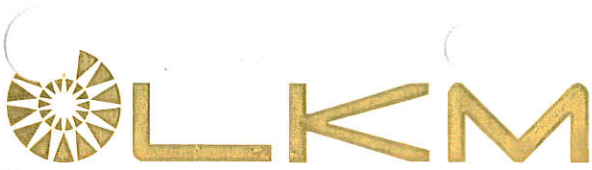
However, overall I believe the use of regular mail instead of certified mail, return receipt requested is justified.

Therefore I urge the Committee to pass SB 167 as amended favorably for passage.

A handwritten signature in blue ink, appearing to read "David D. Jackson".

David D. Jackson

House Local Government
Date: 3-13-2003
Attachment # 8



League of Kansas Municipalities

To: House Local Government Committee
From: Kim Gulley, Director of Policy Development & Communications
Date: March 13, 2003
Re: SB 167

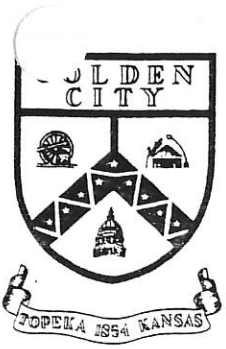
Thank you for the opportunity to appear before you today on behalf of the 556 member cities of the League of Kansas Municipalities (LKM). We appear today in full support of SB 167.

This is a very simple piece of legislation which essentially makes one small change. It would allow cities to send the first notice of nuisance abatement via first class mail, instead of by certified return receipt requested mail. The second notice, which is required before a city can abate the nuisance, would still be mailed by certified mail, return receipt requested.

In these very difficult budget times, cities are looking for ways to be more efficient. SB 167 offers one such option.

Because of the savings this legislation offers, we respectfully request that the Committee recommend SB 167 favorably for passage. I will be happy to stand for questions at the appropriate time.

House Local Government
Date: 3-13-2003
Attachment # 9



CITY OF TOPEKA

Department of Public Works • Administration
515 S. Kansas Avenue 4th Flr.
Topeka, Kansas 66603-3422
Phone 785-368-3801
Fax 785-368-3806

Mike McGee

12 March 2003

To: Chairman Jene Vickrey and Members of the House Local Government Committee.

Subject: Testimony on SB 167—Cities; notice of nuisance abatement by regular mail.

Background: The City of Topeka is struggling to meet the expectations of neighborhoods regarding property maintenance standards in the community. Neighborhoods complain frequently about the excessive time required to successfully abate typical nuisance problems. One of the concerns is the requirement to provide notice of a violation by certified mail, return receipt requested. This requirement typically can add 10-14 calendar days to the process of correcting the violation. Postal delivery times are extended in part because most adults in a residence work outside of the home causing the letter to be undeliverable and requiring the resident to go to the post office to retrieve the letter.

Additionally, the cost of mailing is \$4.42 per certified letter. In 2002 the City of Topeka sent nearly 5700 certified letters at a cost of over \$25,000. 1700 or 30% of those mailings were returned as undelivered. In those cases the notice must then be published in the official City newspaper. That cost exceeded \$18,000 in 2002. It also adds an additional 5-7 days to the process.

Discussion: Property owners/residents are increasingly concerned about property values and crime in their neighborhoods. Prompt code enforcement of property maintenance violations is essential to maintaining neighborhood properties, particularly in the older neighborhoods comprising the core of our community. The majority of the certified notices go to first time offenders. They sign for the letters and correct the problem in a timely manner. They corrected the problem because they are responsible citizens in most cases and simply overlooked the problem or didn't know what the standard was as outlined in the city code. It doesn't take a certified letter to gain their compliance, 1st Class would have gained that compliance in most cases from our experience. It is also delivered the next day in the city and is not dependent on someone being at home to accept it thereby shortening the process.

House Local Government
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The majority of the 1700 returned notices are attributable to repeat offenders who know the process and will not claim the letter. Notice is then posted in the official newspaper and the abatement process continues with typically the issuance of a warrant to access the property and abate the violation(s) at the owner's expense. The cost of the mailing is included in the abatement costs billed to the property. Topeka currently sends unpaid abatement bills to a collection agency versus assessing them to the property taxes. Assessments and the property taxes were often not paid on many of the habitual problem properties that the City is required to abate.

The City makes every effort to notify property owners/tenants of violations to include leaving doorknockers for an initial courtesy notice, posting on the property for housing violations, and follow-up calls to offenders if they do not respond to the mailing or request a hearing as provided for in due process. Personal notice is another option that we are considering for repeat offenders.

It is our belief that certified mail only contributes to extending the time for resolution of the violation and is not required for the majority of property owners to correct deficiencies on their property. Additionally, it serves no purpose for gaining compliance from the repeat offenders because they simply refuse to accept the letter. The requirement may have been prudent in times past but we believe it is only a costly hindrance and does not serve the community that is demanding improved property maintenance standards to ensure the maintenance and recovery of older neighborhoods that are in a state of decline.

Recommendation: Amend K.S.A. 12-1617e to allow the use of 1st Class mail versus Certified, return receipt request for notice of violations and for the billing of costs associated with any abatements performed by the City.

POC: Michael E. McGee, Deputy Director
City of Topeka Public Works Department
368-3801; E-mail mmcgee@topeka.org



CITY OF TOPEKA

City Council
215 S.E. 7th Street Room 255
Topeka, Kansas 66603
Phone 785-368-3710

TO: Jene Vickrey, Chairman
Committee on Elections and Local Government

FROM: Gary Price
Topeka City Council

DATE: March 11, 2003
RE: Senate Bill 167

Honorable Jene Vickrey, chair, and members of the House Elections and Local Government Committee, thank you for the opportunity to appear before you this afternoon.

I am here today as a Topeka City Council member representing the City of Topeka and many of its residents asking for your support of Senate Bill 167.

Over a year ago, Topeka held a Crime Summit that brought together over three hundred of its citizens. During this Crime Summit, I co-chaired a committee that examined numerous code compliance issues, looking for solutions and efficiencies that would improve the process in managing these issues. The proposed amendment to Senate Bill 167 will do just that.

This amendment will speed up the process in how cities deal with code compliance problems, eliminating weeks and sometimes months of delays. Additionally, cities like Topeka will save a great deal of taxpayer's money by eliminating the "certified mail return receipt requested" notification requirement.

As elected officials, we are challenged to find ways to make government more fiscal and operationally efficient. The proposed amendment to Senate Bill 167 allows us to meet this challenge while improving the quality of life within our neighborhoods.

I urge this distinguished committee to support the amendment to Senate Bill 167.

Again, thank you for the opportunity to appear before you today.

House Local Government
Date: 3-13-2003
Attachment # 11

From: JoAnn Peavler
R/E Senate Bill 167

Chairman Rep. Vickery and Committee Members

Thank you for this opportunity to testify to support Senate Bill 167.

1. Neighborhoods where code violations occur (i.e. trashed yards, abandoned vehicles, tall weeds) are experiencing an unintended delay in municipality intervention since 2-4 weeks are required when the offender chooses not to accept his/her "certified mail". Meanwhile the neighborhood blight can become more extensive.
2. Regular/First Class Mail currently receives high priority from the U.S. Postal Service. Many legal notices and documents are sent by 1st Class Mail.
3. I have been serving on a committee since it was convened July 2002 to study Topeka's Code Laws and their enforcement. At nearly each committee meeting, the Kansas mandate of requiring "Certified Mail Return Receipt Requested" comes up and this group supports the change to be able to utilize First or Regular Class Mail.
4. It is my understanding that if, in this instance, our Kansas Law is changed to read Regular Mail, it would not prevent municipalities who prefer to use Certified Mail from doing so.

House Local Government

Date: 3-13-2003

Attachment # 12



TESTIMONY

City of Wichita
Mike Taylor, Government Relations Director
455 N Main, Wichita, KS. 67202
Wichita Phone: 316.268.4351
Topeka Phone: 316.648.6236
mtaylor@wichita.gov

Senate Bill 167 Notice of Nuisance Abatements

Delivered March 13, 2003
House Local Government Committee

The City of Wichita supports Senate Bill 167.

This simple change in the law will save the City of Wichita an estimated \$25,000 a year. Taxpayers want government to provide the services they demand in a business-like manner. They constantly urge us to root out waste and to be more efficient and effective with their tax dollars. Allowing cities to use regular first class mail instead of certified mail to notify citizens of nuisances does all of those things.

SB 167 not only saves tax dollars, but it eliminates an often ineffective method of sending notification. Many people who are violating nuisance codes are good at avoiding certified mail. They simply refuse to sign for it. The certified mail requirement can also delay efforts to correct a nuisance because it takes about 30 days for a certified letter to get through the system whether it's signed for or not.

The City of Wichita understands that approval of SB 167 in no way allows us to avoid legal due process or adequate notification before action to correct a nuisance is taken. The City of Wichita Environmental Health Department also uses face-to-face contact, official personal service, posting of notices on the property and publishing of legal notices. Mail is just one step and we believe first class mail will be just as effective as certified mail.

SB 167 will benefit the taxpayers of Wichita through reduced costs and will help the dozens of Wichita neighborhood groups who are working to clean-up rundown properties, get tall weeds mowed, or junk cars removed.

House Local Government
Date: 3-13-2003
Attachment # 13

Dear Committee Members

RE:SB 167

This bill will change the way notice is served from Certified mail, with return service to first class mail.

How can one know that notice was really received?

What is so urgent that we want to pushing aside Due process rights?

Due process, which is guaranteed under the Constitution is important. This proposed change in the law will do away with that right.

Currently, the law requires that when something meets the level of being a public nuisance, the government must give proper notice informing you of the problem before they are aloud to trespass on private property and take away what ever it is causing this public nuisance. Further the law allows them to recover cost of removal and the cost of postage.(certified mail)

If the bill is not paid it can be placed on the taxes as a special assessment. Its done there is little a owner can do to have this assessment removed.

Compare this to a contractor who does work on a building or house and is not paid. Yes, he can put a lien on that property, if he is not paid, but that lien, which many people don't realize is only temporary. Within 1 year of filing that lien the contractor must sue the owner in district. The owner must prove to a judge or jury that the lien is justified. If the contractor does not sue within that one year and ultimately win the case, goes away automatically.

NOT SO WITH THE CITY! The city does not have to prove a thing in court. The lien is good and cannot be removed easily at all.

-Further, the 10days which is given in the notice to abate the Public nuisance, is not a simple 10 day count. 10 days is really a short time period to get anything done so, State law under KSA 60-206 set the way the time period should be counted.

To make it short, the Time period starts when the notice is RECEIVED. Weekend are not counted, and neither are legal holidays ect..

How is the city going to know that the individual has RECEIVED the notice and when to start counting???? If changed to First Class mail will not achieve this. Certified mail, as currently law stipulates does.

Unfortunately, many times the city starts counting the days the 10 days for correction as soon as they put the letter in the mail. At other times, they count when the letter was typed, and not in the mail yet; Still at other times they do it right and start counting after the letter was signed for and follows the KSA 60-206.

House Local Government
Date: 3-13-2003
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Case in point:

Attached to this written testimony I've included a Letter from The current City Attorney Brendan Long. In this letter a person complained to City council about being denied a hearing because the department claimed he was out of time. The City attorney later met with him and agreed the department is not counting the days wrong and not using the appropriate rules and they should have given him a hearing. (See #1)

-To top this all off in the City of Topeka we have an Automatic Administrative Penalties that apply unless it is taken care of within that number of days. The penalty can be \$35 a day, \$70 a day, or \$105 a day. (some contention that this is an illegal since municipal court is has jurisdiction, others say this is just done as revenue source) (see #2)

It is interesting to point out however that in testimony in the Senate, on this same bill, the City of Wichita, a city almost 4 time the size of Topeka, spent an estimated \$25,000 on certified mailings for nuisances. The City of Topeka spent about the same.

Why should the City of Topeka be having 4 times the number per capita, of nuisances violation than the Wichita? Something is wrong!

-How does one know when the person or that agent received the notice if we are not getting as signature?

The US Postage Service makes mistakes. And unfortunately, in my opinion they appear to be getting more frequent.

First Class postage does not always make it where it intended to go. Examples of my personally experience are as follows:

-A signed returned receipt Addressed to the City of Topeka, MUNICIPAL COURT, instead made it to my house. (See attached, #85)

- A a plastic bag came to me one day. In side was a 3 by 5 post card, or atleast parts of it. It was heavily mangled by postage machines, on the outside of the plastic that bag was also a printed letter of apology from USPS

-A letter sent first class from the City of Topeka, POLICE DEPT., ment for "The Shop Motorcycle Repair, at 1013 SW 10th, Topeka. Came instead to my house at 1013 SW 11th. (I made a point of bring back down to post office and having an employee stamp and initial it saying that I was returning to them. (See attached, #88)

-Another intended for Shelter Insurance Company at 1013 SW 10th, Topeka. Was delivered instead to my house at 1013 SW 11th. (See attached, 86)

-A magazine, Country Home, intended for one of my neighbors at 1035 SW Fillmore, was instead delivered to my house at 1013 SW 11th. (See attached, #87)

There are also several other examples of the City of Topeka, not following existing Statuary Law, nor following the legislative intent as it intended toward Mail notices. These included

-Robert Kristiant in which the city sent notice first class mail about a bush pile and logs in his back yard and instead took the working washer and dryer which was placed on a covered area in his back yard as he remodeled the kitchen. (The city paid his claim of \$600)

-Another one Harold Anderson who was in the V.A. Hospital in Kansas City, when notice was sent to him, by first class mail about a bush pile. When he came home he found all kinds of equipment missing including an over the road tractors with new diesel engines, hydraulic equipment and various other things missing. He called the police to make a theft report. The neighbor came out while the police were their and told him that the city took it.

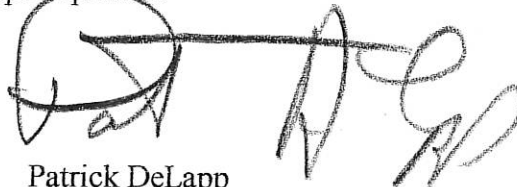
Mr. Anderson hired an attorney and put in a claim for about \$32,000. The City settled and paid him \$20,000.

-At another incident a woman Fern Grey, 78 years old at the time, was in the hospital she was sent notice, first class mail, of a stuffed chair being on the front porch of one her properties. She was fine the automatic \$175 for non compliance. (She never got the notice and ended up paying the fine, she did not have the energy to fight them)

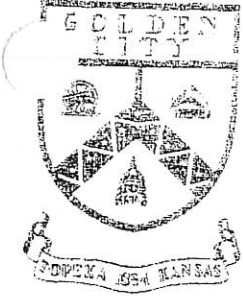
The City has told me that first class mail is reliable and only 1 out of 6,000,000 gets lost. I disagree. I just talked about 5 examples of mail not intended for me making it to my house. If the city is right on their numbers I would have had to received closes to 30 million piece of mail at my address. True I do get a lot of mail. But not that much!

Which brings to another point why should something so important like Nuisance demanding action within 10 just look like regular mail??? I think we would want it to stand out as being important.

I urge you to vote this down. Due process is important and should be up held. Keep the law the way it is. Require Certified mail, return receipt requested.



Patrick DeLapp
1013 SW 11th
Topeka, KS 66602 (785) 357-6007



CITY OF TOPEKA

CITY ATTORNEY
215 SE 7th Street Room 353
Topeka, Kansas 66603-3979
Phone 785-368-3883
Fax 785-368-3901

RISK MANAGEMENT
215 SE 7th Street Room 353
Topeka, Kansas 66603-3979
Phone 785-368-3883
Fax 785-368-3901

CITY PROSECUTION
215 SE 7th Street Room 260
Topeka, Kansas 66603-3979
Phone 785-368-3910
Fax 785-368-3104

November 21, 2001

Mark Schreiner
1235 SW Washburn
Topeka, Kansas 66604

RE: 1235 SW Washburn

Dear Mr. Schreiner:

As we discussed earlier today, I have examined your concerns about the timing of your request for a hearing from the City of Topeka Code Compliance Services Division. Without recounting the specific details of your situation, it appears that the Code Compliance Services Division misinterpreted the counting procedure for requesting a hearing. Using the appropriate rules, your response which was dated November 13, 2001, was timely. As a result, I will advise the Code Compliance Services Division to provide you with a hearing of your violation notice as prescribed in City ordinances. I expect they will contact you sometime next week with this information.

Please let me know if you have any questions concerning this matter.

Sincerely,

Brenden J. Long
City Attorney

BJL:bn

14-4

2

Sec. 66-31.1. Administrative penalties.

There shall be an administrative penalty assessed for each day a nuisance condition continues to exist after expiration of the ten calendar days allowed for abatement of the nuisance, except in those cases where graffiti constitutes the nuisance. The administrative penalty shall be in the amount of \$35.00 per day and shall in no event exceed five days. Ten calendar days shall be calculated based upon the date of the violation notice.

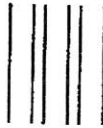
If an owner receives two nuisance violation notices for the same property in a 12-month period for which an administrative penalty was assessed, then the administrative penalty shall be doubled to \$70.00 per day not to exceed a total of \$350.00.

If an owner receives three or more nuisance violation notices for the same property in a 12-month period for which an administrative penalty was assessed, then the administrative penalty shall be tripled to \$105.00 per day not to exceed a total of \$525.00.

(Ord. No. 17193, § 8, 10-28-97; Ord. No. 17481, § 3, 3-21-00; Ord. No. 17645, § 1, 2-13-01)

14.5

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees P
USPS
Permit No. G-10



• Print your name, address, and ZIP Code in this box •

MUNICIPAL COURT
214 E 8TH
TOPEKA KS 66603

Signed RETURN RECEIPT 90-
Back TO MUNICIPAL COURT
MADE IT TO MY HOME
INSTEAD

Lt. McLaughlin

SENDER:
 Complete items 1 and/or 2 for additional services.
 Complete items 3, 4a, and 4b.
 Print your name and address on the reverse of this form so that we can return this card to you.
 Attach this form to the front of the mailpiece, or on the back if space does not permit.
 Write "Return Receipt Requested" on the mailpiece below the article number.
 The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):
 1. Addressee's Address
 2. Restricted Delivery
 Consult postmaster for fee.

3. Article Addressed to:
 Mr. Mark Hunt
 900 SW Robinson # 313
 Topeka, KS 66606

4a. Article Number
 P419 150 004

4b. Service Type
 Registered Certified
 Express Mail Insured
 Return Receipt for Merchandise COD

7. Date of Delivery
 OCT 13 1998

5. Received By: (Print Name)
 M. J. HUNT

6. Signature: (Addressee or Agent)
 * *[Signature]*

8. Addressee's Address (Only if requested and fee is paid)

Is your RETURN ADDRESS completed on the reverse side?

Thank you for using Return Receipt Service.

14-6

EXHIBIT
96

14-7

130

BRYAN, LYKINS & HEJTMANEK, P.A.
ATTORNEYS AT LAW
222 WEST SEVENTH STREET
P.O. BOX 797
TOPEKA, KANSAS 66601-0797

TOPEKA KS 66601
PM
23 FEB
1998

POSTAGE
FEB 23 1998
0.50

ADDRESS CORRECTION REQUESTED

Shelter Insurance Company
Claims Office
1013 W. 10th St.
Topeka, KS 66604



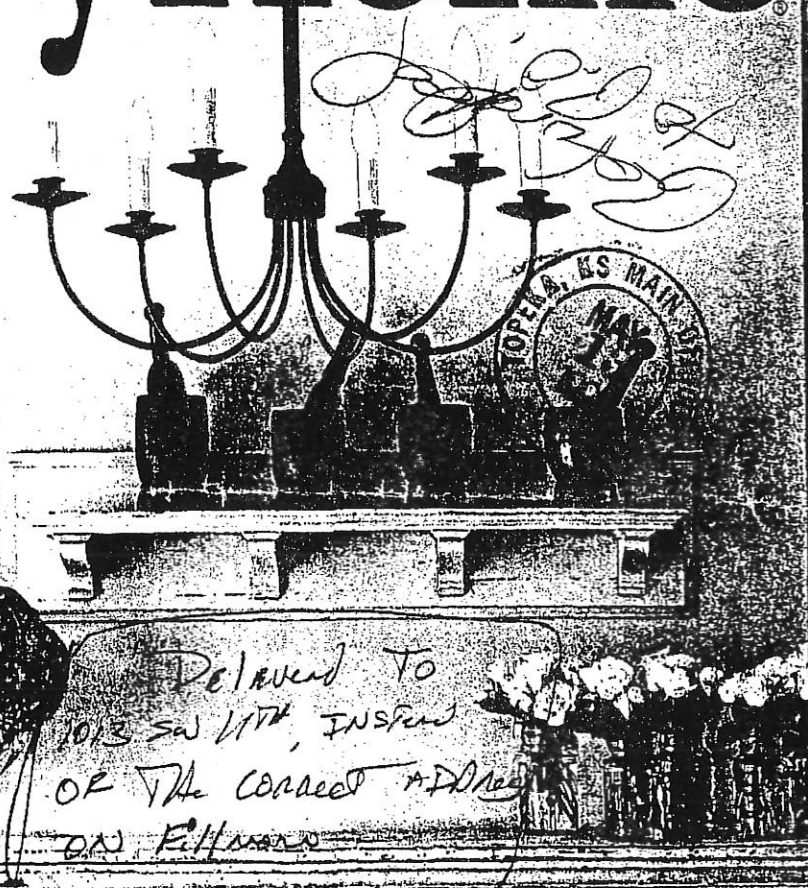
Country Home

EXHIBIT
37

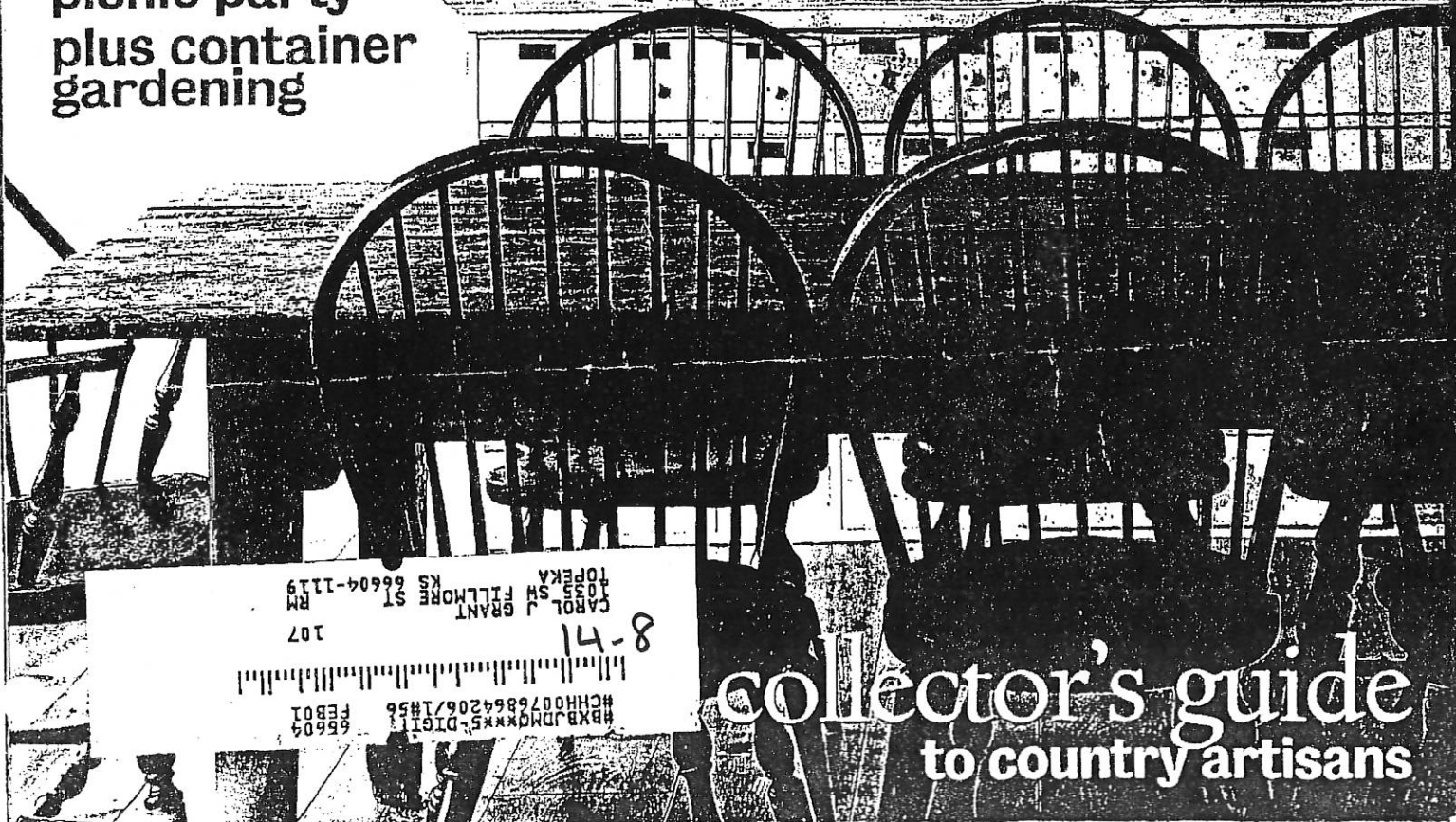
create your country
dream house

we show you how

celebrate summer on the porch with a picnic party plus container gardening

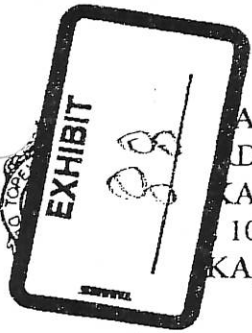


Delivered To
1013 SW 11TH, INSPER
OR THE CORRECT ADDRESS
ON FILLMORE



107
CAROL J GRANT
1035 SW FILLMORE ST
RM 1035
TOPEKA KS 66604-1119
HBXJDMQKXK5-DIGIT 6604
HCHH0076864206/1456 FEB01

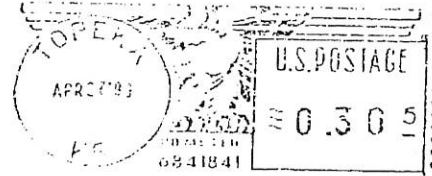
collector's guide
to country artisans



A POLICE DEPT
IDS SECTION
KANSAS AVE
100
KA, KS 66603-3640

RETURN SERVICE
REQUESTED

REGISTERED
FIRST CLASS



14-9

432

THE SHOP MOTORCYCLE REPAIR
1013 SW 10TH ST
TOPEKA KS 66606

[Handwritten signature]

AUTO 66607



5/3/99
P. D. Linn
~~to~~ wrong address
got it at
1013 SW 11TH

P. D. Linn



Returned
5/6/99
to P.O.
[Handwritten signature]

To Committee Members for the March 13, 2003 hearing,

RE: SB167

I am opposed to this as it takes away due process. Currently If one has a brushpile or tire laying in their yard, the city has to notify the owner by certified mail that there are allegations of a 'nuisance' on their property. The owner then can investigate whether this is true or not. (Not all owners live on property they own and cities do not hold people liable for messes they make unless they are the owner also) If the owner does not do what the letter says, in the the City of Topeka, they will charge the owner extreme fines. Because of the possibility of excessive fines I believe it is critical to keep the certified mailings or we will see even more abuse than we have now.

I believe maybe the legislature is under the impression that the letter being sent first class is a courtesy letter to be followed by certified. This is not true. The second letter is the bill containing the excessive fines. They want to make sure the owner gets that.

You have got to realize how abusive this department has been in the city of Topeka and I have heard bad things about inspectors from other cities in Kansas also.

Enclosed is an article from the National Fair Housing Advocate. This particular incident did not happen in this state however many Topekans have suffered at the hands of this department that is asking you to loosen the standards.

Loosening the standards could be a real moneymaker for the City of Topeka as they could just print letters and not mail them and then fine people right and left. After you loosened the grass mowing standards they mailed me a bill on a property I don't live at saying they mowed the yard. I, nor my friends that know I own that property, saw any high grass violations. I asked for a hearing and asked for what was in the file so I would know what they were talking about. I thought they were charging me for the neighbors yard whose grass was about 4 feet tall. I was refused any information so that I would have to go into that hearing not having a clue what they were talking about. Well they did have some very fuzzy pictures that I don't know if they are real or faked. (I spent over 30 dollars buying a transcript involving a former police officer with testimony in it from our former police chief saying how pictures could be faked)

This department has broken into houses before to do inspections. This is clearly against the Fourth Amendment to our constitution. But most taxpayers don't have the money to go up against the millions of the City of Topeka. So we just lose out. You are our source for help. Please don't take away rights from our citizens. Local Talk Show Radio is buzzing that this state wants to give rights to illegal immigrants. I personally don't care if you do or don't give them rights, I just don't want you to take any more rights from us.

The people that have dared to be critical of the City of Topeka know full well that they stand a good chance of retaliation in the form of abuse of power. To protect myself, I want to make it clear that if I get 'punished' for this I am coming back to your committee to let you know. as that might be my only protection from abuse.

House Local Government
Date: 3-13-2003
Attachment # 15

I also want the record to reflect that if passed, there is no doubt somebody will be cheated by this and if it is in the record then maybe that person will be able to recover their money back.

Marcia Lessenden
233-9994

A handwritten signature in cursive script that reads "Marcia Lessenden". The signature is written in black ink and is positioned below the typed name and phone number.

National Fair Housing Advocate *online*

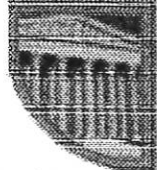
Home News Archive Legal Research Resources HUD Discussion

Hispanic homeowners file civil rights case against the City of West Chicago

Search

Site Map

Contact



PRESS RELEASE
FOR IMMEDIATE RELEASE
FEBRUARY 27, 2003
Contact Persons: Bernard J. Kleina (630) 690-6500 ext.4
Florentina Rendón (630) 690-6500 ext 8

HISPANIC HOMEOWNERS FILE CIVIL RIGHTS CASE AGAINST THE CITY OF WEST CHICAGO AFTER A PRE-DAWN RAID TO CHECK FOR OVERCROWDING. ADDITIONAL CIVIL RIGHTS COMPLAINTS WERE FILED BY THE HOMEOWNERS AND HOPE FAIR HOUSING CENTER WITH HUD AND THE U.S. OFFICE OF CIVIL RIGHTS.

A Federal Court lawsuit was filed today by the owners of a single-family home in West Chicago, Illinois, accusing the City of staging a pre-dawn raid on their home to check for overcrowding. The complaint alleges that on June 17, 2002, at 4:50AM, a SWAT team of nine (9) City of West Chicago Building Inspectors and Police Officers raided a single-family home owned by plaintiffs Hugo and Araceli Romero and Luz Reyna.

The officers barged into every room in the house, rousting the Romeros, their elderly parents, siblings and young children out of their beds while still in their nightclothes, humiliating the adults and terrifying the children. The Police defendants forced everyone in the household, residents and visitors alike, into the living room and restrained them from getting their clothes, using the bathroom or moving throughout the house.

The defendants searched through closets and dresser drawers, in flowerpots, under mattresses and throughout the house looking for "evidence" of overcrowding. They questioned the Romeros' 16 year old nephew and they forced the other children, ages 1 through 7, out of their beds. While the search and seizure was taking place, the defendants took pictures and videos of the premises and its occupants, sarcastically telling the families to say "cheese."

Defendants seized the occupants' bank statements and telephone bills, the childrens' grade school diplomas and birth certificates by taking close-up photos of the documents. All of this was done solely on the basis of a general, Administrative Search Warrant which authorized only that "the structure and property ... be inspected to determine if the premises is in compliance with the Ordinances of the City of West Chicago."

As a result of the raid, the Romeros were given an overcrowding "ticket", were ordered not to have any visitors, even during the day, including their parents or other family members, and were prohibited from using their home's rear entrance.

The complaint further alleges that the raid on the Romeros' home was the culmination of

over sixteen (16) months of warrantless, harassing surveillance of the household that was directly related to the City's discriminatory policy of disproportionately enforcing stringent overcrowding rules against the Hispanic residents of West Chicago in response to the changing demographics of the City. Despite the fact that over half of the single-family homeowners in West Chicago are non-Hispanic, during 2001 and 2002, virtually all overcrowding enforcement actions commenced by the defendants were against Hispanic homeowners. The majority of overcrowding investigations undertaken by the City against Hispanic homeowners were found to be groundless.

The complaint seeks a court order prohibiting the City from continuing to harass Hispanic residents in this manner and damages against the officers and city officials participating in the raid.

In conjunction with the Federal Court complaint, the Romeros, along with HOPE Fair Housing Center, have filed broad-reaching complaints with the United States Department of Housing and Urban Development (HUD) and with the United States Office of Civil Rights (OCR). These complaints accuse the City and its Public Schools of waging an unconstitutional and discriminatory campaign of harassment targeting the Hispanic population of West Chicago. The alleged discriminatory actions include:

1. Bringing "overcrowding" complaints exclusively against Hispanic households based upon complaints filed by non-Hispanic city officials and employees;
2. Passing an overly restrictive "bedroom" ordinance that prohibits households from utilizing most family-rooms, dens, living rooms, lofts, attics or basements as sleeping quarters, even if they comply with nationally recognized safety codes;
3. Subjecting Hispanic households to repeated warrantless surveillance to determine whether too many people are residing in the household;
4. Utilizing confidential student records to check the number of students residing in a household;

HOPE Fair Housing Center, founded in 1968, seeks to eliminate housing discrimination because of race, color, religion, national origin, sex, disability, familial status, or any other characteristic protected under state or local laws. HOPE works to ensure that fair housing laws are properly and fairly enforced, primarily throughout Northern and North Central Illinois.

The plaintiffs and HOPE are represented by Jeffrey L. Taren and Joanne Kinoy from the law firm of Kinoy, Taren and Geraghty, P.C., of Chicago, Illinois.

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15-4

ANDY LANDIS

P.O. Box 693
Topeka, Kansas 66607
785-233-1332

March 13, 2003

Opposition to bill SB167

My name is Andy Landis. I'm a lifelong resident of Topeka and a full time landlord. My living is strictly made from my 8 rental properties. I'm speaking out today, thru this letter, on this bill just like I had to in a similar bill in 1998 (HB2729).

Included in this hand out is an example of a violation notice I received just in January 2003. The violation notice was sent first class mail and not even to my business post office box where I'm registered for all my deeds, tax statements, notices, etc. The reason I received this notice is because my tenants had begun leasing the property Jan. 1, 2003 and had not moved all their belongings into the smaller house of mine. Upon examining my enclosed violation, it was not sent certified, as I understand the city of Topeka claims it always does.

I don't have a problem with a "First" notice being sent out first class mail as long as there is a safeguard of being notified by certified mail before the \$175.00 fine plus cleanup charges are assessed by the city of Topeka. I do have a problem with the lack of due process with the first class mailing only that is being proposed. Imagine, if you would, the court system using only first class mailing. Someone could get sued and not know any thing about a legal action against them. What would they be told by the court? "Well, we dropped your summons in the mail, that all we were required to do by law". I think not.

My plea to you now, just like in 1998, is not to lower the standards of due process.

Any questions feel free to contact me.



House Local Government
Date: 3-13-2003
Attachment # 16

City of Topeka
Code Compliance Services
NUISANCE VIOLATION NOTICE
CCS Complaint #: 2003-N-05614

ISSUE TO:

LANDIS ANDREW
00305 SE RODGERS
TOPEKA, KS 666072242

LOCATION OF VIOLATION:

3140 SE DUPONT ST
TOPEKA, KS 666052859
PROPERTY ID#: 1341801011012000

DATE OF NOTICE: 1/14/2003

CERT. #:

THE FOLLOWING CODE SECTIONS AND/OR CITY ORDINANCE(S) ARE ALLEGED TO BE IN VIOLATION:

Section 66-25 & 66-28 et seq., of the Nuisance Code for the City of Topeka.

- ◆ Section 66-27(2)

DESCRIPTION AND LOCATION OF VIOLATION:

- ◆ FURNITURE, MATTRESS, CARPET, TIRES AND DRESSER

CORRECTIVE ACTION REQUIRED WITHIN 10 DAYS:

- ◆ Remove from premises and properly dispose of all trash, junk etc. If this notice concerns a vehicle, it must be removed or stored in a completely enclosed building.

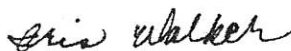
Failure to either comply with this Notice or to request a hearing within ten (10) calendar days of receipt of this notice will result in the nuisance being abated by the Code Compliance Services Section with all costs incurred for abatement being assessed against the property. In addition, an administrative penalty fee of \$35 per day for a maximum of 5 days for a total of \$175 is charged on all city abatements. Abatement by the City of Topeka for graffiti does not result in an administrative penalty fee. The accrual of the penalty fee can be stopped at any time by voluntarily abating the nuisance. For a second or third city abatements within a 12 month period, the administrative penalty fee is doubled and tripled. Further, the City may file misdemeanor charges with the Municipal Court per TCC §1-7. Please contact the Code Compliance Services Division to request a hearing, if desired.

If you have any questions contact the inspector between the hours of 8:00 am to 9:00 am and again at 4:00 pm to 5:00 pm.

Sincerely,



Anthony Jones
Property Maintenance Inspector 1



Iris Walker, City Clerk

Code Compliance Services
515 S Kansas Ave 4th Floor
Topeka KS 66603
785-368-3161

Rev. 12/16/02

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REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

The Committee on Local Government recommends SB 109 be amended on page 1, in line 15, before "The" by inserting "(a)"; by striking all in line 17; in line 18, by striking all before "donate" and inserting "may"; also in line 18, following "county", by inserting "in which such property is located"; by striking all in line 25 and inserting:

"(b) The township board of any township may donate and convey to the county in which such property is located any lands or property which the township has acquired for cemetery purposes or which is now being used as a cemetery by such township. Such donation and conveyance shall be made by the adoption of a resolution by the township board. The board of county commissioners of any such county may accept such donation and conveyance by the adoption of a resolution by the board of county commissioners providing for such acceptance.

Sec. 2. K.S.A. 19-3103 is hereby amended to read as follows:
 19-3103. Upon acceptance of such property by the board of county commissioners, all cemeteries and cemetery property donated and conveyed to the county under the provisions of K.S.A. 19-3101 and ~~19-3102--upon--the--acceptance--of--the--same--by--the--board--of--county commissioners,~~ and amendments thereto, shall become the property of the county and shall be used for cemetery purposes. If at the time of the conveyance of any such cemetery lands or property to the county, any city or township shall have on hand any tax moneys which were levied for the purpose of paying for the maintenance and care of the cemetery so donated and conveyed, the governing body of such city or township shall pay the same into the county treasury for the benefit of the county to be used for the same purposes as the tax levy authorized by K.S.A. 19-3105, and amendments thereto.

Sec. 3. K.S.A. 19-3101, 19-3102 and 19-3103 are hereby

House Local Government
 Date: 3-13-2003
 Attachment # 17

repealed.";

By renumbering section 3 as section 4;

In the title, by striking all in lines 9, 10 and 11 and inserting:

"AN ACT concerning certain municipalities; relating to the transfer of certain property acquired for cemetery purposes; amending K.S.A. 19-3101 and 19-3103 and repealing the existing sections; also repealing K.S.A. 19-3102."; and the bill be passed as amended.

_____Chairperson