

LETTER OPINION
2007-L-01

January 5, 2007

Mr. Bradley A. Cruff
Barnes County State's Attorney
230 4th Street NW
Valley City, ND 58072-2947

Dear Mr. Cruff:

Thank you for your letter requesting my opinion on whether an entity created under a joint powers agreement between the home rule city of Valley City and several nearby counties may borrow funds from the USDA and acquire USDA guaranteed loans from local banks to finance a portion of the construction and operating costs of a proposed correctional center. For the reasons indicated below, it is my opinion that an entity created under the joint powers agreement between the home rule city of Valley City and several nearby counties may borrow funds from the USDA and acquire USDA guaranteed loans from local banks to finance a portion of the construction and operating costs of a proposed correctional center.

ANALYSIS

This same question you raised was addressed in N.D.A.G. 2004-L-57 (copy enclosed), in which it was noted that "the entity created under the joint powers agreement between Pierce County and the home rule city of Rugby may borrow funds from the USDA and acquire USDA guaranteed loans from local banks to finance a portion of the construction costs and initial operating costs of a new correctional center."¹ In comparing the home rule charter for the city of Rugby and the joint powers agreement discussed in N.D.A.G. 2004-L-57 with the home rule charter of Valley City and the joint powers agreement you enclosed between the city of Valley City and Barnes, Dickey, Griggs, LaMoure, Ransom, Sargent, and Steele Counties, I note that the city home rule charters² and the joint powers agreements utilized in both instances are substantially similar.³

¹ Id.

² As I indicated in N.D.A.G. 2004-L-57, any city home rule charter power relied upon in a joint powers agreement would have to be implemented through an ordinance enacted by the home rule city. Id. at n.2.

³ In a telephone conversation with a member of my staff, you indicated that the joint powers agreement you submitted was patterned after the one discussed in N.D.A.G. 2004-L-57.

LETTER OPINION 2007-L-01
January 5, 2007
Page 2

Because of the similarity of the underlying circumstances and documents and consistent with the analysis contained in N.D.A.G. 2004-L-57, it is my opinion that an entity created under the joint powers agreement between the home rule city of Valley City and several nearby counties may borrow funds from the USDA and acquire USDA guaranteed loans from local banks to finance a portion of the construction costs and initial operating costs of a new correctional center.

Sincerely,

Wayne Stenehjem
Attorney General

jjf/pg
Enclosure

This opinion is issued pursuant to N.D.C.C. § 54-12-01. It governs the actions of public officials until such time as the question presented is decided by the courts.⁴

⁴ See State ex rel. Johnson v. Baker, 21 N.W.2d 355 (N.D. 1946).