

**LETTER OPINION  
2018-L-03**

July 16, 2018

Mr. Jay Schuler  
Commissioner of Commerce  
North Dakota Department of Commerce  
PO Box 2057  
Bismarck, ND 58502-2057

Dear Commissioner Schuler:

Thank you for your letter asking whether a city may be approved for a new or reestablished Renaissance Zone after a prior Renaissance Zone in that city has expired.

For the following reasons, it is my opinion that a new or reestablished Renaissance Zone may not be approved in a city after a prior Renaissance Zone in that city has expired.

**ANALYSIS**

The Renaissance Zone program provides certain tax incentives for private parties to redevelop or rehabilitate buildings in a designated geographic area of a city.<sup>1</sup> A city must apply to the Department of Commerce through its Division of Community Services (DCS) for approval for designation of a Renaissance Zone.<sup>2</sup> The application must include a proposed duration for the Renaissance Zone status that, initially, cannot exceed fifteen years.<sup>3</sup> However, a city can apply to the DCS to “extend the duration of renaissance zone status in increments of up to five years.”<sup>4</sup> Finally, the law provides that “[a] city may not propose or be part of more than one renaissance zone.”<sup>5</sup>

Your question is whether the prohibition against a city proposing or being a part of more than one Renaissance Zone prohibits a city from being approved for a new or reestablished Renaissance Zone after a prior Renaissance Zone in that city has expired.

The “primary goal in statutory construction is to ascertain the intent of the legislature, and we first look to the plain language of the statute and give each word of the statute its ordinary meaning.”<sup>6</sup>

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<sup>1</sup> See *generally* N.D.C.C. ch. 40-63.

<sup>2</sup> N.D.C.C. § 40-63-03.

<sup>3</sup> N.D.C.C. § 40-63-03(1)(f).

<sup>4</sup> *Id.*

<sup>5</sup> N.D.C.C. § 40-63-03(5) (emphasis added).

<sup>6</sup> *Denault v. State*, 898 N.W.2d 452, 456 (N.D. 2017), quoting *State v. Meador*, 785 N.W.2d 886 (N.D. 2010), (quoting *State v. Brown*, 771 N.W.2d 267 (N.D. 2009)).

The word “propose” must be given meaning and may not be considered surplus or unnecessary language.<sup>7</sup> If a city were prohibited only from having more than one Renaissance Zone at a time, then the statute would not have included the word “propose.” By including the word “propose,” the statute also prohibits a city from proposing a new or reestablished Renaissance Zone after a prior Renaissance Zone has already expired.<sup>8</sup>

The law provides a city with a method to avoid the expiration of a Renaissance Zone. Even though the law requires that the duration of a Renaissance Zone status which cannot initially exceed fifteen years, this section was amended to allow a city to apply for an extension of the Renaissance Zone status, for increments of up to five years.<sup>9</sup> An extension must occur before the Renaissance Zone expires because once a Renaissance Zone designation has reached the end of its designated duration, there is no existing Renaissance Zone to be extended.<sup>10</sup>

If the city does not apply for an extension, the Renaissance Zone status expires. There is no mechanism in the law to renew an expired zone status with the DCS. Without such statutory authority, DCS cannot reestablish a zone within a city once it has expired.

Therefore, it is my opinion that a new or reestablished Renaissance Zone may not be approved after a prior Renaissance Zone in that city has expired.

Sincerely,

Wayne Stenehjem  
Attorney General

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.<sup>11</sup>

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<sup>7</sup> *Sorenson v. Felton*, 793 N.W.2d 799, 803 (N.D. 2011) (“This Court ‘interpret[s] statutes to give meaning and effect to every word, phrase, and sentence, and do[es] not adopt a construction which would render part of the statute mere surplusage.’” quoting *State v. Laib*, 644 N.W.2d 878, 882 (N.D. 2002)).

<sup>8</sup> *Id.*

<sup>9</sup> N.D.C.C. 40-63-03(1)(f); see also 2009 N.D. Sess. Laws, ch. 354, § 1.

<sup>10</sup> *Cf. Hansen v. Branner*, 204 N.W. 856, 859 (N.D. 1925).

<sup>11</sup> See *State ex rel. Johnson v. Baker*, 21 N.W.2d 355 (N.D. 1946).