

## **N.D.A.G. Letter to Slorby (March 18, 1988)**

March 18, 1988

Mr. Tom Slorby  
Ward County State's Attorney  
Ward County Courthouse  
Minot, ND 58701

Dear Mr. Slorby:

Thank you for your letter of February 26, 1988, forwarding to our attention questions you have received concerning senior citizens mill levy money.

According to your letter, it is the Ward County Council on Aging which has contracted with Ward County to disburse the moneys received from the senior citizens mill levy as provided for by N.D.C.C. § 57-15-16. Questions have occurred as to the manner in which the Council on Aging dispenses the mill levy moneys to other entities. Among the questions posed include the legality of the current method and standards used by the council to determine eligibility for such funds, the requirement for membership dues for funded organizations to become a member of the council, and the availability of any discretion in dispensing mill levy moneys.

N.D.C.C. § 57-15-56(1) provides the method whereby a tax levy is made to establish or maintain programs and activities for senior citizens. These programs include the expansion of existing senior citizen centers which will provide recreational and other leisure-time activities, information, health, welfare, counseling, and referral services for senior citizens. Such programs will also provide assistance to such persons in providing volunteer community or civic services.

N.D.C.C. § 57-15-56(2) provides the manner in which these mill levy moneys are to be dispensed. The statute states that an organization or an agency must be incorporated as a nonprofit corporation and must contract with the board of county commissioners or governing body of the city as to the manner in which the funds will be expended and the services provided before it may receive mill levy moneys. Furthermore, those organizations or agencies and their programs which receive funds from this mill levy must be reviewed or approved annually by the board of county commissioners or the governing body of the city to determine its eligibility to receive funds under the provisions of this statute.

To summarize these statutory requirements, the senior citizens levy money must be collected for the purposes of establishing or maintaining certain programs and activities for senior citizens. Furthermore, such moneys may only be disbursed to nonprofit incorporated entities who have contracted with the governing body as to the manner in which the funds will be expended and the services provided. Finally, annual review or

approval of such disbursement of funds must occur by the appropriate governing body.

Clearly, the Legislature has not provided detailed guidance as to the manner in which the senior citizens mill levy moneys are to be spent. So long as the funds are properly expended for the purpose and in the manner described in N.D.C.C. § 57-15-56, the selection and supervision of the entities ultimately to receive mill levy and matching funds is a matter left to the discretion of the respective county commissions or city governing bodies. I cannot, therefore, respond to these questions on the basis of state law. Instead, inquiries as to the propriety of the manner in which the funds are to be expended must be answered and are governed solely by the contract between the county and the nonprofit corporation. If there are complaints as to the manner in which these funds are being expended, they can be addressed by the two parties to the agreement the next time the agreement comes up for renegotiation.

I hope this information is helpful to you and to the commissioners in attempting to respond to these inquiries.

Sincerely,

Nicholas J. Spaeth

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