

N.D.A.G. Letter to Gregg (Dec. 9, 1986)

December 9, 1986

Mr. John R. Gregg
Bottineau County State's Attorney
P.O. Box 26
Bottineau, ND 58318

Dear John:

Thank you very much for your letter of October 30, 1986, concerning the relationship of N.D.C.C. § 5-01-07 to the issuance of a retail liquor license by the county commissioners. In addition to that letter, a follow-up telephone call redefined the questions asked and the information requested.

We have reviewed our opinion file and the state alcoholic beverage statutes and can find no state law which prohibits the consumption of alcoholic beverages in a nonlicensed premises. As currently licensed, the Turtle Mountain Lodge has only the lounge area and the steak house currently licensed as a liquor establishment. These are the only two areas in the Turtle Mountain Lodge which may dispense alcoholic beverages. However, unless there is a local ordinance or regulation that would apply to these circumstances, there is no prohibition under state law regarding consuming alcoholic beverages in any other part of the Turtle Mountain Lodge complex.

I am also including a copy of a February 14, 1986, opinion issued to Richland County State's Attorney Earle Myers, Jr. This opinion discusses the relationship of the township board approval to licensure by the board of county commissioners. Whether the township board could restrict a license to either on-sale or off-sale only is a determination that would have to be made after an examination of the regulations promulgated by the township board. A review of those regulations would be necessary to determine whether they were "reasonable restrictions as to the manner and circumstances as to the which the business shall be conducted in order to promote order and to protect the public from harm. . ." Mini Mart Inc. v. city of Minot, 347 N.W.2d 131 (N.D. 1984).

Thank you very much for your request. If you need any further information, do not hesitate to contact me.

Sincerely,

Nicholas J. Spaeth

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Enclosure