

OPINION
65-6

May 15, 1965 (OPINION)

Mr. Harold G. Vavra, Director

Aeronautics Commission

RE: Airports - Park district - Transfer of funds to airport authority

This is in reply to your letter of 11 May 1965 in regard to transfer of Park District Airport assets to City Airport Authority.

You inform us that the city park district at present owns a quarter section of land which presently constitutes the airport. The park district presently owns and operates the airport. In addition the Kenmare Park District has about \$1,800.00 in an airport fund. Both city and park district have determined that the present airport site is too far from the city and have decided to build a new municipal airport at a site closer to the city. Both city and park district desire that the new airport be owned and operated by a City Airport Authority to be created by the governing body of the city pursuant to section 2-06-02 of the North Dakota Century Code.

You inform us further that there are very few municipal park districts in the state that own and operate public airports. You state further that it is the desire of the park district to liquidate its present land holdings and turn the proceeds with any remaining airport fund tax moneys to the Municipal Airport Authority.

We know of no legal objection to the proposed procedure. We might point out in passing that Section 40-49-19 of the North Dakota Century Code provides that in cases where a village park district wishes to dissolve, the assets in excess of those owned to creditors are required to be turned over to the village. We note also the provisions of Section 57-15-12, subsection 2, and Section 57-15-36 of the North Dakota Century Code both authorize the excess levy to be made only if the other political subdivision is not levying for this purpose, i.e., a park district may levy it if the city is not levying it, the city may levy it if the park district is not levying it. It would thus appear that there is no possibility of diverting tax raised excess levy funds by the proposed procedure.

To conclude, on the basis of the facts given, it is the opinion of this office that if a city governing body creates by resolution pursuant to the statute a Municipal Airport Authority for the purpose of owning and operating a new airport at a new site near the city, the city park district could transfer all the cash proceeds from the sale of the present land comprising the present Municipal Airport, and could transfer all tax raised moneys on hand in the park district airport fund to the newly created City Airport Authority to be created by the governing body of the city.

We are of course assuming in issuing this opinion that there are no express trusts, contracts, etc., in favor of any private citizen who may have donated to the Park District Airport and limiting the

opinion of course to the facts given.

HELGI JOHANNESON

Attorney General