

OPINION
66-63

March 1, 1966 (OPINION)

The Honorable Charles Tighe

Lieutenant Governor

RE: Cooperatives - Grazing Association - Ownership
of Real Property

This is in response to your request for an opinion on the following question:

"May a nonprofit cooperative grazing association organized and operated under the general law governing cooperatives and chapter 36-08 of the North Dakota Century Code, own real and personal property?"

In our earlier opinion to you dated February 16, 1966, we said, amongst other things, that grazing associations would be governed by the provisions of law pertaining to cooperatives generally, chapter 10-15, except where there is a conflict between chapter 36-08 and chapter 10-15, at which time the specific provisions of chapter 36-08 would prevail. As to your specific question, section 36-08-02 provides as follows:

"* * * A nonprofit cooperative grazing association may be organized and operated under the general law governing cooperatives and this chapter, with the following additional power to: * * *." (Emphasis supplied.)

It must be noted that the foregoing language clearly gives the grazing cooperatives the power granted to cooperatives generally under chapter 10-15 of the North Dakota Century Code. Significantly it is observed that nowhere in chapter 36-08 do we find any language which proscribes or prohibits a grazing association from acquiring or holding title to property, either real or personal. Under the general powers granted to cooperatives in section 10-15-03, subsection 4 thereof provides that a cooperative may acquire property. The right to acquire property necessarily includes the right to hold property. In this respect we see no distinction between holding property and acquiring property.

It is therefore our opinion that a nonprofit cooperative grazing association organized and operated under the general law governing cooperatives, chapters 10-15 and 36-08 of the North Dakota Century Code, may own real and personal property, may acquire real or personal property, and may pledge or dispose of such property as the situation may demand.

It must be observed, however, that the manner in which property is acquired, pledged, or disposed of must be pursuant to the articles of association and bylaws adopted by such cooperative association.

HELGI JOHANNESON

Attorney General