

OPINION
73-300

July 5, 1973 (OPINION)

Mr. Richard B. Thomas
State's Attorney
Ward County
Minot, ND 58701

Dear Mr. Thomas:

Pursuant to your letter of June 4, 1973, enclosing the opinion of the Minot City Attorney dated May 25, 1973, as to the participation of the city of Minot and the county of Ward in the construction of a multipurpose building on the grounds of the North Dakota State Fair, we offer the following comments.

We disagree with that portion of the opinion which concludes that the pertinent language of House Bill 1011 " . . . to be constructed by the State Fair Association at a cost of \$600,000 . . . " are merely words of description. There being no other authority than House Bill 1011 for the construction of such building, it is our opinion that a multipurpose building, or that portion of such building or building complex, which would meet the reasonable requirements of the State Fair Association, must not substantially exceed the amount of \$600,000.

We definitely agree with the conclusion of the City Attorney's opinion that the State Fair Association may not spend in conjunction with the construction of the multipurpose building, more than \$200,000 in state funds appropriated by the Legislative Assembly pursuant to House Bill 1011. This expenditure by the Association is conditioned upon the deposit of \$400,000 from " . . . private contributions and other sources . . . " as indicated in the opinion.

The plan as is apparently contemplated in the opinion is that the multipurpose building would be constructed and owned by the North Dakota State Fair Association and that "long term leases" would be entered into by and between the Association, county and city for the use and operation of the structure when not otherwise needed by the Association for its functions. Since no details of such leases were furnished, we make no comment thereon except to confirm the Association's power to lease buildings and real estate for purposes other than fair activities (section 4-02.1-16, North Dakota Century Code).

The Legislative Assembly may be legitimately concerned with the size and maintenance of any building constructed by the Association. This may well have been its concern in expressing its intent regarding the multipurpose building to be constructed at a cost of \$600,000. Raising funds for "long term leases" may be legally vulnerable. Expenditure of Association funds for purposes other than Association responsibilities such as operational expense and maintenance of the building for non-Association use, should be the subject of specific legislative authority.

Finally, we find neither substantial objection to participation by Ward County and City of Minot in the multipurpose building project, nor substantial disagreement with the respective approaches to accomplishing such participation discussed in the opinion.

Sincerely yours,

Allen I. Olson

Attorney General