

Date Issued: June 9, 1982 (AGO 82-43)

Requested by: Richard W. Olson, City Attorney for the City of Larimore

- QUESTION PRESENTED -

Whether a city or a newly created street improvement association may sponsor games of chance with the net proceeds being used to assist in the funding of street improvements for such city.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that a city or a newly created street improvement association may not sponsor games of chance with the net proceeds being used to assist in the funding of street improvements for such city.

- ANALYSIS -

In order to lawfully conduct games of chance, an organization must qualify as a bona fide nonprofit veterans, charitable, educational, religious or fraternal organization, civic or service club or as another public-spirited organization. A city is a political subdivision of the State of North Dakota and does not qualify as a bona fide nonprofit veterans, charitable, educational, religious, fraternal organization, a civic or service club, or another public-spirited organization.

A newly created entity, created for the purpose of sponsoring gaming with the net proceeds to go toward street improvements, would also not qualify because of the requirement that an organization must be in existence for two years prior to conducting games of chance. See section 53-06.1-01(3) of the North Dakota Century Code (as to "charitable organization"); section 53-06.1-01(4), N.D.C.C. (as to "civic and service club"); and section 10-04-03-04(4) of the North Dakota Administrative Code (as to "other public-spirited organizations").

Section 10-04-03-02, N.D.A.C., states:

An organization shall be ineligible to conduct games of chance if the sole purpose of that organization is to conduct such games of chance, whether or not the organization is carrying out that purpose for one or more otherwise eligible organizations. Therefore, every organization desiring to conduct games of chance must manifest itself by veterans, charitable, educational, religious, fraternal, civic, service or other public-spirited programs.

However, even though a city or a newly created organization would be ineligible to conduct games of chance, a donation to a city for the purpose of street improvements would be an eligible use for gaming proceeds, as lessening the burden of government and

