

Date Issued: January 7, 1983 (AGO 83-2)

Requested by: Jan Dykshoorn, State Senator

- QUESTION PRESENTED -

Whether a nonprofit chamber of commerce of a city in this state is eligible to receive gaming funds from an eligible, licensed gaming organization.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that a nonprofit chamber of commerce is not eligible to receive funds from an eligible, licensed gaming organization for its own use, but may receive gaming funds given for a specific purpose if that purpose qualifies as an eligible use under section 53-06.1-01(6) of the North Dakota Century Code.

- ANALYSIS -

Funds generated from games of chance may be put only to specific eligible uses. These uses are defined in section 53-06.1-06(6), N.D.C.C., as follows:

6. "Educational, charitable, patriotic, fraternal, religious, or other public-spirited uses" are:
 - a. Uses benefiting those organizations which are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code.
 - b. Uses benefiting an organization registered with the North Dakota secretary of state under chapter 50-22.
 - c. Uses benefiting an indefinite number of persons either by bringing them under the influence of education or religion or relieving them of disease, suffering, or constraint.
 - d. Fraternal uses specified by an organization's constitution, charter, or bylaws not of direct benefit to the eligible organization or any member thereof.
 - e. Uses increasing comprehension of and devotion to the principles upon which the nation was founded, not of direct benefit to the eligible organization or any member thereof.
 - f. The erection or maintenance of public buildings or works.
 - g. Uses otherwise lessening the burden of government.

- h. Uses benefiting a definite number of persons who are the victims of loss of home or household possessions through explosion, fire, flood, or storm and the losses uncompensated by insurance.
- i. Uses benefiting a definite number of persons suffering from a seriously disabling disease or injury causing severe loss of income or incurring extraordinary medical expense which is uncompensated by insurance.

Such uses do not include the erection, acquisition, improvement, maintenance, or repair of real, personal, or mixed property unless it is used exclusively for one or more of the stated uses. Uses shall not include any activities consisting of attempts to influence legislation or participation in any political campaign on behalf of any active official or person who is or has been a candidate for public office.

A chamber of commerce, although it is a nonprofit organization does not qualify under any of the subsections of this section as an eligible use.

If, however, a chamber of commerce was taking part in an activity that would qualify as an eligible use, for example, a fundraising project for a person whose home was destroyed by fire and which loss was not compensated by insurance (h), a chamber of commerce may receive funds for such specific eligible purposes. These funds could not be used for a purpose other than a specified eligible use, and, for purposes of accounting, should be kept separate from other funds of the chamber of commerce.

- EFFECT -

This opinion is issued pursuant to section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts.

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