

**OPINION  
46-231**

April 12, 1946 (OPINION)

PUBLIC PARKS

RE: Recreation - Beer Parlors

This office is in receipt of your letter of April 10 and contents of same have been noted.

You inquire whether in the opinion of this office the park district of Fargo can rent out part of its property or allow a concession to an individual who desires to use the same to sell beer.

Park districts are established under the provisions of chapter 40-49 of the Revised Code, and the actual organization must be made by ordinance enacted by the governing body of the city.

The powers of the board of park commissioners are prescribed by section 40-4912. Subdivision 12 of said statutes provides, "Plat and lay out such portions of park property as are not needed for the accommodation of the general public, and lease and demise lots or portions thereof for residential or concession purposes. The board may prescribe by ordinances the use that may be made of such leaseholds and the character of structures that may be placed thereon, and may regulate generally the use and enjoyment thereof by the lessees or their successors."

You will note that lots or portions thereof may be leased for residential or concession purposes. This provision probably would authorize the park commissioners to lease a concession to a person for the purpose of establishing a beer parlor thereon. However, such beer parlor could not be operated on such concession without first obtaining a license from the city, and also a license from the Licensing Department of the Attorney General's office.

It strikes me, however, that a saloon or beer parlor would really not be a desirable institution for a park district. While a park district is intended as a place for recreation, it might well develop that if there were a saloon or beer parlor on the park premises it would have a tendency to make certain persons "recreate" too much at the beer parlor or saloon, which would make it an undesirable place for others who did not enjoy that sort of recreation. This, of course, is merely a suggestion of mine--suggested gratuitously--and is of no legal consequence.

NELS G. JOHNSON

Attorney General