

**OPINION
60-39**

May 17, 1960 (OPINION)

CORPORATIONS

RE: Corporate Farming Law - Corporate Feedlot

This in reply to your request for the further clarification on the question whether a corporation would be barred or prohibited from operating a "feedlot" under chapter 10-06 of the N.D.R.C. of 1943.

Basic facts are as follows: A group of local people contemplate an incorporated business venture for the purpose of owning and operating a feedlot. The principal operation would consist of buying range livestock for the purpose of feeding, upgrading, and then reselling in a few weeks or months. You further submit the additional information that the corporation would not raise any cattle or feed itself. All the feed would be purchased instead of raised by the corporation.

The term "farming" is not quite as broad as the term "agriculture." The term "agriculture" embraces in its general meaning many items, phases, and facets of the science of cultivating the ground, planting of seeds, raising and harvesting of crops, the raising, feeding and management of livestock, tillage, husbandry or farming. The term as used in chapter 10-06 I do not believe is used in its broadest sense. The view is supported when we consider the intent and purpose of said chapter.

The original act, an initiated measure, was entitled, "An act prohibiting corporation farming and relating to corporations acquiring and holding real estate not necessary in the operation of their business."

It is observed that the title refers to prohibiting corporation farming. Considering the title and the body of the act, it strongly appears that the intent and purpose of the act was to prohibit corporation farming. The term "agriculture" as used in the text of the act adds little if anything to the term "farming." The term "agriculture" apparently was used in its restricted sense.

The body of the act, chapter 10-06, except for section 10-0601 is devoted almost entirely to the conditions and provisions under which a corporation may acquire and hold farmland. It also sets out the length of time such land can be held and how the land must be disposed of after a certain time. This strongly supports the aforesaid intent and purpose of the act.

The operation of a feedlot is not farming in the common accepted meaning. The operators of the feedlot in question would not be raising livestock; neither would they be

raising the feed. They are bringing the two together for further processing. The livestock when purchased from the farmer or rancher is a finished product as far as the farmer or rancher is concerned. The feedlot operators improve the product by special feedings, etc. This type of operation is akin to farming, but is not farming in the generally accepted sense.

We are aware that nearly every farmer to some extent does have some feedlot operation, but merely because a person engages in a single phase of operation which is also carried on at a farm does not make him a farmer. In considering the entire act it becomes apparent that the measure was enacted to prohibit corporations from acquiring, holding, and farming land. It was designed to prevent corporations from "gobbling up" large tracts of farming land and farming them.

In the instant matter the products, both cattle and feed, were finished products and ready for the market as far as the seller, "farmer and rancher," was concerned. The feedlot operators improve the one with the other by converting feed into beef.

Such operator is comparable to a commercial or industrial enterprise. In this connection it is observed that the court in town of Lincoln v. Murphy, 40 N.E.2d. 453, held that premises devoted entirely to raising nearly 2100 hogs for which no food was produced thereon and not equipped with farming implements or buildings for housing of livestock did not constitute a farm within the town zoning bylaw. The court observed that the premises are devoted entirely to raising hogs and that the food furnished to hogs was not produced on the premises.

In the instant question neither food (feed) nor cattle are raised or produced on the feedlot or in connection with the feedlot. Both are purchased.

It is recognized that the cited case was concerned only with the construction and interpretation of the city ordinance; nevertheless the reasoning of the court in arriving at its conclusion is impressive and is applicable here.

We also wish to bring to your attention that no part of the feeding lot would qualify for exemption from taxes under chapter 57-02 which allows certain exemptions to farm structures, etc. The reason it would not qualify for such exemption is obvious.

On the basis of the above where a feedlot operator (corporation) does not raise any cattle or feed but purchases same from farmers and ranchers and improves the cattle by feeding them the feed so purchased, the feedlot operator would not be governed by the provisions of chapter 10-06. However, should the feedlot operator (corporation) raise any of the feed used or raise any of the cattle, such corporation would then be governed by chapter 10-06. Any land so used by the corporation would then be subject to the provisions of 10-06.

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