

N.D.A.G. Letter to Myers (April 6, 1987)

April 6, 1987

Mr. Earle R. Myers, Jr.
Richland County State's Attorney
Law Enforcement Center
Wahpeton, ND 58075

Dear Mr. Myers:

Thank you for your letter of March 23, 1987, concerning a proposed cooperative effort on behalf of several political subdivisions for the construction of a building. Your inquiry is whether such a proposal satisfies the requirement of N.D.C.C. 54-40-08 concerning the joint exercise of governmental powers.

Enclosed you will find a copy of a letter written in 1978 by then Chief Deputy Attorney General VandeWalle responding to a similar inquiry. The conclusion of Mr. VandeWalle, and one in which I concur, is that N.D.C.C. § 54-40-08(1) does indeed provide the needed authority for political subdivisions to cooperate in the purchase of a facility to be jointly used by such political subdivisions. This conclusion is directly applicable to your inquiry. The agreement required to exercise such joint governmental powers should provide for the formation of a council and its powers as you have described it in your letter.

You have also inquired whether the new structure would be considered a governmental building for insurance and other purposes. Naturally, it is difficult for me to indicate whether an insurance policy would declare such a structure to be a governmental building in terms of insurance coverage. This is an issue that can only be addressed by reviewing the policy itself. However, I have no hesitation in concluding that such a building would be considered governmental rather than private in terms of the ownership of the building by the political subdivisions.

Sincerely,

Nicholas J. Spaeth

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Enclosure