

N.D.A.G. Letter to Ramsey (July 16, 1991)

July 16, 1991

Mr. Gary D. Ramsey
Attorney for Dickinson Parks
and Recreation District
Mr. Vince H. Ficek
Attorney for City of Dickinson
P.O. Box 1157
Dickinson, ND 58602-1157

Dear Mr. Ramsey and Mr. Ficek:

Thank you for your June 19, 1991, letter. Your inquiry is whether the Dickinson municipal judge has jurisdiction to hear cases arising out of violations of park ordinances established by the Dickinson Parks and Recreation Board when the violations are committed outside the city limits of the city of Dickinson. The area in question is the Patterson Reservoir, which is not contiguous to the Dickinson Park District, and is administered pursuant to a lease between the city of Dickinson and the federal government. The City of Dickinson has subleased the reservoir to the Dickinson Park District for its administration.

In order to answer your question, it must first be determined whether the park district has the authority to enforce its ordinances in the Patterson Reservoir area. The first issue is whether the park district may assert jurisdiction over an area which is noncontiguous to the district. N.D.C.C. § 40-49-12(1) provides that park districts may "[a]cquire by purchase, gift, devise, condemnation, or otherwise, land anywhere within this state, or outside this state if located adjacent to a boundary of this state and of the park district, for parks, boulevards, and ways." This provision grants park districts the authority to assert jurisdiction over noncontiguous land, so long as that land is within the state of North Dakota. The Patterson Reservoir area is within the state of North Dakota; therefore, the Dickinson Park and Recreation Board may assert jurisdiction if the land is acquired "by purchase, gift, devise, condemnation, or otherwise . . ." N.D.C.C. § 40-49-12(1) (Supp. 1989).

The next issue is whether a lease constitutes an acquisition of land. This office has determined that N.D.C.C. § 40-49-12(1) authorizes a park district to operate and administer noncontiguous land by contract. "We believe the authority on section 40-49-12(1) is sufficient to permit the Park District of Southwest Fargo to own, operate or lease a park within the village limits of the Village of West Fargo since there is no limitation upon the location of such property." Letter from Gerald W. VandeWalle, Assistant Attorney General, to Mr. Daniel R. Twitchel (May 3, 1966). In this case, the administration of land noncontiguous to the park district pursuant to a sublease from the city of Dickinson is a valid exercise of the park district's authority. Therefore, the park district may enforce its ordinances in the Patterson Reservoir area.

Having concluded the park district has jurisdiction over this area, the final issue is whether the municipal judge in Dickinson has jurisdiction to hear cases involving violations of park ordinances on the Patterson Reservoir. Generally, the governing body of a municipality has jurisdiction over all places within one-half mile of the municipal limits. N.D.C.C. § 40-06-01 (Supp. 1989). Accordingly, pursuant to N.D.C.C. § 40-18-01, the municipal judge has jurisdiction to hear cases involving violations of municipal ordinances which occur within one-half mile of the city limits. Moreover, with respect to park district ordinances, "full and exclusive jurisdiction to try and determine all claims for relief involving violations of rules or ordinances enacted by the board of park commissioners is vested in the municipal judge." N.D.C.C. § 40-49-17 (Supp. 1989). Sections 40-06-01 and 40-18-01, relating to the jurisdiction of the municipal judge to hear municipal ordinance violations, limits that jurisdiction to violations which occur within one-half mile of the city limits. Section 40-49-17, relating to jurisdiction over park district ordinance violations, is not so limited. Jurisdiction over all park district ordinance violations is vested in the municipal judge, with the only limitation being that the park district must have the authority to enforce its ordinances in the area where the violations occur. Further, N.D.C.C. § 40-49-12(1) provides that all parks acquired by the Board "shall be considered for purposes of taxation and for all other purposes as being within the territorial limits of the municipality." Therefore, it is my opinion that the municipal judge in Dickinson has the jurisdiction to hear and try cases arising from park district ordinance violations on the Patterson Reservoir.

Sincerely,

Nicholas J. Spaeth

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