

N.D.A.G. Letter to Koppy (Oct. 23, 1992)

October 23, 1992

Mr. Allen Koppy
Morton County State's Attorney
210 2nd Avenue NW
Mandan, ND 58554

Dear Mr. Koppy:

Thank you for your July 21, 1992, letter requesting an opinion as to the proper use of certain centennial project funds held by the city of Flasher.

North Dakota celebrated its centennial in 1989. In 1987 the Legislature passed the following statute:

Centennial coordinating committee. The governing body of any city may establish a local centennial coordinating committee to develop and implement special communitywide projects to celebrate this state's centennial of statehood in 1989. . . . The governing body of a city or the local centennial coordinating committee may receive or expend funds for the development and promotion of centennial projects. The local centennial coordinating committee shall cooperate with the North Dakota centennial commission. Any committee established under this section terminates as of July 1, 1991.

N.D.C.C. § 40-05-21. Pursuant to this section, Flasher formed the Flasher Centennial Committee.

You indicate that some of the funds held by the city of Flasher were received from the North Dakota Centennial Commission and the remaining funds were raised by raffling a centennial quilt. Because the source of the funds affects how they are to be used, I will address the funds received from the North Dakota Centennial Commission first, and then the funds raised by raffling the centennial quilt.

The North Dakota Centennial Commission was initially created by the Legislature in 1981. 1981 N.D. Sess. Laws ch. 554. In 1987 the Legislature authorized the North Dakota Centennial Commission to make grants under programs later called the Centennial Communities Grant Program and the Centennial Legacies Grant Program. 1987 N.D. Sess. Laws chs. 30, 453. The North Dakota Centennial Commission adopted rules for the granting of funds under these programs. See N.D. Admin. Code chs. 16.5-02-01 and 16.5-03-01.

Any grant monies received from the North Dakota Centennial Commission under these two grant programs must be used for the particular project or purpose for which they were

granted. If the grant received by the Flasher Centennial Committee was received under the Centennial Communities Grant Program, then the project for which the funds were granted had to have been completed by December 31, 1989. N.D. Admin. Code § 16.5-02-01-02(1). If the grant to the Flasher Centennial Committee was received under the Centennial Legacies Grant Program, then it appears that the project for which the funds were granted should have been completed by July 1, 1991, the termination date of the Flasher Centennial Committee. See N.D.C.C. § 40-05-21.

The North Dakota Centennial Commission terminated on June 30, 1991. 1983 N.D. Sess. Laws ch. 583, § 9. Any monies which, after the date of termination, would have been deposited in the North Dakota Centennial Commission's revolving fund must be deposited in the state's general fund. Because the funds received from the North Dakota Centennial Commission were not expended for the project for which they were granted by either December 31, 1989, or by July 1, 1991, those funds must be remitted to the state's general fund.

The following discussion is in regard to the monies raised by raffling the centennial quilt. In 1989 the Legislature authorized "a centennial committee organized by a city or county for the purpose of celebrating the North Dakota centennial . . . [to] obtain local authorization to conduct raffles" in which the prizes were below a maximum stated amount. 1989 N.D. Sess. Laws ch. 619. This statute indicates that monies raised by a centennial committee pursuant to this statute must be used "for the purpose of celebrating the North Dakota centennial." Because the Flasher Centennial Committee created by the city of Flasher no longer exists, the money received from raffling the centennial quilt may be controlled by the Flasher city governing body, but these funds must be used for the purpose of celebrating the North Dakota centennial. Thus, if the city governing body does not use the funds for the purpose for which they were originally intended, the funds must be used for some other purpose intended for the celebration of the North Dakota centennial.

Sincerely,

Nicholas J. Spaeth

las/jfl