



STATE OF MINNESOTA

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August 2, 1994

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Waldemar B. Senyk
Otter Tail County Attorney
Courthouse
Fergus Falls, MN 56537

RECEIVED
AUG 4 1994
COUNTY ATTORNEY

Dear Mr. Senyk:

In your letter you request our opinion concerning the authority of Otter Tail County to impose a monthly rental charge upon the Law Library Board of Trustees for courthouse space provided for the county law library. While the matter is not free from doubt, it is our view that the county is not authorized to require the Law Library Board of Trustees to pay rental for "suitable quarters" within the courthouse. The issue appears to turn upon construction of two separate portions of Minn. Stat. ch. 134A. Minn. Stat. § 134A.07 states:

The county board shall provide suitable quarters within the courthouse for the use of the library, and shall also provide light, heat, janitor service and other necessary expenses of maintaining the library.

Minn. Stat. § 134A.05 states in part:

The board of trustees shall adopt bylaws and regulations for the conduct of its business and the government of the library and file them, along with all other records, minutes of meetings and other documents relating to the governance of the library with the court administrator.

It shall have powers necessary for the governance and maintenance of the library, including, but not limited to the power to:

...

(3) Purchase or lease books or library facilities with money from the county law library,

...

The title to the library and its property is in the county establishing the library.

While we have located no cases directly on point, we construe the requirement that the county "provide suitable quarters" to mean that such quarters must be made available without requiring the payment of rental therefor. While other usages may exist, it seems that the most

common meaning of the verb, "provide" in this context, does not suggest any requirement of repayment. As noted by the court in Keith v. Rust Land and Lumber Co., 167 N.W. (Wisc 1918) the duty to "provide" capital, is inconsistent with the notion of a loan or advance.

Third, it was also expressly stated, "but it [the purchase money for all or any of the land so to be purchased] is to be provided by the other five members." They are to provide, not advance. "Provide" means to supply; to afford; to contribute. Webster's New Internat. Dict. If the five others get the one-sixth of the purchase price repaid to them out of the proceeds of Fitzhugh's one-sixth interest in the land, or out of the land as an entire thing; then the five have in effect advanced that one-sixth of the purchase price; they have not contributed it; they have only advanced it. We shall not here assume that these parties meant other than the plain ordinary meaning of the words and expressions that they used.

See also The American Heritage Dictionary wherein to "provide" is defined as "1. to furnish; supply."

According to section 134A.07, the county has a legal duty to "provide," (furnish or supply) suitable quarters for the library quarters.¹ Authority to charge rent, however, would by definition entail the authority to deny use of the quarters anytime an amount of rental was not agreed upon or was not remitted. In such circumstances, the county would not be providing quarters outright, but would be offering to provide only upon agreed conditions. Nothing in section 134.07 suggests that the county's obligation is dependent upon receipt of any consideration from the library trustees.

The notion that the county's providing of quarters is to be without charge is further underscored by the second use of the term "provide" which was added in section 134A.07, which was added in 1982. Minn. Laws 1982 ch. 576, § 8, added the phrase, "and shall also provide light, heat, janitor service and other necessary expenses of maintaining the library. It might be possible to argue that the term "provide" may be ambiguous in terms of reimbursement when applied to quarters, light, heat or janitor services. However, in using the term in connection with "other expenses," the legislature clearly expresses the intent that the county is to bear the cost of what is provided.

It must be presumed that the legislature, in using the word "provide" twice in the sentence, intended it to have the same meaning in both uses. Thus, it is our opinion that the county is not authorized to require rental payment for "suitable quarters" supplied for library use.²

1. "Shall" is mandatory Minn. Stat. § 645.44, subd. 16 (1992).

2. Cf. Op. (Cal.) Atty. Gen. No. 80-606, December 23, 1980 (enclosed) wherein the California Attorney General concluded that county law library trustees could pay rental to the county only in circumstances where the statute expressly provided an exception to the county's duty to provide quarters.

Waldemar B. Senyk

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This view is not altered by the fact that the board of trustees is authorized by section 134A.05 to expend money from the library fund to purchase or lease "library facilities." The scope of the "facilities" which the trustees may find it advisable to purchase or lease, would seem to extend beyond the "suitable quarters" and maintenance expenses the county is required to provide. Generally, "facilities" includes any property which aids or promotes ease in the performance of activities involved in an operation. See, e.g., Black's Law Dictionary 705 (Rev. 4th ed.) It is certainly possible that situations could arise in which the library trustees may have the need of space outside of the "suitable quarters within the courthouse" for legitimate library purposes. In addition, facilities would include such things as equipment needed for efficient library operation. Thus, it seems clear that the authority of the board to "lease facilities" does not imply an intention that the board pay rental for the quarters the county is required to provide.

Therefore, we conclude that the county is not authorized to collect rent for suitable library quarters in the courthouse.

Very truly yours,



KENNETH E. RASCHKE, JR.
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