

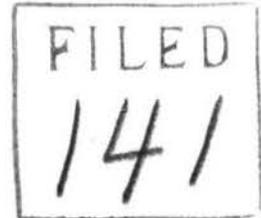
CITY LIBRARY :
COUNTY LIBRARY:
LIBRARIES:
CO-OPERATIVE AGREEMENTS:

(1) The Mexico City Library and the Audrain County Library District are authorized to expend funds to remodel a building for the use of both (2) That the building may be owned by the two as tenants in common and (3) That the two may enter into a cooperative agreement respecting the rights and obligations of both.

OPINION NO. 141

June 16, 1967

Mr. Charles O'Halloran
State Librarian
Missouri State Library
State Office Building
Jefferson City, Missouri 65101



Dear Mr: O'Halloran:

This office is in receipt of your request for a legal opinion based upon facts outlined in your letter and reading as follows:

"The Mexico Public Library and the Audrain County Library are associated together under contract and under the terms of this contract provide a library program for both city and county, although both libraries are legally independent. Recently title to the Mexico Post Office was acquired by the City library district and it is proposed that this building be remodeled into a library to be used by both districts. It is proposed further that funds possessed by the two library districts be used for remodeling purposes. Title to the building would remain in the Mexico Library District. The Missouri State Library administers a federal program for public library construction and the federal law requires that the funds be expended in accordance with state law. This agency has received a request for federal funds for the Mexico-Audrain County Project.

1. May funds derived from two public sources (city and county library districts) be used to remodel a building belonging to one of the districts?

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2. Can this agency legally allocate funds to a project in which local funds are being mixed in this fashion?
3. Is there any way whereby the two districts may remain legally independent and still use funds from both sources to remodel this building, and if so, under what circumstances may this agency allocate funds to the project?"

We have subsequently been advised by the Chairman of the County Library District that it is intended that the building will be owned by the City Library and the County Library as tenants, in common and that they have or will enter into a cooperative agreement that will fully spell out the rights of both during its operations and upon its termination.

Section 182.070, RSMo 1959, gives the general powers of a county library district and reads as follows:

"The county library district, as a body corporate, by and through the county library board of trustees, may sue and be sued, complain and defend, and make and use a common seal, purchase, or lease grounds, purchase, lease, occupy or erect an appropriate building for the use of the county library and branches thereof out of current funds if such funds are available above those necessary for normal operations or, as provided in section 182.105, and sell and convey real estate and personal property for and on behalf of the county library and branches thereof, receive gifts of real and personal property for the use and benefit of the county library and branch libraries thereof, the same when accepted to be held and controlled by the board of trustees, according to the terms of the deed, gift, devise, or bequest of such property."

Section 182.080, RSMo 1959, provides the Board of Trustees of a county library district may contract with the body having control of any other public library (1) for assistance in operation of the county library, and (2) provide library service

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of the county library district. Said section reads as follows:

"The county library board of trustees may contract with the body having control of a public library for assistance in the operation of a free county library under such terms and conditions as may be stated in the contract, or it may contract with the body having control of a public or a school library or any other library to furnish library service to the people of the county library district, under such terms and conditions as may be stated in the contract. The body having control of any library district may contract with any such county library board of trustees to provide library service to the people of the library district under such terms and conditions as may be stated in the contract. The county library board of trustees may contract with any other county library district under the terms outlined in sections 70.210 to 70.320 RSMo. In case a contract is made for services by any library, the contracting library boards of trustees shall advise and consult together with regard to the management and disbursement of funds, and other policies relating to the proper management of the library."

Among the general powers of a city library, to be exercised through its board of directors, are those stated in Section 182.200 RSMo 1959(4) and reading as follows:

"(4) They shall have the exclusive control of the expenditure of all moneys collected to the credit of the library fund, and of the construction of any library building, and of the supervision, care and custody of the grounds, rooms or buildings constructed, leased, or set apart for that purpose. All moneys received for the library shall be deposited in the city treasury to the credit of the city library fund, and shall be kept separate and apart from other moneys of the city, and drawn upon by the proper officers of the city, upon the properly authenticated warrants of the library board."

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"(6) The board may extend the privileges and use of the library to nonresidents through agreements with other existing libraries allowing for exchanges of services, upon such terms and conditions as the boards of the libraries, from time to time, may prescribe."

Pursuant to the authority of Article VI, Section 16, of the Constitution, the Legislature has also enacted statutes providing for cooperation between political subdivisions. Section 70.220, RSMo 1959, provides:

"Any municipality or political subdivision of this state, as herein defined, may contract and cooperate with any other municipality or political subdivision, or with an elective or appointive official thereof, or with a duly authorized agency of the United States, or of this state, or with other states or their municipalities or political subdivisions, or with any private person, firm, association or corporation, for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service; provided, that the subject and purposes of any such contract or cooperative action made and entered into by such municipality or political subdivision shall be within the scope of the powers of such municipality or political subdivision. If such contract or cooperative action shall be entered into between a municipality or political subdivision and an elective or appointive official of another municipality or political subdivision, said contract or cooperative action must be approved by the governing body of the unit of government in which such elective or appointive official resides."

Also relevant to this inquiry is Section 70.240, RSMo 1959:

"The parties to such contract or cooperative action or any of them, may acquire, by gift or purchase, or by the power of eminent domain exercised by one or more of the parties thereto in the same manner as now or hereafter provided for corporations created under the law of this state for public use, chapter

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523, RSMo, and amendments thereto, the lands necessary or useful for the joint use of the parties for the purposes provided in section 70.220, either within or without the corporate or territorial limits of one or more of the contracting parties, and shall have the power to hold or acquire said lands as tenants in common."

From the factual situation outlined in the opinion request, the Mexico (city) Library and the Audrain County Library have entered into a contract for the purpose of providing library services to the people of each. The library building owned by the city library, is to be used by patrons of both. It is proposed that funds of both be used to remodel the city library building which has given rise to the first inquiry of the opinion request.

Among the general powers of a county library district, to be administered by and through its board of trustees as provided by Section 182.070, supra, the board may "purchase, or lease grounds, purchase, lease, occupy or erect an appropriate building for the use of the county library and branches thereof out of current funds in such funds are available above the necessary or normal operations, or as provided in Section 182.105." Section 182.105, in part reads:

"(1) The county library board in any county library district may provide for the purchase of ground and for the erection of public library buildings, and for the improvement of existing buildings, and may provide for the payment of the same by the issue of bonds or otherwise, subject to the conditions and limitations set forth in this section."

Under Section 182.070 a County Library District has power to "purchase or lease grounds, purchase, lease, occupy or erect an appropriate building for the use of the county library." This undoubtedly includes the power to acquire a building already in existence and to remodel it for library use. Section 182.200 authorizes city libraries to construct "any library building" and to supervise, care for, and maintain custody of the grounds, rooms and buildings, constructed, leased, or set apart for that purpose. This would appear also to authorize a city library district to acquire a building and remodel the same for library

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use. Admittedly, however, the language is not clearly designed to fit the exact project and proposal here contemplated.

The Legislature, however, in implementing the provisions of Section 16, Article VI of the Constitution, enacted Section 70.220, RSMo 1959, which authorizes any municipality or political subdivision "for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service; * * *". This broad language would appear to supply any possible deficiency with respect to the cooperation between the county library district and the city library that may be found lacking in the other statutes referred to. Section 70.240 expressly authorizes political subdivisions to acquire by gift or by purchase lands necessary or useful for the joint use of the parties for the purposes provided in Section 70.220 and this statute further expressly provides that the contracting parties shall have the power to hold or acquire said lands as tenants in common. All of these statutes taken and considered together would appear to authorize the city library and the county district here affected to acquire the building and jointly enter into a cooperative agreement to remodel the building for their joint use.

There is one other factor to consider. That is whether the city library and the county library district here involved are political subdivisions within the meaning of Sections 70.220 and 70.240. The definition of political subdivision was amended in 1963 so that Section 70.210, definition of terms, now provides:

"(2) 'Political subdivisions', counties, townships, cities, towns, villages, school, county library, city library, city-county library, road, drainage, sewer, levee and fire districts, and any board of control of an art museum."

It thus will be noted that the definition of political subdivision in the amended statute was so broadened as to include both county library districts and city library. It is thus clear that the two entities involved in the proposed contractual relationship here are expressly made political subdivisions as those terms are used in Sections 70.220 and 70.240.

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CONCLUSION

It is the opinion of this office that the Mexico City Library and the Audrain County Library District are authorized to expend funds to remodel a building for the use of both; (2) that the building may be owned by the two as tenants in common; and (3) that the two may enter into a cooperative agreement respecting the rights and obligations of both.

The foregoing opinion, which I hereby approve, was prepared by my Assistant J. Gordon Siddens.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Norman H. Anderson", with a long horizontal flourish extending to the right.

NORMAN H. ANDERSON
Attorney General