

OPINION NO. 55
NO. 290 (1967)
Answered by Letter--Peterson

February 8, 1968



Honorable Dan Bollow
Prosecuting Attorney
Shelby County
Shelbyville, Missouri 63469

Dear Mr. Bollow:

This letter is in response to your request for an opinion in which you informed us that the Clarence Nursing Home District is a duly organized district under Chapter 198, RSMo*, and located in Shelby and Macon counties. You further informed us that the voters of the district had failed to approve a nursing home bond issue. You stated that the board of directors was contemplating levying a fifteen cent property tax as authorized by Section 198.250 and accumulating the revenue until sufficient funds were available to build a nursing home facility.

In light of the above information, you asked the following questions:

"Can the directors of a nursing home district organized pursuant to Section 198 levy the 15¢ tax provided for therein for the purpose of accumulating funds to erect a nursing home facility and not for the purpose of maintaining an existing nursing home facility?"

"If the directors of the district should find a suitable building for a nursing home what is the longest period of time to which they can commit the nursing home district to a lease and can this lease be a lease with an option to purchase?"

In answer to your first question above, enclosed you will find Opinion No. 351, dated December 2, 1965, issued to Senator William Baxter Waters. What is said therein regarding Section 206.110 is

*All citations herein are RSMo 1959, and RSMo Cum. Supp. 1967.

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applicable and controlling on your first question. Section 206.110 is very similar in all respects, both in language and intent, to the powers granted a nursing home district under Section 198.300. A word of caution is in order, however, in that the board of directors certainly has the authority to accumulate funds but only for a reasonable period of time. In other words, we are not prepared to state what a reasonable period of time is; but, for example, one hundred years would be unreasonable, while a few years would probably not be unreasonable. Reasonableness, as always, will be a fact question and we would not be able to rule on that unless presented with a fact situation.

In answer to your second question above, please find enclosed a copy of Opinion No. 279, dated November 20, 1964, issued to Representative Thomas D. Graham. Also enclosed is a copy of Opinion No. 304, dated November 9, 1965, issued to The Honorable Gerald Kiser. There would be no prohibition against executing a lease with an option to purchase if the option contemplated a purchase only when the budgetary conditions would fall within the scope discussed in the Graham and Kiser opinions.

In conclusion, a nursing home district may, by action of its directors, levy the statutory tax and accumulate it for a reasonable amount of time for the purpose of constructing a nursing home facility. Other facilities may be leased for a period of time not to violate the provisions of Article VI, Section 26 (a), Constitution of Missouri, and such lease can contain an option to purchase if the language of the option meets the requirements of Article VI, Section 26 (a), supra.

Very truly yours,

NORMAN H. ANDERSON
Attorney General

WAP/jlf

Enc.--Op. No. 351; 12/2/65; Waters
Op. No. 279; 11/20/64; Graham
Op. No. 304; 11/9/65; Kiser