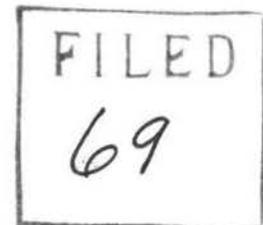


February 11, 1974

OPINION LETTER NO. 69
Answer by Letter - Boicourt

Honorable Larry R. Marshall
Missouri Senate, 19th District
Room 319, State Capitol Building
Jefferson City, Missouri 65101



Dear Senator Marshall:

This letter is in response to your official request for an opinion by the Office of the Attorney General in which you inquired whether the City of Ashland, Missouri, is empowered to make appropriations to the Ashland Day Care Center. To further assist us in preparing this opinion, you have provided the following information. The Ashland Day Care Center is a not-for-profit corporation organized pursuant to Chapter 355, RSMo 1969, and operated by the parents using the facility. Because of the current lack of funding by the federal Office of Economic Opportunity for programs like the Ashland Day Care Center, the Center has requested the City of Ashland to appropriate funds initially accruing to the city by reason of the Federal Revenue Sharing Program. The city has refused to do so relying on Article VI, Section 25, Constitution of Missouri.

The constitutional provision provides that:

"No county, city or other political corporation or subdivision of the state shall be authorized to lend its credit or grant public money or property to any private individual, association or corporation except as provided in Article VI, Section 23(a) and except that the general assembly may authorize any county, city or other political corporation or subdivision to provide for

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the retirement or pensioning of its officers and employees and the widows and children of deceased officers and employees and may also authorize payments from any public funds into a fund or funds for paying benefits upon retirement, disability or death to persons employed and paid out of any public fund for educational services and to their beneficiaries or estates; and except, also, that any county of the first class is authorized to provide for the creation and establishment of death benefits, pension and retirement plans for all its salaried employees, and the widows and minor children of such deceased employees."

None of the exceptions provided for in the above-quoted constitutional provision applies to the facts presented in your opinion request.

Therefore, Article VI, Section 25, Constitution of Missouri, prohibits the appropriation of public monies to the corporation. Ruggeri v. City of St. Louis, 429 S.W.2d 765, 769 (Mo. 1968); and Attorney General's Opinion No. 75, Riley, February 29, 1952, (copy enclosed). To like effect is Article VI, Section 23, Constitution of Missouri (1945), which specifically prohibits the use of public funds to aid private corporations by the following language:

"No county, city or other political corporation or subdivision of the state shall own or subscribe for stock in any corporation or association, or lend its credit or grant public money or thing of value [emphasis ours] to or in aid of any corporation, association or individual, except as provided in this Constitution." (Emphasis theirs).

The fact that the origin of monies which could be granted by the City of Ashland to the Ashland Day Care Center might be from the Federal Revenue Sharing Program does not alter our conclusion. Section 123(a) (4) of Public Law 92-512, the State and Local Fiscal Assistance Act of 1972, provides that a local unit of government, in order to qualify for the receipt of revenue sharing funds, must satisfy the Secretary of the Treasury that

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"it will provide for the expenditure of amounts received under subtitle A only in accordance with the laws and procedures applicable to the expenditure of its own revenues. . . ."

Very truly yours,

JOHN C. DANFORTH
Attorney General

Enclosure: Op. No. 75
2-29-52, Riley