



STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL

LORI SWANSON
ATTORNEY GENERAL

October 6, 2010

102 STATE CAPITOL
ST. PAUL, MN 55155
TELEPHONE: (651) 296-6196

Mr. Ford Peterson
74378 CSAH 6
Dassel, MN 55325

Dear Mr. Peterson:

I thank you for your correspondence dated September 28, 2010.

You visited the Dassel Apartments ("Dassel"), a low income apartment building where many senior and handicapped citizens reside, and were told that two Meeker County Commissioners physically assaulted and scared several of the residents. You state that the matter was referred to and investigated by the Wright County Sheriff's office, and the allegations were determined to be unfounded. You also indicate that the Sherburne County Attorney's office reviewed the investigation and determined that insufficient evidence existed to go forward with prosecution charges. During your visit to Dassel, you learned that none of the apartment residents were interviewed by the Sheriff's office.

In addition, you have concerns that two Meeker County Commissioners are also members of the Meeker County Housing and Redevelopment Authority ("HRA"), even though there is a 1976 Attorney General Opinion which stated that serving in both positions is considered to be "incompatible". You note that the Meeker County Board has made payments to the Meeker County Development Corporation ("MCDC"), a 501(c)(3) unaffiliated entity, a charity. County Commissioners Kutzke and Gabrielson are two members on the MCDC nine member board and as County Commissioners, they participated in approving payments to the MCDC. You note that the County Commissioners are not paid officeholders for the MCDC, but wonder if they are receiving per diem and mileage expenses or if the County is covering those costs. You expect the State Auditor will review these issues in her annual Meeker County audit.

Under Minnesota law the Attorney General's Office has limited authority. For instance, it does not have jurisdiction to provide legal advice to individual citizens. Notwithstanding this limitation, I can provide the following comments, which I hope will be helpful.

First, I understand how frustrating it is for citizens to feel that their local government is not listening to them. It is important for citizens to feel that they are properly represented by their local government. In this case, however, the *county commissioners' and sheriff's positions are directly elected* by the voters. As a result, the legislature has essentially deemed them to be autonomous units of government which are not subject to *investigation or oversight* by this Office. If the decisions of the elected local officials are not in accord with the wishes of the voters, the law presumes that the proper remedy is for voters to replace them at the next election.

1
A



Mr. Ford Peterson
October 6, 2010
Page 2

Second, there was a 1976 Attorney General Opinion that determined that being a County HRA Commissioner was incompatible with being a County Commissioner. *See* Atty. Gen. Op. 358a-3, November 29, 1976 (copy enclosed). However, the conclusion of the 1976 opinion was based, in part upon the language Minn. Stat. § 375.09 (1974), which prohibited a county board from appointing one of its members to “any office or position of trust or emolument.” The quoted language was deleted by 1986 Minn. Laws. ch. 416, § 1 (copy enclosed), and replaced with the current, narrower prohibition against a county commissioner holding “another elected office.” Consequently that statute is no longer relevant to service as an HRA Commissioner. *See* Letter dated January 13, 2009 to Steven Besser (copy enclosed).

Finally, while this Office is not authorized to investigate or direct the actions of local government agencies, the State Auditor and the Commissioner of the Department of Employment and Economic Development (“DEED”) have authority to audit the finances and investigate the affairs of an HRA. The Commissioner of DEED is also authorized to bring actions to enforce compliance with statutes and rules governing the MCDC operations. *See* Minn. Stat. §§ 116J.980-.982 and 469.013 (copies enclosed). I understand that you are waiting for the State Auditor’s annual audit of Meeker County; however, you may also wish to contact one or both of those offices to discuss any improprieties you believe may have occurred by the MCDA and HRA. The State Auditor’s Office and the Department of Employment and Economic Development may be contacted at:

State Auditor’s Office
525 Park Street, Suite 500
St. Paul, MN 55103
(651) 296-2551

Department of Employment and Economic
Development
500 Metro Square
121 E 7th Place
St. Paul, MN 55101
(651) 297-1291

I thank you again for your correspondence.

Sincerely,



ANGELA SKARDA
Citizen Research Specialist

Enclosures: Atty. Gen. Op. 358a-3, November 29, 1976
1986 Minn. Laws. ch. 416, § 1
Letter dated January 13, 2009 to Steven Besser
Minn. Stat. §§ 116J.980-.982 and 469.013