



STATE OF KANSAS

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November 14, 1979

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ATTORNEY GENERAL OPINION NO. 79- 258

Ernestine Gilliland
State Librarian
Third Floor, State Capitol
Topeka, Kansas

Re: Intoxicating Liquors and Beverages--Local Alcoholic
Liquor Fund--Expenditure Thereof for Recreational
Services

Synopsis: A public library operated by a city is a facility
which provides recreational services and programs,
and is therefore eligible for moneys distributed
by the local alcoholic liquor fund, as created by
the 1979 Session Laws, ch. 152, sec. 14, p. 679-680.

* * *

Dear Ms. Gilliland:

You have requested the opinion of this office on the question of whether a public library operated by a city may be considered a facility which provides recreational services and programs for the purposes of receiving funds from the newly-created local alcoholic liquor fund. We understand that the question has arisen in the City of Hays, where the portion of the fund tabbed for recreational facilities will be used solely for parks and playgrounds, that being the interpretation of the act arrived at by the city. The Hays Public Library feels that it also should be considered as providing recreational services, and you have therefore sought our opinion on the matter.

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The local alcoholic liquor fund was established by Senate Bill No. 467, which was enacted by the 1979 Legislature and which appears in the Session Laws at chapter 152. The fund itself appears at section 14, pp. 679-80, and is financed through a ten percent (10%) tax on alcoholic drinks sold in private clubs, which is provided for by section 12 of the same act. Revenues thus produced are placed in the fund by the state treasurer, and are allocated to each city and/or county on the basis of how many clubs contributed to the fund within that particular local governmental unit. One-third of the moneys so distributed is earmarked for a special parks and recreation fund which may be "expended only for the purchase, establishment, maintenance or expansion of park and recreational services, facilities and programs." What precisely is included in the scope of this phrase is the focus of your inquiry.

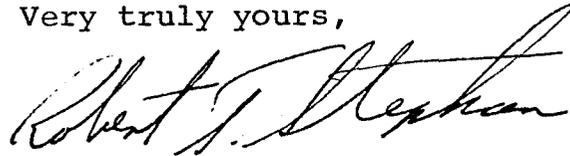
To begin with, Webster's New World Dictionary, College Edition, 1962, defines the word "recreation" at p. 1216 to include: "(1) refreshment in body or mind, as after work, by some form of play, amusement or relaxation, (2) any form of play, amusement, or relaxation used for this purpose, as games, sports, hobbies, reading, walking, etc." (Emphasis added.) In practice, there seems little question to us that a public library is indeed a facility which provides a wide-range of programs for the leisure time use of its patrons, and is thereby recreational in nature, albeit in a more passive sense than a park or sports facility. In addition to books for readers of all ages, libraries provide in many cases records, films, magazines and newspapers which cover a wide range of topics, both informational and purely entertaining. Additionally, libraries may serve as community centers for meetings, lectures and displays of local artwork. We also note that the programs and services of a library are available year-round, unlike outdoor facilities which are unusable during inclement weather.

In examining the terms of the statute itself, it is apparent that the Legislature intended for this portion of the local alcoholic liquor fund to be expended on more than just parks, for why else does the wording also include "recreational services, facilities and programs?" It may be presumed that such wording was placed there for a purpose, as it is a well-recognized rule of statutory construction that statutes do not contain meaningless or useless language. In re Dederick, 91 F.2d 646 (10th Cir. 1937), 73 Am.Jur.2d, Statutes, §250 (1974), and cases cited therein. If the Legislature had intended to restrict the use of these moneys to only outdoor recreational facilities, the above-quoted language would be rendered redundant, and in the absence of any other language to support this result, we are not prepared to so conclude.

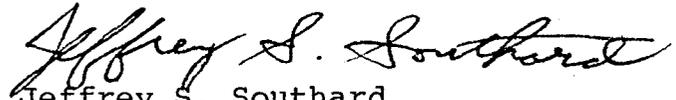
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It would therefore be our opinion that a public library operated by a city is a facility which provides recreational services and programs, and is therefore eligible for moneys distributed by the local alcoholic liquor fund, as created by the 1979 Session Laws, ch. 152, sec. 14, pp. 679-680.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Jeffrey S. Southard
Assistant Attorney General

RTS:BJS:JSS:gk