STATE OF NEBRASKA
Office of the Attorney General
2115 STATE CAPITOL BUILDING
LINCOLN, NEBRASKA 68509-8920
(402) 471-2682
FAX (402) 471-3297

#91007

STATE OF NEBRASKA
OFFICIAL
JAN 29 1991
DEPT. OF JUSTICE

DON STENBERG
ATTORNEY GENERAL

L. STEVEN GRASZ
SAM GRIMMINGER
DEPUTY ATTORNEYS GENERAL

DATE: January 28, 1991

SUBJECT: County Agricultural Societies and the Public Meetings and Public Records Statutes

REQUESTED BY: Senator Douglas Kristensen
Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General
Dale Comer, Assistant Attorney General

You have requested our opinion on a number of questions concerning county agricultural societies. Specifically, you wish to know if those organizations are subject to the public meetings and public records statutes. You also have additional questions regarding audits of agricultural societies, their tax levying procedures, and their governance. Our responses to your various questions are set out below.

This office has specific enforcement responsibilities with respect to both our public records statutes, Neb.Rev.Stat. §84-712 et seq. (Reissue 1987), and our public meetings statutes, Neb.Rev.Stat. §84-1401 et seq. (Reissue 1987). Consequently, we can respond to your inquiries regarding those statutes as we would to the inquiries of any citizen. We believe that county agricultural societies are subject to both the public records and the public meetings statutes.

In Nixon v. Madison County Agricultural Society, 217 Neb. 37, 39, 348 N.W.2d 119, 120 (1984), our supreme court specifically held that ". . . a county agricultural society is a public body subject to the provisions of the public meetings law." The court appeared to base this holding on the fact that agricultural societies are organized pursuant to statute, and the fact that they have the authority to obtain the proceeds of a tax levied by the county board. The court stated:

> Although a county agricultural society resembles a private corporation in some respects, the statutory provisions which grant such a society the right to receive support from the public revenue give it a public character.

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217 Neb. at 39, 348 N.W.2d at 119. As a result, county agricultural societies are clearly subject to the public meetings statutes.

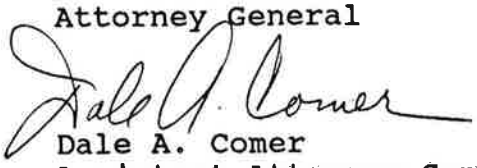
While there is no case directly on point, we also believe that county agricultural societies are subject to the public records statutes. Neb.Rev.Stat. §84-712.01 makes records public which belong to ". . . this state, any county, city, village, political subdivision, or tax-supported district in this state, or any agency, branch, department, board, bureau, commission, council, subunit, or committee of any of the foregoing." Moreover, under §84-712.01(2), the public records statutes must be liberally construed when fiscal records are involved so that ". . . the citizens of this state shall have full rights to know of, and have full access to information on the public finances of the government and the public bodies and entities created to serve them." Given the fact that county agricultural societies have taxing authority, and given the public character of those societies as noted by our supreme court, we believe that county agricultural societies are also subject to our public records statutes.

Your remaining questions involve audits of agricultural societies, their taxing authority and their governance. In our Opinion No. 157 to Senator Beutler, dated December 20, 1985, we pointed out that it has been our policy to respond to opinion requests from state legislators only with respect to pending or proposed legislation. We have not responded generally to individual legislators concerning constituent requests for legal interpretations or requests involving existing statutes. This policy is based, in part, on the role of the Legislature, and, in part, upon practical concerns such as the fact that we might be called upon to defend the constitutionality of an existing statute. In any event, you have not presented us with any proposed legislation concerning your remaining opinion requests, and you have asked us to interpret particular existing statutes. Therefore, we must respectfully decline to respond to those questions. We will, of course, be happy to respond to questions involving proposed legislation in this area. You might also wish to review our existing opinions concerning agricultural societies which may deal with some of the questions you have raised. E.g., Opinion of the Attorney General No. 219, July 23, 1984; 1979-1980

Report of the Attorney General, No. 98 at 140 and No. 201 at 288; 1977-1978 Report of the Attorney General, No. 86 at 131.

Sincerely yours,

DON STENBERG
Attorney General

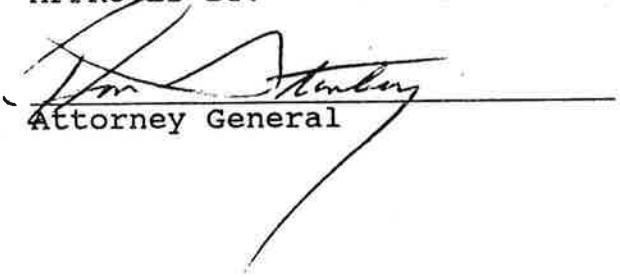


Dale A. Comer
Assistant Attorney General

5-207-2

cc: Patrick J. O'Donnell
Clerk of the Legislature

APPROVED BY:



Attorney General