

N.D.A.G. Letter to Graham (Oct. 9, 1986)

October 9, 1986

Mr. John A. Graham
Executive Director
North Dakota Department of Human Services
State Capitol
Bismarck, ND 58505

Dear Mr. Graham:

Thank you for your letter of August 19, 1986, in which you ask whether a group home owned by a nonprofit organization and leased to another nonprofit organization is eligible for an exemption from property taxation under N.D.C.C. §57-02-08(31).

N.D.C.C. §57-02-08(31) provides, in part, as follows:

57-02-08. PROPERTY EXEMPT FROM TAXATION. All property described in this section to the extent herein limited shall be exempt from taxation:

* * *

31. All group homes owned by nonprofit corporations, not organized with a view to profit and recognized as tax exempt under section 501(c)(3) of the United States Internal Revenue Code [26 U.S.C. 501(c)(3)], including those for persons with developmental disabilities as defined in section 25-01.2-01, and the real property upon which they are located during the period in which the group homes are under construction or in a remodeling phase and while they are used as group homes. For the purposes of this subsection, the term "group home" means a community-based residential home which provides room and board, personal care, habilitation services, or supervision in a family environment, and which, once established is licensed by the appropriate North Dakota licensing authority.

(Emphasis supplied.)

N.D.C.C. §57-02-08(31) clearly states that if a group home is (1) owned by a nonprofit corporation and (2) used as a group home, it is exempt from taxation. There is no exception for "leased" property in N.D.C.C. §57-02-08(31) that is similar to the exception for "leased property in N.D.C.C. §57-02-08(8). Compare N.D.C.C. 57-02-08(31) with

N.D.C.C. §57-02-08(8) (N.D.C.C. §57-02-08(8) exempts property belonging to institutions of public charity "not leased"). When the wording of a statute is unambiguous, the letter of the statute cannot be disregarded under the pretext of pursuing its spirit because the legislative intent is presumed clear from the face of the statute. N.D.C.C. §1-02-05; see, e.g., Rheaume v. State, 229 N.W.2d 90, 92 (N.D. 1983).

Therefore, it is my opinion that a group home owned by a nonprofit organization and leased to another nonprofit organization is eligible for an exemption from property tax under N.D.C.C. §57-02-08(31).

Sincerely,

Nicholas J. Spaeth

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