

**OPINION  
62-99**

October 24, 1962            (OPINION)

**DEFINITION**

RE: Community - Relating to Banking Laws

This is in reply to your letter in which you ask for an opinion on the interpretation of the word "community" as it appears in section 6-03-14 of the North Dakota Century Code, which provides as follows:

PAYING AND RECEIVING STATIONS AUTHORIZED. Any banking institution may establish and maintain within the county in which the home office of the applicant banking institution is located, or in any adjoining county, subject to the approval and supervision of the state banking board, a receiving and paying station in any community not having an established banking institution. No additional capital shall be required for the operation of such station. This section shall not be construed as committing this state in any manner to a policy of permitting branch banking."

You specifically ask: "Can a city be considered to have more than one community?"

Chapter 6-03 and the related provisions do not define the term "community." As a result of this, we must resort to common usage, dictionary and legal definitions to determine the true meaning of such term as used in the aforementioned section.

Webster's New International Dictionary defines "community" to mean: "1. A body of people having common organization or interest, or living in the same place under the same laws and regulations; as a community of monks. 2. Society at large; a commonwealth or state; a body politic; the public, or people in general; - used with the definite article; as, the interest of the community; restrictedly the people of a particular place or region, as a town, village, or a neighborhood; \* \* \*."

The term "community" has been construed by the courts to have a flexible meaning, taking color and meaning for context (227 Pac. 2d., 287). We do not believe that the Legislature intended the term "community" to mean or to coincide with city or municipality. If the Legislature had in mind that the term "community" was to coincide with a municipality, such as a city, village, (incorporated or unincorporated), or a county or township, it would have used such term or terms for they were well established, recognized and used in the year 1937, at the time this Act was enacted. Instead, the Legislature used the term "community" without any further qualifications.

This term, as noted above, has a flexible meaning, depending on the manner in which it is used. We are inclined to believe that the

Legislature chose this term deliberately rather than use the term "city", "township" or "county", intending thereby that the term "community" is to be given a flexible application contemporary with the existing conditions.

It is not difficult to envision the term "community" to take on a very broad meaning in one instance and a very narrow one in another. As an example, in speaking about the Minot community, it could mean not only the boundaries of the city but the outlying area which it serves or which trades in the city. The reverse is true if the term is used in connection with a community within the city, particularly in larger cities.

We are also aware that the term "community" can mean something different in the same area if the subject matter is of a different nature. For example, a community built or based upon a school as a common factor would have certain boundaries, whereas a community built around a church would have different boundaries, and a community built around a business or industry would have still another boundary.

We believe that the term as used in section 6-03-14 has reference to trade and business areas, consequently the term must be construed in light of what it means in the commercial world and more particularly what it means in the banking business.

We can safely say that in the banking business, neither the patrons of a bank nor the bank itself will limit its business to the boundaries of a certain political subdivision within the state. We are satisfied that the business as such does not recognize any boundaries of political subdivisions. In these respects, "trade" will transcend political boundaries at its convenience. It is doubtful that boundaries in the commercial trade are ever seriously considered (124 Atlantic 2d., 116 and 90 Atlantic 2d., 85).

We also believe that mileage or distance is not an absolute factor in determining what constitutes a community. Mileage and distance may play a significant role in one instance, a secondary role in another, and in other instances be given no consideration at all.

The term "community" as used in section 6-03-14 is used to denote an area having common residential, social, business, commercial or industrial interests. The undefined boundaries that may be established as a result of the common interests as indicated do not necessarily have to coincide with the boundaries of the political subdivision. The coincidence of the boundaries in such instances would be incidental.

Therefore, in direct response to your question, it is our opinion that the term "community" as used in section 6-03-14 does not mean the same as the boundaries of a municipality or city. It is our further opinion that a city may, under some circumstances as discussed herein, have more than one community.

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