

LETTER OPINION
95-L-226

October 11, 1995

Honorable Albert Grosz
State Representative
P.O. Box 535
Turtle Lake, ND 58575-0535

Dear Representative Grosz:

Thank you for your September 18, 1995, letter asking whether the board of directors of a mutual aid cooperative may hold meetings by telephone conference call.

Mutual aid cooperatives are established pursuant to N.D.C.C. ch. 10-12. Generally, mutual aid cooperatives are subject to the general law governing cooperatives. N.D.C.C. § 10-12-02. The general law concerning cooperative associations is found at N.D.C.C. ch. 10-15. A cooperative has the general power to "[m]ake and alter bylaws, consistent with its articles and the laws of this state, for the administration and regulation of its affairs." N.D.C.C. § 10-15-03(8). A cooperative also has the power to exercise "all powers necessary or convenient to effect its purposes." N.D.C.C. § 10-15-03(12). Generally, bylaws are adopted and amended by the members of the cooperative, although the members may adopt a bylaw permitting the directors to make and amend specified bylaws. N.D.C.C. § 10-15-11.

Meetings of the board of directors of a cooperative are to be held "at such place and upon such notice as is prescribed in or pursuant to the bylaws." N.D.C.C. § 10-15-26.

"Ordinarily the shareholders or members of the co-operative may enact any bylaw or amend or add to the articles of incorporation to include any matter not contrary to the law. A bylaw or article which is contrary to law is ordinarily invalid." Letter from Special Assistant Attorney General Gerald W. VandeWalle to L. T. Strom (June 14, 1962).

There is no provision in either N.D.C.C. ch. 10-12 or ch. 10-15 which expressly authorizes or prohibits a meeting of a board of directors by telephone conference call. Certainly it is a matter of common knowledge and everyday experience that a variety of public and private meetings are now held both by telephone and by interactive

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audio visual means. It is not uncommon for corporate boards of directors to meet by telephone conference call. E.g., Hedberg v. Pantepec Int'l, Inc., No. CV 89-0289957S, 1993 W.L. 57524, at *2 (Conn. Super. February 25, 1993); MLPGA, Inc. v. Weems, 838 S.W.2d 7, 8 (Mo. Ct. App. 1992); Edelman v. Phillips Petroleum Co., No. 7899, 1985 W.L. 11534, at *6 (Del. Ch. February 12, 1985); Laurenzano v. Goldman, 465 N.Y.S.2d 779, 780 (N.Y. App. Div. 1983).

Because meetings of a board of directors of a cooperative are governed by the cooperative's bylaws and because cooperatives have the authority to exercise all powers necessary and convenient to effect their purposes, it is my opinion that a mutual aid cooperative has the authority to authorize, through its bylaws, the board of directors to hold meetings transacting business of the cooperative by telephone conference call.

Sincerely,

Heidi Heitkamp
ATTORNEY GENERAL

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