

OPINION
58-129

February 11, 1958 (OPINION)

LICENSE FEES

RE: Aircraft

We have received your letter of February 3, 1958, in which you requested an opinion of whether the city of Wimbledon, North Dakota, should make its claim for license fees to the County of Stutsman in which the real property constituting its airport is located, or to the County of Barnes in which the city is located. Such an opinion involves a construction of section 2-0511 of the 1957 Supplement to the N.D.R.C. of 1943 which in part reads:

" * * *The above registration fee shall be in lieu of personal property taxes upon such aircraft. Seventy-five percent (75%) of each registration fee so collected by the commission shall be returned by the commission to the treasurer of the county of the registrant's residence or if the registrant is not a resident of North Dakota to the treasurer of the county in which is located the airport at which the registrant's aircraft is based and the county treasurer shall pay such remittances over to the municipality operating an airport within said county; * * *."

You further provided us with the facts that Wimbledon is located near the Barnes-Stutsman county line; that the air traffic pattern for the airport is over both counties; that the money has been paid to Barnes County by our office; that the airplanes upon which the fees were paid are owned by residents of Wimbledon.

Obviously the statute did not contemplate a situation such as you have suggested. Because of the fact that the fees are paid to the county of the registrant's residence, and because they are to be remitted to a municipality, we believe that the phrase in the statute reading " * * *municipalities operating airports within said county* * *" should be understood as if it read "municipalities within said county operating airports." The location of the real estate is really immaterial to this problem. Instead it is the location of the municipality, the residence of the registrants, and the fact that the municipality is operating an airport used by those registrants.

It is, therefore, the opinion of the attorney general's office that Wimbledon should assert its claim against Barnes County which should pay it.

LESLIE R. BURGUM

Attorney General