



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

GREGORY D. STUMBO
ATTORNEY GENERAL

1024 CAPITAL CENTER DRIVE
SUITE 200
FRANKFORT, KY 40601-8204

2 January 2007

Frank Hampton Moore, Jr.
Cole & Moore
P. O. Box 10240
Bowling Green, Kentucky 42102-7240

RE: Warren County Water District/Request for Opinion

Dear Mr. Moore:

The Office of the Attorney General is in receipt of your 1 December 2006 letter conveying a request for the status of OAG 92-43. The Opinion, which was issued on 19 March 1992, advises, in pertinent part, that a water district may not lawfully make donations to a civic organization such as a chamber of commerce or an independent non-profit organization formed for the purpose of attracting business and industry to the county in which the water district operates. OAG 92-43 remains the position of this Office.

The District has voted to contribute \$10,000 a year for five years to the Bowling Green Area Chamber of Commerce's Capital Campaign. The Chamber, which is a Kentucky non-profit corporation, is constructing a new building to house its operations. The purpose of the Chamber is to recruit new businesses and industries to the Bowling Green/Warren County Area. As with the scenario discussed in OAG 92-43, KRS Chapter 74 does not contain authorization for such a donation of the district's funds.

We have taken into consideration your argument that KRS Chapter 74 does not expressly prohibit such a contribution, and the argument does not change our position. The district has the authority to furnish water service; therefore, spending under this authority must be for projects and expenses that are necessary in order to furnish a water supply. The Chamber's construction of a new building is not a necessity of the district.



Additionally, we note that the district is also subject to the provisions of KRS Chapter 278 which include a requirement that the district obtain a certificate of convenience and necessity prior to the "construction of any plant, equipment, property, or facility" for furnishing water service. KRS 278.020 (1). The prevention of unnecessary investment in plant furnishing service is a primary legislative mandate of Chapter 278. The legislature clearly did not intend to allow a district to invest at will in its own projects for furnishing water, and an interpretation of the district's power to include authority for at will spending for the construction projects of third-parties produces an absurd result that is contrary to well-developed rules for construing statutes.

While this Office commends the efforts of the Bowling Green Area Chamber of Commerce, OAG 92-43 remains the position of this Office. The additional discussion concerning your request is not an official Opinion, and it is limited to the question that you present based upon the facts that you convey. It is not binding upon a court. Nonetheless, we hope that you find the information of assistance.

Regards,

David Edward Spenard

David Edward Spenard
Assistant Attorney General

cc: James N. Hizer
Rick Kelley
Alan H. Vilines
M. Christina Whelan
Gerald Wuetcher