

Opinion No. 61-96

October 3, 1961

BY: OPINION OF EARL E. HARTLEY, Attorney General Thomas A. Donnelly, Assistant Attorney General

TO: Mr. Robert D. Castner, Secretary, State Board of Finance, State Capitol, Santa Fe, New Mexico

QUESTION

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Is the ownership of property which is acquired by a local chapter of the Future Farmers of America vested in the particular local school wherein such organization functions, or in the individual local chapter of the Future Farmers of America?

CONCLUSION

See analysis.

OPINION

Analysis

In arriving at a determination of your question set out above, it is necessary initially to consider the nature and status of local chapters of the Future Farmers of America as they now exist within the State of New Mexico, and the relationship of such chapters with the various schools of this State.

Under the facts as revealed by the structure and by-laws of such organization, the Future Farmers of America, is a national student organization extending its membership of young boys studying vocational agriculture in the public secondary schools of the nation under the provisions of the Smith-Hughes Act, and this national organization is composed of chartered state associations which, in turn, are made up of local chapters in the individual schools having courses in vocational agriculture. The students enrolled in vocational agriculture studies in such schools constitute the active membership of the local chapter and all membership in the organization is entirely voluntary. Each local chapter of the organization initiates and carries on certain programs of work which are conducted apart from the school studies, and which are participated in by the members of the local group. The group mainly carries on its various work projects after school and separate from the regular school curriculum. In the course of the activities of each local chapter, they have from time to time accumulated through their own labor, or by gift, purchase or otherwise, certain property including livestock which the local groups hold

for use by the membership or citizens of the community in the furtherance of the aims of the organization.

It is apparent that the organization as it exists in New Mexico, is formed from a nucleus of individual chapters or clubs each with their own local officers and membership. At present our inquiry of the State Corporation Commission indicates that the group is not incorporated as a domestic corporation within New Mexico, nor is such organization registered with the State Corporation Commission as a foreign corporation authorized to do business within this State.

From the above facts it is evident that an individual local chapter of such organization constitutes a club or unincorporated association comprised of students studying vocational agriculture, and which group is associated together for the purpose of furthering the club's designated objectives.

Under the provisions of Section 51-18-1, N.M.S.A., 1953 Compilation, there appears express statutory authority for the formation and creation of unincorporated clubs or associations. Section 51-18-2, N.M.S.A., 1953 Compilation, enables such associations to purchase or acquire both real and personal property. This latter section sets out in part, as follows:

"Any such club or association may hold and acquire real or personal property by deed, lease or otherwise, in the name of such association by which it is known, and to acquire title to any property by purchase or otherwise for its objects and purposes, which property shall be deemed in law to be held by the said club or association for the use and benefit of the actual and active members thereof composing said association from time to time. . . ."

Section 51-18-3, N.M.S.A., 1953 Compilation, specifies the manner by which such association or club may dispose of property acquired by the group. Such section sets out as follows:

"The property, real, personal or leasehold interest therein of any such club or association may be mortgaged or sold at such time and upon such terms as the then members of such club or association may determine by vote as its rules or by-laws may prescribe; and any deed signed by the president or secretary, or such other officer or officers designated by resolution of the members of any such club or association adopted at any regular or special meeting called for that purpose, shall be deemed sufficient in law to convey the fee simple title, or any title, to any property held or possessed by any such club or association free and clear of any interest, claim, or title of any of the individual members thereof, their heirs, executors and administrators, as tenants in common or otherwise."

Under the provisions of the above sections it is our opinion that the local chapters of the Future Farmers of America are legally entitled to acquire and to hold both real or personal property in the name of the local chapter, and to convey or dispose of such

property as is in accordance with such organization's by-laws or rules. In **Flanagan v. Benvie**, 58 N.M. 525, 273 P. 2d 381, the New Mexico State Supreme Court recognized the right of an unincorporated association, under the authority of the above statutes to take by deed, lease or otherwise, certain real and personal property, and to dispose of such property.

The determination of what property comprises public property, and which property belongs to a local chapter of such organization, would depend upon the fact situation in each particular instance, and the manner in which the property was initially acquired.

It is important to distinguish, however, that property which has been purchased from public funds, acquired from public sources, or which property has been donated or devised to a public school, and which by consent of school authorities is used by the membership of such group is not susceptible of sale or disposition by such organization. And, in such case, the disposition or sale of public property is subject to the provisions of Section 6-1-8, N.M.S.A., 1953 Compilation, as amended. Under the provisions of such section it is mandatory that the governing authority of each local public school district obtain the prior approval of the State Board of Finance before disposing of the real or personal property of such public body.

Thus, it is our opinion that the local Chapters of the Future Farmers of America are legally entitled to acquire and to hold property in the name of such local chapter, and in such instance the ownership of property would be vested in the name of such group, as specified in Section 51-18-2, N.M.S.A., 1953 Compilation. The local membership may properly dispose of such chapter property as provided in Section 51-18-3, N.M.S.A., 1953 Compilation. However, any property which is acquired by reason of expenditure of public funds, obtained from public sources or which has been given or devised to a local public school district may not be disposed of, except in accordance with the provisions of Section 6-1-8, N.M.S.A., 1953 Compilation.