

April 16, 2014

Town of Petersburg Tennessee
Ms. Angie Taylor
Town Recorder
120 Eastside Square
Petersburg, Tennessee 37114

VIA ELECTRONIC MAIL

Dear Ms. Taylor:

Responsive to your request, please find enclosed a draft lease agreement for the city-owned building currently being operated as a senior center by your senior citizen group. As indicated by you, the senior citizen group has approached the town wanting to lease the building under the current informal arrangements whereby the town pays for the upkeep, maintenance, and insurance on the facility. As I further understand it, the genesis for their request is the prospect of grant funding becoming available to them with the building being under formal lease. Accordingly, the lease agreement was drafted with that as a backdrop with the assistance of MTAS legal consultant Josh Jones.

Please be aware that although the Petersburg charter does not explicitly grant authority to lease city facilities, the town probably has implied authority to do so if such is of interest. Please also be aware that in leasing it for a nominal sum, the transaction is in effect a gift of city property and thus would have to be for a valid public purpose. Being unfamiliar with the senior citizen group in question, we cannot say with any certainty that their actions constitute a public purpose, but our guess is they do. Having 501(c)(3) status would go a long way towards showing that the senior citizen group does in fact serve a public purpose.

As to the insurance requirements, the indemnification clause provides some protection to the town; however, without the senior citizen group carrying coverage it is fairly superficial. The clause notwithstanding, the town will undoubtedly be pulled into litigation if someone is injured as the town will be the only entity with any money to go after. The Board of Mayor and Aldermen need to be cognizant of this if a decision is made to enter into an agreement that does not require the lessee to carry coverage. Furthermore, the directors of the senior citizen group are, in the opinion of Mr. Jones, taking a personal risk allowing the organization to operate this facility without coverage. If something occurs a court could find the directors personally liable for breaching their fiduciary duty.

Finally, the lease agreement should be reviewed and modified by your town attorney, as deemed necessary, to meet the final terms suitable to the Board of Mayor and Aldermen.

Thank you for contacting us on this important town matter.

Very truly yours,



Jeffrey J. Broughton
Municipal Management Consultant

Cc: Josh Jones