

OFFICIAL OPINION NO. 72-62, County Commissioners may lease courthouse space to Soil Conservation Service.

STATE OF SOUTH DAKOTA  
OFFICE OF  
THE ATTORNEY GENERAL

November 22, 1972

Floyd E. Meidinger  
States Attorney, McPherson County  
Leola, South Dakota 57456

OFFICIAL OPINION NO. 72-62

**County Commissioners may lease courthouse space to Soil Conservation Service.**

Dear Mr. Meidinger:

You have requested an official opinion on the following factual situation:

The Board of County Commissioners of McPherson County leased out a space to the Soil Conservation Service. There is no notice of competitive bidding for this space in the courthouse. McPherson County Board of County Commissioners submitted a bid to the U. S. Department of Agriculture, Soil Conservation Service in Huron, South Dakota. There were other bids for space submitted to the Soil Conservation Service. One other bid submitted by a private individual and taxpayer in McPherson County was the same amount as bid by McPherson County Board of Commissioners which was \$100 per month.

In connection with this factual situation, you have asked the following question:

My question is, whether the Board of County Commissioners of McPherson County have the authority to rent out space in the county courthouse to the Soil Conservation Service.

This office considered a similar question in 1969-70 AGR 124, opinion No. 69-18. In that instance, the question was whether the county commissioners could lease office space to a private attorney for a law office. That opinion stated:

(T)he county commissioners have no authority to lease any space in a courthouse for the use of private individuals for their own private business.

There is a distinction, however, between the use of a courthouse by private individuals and the use by other governmental units. SDCL Ch. 1-24 gives broad authority for counties to cooperate with other public agencies, including any agency of the United States. It is my opinion that the lease of courthouse space to the Soil Conservation Service would be an agreement for joint or cooperative action as authorized by that chapter.

In addition, SDCL 38-3-3 authorizes county commissioners to establish and conduct cooperative extension work in agriculture. It is apparent that the Legislature wishes counties to cooperate, where possible, with the Soil Conservation Service. Therefore, it is my opinion that the answer to your question is, YES, the McPherson County Board of County Commissioners does have the authority to rent space in the county courthouse to the United States Soil Conservation Service.

Respectfully submitted,

Gordon Mydland  
Attorney General