

Board Powers and Duties – Ownership of the Building

Initial Question from Library

Can the city fix the roof of the library without asking the permission of the library?

Response from Bob Cooper, January 20, 2010

If the library facility is owned and paid for by the city, and there are no contracts, interlocal agreements, or letters of understanding or other written documentation to the contrary, I believe the city can fix the roof and bill the library. MCA 22-1-309 makes this a little murky because it says the library board has exclusive control of the library fund and it appears in this case that the city has found a way to obligate the library fund without the board's knowledge or permission. I am aware of no existing legal opinion dealing with these specifics but I suspect the courts would rule in the favor of the city performing appropriate "emergency?" repairs to a public building under city jurisdiction. Doing this without advance discussion and fair warning is not very ethical or fair to the library board, but if past general practice has been for the city to do repairs to the building, then a precedent for city action may be considered to exist. The library board can try to negotiate the bill or a payment schedule for it. Lessons learned, the board may want to negotiate with the city a letter of understanding as to how such matters might be better handled to the benefit of all parties in the future.

Initial question from library

The board is going to sign a lease agreement for the "new" East Helena branch. Can they sign as the board? Or do they sign as the county? In the past they have signed agreements as the Lewis & Clark County board, but as we looked at MCA 22-1-309 (4) we wondered about whether or not leases were different. It is a contract (power under 3), so I'm thinking that they can sign as the board but wanted to double check with you.

Response from Bob Cooper, February 1, 2010

The Board can sign a lease agreement. If ownership is involved it must be done in the name of the appropriate city or county.