

**OPINION
70-49**

February 26, 1970(OPINION)

Mr. John A. Zuger
City Attorney
Bismarck, North Dakota

RE: Cities - Municipal Parking Authority - Eligibility of Personal P

This is in response to your letter in which you state the following:

"Section 40-61-02 makes provision as to who shall be the members of the Board of such Municipal Parking Authority. The Section says in part:

"For the purpose of this Section, a property owner shall be either a real estate owner, the beneficial owner of a leasehold on a building constructed on a railroad property, or the owner of a retail or wholesale personal property inventory subject to an annual tax in excess of \$1000.00."

"The question of our officials is what is the effect on the repeal of the personal property tax upon this requirement for a membership on the Board?"

Initially we would like to observe that the above quoted language is now contained in section 40-61-01(8), as amended by Chapter 387 of the 1969 Session Laws, and now constitutes part of the definitions defining a "property owner." The language, however, remains the same. We would further note that section 40-61-02 was also amended by Chapter 387 of the 1969 Session Laws and does provide that if the authority has not issued bonds or if the property owners have not guaranteed said bonds, then two members may be appointed at large.

However, as to your specific question, the language employed by the Legislature is clear and specific and as such is not subject to construction. We must give the words and language employed the normal meaning resulting therefrom. The personal property referred to is not measured in dollars and cents but must be subject to an annual tax in excess of \$1000.00. With the repeal of the personal property tax by Chapter 528 of the 1969 Session Laws, personal property generally was exempt. In this respect see subsection 25 of section 57-02-08, as amended, of the North Dakota Century Code. It should be noted that not all personal property has been exempt but wholesale personal property inventory does come within the exemption. It would follow that if a person does not have sufficient personal property which is subject to a tax in excess of \$1000.00, such person would not qualify as a property owner under Chapter 40-61.

This would necessarily compel a further conclusion, and it is our opinion, that if a person owned wholesale personal property or for that matter any personal property which was subject to an annual tax of \$1000.00 or more but did not own any other property, such person, as of January 1, 1970, would no longer be eligible to be a member of the Municipal Parking Authority Board, because such property is no longer assessed. If, however, no bonds are issued and if the property owners are not required to guarantee such bonds, such person could qualify and be appointed as a member at large.

HELGI JOHANNESON
Attorney General