

ARKANSAS MUNICIPAL LEAGUE

Comments provided by Mark Hayes, Director of Legal Services, Arkansas Municipal League
8/25/2015

Per Senator Irvin's request, I'm providing a summary of litigation concerning the funding of local chambers of commerce, specifically *Lynch v. Little Rock & North Little Rock*.

The case alleged violations of Arkansas Constitution Article 12, § 5 by the cities of Little Rock and North Little Rock based on the cities allocation of money to various entities. Ark. Const. Art. 12, § 5 prohibits the appropriation of money by municipal corporations to private corporations:

No county, city, town, or other municipal corporation shall become a stockholder in any company, association or corporation; or obtain or appropriate money for, or loan its credit to, any corporation, association, institution or individual.

Art. 12, § 5 is not, however, a blanket prohibition on providing money to corporations. Instead, the Supreme Court has long held that a city or town can give money to a corporation if a contract exists obligating the corporation to provide services in exchange for the money given by the city or town.

The Plaintiffs claimed that the cities violated Art. 12, § 5 when 1) the City of Little Rock allocated money to the Little Rock Regional Chamber of Commerce (LRCCC), and 2) the City of North Little Rock allocated money to the North Little Rock Economic Development Corporation (NLREDC) without a valid contract obligating those "corporations" to provide services to the cities. Both cities argued they had valid contracts with the entities. Those contracts, according to the cities, obligated the LRRCC and NLREDC to provide, among other things, economic development services to Little Rock and North Little Rock, respectively.

The Court agreed that contracts existed, but found that those contracts were "void" and thus no "valid" contract existed. Without a "valid" contract, the Court found that the appropriations to the LRRCC and NLREDC violated Art. 12, § 5. As such, the Court ordered both cities to not give money in violation of Art. 12, § 5. The Court entered its order on June 26, 2015. The cities immediately appealed the decision. The case is expected to go to the Arkansas Supreme Court, but no definite timetable is known.

Considering the appeal is pending, cities have been encouraged to be cautious when considering entering into any contract for services with any Chamber of Commerce or Economic Development Commission. We have routinely advised that it is better to wait and see what the Supreme Court will say about the issue before moving forward and providing money to these types of entities.

Mark R. Hayes
Director of Legal Services
Arkansas Municipal League
mhayes@arml.org
www.arml.org
Phone: 501.978.6102