FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

DAVID AXMEAR,	)	
Appellant,	)	Filed February 28, 1978
vs.	)	
KEOKUK COUNTY, IOWA, and JIM WONDERLICH, HOMER S. KERR, and WARREN HOWARD, Board of Supervisors, Keokuk County, Iowa,	)	411 2-60276
Appellees.	)	

Appeal from Keokuk District Court - L. R. Carson, Judge.

Plaintiff appeals dismissal of his petition to enjoin the Keokuk County Board of Supervisors from distributing funds to the Keokuk County Exposition, Inc., pursuant to the Municipal Assistance Fund Act of 1975. - Affirmed.

Garold F. Heslinga, of Heslinga & Heslinga, Oskaloosa, for Appellant.

Glenn M. Bradley and Stephen C. Gerard, Sigourney, for Appellees.

Submitted to Allbee, C.J., and Donielson, Snell, Oxberger and Carter, JJ.

PER CURIAM

Plaintiff David Axmear appeals from a trial court order dismissing his petition to enjoin the Keokuk County Board of Supervisors from distributing funds to Keokuk County Exposition, Inc., pursuant to the Municipal Assistance Fund Act of 1975. Plaintiff asserts the grant of funds is illegal, and therefore, outside the power of the Board of Supervisors because Exposition, Inc., is allegedly not a qualified "society" eligible for county aid under chapter 174, The Code. Plaintiff is a taxpayer and resident of Keokuk County. Defendants are the duly elected and acting Board of Supervisors of the county.

In late 1975, Keokuk County received from the State of Iowa the sum of $33,283.72 as a governmental assistance fund pursuant to chapter 61, House File 901, of the Acts of the 66th General Assembly. In part, House File 901 creating the fund stated:

> There is created a 'county government assistance fund' in the office of the treasurer of state. Funds received from the county government assistance fund by the counties shall be expended, insofar as practicable, for projects and programs developed and maintained for citizens of the county residing outside the incorporated areas of any city in the county.

On April 5, 1976, these funds were by proper resolution transferred to the General Fund of the county by the Board of Supervisors.

On February 25, 1976, Keokuk County Exposition, Inc., incorporated and received a certificate as a non-profit corporation under the provisions of chapter 504A, The Code. It is alleged that Exposition, Inc., was created by individuals who were interested in providing a proper setting for the display and promotion of the agricultural and horticultural products of the people of the county. The corporation entered into an installment land contract for the purchase of approximately 38 acres at a cost of $70,000, with an initial down payment of $15,000. It later constructed upon the land purchased a show building and ring for the display of animals, a building for display of horticultural and domestic products, and a water system and sewage system for a total investment in excess of $60,000. At the time of the filing of the petition it had never held a fair or exposition, but has held an exposition since.

Keokuk County Exposition, Inc., made application for and received approval of a grant of $17,500 from the Municipal Assistance Fund to be used for projects and programs developed for residents outside of incorporated areas of cities in the county. Plaintiff brought this action to enjoin the distribution of these funds to Exposition, Inc., as an illegal act. He argues that Exposition, Inc., is not a qualified fair or society as defined by chapter 174, The Code and that there are no provisions in chapter 174 or in chapter 332 relating to the powers of the Board of Supervisors which permit defendants to disburse county funds to Keokuk County Exposition, Inc.

Chapter 174 governs the actions of Fairs and Societies. Section 174.1 defines the term "society".

> 'Society' shall mean a county or district fair or agricultural society incorporated under the laws of this state for the purpose of holding such fair, and which owns or leases at least ten acres of ground and owns buildings and improvements situated on said ground of a value of at least $8,000.00.

Plaintiff argues that Keokuk County Exposition, Inc., cannot be termed a society because it does not "own or lease" at least ten acres of ground and own buildings and improvements situated on said ground of a value of at least $8,000.00. Plaintiff also argues that Exposition, Inc., is ineligible for county aid under § 174.13 for the same reasons including the fact that ownership of land of at least ten acres must be "in fee simple." Section 174.13, The Code.

In the instant case, the question of whether the Keokuk County Exposition Inc., is a society and whether it can qualify for county aid under § 174.13 turns on the definition of ownership. However, we need not reach that issue.

Section 174.13 permits the county, through its Board of Supervisors, to aid a society by levying a special tax on the taxable property within the county. That section speaks only as to aid through taxation; it is silent as to aid through grants from monies received from the State. Section 174.13 is also inapplicable. Nothing in chapter 174 prohibits a county from allocating and distributing State funds to an organization such as the Keokuk County Exposition Inc., so long as the use is consistent with the legislative mandate for which such funds were appropriated.

The powers of the Board of Supervisors are contained in chapter 332, The Code. Section 332.3 states the general powers held by the board. Subsection (6) states the Board of Supervisors has the power "to represent its county and have the care and management of the property and business thereof in all cases where no other provision is made." The general fund of the county is such property over which the board has the care and management. The Municipal Assistance Fund Act of 1975, chapter 61, H.F. 901, Acts of the 66th General Assembly, created a county government assistance fund. Monies appropriated to the fund and distributed are to be used for projects and programs for citizens residing outside the incorporated areas of the county.

We find the Keokuk County Board of Supervisors had the power under § 332.3(6), The Code, to control the distribution of funds received through the Municipal Assistance Fund Act of 1975. The proposed use of those funds by Keokuk County Exposition, Inc., was within the legislative mandate for which those funds were distributed to the county. Nothing in either chapter 332 or 174 prevents the proposed distribution to the Keokuk County Exposition, Inc. The order of the trial court dismissing plaintiff's petition is affirmed.