

September 4, 2003

Ms. Hazel Bonner
P.O. Box 3712
Rapid City, SD 57709-3712

RE: Land Paper

Dear Ms. Bonner:

I am in receipt of the class paper titled Sioux Addition: Celebrating 50 Years of Spirit and Resilience. I have carefully read the same. While it did not supply the reader with footnotes or endnotes citing where the author(s) obtained much of their information I did find it interesting.

However, I am at a loss as to understand what you or your class believe that the City of Rapid City can do for the "Sioux Addition" as it is referred to in this paper. The City has absolutely no control or authority to arbitrarily take land from the current owners and redistribute the same. It is my understanding that only the Federal Government has this authority and that as such the Supreme Court has already ruled on this matter setting aside a certain sum of money for those landowners that were determined to be aggrieved in this matter.

In fact, this matter was addressed in the last paragraph of the paper when it stated "all matters to eventually be decided by the federal courts." This is correct. The City of Rapid City has no jurisdiction in this matter.

If you have any questions, please advise. With best regards.

Very truly yours,

Theresa M. Maule
City Attorney

TMM/s

Cc: Mayor
file

September 8, 2003

Theresa M. Maule, City Attorney
Office of the City Attorney
City of Rapid City
300 Sixth Street
Rapid City, SD 57701-2724

Ms. Maule:

I was disappointed that the office of the City Attorney did not look more deeply into the matter of the status of the land in Sioux Addition. The issue to be addressed is whether the land is legally owned by the present occupiers, in view of ample evidence that it maintains the status of trust land. Other issues include whether the land could be taxed or sold for taxes?

The land could have been made available for Indian settlement by the tribes with lots selected as homestead sites under the law. Individual homesteaders could not be taxed and the land could not be sold. The City of Rapid City would never have had any jurisdiction over Sioux Addition. The City of Rapid City assumed jurisdiction when they took it into the City, and was directly responsible for the plight of Indians settled in Sioux Addition because of actions taken by a committee fully supported by the City.

You made no mention of reviewing the two memorandums that were presented to the Legal and Finance Committee. Those memorandums summarize the evidence in the formation of Sioux addition and the involuntary relocation of Indians outside of Rapid City.

While you criticized the efforts of the class because they did not include footnotes or endnotes citing where the information was obtained, I believe the sources were very clearly identified. The addendum included copies of the law that was in existence and court cases were cited. This was not a legal memorandum, Ms. Maule, but a class report.

Indians were labeled "the headache to which there is no offset" by a Huron publisher in a column in the Rapid City Journal in 1950. The City was determined to move Indians out of Rapid City. In spite of being told on several occasions by Senator Francis Case, the Secretary of Interior and the Aberdeen Area BIA Director, that if trust land were sold and proceeds used to buy land, or if trust land was exchanged for other land, the land bought or exchanged for trust land would retain the status of trust land. That is, it would be held in trust for the beneficial owners, tribes that signed the 1868 Treaty.

The City was informed that in order to legally do what they eventually did, they would need to seek special legislation or get specific authorization from the Secretary of Interior. There was no evidence located that the City did that. They simply did what they were told they could not legally do and then treated the land where Sioux Addition now stands as though it were any piece of property.

Trust land cannot be alienated, that is title cannot be given to individual owners. It cannot be taxed, nor can it be lost for taxes. The city did all of these things to the land in Sioux Addition in spite of counsel that said it could not legally be done. They continue doing those things to this day.

What Supreme Court decision set aside a sum of money for landowners aggrieved in the formation of Sioux Addition or as you state, "this matter?" I believe there has been none. I think you are confusing the Black Hills Claim case, decided in 1980, with this matter. The Supreme Court said in that case that the taking of the Black Hills was the most "ripe and rank" example of taking without just compensation that they had seen. The court did not set aside money for landowners determined to be aggrieved, but for 1868 Treaty Tribes from which the land had been stolen.

The City of Rapid City had no jurisdiction to do what they did in 1954, but that did not stop them. You state the City of Rapid city has no jurisdiction in this matter. Sioux Addition is within the city limits. Federal officials cautioned the City about doing what they did. To say now that the city has no "control or authority to arbitrarily take land from the current owners and redistribute the same" is to ignore the obligation of the City to repair the damages that it caused.

The City sold 27.27 acres of land where West Middle School is now located to the Rapid City School District for \$15,000. That money, by federal law, should have gone into the trust fund for the benefit of Indians. The City was told that. Instead the money was turned over to the Mayors Committee and used to pay taxes and a token purchase fee to buy 20 acres of land north of the City. The land was platted by the city into 80 individual lots for sale to individual Indians.

The formation of Sioux Addition could, in no way, be said to have occurred for the benefit of needy Indians. The community existed for 15 years without sewer or water service. Roads were slow in being built and electricity, while going over the community to farm property, did not serve the all-Indian community. Sioux Addition was an apartheid Indian village, not unlike apartheid Bantu villages in South Africa in the mid fifties.

The last paragraph of the paper said that eventually the issue would be decided by the federal courts. To say, "we can do nothing, so sue us," opens the way for a federal court suit. However, the City does have jurisdiction over Sioux Addition, because they assumed jurisdiction, and has an obligation to repair the damage done by them. If it will do nothing on its own, then certainly a federal court will become involved.

Is this letter the official position of the City Attorney's office that will be presented to the City Council at the second meeting in September?

Thank-you for the advance notice of the stand of your office in this matter.

Sincerely,

Hazel Bonner