# FUNDING TOWNSHIP PROGRAMS & TOWNSHIP SOCIAL SERVICES

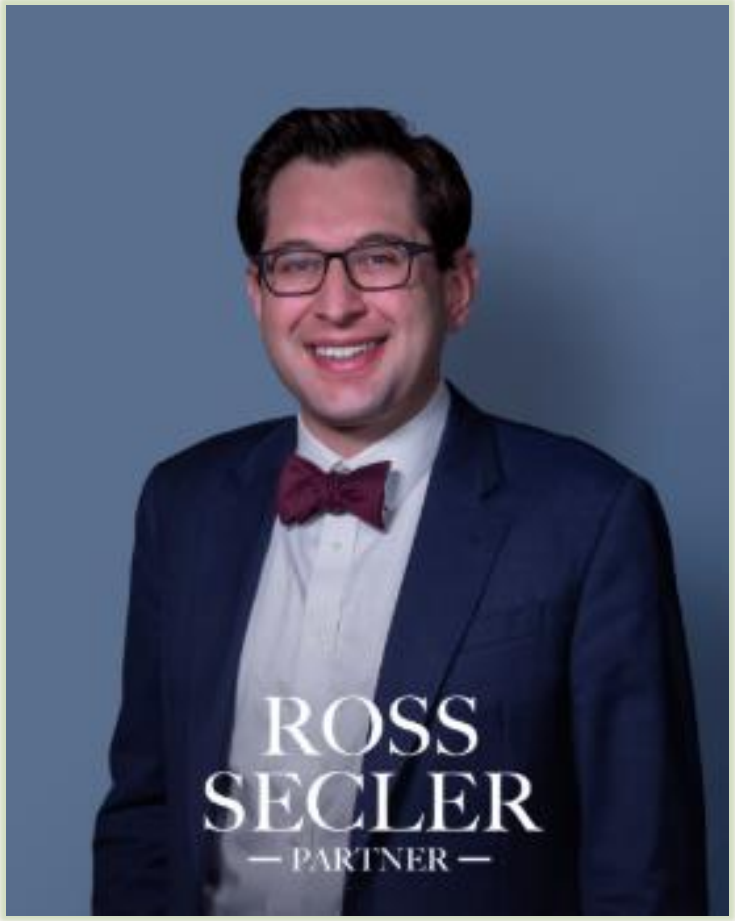



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# MEET TODAY'S PRESENTER

- **Ross D. Secler** is a Partner at the law firm of **Odelson, Murphey, Frazier & McGrath, Ltd**., where he focuses his practice on representing townships, municipalities, and other local governments as their general counsel. Ross additionally has a wide array of experience in election and political law, counseling clients through the strategic, legal, and regulatory frameworks governing political campaigns, organizations, and candidates, which includes litigation before the Circuit, Appellate, and Supreme Courts. Ross then works to guide elected officials so they can best serve in their official roles.
- Ross is the President of the Illinois Township Attorney Association and a is a member of the IML Municipal Home Rule Attorneys Committee. He has served multiple times as Chair of the Chicago Bar Association Election Law Committee, has been named as a "40 Illinois Attorneys Under Forty to Watch" by the *Chicago Daily Law Bulletin* & *Chicago Lawyer Magazine*, and has been recognized as a "Rising Star" by *Illinois Super Lawyers* every year since 2018.



# AGENDA



TOWNSHIP AUTHORITY & PUBLIC FUNDS

"GRANTS," GIFTS & SCHOLARSHIPS

SOCIAL SERVICE AGREEMENTS

ELIGIBILITY & BEST PRACTICES

RECENT LEGISLATIVE CHANGES

# TOWNSHIP CORPORATE POWERS, GENERALLY

Section **85-10(a)** of the Township Code:

"Every township has the corporate capacity to exercise the powers granted to it, or necessarily implied, and no others. Every township has the powers specified in this Section."

Section **85-10(d)** of the Township Code:

"A township may make all contracts necessary in the exercise of the township's powers."





# USE OF PUBLIC FUNDS

Illinois Constitution:

**"Public funds, property or credit shall be used only for public purposes."**

Ill. Const. 1970, Art. VIII, Sec. 1.

# TOWNSHIP CODE

**Generally, there is <u>NO</u> *express* authority in the Township Code to use tax dollars to pay for:**

- "Grants" to people or organizations
- Charitable donations
- Scholarships (funds to individuals)
- Gifts

# What?!

- **Lawyers love exceptions to the "general rule," so stay tuned . . .**
- There ***ARE*** legal ways to assist these organizations and people.
- The manner of expending public funds (tax dollars) to private parties or organizations for charitable or social service purposes **must** be done correctly, and the terminology is often what gets the most confused.
- **You don't want your township (or your picture) in the news for improperly giving away public money!**

# "GRANTS" & CHARITABLE GIVING

- Without receiving some "service" and without any other allowance in the law, what authority does a township have to just give out public money? They generally do not.
- Raises potential discrimination claims (giving to one organization and not another), especially without some standard evaluation criteria.
- Public endorsement of the mission of a charitable organization may be problematic.
- What does the public receive? How can we ensure that the funds are used properly and that the organization (or person) is even eligible to receive funds?

# SCHOLARSHIPS & GIFTS

- Implied authority to expend nominal amounts for gifts to employees in customary and normal gift-giving situations (weddings, retirement, awards, bereavement, etc.)
- This does *not* include a carte-blanche authority to expend for "gifts" or "donations" to other **individuals**.
- "Scholarship" funds should **not** be given directly to individuals.
- Similar to expenditures to not-for-profit entities, scholarship programs should be arranged within the context of social service provider agreements.



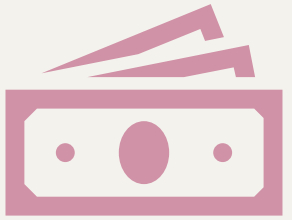
# "GRANTS" AND FUNDING REQUESTS: OKAY, SO WHAT DO WE DO?



Townships often receive requests for "grants" or other types of funding.



Townships receive funding requests from other local organizations who provide services to township residents.



How can townships legally give tax dollars for public purposes to these groups if there is no express authority?

# SOCIAL SERVICE AGREEMENTS
# 60 ILCS 1/85-13

"(a) The township board may either **expend funds directly** or **may enter into any cooperative agreement or contract** with any other governmental entity, not-for-profit corporation, non-profit community service association, or any for-profit business entity . . .." For the following services to the residents of the township:

(1) Ordinary and necessary maintenance and operating expenses for the following:




- Public safety
- Environmental protection
- Public transportation
- Health
- Recreation
- "Social services for the poor and aged"
- Libraries

# TOWNSHIP SERVICES, GENERALLY



**Section 85-13(a)(1) of the Township Code (continued):**

A. Public safety (including law enforcement, fire protection, and building code enforcement).
B. Environmental protection (including sewage disposal, sanitation, and pollution abatement).
C. Public transportation (including transit systems, paratransit systems, and streets and roads).
D. Health, including mental, behavioral, eye, dental, or other healthcare.
E. Recreation.
F. Libraries.
G. Social services for the poor and aged.

**PLUS**: Day Care, Senior Services, Youth Services, Recycling Programs, and for the development and retention of business, industrial, manufacturing, and tourist facilities within the township.

**NOT AN EXHAUSTIVE LIST,**
**BUT STATUTORY AUTHORITY IS NEEDED!**

# METHOD OF EXPENDITURE FOR SERVICES

## DIRECTLY

- by employing Township staff and
- using township-owned equipment and property

## OR

## CONTRACTUALLY

- by entering into agreements with other governmental units (IGAs)
- or contracting with not-for-profit corporations or for-profit businesses

# APPROPRIATE USES



Ordinary and necessary maintenance and operating expenses for the services listed in Section 85-13(a)(1)



Ordinary and necessary capital expenditures authorized by law



Development and retention of business, industrial, manufacturing and tourist facilities within the township

# ELIGIBILITY REQUIREMENTS

- To be eligible to receive funds from the township under this Section, a **private not-for-profit corporation** or **community service association** shall have been in existence at least one year before receiving the funds.
- The township board may, however, for the purpose of providing daycare services, contract with daycare facilities licensed under the Child Care Act of 1969, regardless of whether the facilities are organized on a for-profit or not-for-profit basis.



# OTHER CONSIDERATIONS & BEST PRACTICES

- Process
- Application
- Review
- Presentations
- Have a written agreement
- Reporting
- Tie to service to Township residents
- Payments – before or after services?

# FUNDING TOWNSHIP PROGRAMS — BUDGET / APPROPRIATIONS

- A BUDGET SETS THE LIMIT ON WHAT A TOWNSHIP CAN SPEND; IT DOES NOT DICTATE WHAT THE TOWNSHIP MUST OR WILL SPEND.
- A BUDGET DOES NOT AUTHORIZE ANY SPECIFIC EXPENDITURE OR CONTRACT.
- "EXCEPT AS OTHERWISE PROVIDED BY LAW, NO FURTHER APPROPRIATIONS SHALL BE MADE AT ANY OTHER TIME WITHIN SUCH FISCAL YEAR . . .." 50 ILCS 330/3.
- INSUFFICIENT BUDGET/APPROPRIATION = NO FURTHER SPENDING.



# Some Additional, Authorized Services

- "A township may receive funds under the federal Housing and Community Development Act of 1974 ***and may expend or contract for the expenditure of those funds and other township funds for the activities specified in Section 105 of that Act***. The powers granted under this subsection (i) are in addition to powers otherwise possessed by a township and shall not be construed as a limitation of those other powers. "60 ILCS 1/85-10(i) (emphasis added).
- Senior Services / Care for the elderly. 60 ILCS 1/Art. 220.
- Youth Services. 60 ILCS 1/Art. 215.
- Services/Facilities for Persons with Disabilities. 60 ILCS 1/Art. 185 & Art. 225.
- Mental Health Services. 60 ILCS 1/Art. 190.
- Emergency services. 60 ILCS 1/Art. 195 & Art. 200.
- Public health. 60 ILCS 1/Art. 170 & 175.
- Waste Management. 60 ILCS 1/Art. 210.

*Not intended to be a comprehensive list*

# Changes to General Assistance

- **Public Act 103-0192** (HB 3424) amends the Township Code and Public Aid Code in some significant ways that allow for some additional levels of flexibility depending on an individual township's needs.
- **Before the new law, a township could *not* use money in the General Assistance Fund for services provided under Section 85-13.**
- Since 2020, General Assistance funds **can** be used for township food pantry programs. *See* 305 ILCS 5/9-15; *see also* Public Act 104-0823 discussed *infra*.



# Changes to General Assistance Cont.

**Public Act 103-0192** adds a new provision to the Public Aid Code that explicitly allows for using General Assistance Funds for township-provided services:

- **Sec. 6-11a. Townships**. A local governmental unit **may provide assistance under its General Assistance program under a service that complies with Section 85-13 of the Township Code**. Before a local governmental unit provides assistance under this Section, the board of the local governmental unit **shall adopt a policy providing which services are eligible under Section 85-13 of the Township Code for General Assistance**.

**305 ILCS 5/6-11a** (new section added by Public Act 103-0912) (emphasis added).



# Public Act 103-0192 expands…

- Definitions & standards used within Section 85-13 of the Township Code
- New language regarding health services:
  - "mental, behavior, eye, dental or other healthcare" now explicitly included
- Township Board that expends contract for day care may:
  - "approve the application of a different, publicly available, professional, or academically recognized standard of need in determining eligibility for subsidized day care."
  - *Before*: a township could only rely on DCFS "standard of need" and DCFS's schedule for the purchase of subsidized day care.





# Public Act 103-0192 – Drug Convictions

- People convicted of any drug-related felony under state or federal law are still eligible for cash assistance under Article IV and Article VI. See 305 ILCS 5/1-10(d).
- This brings uniformity to the standards for whether a conviction disqualifies a person from receiving certain types of assistance

# Public Act 103-0192 – Disaster Relief

- Section 6-9 of the Public Aid Code was amended to allow local government units to aid households under its General Assistance Program following a disaster proclamation issued by the Governor if the local government unit is within the area designated under the proclamation. This codifies what had been allowed in a more limited way during the COVID-19 Pandemic.



# Public Act 103-0016

One more change affects whether township (and GA) funds can be provided to undocumented individuals.

Public Act 103-0016 adds a new section to the Township Code that says:

> (60 ILCS 1/85-14 new)
>
> Sec. 85-14. Nondiscriminatory use of township funds. A township official may not prohibit an organization from receiving township funds based upon the perceived citizenship or immigration status of the person who would receive those funds from the organization.

While undocumented individuals generally *cannot* qualify for GA, a township cannot limit funding to a service provider or partner organization based on the perceived or known citizenship or immigration status of potential clients.

# Public Act 104-0823




Section 5. The Illinois Public Aid Code is amended by changing Section 9-15 as follows:

(305 ILCS 5/9-15)

Sec. 9-15. Township food pantries. In addition to financial aid provided to persons eligible therefor under Article VI of this Code, in a county under township organization, a township ~~may provide~~, from moneys received and collected for public aid ~~to all persons eligible therefor under Article VI of this Code,~~ funds, may establish and administer food banks, food pantries, and programs for providing in-kind aid in meeting basic maintenance requirements, including, but not limited to, food, paper goods, toiletries, and clothing, to persons who are poor, indigent, homeless, or in need of immediate assistance regardless of their eligibility ~~, in addition to financial aid provided~~ under this Code.

(Source: P.A. 101-309, eff. 1-1-20.)



# CONCLUSION

- ✅ Use service provider agreements, not informal funding, “grants,” or donations
- ✅ Confirm statutory authority before committing township funds
- ✅ Tie every dollar to services delivered to township residents
- ✅ Adopt clear policies before using General Assistance funds for services
- ✅ Written agreements, reporting, and documentation are essential best practices



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# Questions?

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