



OFFICE OF THE LEGISLATIVE AUDITOR

STATE OF MINNESOTA • James Nobles, Legislative Auditor

September 11, 2012

Brenda Cassellius, Commissioner
Minnesota Department of Education
1500 Highway 36 West
Roseville, Minnesota 55113

Dear Commissioner Cassellius:

On August 3, 2012, you asked the Office of the Legislative Auditor (OLA) to review documents related to a 1999 grant from the State of Minnesota to Synergy Residential Academy (Synergy) for \$6,159,190. You expressed concern that the state may not have made sufficient efforts to recover money and other assets when Synergy closed in 2003. In response, we reviewed the documents you provided, obtained additional documents, and conducted several interviews with a focus on the following questions:

- Does the State of Minnesota have a basis to recover money from Synergy?
- Does the state have a basis to claim a financial interest in the space that was constructed for Synergy?

In our opinion, the answer to both questions is “no.” Unless additional information comes to our attention that suggests a need for further review by OLA, our involvement with issues related to the 1999 state grant to Synergy is closed.

Discussion

The grant to Synergy was one of two grants made by the State of Minnesota to develop residential facilities for children with unstable family situations and who were considered “at risk” of failing in school. In addition to the grant to Synergy, the state also made a grant to Catholic Charities to establish a residential academy in southern Minnesota.

Synergy used a share of the state grant money to construct an addition onto a building in Minneapolis owned by Seed Daycare, Inc. (Seed), a nonprofit organization that provides daycare and other educational services. Under the terms of the state grant, Synergy was not allowed to own the space developed for its residential facility; it was only allowed to obtain a long-term lease for its use. A 50-year lease between Synergy, as “tenant,” and Seed, as “landlord,” was signed on August 23, 2000. The children staying in the Synergy residential facility were served by a school, Harvest Preparatory Charter School that also leased space from Seed.

The initiative to establish residential facilities for “at risk” children was controversial and created significant opposition. Neither Synergy nor the Catholic Charities facility was able to attract sufficient referrals of children or financial support to maintain their operations. In 2003, Hennepin County withdrew its support for Synergy, and the facility closed, leaving the space it had leased from Seed vacant for several months.

It is our understanding that, in December 2004, Seed declared that Synergy was in default on its lease (based on Synergy's failure to pay utility costs), and Seed terminated the lease. Seed then remodeled the residential space for use as classrooms and other educational purposes. We found no evidence that the State of Minnesota made a claim that it had the right to intervene and control the lease Synergy had obtained from Seed. In addition, it is our understanding that the Minnesota Department of Education considered the subsequent control and educational use by Seed of the space formerly occupied by Synergy to be acceptable.

Given the following facts, we do not think the state has a basis to recover money paid to Synergy or that the state has a basis to claim a financial interest in the space developed for and previously occupied by Synergy:

- The grant's essential purpose was fulfilled; a residential facility for children was established.
- The Synergy facility closed when a government entity (Hennepin County) withdrew support.
- There has never been an allegation that Synergy used public money inappropriately or mismanaged the state grant.
- Synergy no longer exists (i.e., there is no entity from which recovery could be made, if there were a basis for recovery).
- Synergy was built on land and adjoined to a building owned by a separate, nonprofit entity, Seed Daycare, Inc., and documents confirm that Seed has title to the space and a legal basis to control its use.
- The space developed for Synergy has been—and continues to be—used for educational purposes.
- Nine years have transpired since Synergy closed and 12 years since the state grant was made to Synergy.

Finally, we note that Eric Mahmoud, President and CEO of Seed, was fully cooperative with OLA's review, promptly responding to our requests for documents, interviews, and an opportunity to tour the Seed property.

Sincerely,



James Nobles
Legislative Auditor

cc: Eric Mahmoud, President and CEO, Seed Daycare, Inc.
Members, Legislative Audit Commission