

Opinion No. 47-5072

August 26, 1947

BY: C. C. McCULLOH, Attorney General

TO: Mr. Donald D. Hallam Assistant District Attorney Hobbs, New Mexico

{*83} We are in receipt of your letter of August 20, 1947 in which you state that the Lea County Commissioners are preparing to construct a county hospital, the value of which will exceed \$ 5,000.00. You further state that the commissioners desire to give the architectural contract to a non-resident architect who will associate himself with a legal resident architect and that this non-resident architect will be more than merely a consulting associate. In view of these facts you ask our opinion as to whether a non-resident architect must obtain a state license before he may construct a public building, even though he is associated with a resident architect.

Section 51-1401 makes it unlawful for any person to practice architecture in New Mexico unless registered under the provisions of Chapter 155, Laws of 1931. Section 51-1407 contains certain exemptions. The only one of these which could have any application is paragraph B which is as follows:

"Architects who are not legal residents of and have no established places of business in this state who are acting as consulting associates of a legal resident architect registered under the provisions of this act; provided, the non-resident architect is qualified for such professional service in his own state or country."

However, in your letter you state that the non-resident architect would be employed as something more than a consulting associate, so that this exemption has no application. Therefore, based on these two sections alone, it would be my opinion that a non-resident architect could not practice architecture in New Mexico without being properly registered.

While it might be possible to have the contract made outside of the state and the work done in another state so that the architect would not in fact be practicing architecture in New Mexico, your attention is directed to Sec. 51-1408 which provides as follows:

"Restrictions -- A. After the effective date of this act, except as otherwise provided in this act, neither the state nor any township, county, city, town, village, school district, nor other political subdivision of the state shall engage in the construction or maintenance of any public work involving architecture for which the plans, specifications, and architectural services have not been provided by legal resident registered architects of the state of New Mexico; provided {*84} that nothing in this section shall be held to apply to such public work wherein the contemplated expenditure for the complete project does not exceed five thousand dollars (\$ 5,000.00).

B. Nothing in this act shall prevent any individual, firm, or corporation from preparing architectural plans and specifications without being registered, unless the same involves public safety or health; providing that the work shall be done on residences of less than three (3) stories; and provided the work shall be done on commercial or industrial or semipublic buildings, the construction cost of which does not exceed five thousand dollars (\$ 5,000.00)."

This section makes it unlawful for any county to engage in the construction of public work contemplating an expenditure in excess of \$ 5,000.00 unless its plans and architectural services are provided by a legal resident registered architect of the state of New Mexico. In view of this section, it is my opinion the County of Lea cannot employ a non-resident architect to provide architectural services in connection with the construction of a hospital costing more than \$ 5,000.00.

Putting it conversely, it is my opinion the non-resident architect must not only obtain state registration, but also must become a resident before the County of Lea can employ him to perform architectural services.

By: ROBERT W. WARD

Asst. Atty. General