

Opinion No. 52-5501

February 29, 1952

BY: JOE L. MARTINEZ, Attorney General

TO: Honorable N. R. Reese District Attorney Fifth Judicial District Roswell, New Mexico

{*215} This is in reply to your letter of 19 February, in which you request an opinion from this office as to whether the County Commissioners of Lea County would be authorized under Section 15-3513 N.M.S.A., to rent suitable office space in Hobbs for the Assistant District Attorney. You point out that while the Lea County seat is in Lovington, the great majority of the District Attorney's business is in the Hobbs area, and that for many years it has been deemed advisable to have the Assistant District Attorney reside and maintain his office in Hobbs. You mention further that there are no county buildings in Hobbs which have suitable office space for this purpose.

In my opinion the County Commissioners have the power, under Section 15-3513 to rent office space in Hobbs for the Assistant District Attorney. The pertinent portion of this statute gives the Commissioners the following power:

"To build and keep in repair all county buildings, and in case there are no county buildings, to provide suitable rooms for county purposes."

First of all, in my view it is clear that since Lea County is a part of the Fifth Judicial District, providing office accommodations for the Assistant District Attorney of the Fifth District who is assigned to Lea County constitutes providing "suitable rooms for county purposes."

Secondly, it is my opinion it is permissible for such office space to be rented in Hobbs, even though it is conceivable, or even probable, {*216} that office space could be found in the already-existing county buildings in Lovington. It is certainly not the function, and most probably not the desire, of the County Commissioners to determine where the Assistant District Attorney shall reside and maintain his office.

It will, of course, be necessary for the County Commissioners to provide for this item in the county budget. If, through an oversight, this was not done, it will then be necessary for the county to apply to the State Comptroller for a transfer of budgeted funds under Section 7-119 or Section 7-120 N.M.S.A.

I hope this opinion answers your questions on this subject.