

Opinion No. 53-5707

March 19, 1953

BY: RICHARD H. ROBINSON, Attorney General

TO: Hon. Edward M. Hartman State Comptroller Santa Fe, New Mexico

{*99} In your letter dated March 13, 1953, you enclosed a request for an opinion from the City Attorney of Farmington, relative to leasing municipal property. The Town of Farmington is contemplating leasing space in the municipal airport terminal building for the operation of a restaurant and lounge. The letter submits three questions as follows:

1. Is the leasing of a portion of the municipal airport terminal building for the purpose of operating a restaurant and lounge, primarily for the use of airline passengers, an airport purpose so as to come within the provisions of Section 14-4304?
2. If so, is it necessary to give public notice by advertisements as provided in Section 14-4306?
3. If such a lease is not for an an airport lounge, what statutory regulations must be complied with other than Sections 14-4305 and 14-4306?

In answer to the first question: Section 14-4304 authorizes municipalities of a certain population to sell or lease municipal property to be used for airport purposes. A restaurant and lounge in an airport terminal building is certainly an airport purpose within the contemplation of this section, the same as other purposes for the safety and convenience of the traveling passengers and the aviation employees. Since such a lease comes within the contemplation of Section 14-4304, it would not be necessary for the Town to comply with the provisions of Sections 14-4304 and 14-4306 nor would the lease be subject to approval of the voters under the provisions of Sections 14-4307 to 14-4309, inclusive.

Section 14-4304 is an act pertaining only to municipal property used for airport purposes and deals with the lease or sale thereof specifically. {*100} Section 14-4305 is general in nature and authorizes the sale or lease of municipal property generally which is not being used strictly in carrying out an essential governmental function. Where one statute covers a subject matter specifically and another statute covers, or could be held to cover, the subject matter in a general way, the statute covering the subject matter specifically is usually held to prevail over the general statute. *Varney v. City of Albuquerque*, 40 N.M. 90, 55 P. 2d 40. 59 C.J., under Statutes, Section 623 (d), p. 1056.

In view of the foregoing, I believe questions 2 and 3 are sufficiently answered and that the Town may safely proceed under the provisions of Section 14-4304 of the 1941 Compilation.

By: C. C. McCulloh

Assist. Attorney General