

## Opinion No. 53-5725

April 7, 1953

**BY:** RICHARD H. ROBINSON, Attorney General

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

{\*120} Receipt is acknowledged of your letter dated March 30, 1953, together with letter signed by several residents of Hanover, New Mexico. The signers of the letter wish to know if it is beyond the power of the County Commissioners of Grant County to maintain and operate a Housing Project. The pertinent part of Section 15-3401 of the 1941 Compilation reads as follows:

"Each organized county in this state shall be a body corporate and politic, and as such shall be empowered for the following purposes; \* \* \* Second, to purchase and hold real and personal property for the use of the county. \* \* \* Fourth, to make all contracts and do all other acts in reference to the property and concerns necessary to the exercise of its corporate or administrative powers. \* \* \*"

This section herein above mentioned was construed by the Supreme Court of our State in the case of Agua Pura Company vs. Mayer, 10 N.M. 6, 60 p. 208, 50 A.R.A. 224. There the Court said:

"These clauses seem to mean something more than the ordinary powers appertaining to counties. They confer express authority to do the acts in the interest of the county, and to make contracts in reference to the concerns necessary to the exercise of this authority, when not otherwise provided by law. We do not understand that the grant of powers to counties or other municipal corporations must contain a specification of each particular act to be done, {\*121} but it is sufficient if the words used be sufficiently comprehensive to include the proposed acts. An express authority may be general as well as particular. It is clear that the powers of the counties, by the foregoing act, are recognized as being not only 'corporate' but 'administrative.'

In the above quoted case, the Supreme Court held that under this section the county could provide an adequate water supply for municipal and domestic purposes in an unincorporated community within the county.

In Opinion No. 4438, dated January 14, 1944, it was held by this office that a county might legally enter into a contract with the U. S. Government for the purpose of purchasing hospital equipment and supplies on the grounds that such would safeguard the health of the inhabitants of the county and perhaps also take care of indigent patients.

In Opinion No. 4723 dated May 23, 1945, it was held by this office that since there is no expressed prohibition against leasing office space in the Court House that it was the

opinion of this office that the broad powers of the county commissioners is sufficient to authorize them to lease such space to a private individual especially when such lease is for a short term and does not interfere with the use of the building for public purposes.

In Opinion No. 5007, dated April 8, 1947, it was held by this office that a county through its county commissioners might own, operate, maintain and improve a public airport and spend funds in connection therewith, and in Opinion No. 5048, dated July 1, 1947, it was held that the county might accept Federal aid and enter into agreements in regard thereto concerning the same county airport.

Opinion No. 5252, dated October 25, 1949, it was held by this office that the authority of a county extends to the construction of housing units for low income groups, provided however, that nothing in this opinion should be construed as holding that counties are authorized to become indebted by the issuance of bonds or otherwise for this purpose, and should be limited to approval only when funds have been budgeted for that purpose.

From the above cited statutes, Supreme Court case and opinions, it is the opinion of this office that the County Commissioners of Grant County are invested with broad powers regarding authority to do acts in the interest of the county. The operation of a housing project is certainly in the interest of the county and for a county purpose and it is the Opinion of this office that the County Commissioners of Grant County have the power to maintain and operate a Housing Project.

The question of whether or not the County of Grant has violated their agreement with the United States Government is a question between the County and the Government if they have violated said agreement.

It is our recommendation that your office check and see if it is true that no funds have been turned over by the County Commissioners of Grant County to the County Treasurer from this Housing Project, and if they have not they should be made to account for same as all monies collected by the County Commissioners from this Housing Project should be turned over to the County Treasurer and if any disbursements are made from said fund they should be paid by warrants by the County { \*122 } Treasurer upon a proper voucher approved by them.

Trusting that this fully answers your inquiries, I remain

By: Hilario Rubio

Assist. Attorney General