

Opinion No. 67-58

April 10, 1967

BY: OPINION OF BOSTON E. WITT, Attorney General

TO: Mr. Finlay MacGillivray Manager, New Mexico State Fair P.O. Box 8546
Albuquerque, New Mexico

QUESTION

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Does the New Mexico State Fair have the power to grant a long-term lease of a portion of its grounds to a private corporation with the understanding that the corporation will construct an office building upon the leased area?

CONCLUSION

Yes, subject to the approval of the State Board of Finance, and also provided the granting of such a lease does not hinder the primary purpose of the state fair, which is to put on an annual fair as required by Section 45-20-4, N.M.S.A., 1953 Compilation.

OPINION

{*83} ANALYSIS

The New Mexico State Fair is "constituted and confirmed a body politic and corporate and separate," 45-20-13, N.M.S.A., 1953 Compilation. By terms of this same section the powers of the New Mexico State Fair are vested in and exercised by the New Mexico State Fair Commission. Also, by the terms of Section 45-20-10, N.M.S.A., 1953 Compilation, "The members of the New Mexico state fair commission and their successors in office, shall constitute a body corporate under the name and style of the 'New Mexico State Fair' with the right as such of suing and being sued, of contracting {*84} and being contracted with, of making and using a common seal, and altering the same at pleasure."

In addition to this general power to contract and care for the New Mexico State Fair property, the New Mexico State Fair, through its commissioners, has the express power under Section 45-20-14a, N.M.S.A., 1953 Compilation:

(a) To acquire by purchase, gift, or the exercise of the right of eminent domain, **and hold and dispose of real or personal property or rights of interests therein**, the right of eminent domain, whenever sought to be exercised under the provisions of this act [45-20-12 to 45-20-21], shall be exercised in the same manner as is now or may

hereafter be provided for the exercise of such power by the state, any county, municipality, or school district. (emphasis supplied)

Therefore, it is clear that the New Mexico State Fair Commission may lease a portion of the state fair property to a private corporation. However, under the terms of Sections 6-1-8 and 6-1-8.1, N.M.S.A., 1953 Compilation, the New Mexico State Fair Commission must obtain the approval of the State Board of Finance before the lease may be consummated. Moreover, if the consideration for the lease is \$ 100,000 or more and the lease is for a period of 25 years or more the New Mexico State Fair Commission must then obtain the approval of the legislature before the lease may be consummated.

Finally, we point out that the New Mexico State Fair Commission may lease a portion of the state fair property to a private corporation so long as such lease is properly consonant with the primary goals and aims of the New Mexico State Fair, 49-20-4, N.M.S.A., 1953 Compilation.

By: Paul J. Lacy

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