

Opinion No. 13-1067

June 21, 1913

BY: FRANK W. CLANCY, Attorney General

TO: Mr. Raymond R. Ryan, Silver City, N. M.

GRANT COUNTY HOSPITAL.

County Commissioners have authority to convey real estate of county.

OPINION

{*238} Yesterday I received your letter of the 17th instant but had no time to answer until today. I agree fully with you in your opinion as to the powers of the county commissioners in the matter of which you write, but it may be more satisfactory to you and the commissioners if I express my opinion at some length, even though it amounts to but little more than going over what you have said in your letter.

As I understand, the Grant County Charity Hospital Association, a corporation organized under the laws of this state, has been for many years conducting a hospital in Silver City in buildings located upon land which is owned by the county, the use of which was given to the association upon condition that it should be used only for hospital purposes, to revert to the county should there be a discontinuance of such use. The buildings have, however, reached such a condition that it is necessary to rebuild, and a donation of \$ 5,000 has been made for that purpose on condition that the site be changed to a more desirable part of town.

Under these circumstances the county commissioners under your advice have by resolution directed a transfer of the hospital to a tract of land 75x150 feet, which I assume belongs to the county, as you say that it is not held by the county for any special use, the association to have the use of it for hospital purposes with a condition of reversion for non-user, in return for which the association is to care for the indigent sick of the county, under the control of the board. Your question is, in substance, as to whether the county commissioners have lawful authority to make such a disposition of this land. I assume, of course, that the site now occupied will, with whatever buildings may be upon it, revert to the county under the earlier permission to use.

You correctly say that the county has only such powers as are expressly conferred or necessarily implied from those so conferred, thus making the matter one of statutory construction. The statutes to which you refer, I believe, within the general doctrine above stated, do confer full power to do what is proposed.

The third subdivision of Section 651 of the Compiled Laws of 1897 distinctly authorizes the county "To sell and convey any real or personal estate owned by the county and

make such order respecting the same as may be conducive to the interests of the inhabitants." The fourth subdivision of the same section authorizes the county "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." In addition to this the board of county commissioners by the first subdivision of Section 664 is given power "To make such orders concerning the property belonging to the county as {*239} they may deem expedient;" and by the fifth subdivision of the same section they are given power "To represent the county and have the care of the county property and the management of the interest of the county in all cases where no other provision is made by law."

In view of the provisions above quoted I am unable to discover any reason to doubt the authority of the county to convey the real estate of the county or to make orders relative thereto conducive to the interests of the inhabitants, or to do anything for the interest of the county in its management where no specific provision is made by law. It cannot be said that care of the indigent sick is an improper object of county management or one not for the interest of the county or of its inhabitants. It is true that in the absence of any statute imposing the care of the poor upon the county as a duty, the county cannot be compelled to care for them, but I have no doubt that it may voluntarily do so.

In addition to this there is the authority to which you call attention, given by Section 1 of Chapter 8 of the Laws of 1913, to the county commissioners to make such provision as they may deem proper for the relief of deserving indigent persons who are objects of charity.