

Opinion No. 49-5260

December 2, 1949

BY: JOE L. MARTINEZ, Attorney General

TO: Richard F. Rowley District Attorney Clovis, New Mexico

{*106} Receipt is acknowledged of your letter of November 28, 1949 wherein you request an opinion from this office in behalf of the Board of County Commissioners concerning whether or not County Commissioners have authority to use county road maintenance equipment for hire upon private property.

The general powers of counties are set forth in Section 15-3401, New Mexico Statutes Annotated, 1941 Compilation, among which powers are the following:

"Third. To sell and convey any real or personal estate owned by the county and make such order respecting the same as may be deemed conducive to the interests of the inhabitants.

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."

Section 15-3512 of the 1941 Compilation provides as follows:

"The board of county commissioners shall have power at any session to make such orders concerning the property belonging to the county as they may deem expedient."

Section 15-3514 of the 1941 Compilation provides as follows:

"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."

The Supreme Court has held that the powers given to the counties and boards of county commissioners are very broad and that it is not necessary to contain a specification of each particular act that may be done, when the powers granted are sufficiently comprehensive to include the proposed acts. *Agua Pura Co. v. Mayor*, 10 N.M. 6, 60 Pac. 208.

Since there is no expressed prohibition against the use of county road maintenance equipment for hire upon private property, I am of the opinion that the powers of the County Commissioners are sufficient to authorize them to use the county road maintenance equipment for hire upon private property, as long as such use of the county road maintenance equipment is for a temporary time and the money derived from the use of said equipment is to be placed in the county road fund.

Trusting this sufficiently answers your inquiry, I am