

## Opinion No. 54-6010

September 2, 1954

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

**TO:** Mr. Victor C. Breen District Attorney Tenth Judicial District Tuumcari, New Mexico

{\*474} This will acknowledge receipt of your letter of August 16, 1954, in which you ask the opinion of this office as to whether or not the Board of County Commissioners may execute a quitclaim deed without consideration, and without advertising in compliance with statute, under the following factual situation:

During the 1930's a building for a community house was built upon land donated in the County by the Tuumcari women's club with materials furnished by local civic and fraternal organizations, the labor being furnished by WPA.

It is the feeling of the Board of County Commissioners of Quay County, that the County merely holds the title in trust for the benefit of the various business, civic and fraternal organizations which contributed to the financing of the building.

Article 9, Section 14 of the Constitution of New Mexico provides as follows:

"Neither the state, nor any county, school district, or municipality, except as otherwise provided in this constitution, shall directly or indirectly lend or pledge its credit, or make any donation to or in aid of any person, association or public or private corporation, or in aid of any private enterprise for the construction of any railroad; provided, nothing herein shall be construed to prohibit the state or any county or municipality from making provision for the care and maintenance of sick and indigent persons."

This section is very strict in its prohibition as may be seen from the necessity of specifically granting the authority to furnish assistance to indigents. Under the regulations of the WPA it was impossible for projects to be constructed unless the title was in a local governmental subdivision. The sponsoring agencies could not have secured the construction of this building with WPA assistance, had it not been for the participation of the County. Because of this, it is our conclusion that the County has an interest in the building and may not donate that interest to any organization not absolutely under its control.

Furthermore, Boards of County Commissioners have only such power as is expressly conferred upon them by statute. Perhaps such a conveyance could be made under the authority of Section 15-3401, 1941 Compilation, if it was the only statute under consideration. *Agua Pura Company vs. Mayor*, 10 N.M. 6, 60 Pac., 208, 50 LRA 224. However, the broad powers granted by this section have been limited insofar as they concern the sale of county property by Sections 15-4402 and 15-4403, 1941

Compilation. It is our opinion that the latter sections prevail and must be followed in the disposition of county property.

If it is so desired, the County might delegate the operation of this community house to the Board of Directors of the non-profit corporation, known as Tucumcari Community House, Inc.

By: Walter R. Kegel

Assist. Attorney General