

Opinion No. 55-6233

July 25, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: C. C. Chase, Jr., District Attorney, Third Judicial District, Las Cruces, New Mexico

In your letter of July 14, 1955, you request our opinion as to the method of assessment of certain property in Otero County which is owned by the Alamogordo Housing Authority. You state that the County Assessor's assessment of the property is in the sum of \$ 107,000.00. You further state that the agreement entered into by the City and its Housing Authority provides for a payment of ten per cent of the gross rental income of the project in lieu of taxes. You state an amount of \$ 2400.00 was tendered which would be the equivalent of taxes on approximately a \$ 70,000.00 valuation. You ask what value should be placed on the tax rolls and how the Treasurer should account for the \$ 2400.00 paid in lieu of taxes.

It is clear that if the property is municipally owned as required by the Municipal Housing Act, it is exempt from taxation both under the provisions of Art. 8, Sec. 3 of the Constitution of New Mexico and § 14-29-19 of the 1953 Compilation. Being exempt property, it should be listed by the Assessor as other exempt property, that is to say, it should be properly described on the tax roll and should be valued at its proper value and listed as exempt. The payment made in lieu of taxes has no bearing upon the valuation and should not be considered by the assessor.

The amount received by the County Treasurer in lieu of taxes should be set up in a separate account and distributed in the same manner and in the same proportion as are property taxes for the school district in which the Housing project is located.

I trust the foregoing sufficiently answers your inquiry.

By Walter R. Kegel

Assistant Attorney General