

## Opinion No. 56-6392

February 16, 1956

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

**TO:** Mr. C. C. Chase, Jr., District Attorney, Third Judicial District, County Court House, Las Cruces, New Mexico

You have presented for our opinion the question: Is the City of Las Cruces authorized to accept a planning advance from the Federal Government under the Housing Act of 1949, as amended?

I understand that the City of Las Cruces has recently established a master plan wherein it proposes to clean certain blighted and slum areas within the city. The funds which the city desires to secure from the Federal Government are to be used. I am informed, for further studies, surveys, etc. in connection with the master plan. And I have also been informed that the acceptance of these funds will not in any manner obligate the city. The grant from the U.S. Government will be in the nature of a gift.

At the outset, this may be said. This State has no legislation implementing the Federal Housing Act of 1949. Thus, no specific authority exists whereby cities may accept loans or contributions from the Federal Government under the Housing Act of 1949.

However, the lack of specific statutory authority, in our opinion, is not determinative as concerns the particular situation which you ask about. We believe that under the general powers given municipalities the power to receive an advance such as the one you ask about is present. These statutory provisions are, among others, as follows:

Section 14-21-1, N.M.S.A., 1953:

"Cities and towns organized as provided in this article shall be bodies politic and corporate, under such name and style as they may select at the time of their organization, and may sue, or be sued, contract, or be contracted with, acquire and hold property, real and personal, have a common seal which they may change and alter at pleasure, and have such other privileges as are incident to corporations of like character or degree, not inconsistent with the laws of the state."

And if the city desires to adopt a master plan, the following may be done thereunder.

Section 14-2-18, N.M.S.A., 1953:

". . . The master plan, with the accompanying maps, plats, charts, and descriptive and explanatory matter, shall show the commission's recommendations to council for the said physical development, and may include among other things, the general location, character, and extent of streets, bridges, viaducts, parks, parkways, waterways and

waterfront developments, playgrounds, airports, and other ways, grounds, places and spaces; the general location of public schools, of public buildings and other public property; the general location and extent of public utilities and terminals, whether publicly or privately owned, for water, light, power, heat, sanitation, transportation, communication, and other purposes; the acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, or change of use of any of the foregoing public ways, grounds, places, spaces, buildings, properties, utilities, or terminals; the general location, character, layout, and extent of community centers and neighborhood units; and the general character, extent, and layout of the replanning of blighted districts and slum areas. The commission may from time to time amend, extend, or add to the plan or carry any part or subject matter into greater detail."

Section 14-2-19, N.M.S.A., 1953, further provides:

"In the preparation of the master plan, the commission shall make careful and comprehensive surveys and studies of the existing conditions and probable future growth of the municipality and its environs. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the municipality which will, in accordance with existing and future needs, best promote health, safety, morals, order, convenience, property, or the general welfare, as well as efficiency and economy in the process of development."

It seems to this office that the project which is being contemplated by the City of Las Cruces comes within the purposes set out in the above statutes, and thus, regardless of who makes the contribution which will aid in the attainment of these purposes, it appears to us that so long as such contributions are unconditional that the city may accept them and put them to the uses which you have indicated. Your question is, therefore, answered in the affirmative.

By Santiago E. Campos

Assistant Attorney General