

Opinion No. 57-256

October 8, 1957

BY: OPINION OF FRED M. STANDLEY, Attorney General Paul L. Billhymer, Assistant Attorney General

TO: Mr. Patrick F. Hanagan, District Attorney, Fifth Judicial District, Roswell, New Mexico

QUESTION

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Can the Eastern New Mexico State Fair, a non-profit organization, organized under Statutes 45-20-22 and 45-20-23, New Mexico Statutes Annotated 1953, lease to private firms or corporations a portion of the property owned by them, for the use of such private firms or corporations, for a term of not to exceed forty (40) years?

CONCLUSION

Yes, if the terms of the lease are reasonable in line with the value of the property.

OPINION

ANALYSIS

We note that § 45-20-23 provides that Eastern New Mexico State Fair is a non-profit corporation organized and existing under the laws of the State of New Mexico. We believe that this organization would, therefore, have all the authority of any other non-profit organization thus organized within the State of New Mexico. We are thus forced to turn to the powers authorized to such organizations as provided for in the statutes and such powers are found in § 51-14-30, the pertinent part of which reads as follows:

". . . Unless the articles of incorporation prescribe otherwise, a corporation has authority to: . . . (e) lease, encumber, convey or dispose of real and personal property; . . ."

We would conclude from this that the organization would have the authority to lease the property owned by it to anyone and on such terms and conditions as it deems proper, provided, of course, that its articles of incorporation do not preclude this, and provided further that the terms of such lease provide a return reasonably in line with the value of the property leased and does not amount to a gift. We certainly find nothing in the statutes authorizing this organization which would preclude the leasing of its property as it sees fit.