

## **Opinion No. 58-09**

January 17, 1958

**BY:** OPINION OF FRED M. STANDLEY, Attorney General Fred M. Calkins, Jr.,  
Assistant Attorney General

**TO:** Mr. Marshall S. Hester, Superintendent, New Mexico School for the Deaf, Santa Fe, New Mexico

### **QUESTION**

#### QUESTION

May the Board of Regents of the New Mexico School for the Deaf expend funds which have been appropriated by the Legislature for "real estate" to acquire surplus government houses which will be annexed to the land?

#### CONCLUSION

Yes.

### **OPINION**

#### ANALYSIS

The 1949 Legislature appropriated \$ 12,350.00 to the New Mexico School for the Deaf to acquire real estate for a new dairy site. The above amount was held by the Board of Regents for the School from one biennium to the next while the Board attempted to acquire real estate for the proposed dairy site. In the fiscal year of 1956-57, the Board purchased 40.53 acres of ground from the Federal Land Office at a total cost of \$ 486.36, leaving a balance of \$ 11,863.64. The question now arises whether the Board of Regents of the School may expend all or part of the \$ 11,863.64 for the purchase, transportation and relocation of surplus government houses on the dairy site already acquired and to generally further develop the site.

We are of the opinion that the Board may legally and properly do so. The old definition of the word "real estate" was generally confined to land but the more modern doctrine extends the definition to not only land but also "lands and tenements contained on the land". See Words and Phrases, p. 167. Buildings and improvements become a part of the "land" upon becoming permanently annexed to the freehold. We assume that the buildings which the Board of Regents proposes to purchase and that the improvements which will be made will become permanently annexed to the location site after they are moved on the property.

In addition to the above, we think it proper to assume that the Legislature intended that buildings and improvements may have been on the property purchased or would be moved upon the property so that the location could be used as a dairy site. It is, therefore, our opinion that if this money is expended on buildings which become a permanent part of the land as well as the improvements that the balance of the money appropriated by the legislature may be so used.