

Opinion No. 60-225

December 14, 1960

BY: OPINION of HILTON A. DICKSON, JR., Attorney General

TO: Mr. Fred W. Phelps Director New Mexico Department of Development State Capitol
Santa Fe, New Mexico

QUESTION

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Can a municipality issue industrial revenue bonds to finance the construction of a project on municipally-owned land that is already under lease to the company that will eventually be lessee of the project?

CONCLUSION

No.

OPINION

{*649} **ANALYSIS**

The power to issue industrial revenue bonds for the purpose of constructing a project on land that is already owned by the municipality is expressly denied by § 14-41-39, N.M.S.A., 1953 Compilation, which reads, in part, as follows:

"No municipality shall have the power to pay out of its general funds or otherwise contribute any part of the costs of acquiring a project, and shall not have the power to use land already owned by the municipality, or in which the municipality has an equity, for construction thereon of a project or any part thereof."

In our opinion, the quoted section clearly requires the municipality to purchase new land as a part of any project for which industrial revenue bonds are issued, and municipalities have no power {*650} to construct a project on land already owned by the municipality, or in which the municipality has an equity. This, of course, includes lands owned by the municipality, but already under lease, for the lease does not divest the municipality of ownership.

By: Norman S. Thayer

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