

## Opinion No. 63-15

March 7, 1963

**BY:** OPINION of EARL E. HARTLEY, Attorney General

**TO:** Mr. Albert O. Lebeck, Jr. Gallup City Attorney P. O. Box 1270 Gallup, New Mexico

### QUESTION

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1. May the City of Gallup provide public restroom and showerbath facilities for the use of the residents of Gallup and visiting Indians and tourist?

#### CONCLUSION

1. Yes.

### OPINION

#### {\*35} ANALYSIS

We understand that in Gallup there is an Indian community center which is jointly sponsored by the federal government, the Indian tribes, and certain civic groups. The Community Center furnishes restrooms, showerbaths, a lounge, and a park for the use of anyone who may wish to avail himself of the benefits of the facilities, although the primary users of the Community Center are Indians.

The City of Gallup proposes to lease and operate the public toilet, the showerbath facilities and one-half of the lounge area.

New Mexico Statutes Annotated, 14-21-31 (1953) grants to municipalities the power **to do all acts** and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease.

{\*36} New Mexico Statutes Annotated 14-21-2 (1953) provides:

"All municipal corporations organized under Article 2 of this chapter shall have the general powers and privileges, and be subjected to the rules and regulations provided in the sections of this article."

McQuillan, "Municipal Corporations" Section 24.219 says:

"Public health and sanitation are broad objects of the police power, and their protection and promotion within a municipality constitute important and far reaching functions of

state government. Not only do municipal corporations have power to protect and promote public health and improve Sanitation, but it is their duty to do so."

Gallup is a center of Indian culture. The Indians from surrounding reservations travel many miles to the city to trade and meet with their friends. Because Gallup is a center of Indian culture, it is also one of the mandatory stops for tourists passing through New Mexico.

Unless Gallup can furnish adequate facilities for these people it is in danger of creating a grievous health and sanitation problem. We feel that Gallup has the power to alleviate this problem. The way in which they have chosen to help alleviate the problem is legal under the authorities cited above.

By: Joel M. Carson

Assistant Attorney General