

Opinion No. 67-61

April 13, 1967

BY: OPINION OF BOSTON E. WITT, Attorney General

TO: Board of County Commissioners Luis C. Martinez, Chairman Taos County Courthouse Taos, New Mexico

QUESTION

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1. Must a courthouse be built on property within the county seat?
2. If it must be, may the county commission purchase property outside of the city limits and subsequently have it annexed to the city?
3. May a county commission condemn real property to build a courthouse on it?

CONCLUSIONS

1. Yes.
2. Yes.
3. Yes.

OPINION

{*88} ANALYSIS

Section 15-43-29, N.M.S.A., 1953 Compilation, answers your first question. It provides as follows:

"Officers to keep office at county seat. -- All county officers of the various counties in New Mexico shall establish and maintain their offices and headquarters for the transaction of the business of their respective officers at the county seat of their respective counties and shall there keep all the books, papers and official records pertaining to their respective offices; Provided, that such offices shall be provided for such officers at the expense of the respective counties."

Section 15-34-4, N.M.S.A., 1953 Compilation, also indicates an affirmative answer to your question. See also **Orchard v. Board of County Commissioners**, 42 N.M. 172, 76 P. 2d 41.

The answer to your second question is yes. Section 15-36-1, N.M.S.A., 1953 Compilation, sets forth the general powers of counties. One of such powers is

"To purchase and hold real and personal property for the use of the county."

As to the annexation portion of your second question, this is governed by Paragraph A of Section 14-7-4, N.M.S.A., 1953 Compilation (P.S.) which provides as follows:

"Annexation -- Territory owned by the United States, state of New Mexico or a political subdivision -- Interposition not to prohibit annexation. -- A. Territory owned by the government of the United States, its instrumentalities, the state of New Mexico or a political subdivision of New Mexico, may be annexed to a municipality upon the consent of the authorized agent of the government of the United States, its instrumentalities, the state of New Mexico or a political subdivision of New Mexico."

Thus, if the parties agree, annexation can be accomplished.

In answer to your third question, Section 22-9-15, N.M.S.A., 1953 Compilation, provides in pertinent part as follows:

"State, county, municipality or school district -- Appropriation of land. -- In addition to the purposes hereinbefore specifically mentioned for which property may be condemned {*89} under the provisions of this chapter, said property may also be condemned by the state, any county, municipality or school district, for the use of said state, county, municipality or school district for public buildings and grounds."

By: Oliver E. Payne

Deputy Attorney General