

## Opinion No. 69-138

December 3, 1969

**BY:** OPINION OF JAMES A. MALONEY, Attorney General James C. Compton, Jr.,  
Assistant Attorney General

**TO:** A. Van Bruggen, Village of Maxwell, Maxwell, New Mexico 87728

### QUESTIONS

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May a municipality appoint a member to serve on its Municipal Housing Authority if such appointee does not reside within the municipality?

#### CONCLUSION

No.

### OPINION

#### {\*222} ANALYSIS

Section 14-46-5, N.M.S.A., 1953 Compilation, provides for the creation of the Municipal Housing Authority by proper resolution of the municipality's governing body. Once the Authority has been created, the mayor shall appoint its members. The statute itself does not require that the members of the Housing Authority reside within the limits of the municipality for which they are appointed to represent. Article V, Section 13 of the Constitution of New Mexico, however, requires that "All district, county, precinct and **municipal** officers, shall be **residents of the political subdivisions for which they are elected or appointed.**" (Emphasis added).

A municipality is clearly a "political subdivision" as that term is used in the Constitution. **City of Albuquerque v. Campbell**, 68 N.M. 75, 358 P.2d 698 (1960); **Gibbany v. Ford**, 29 N.M. 621, 225 P. 577 (1924). The Housing Authority is an agent and an instrumentality of the creating municipality. {\*223} Section 14-46-5, supra; Opinion of the Attorney General No. 67-67, issued May 11, 1967. Furthermore, the members of the Housing Authority are appointed "municipal officers" as that term is used in the Constitution. For similar reasoning, see Opinion of the Attorney General No. 69-11, issued February 18, 1969.

The members of the Housing Authority must be residents of the political subdivision for which they are appointed. They are appointed for the creating municipality. The members of the Housing Authority, therefore, must be residents of the municipality for which they are appointed to represent.