

Opinion No. 88-12

February 12, 1988

OPINION OF: HAL STRATTON, Attorney General

BY: Sarah E. Alley, Assistant Attorney General,

TO: Representative Michael Olguin, State of New Mexico, House of Representatives,
Santa Fe, New Mexico 87501

QUESTIONS

The Thirty-Eighth Legislature appropriated \$150,000 to the State Agency on Aging (SAoA) part of which was designated to refurbish a building for a meal-site installation project in San Antonio, New Mexico. May the SAoA use the funds to purchase an existing building?

CONCLUSIONS

No.

ANALYSIS

Laws of 1987, chapter 354, section E(3) provides that the State Agency on Aging shall be appropriated "one hundred and fifty thousand dollars (\$150,000) to construct an arts and crafts and storage addition to the Socorro senior citizen center and to refurbish a building for a meal site installation project in San Antonio." Article IV, Section 30 of the Constitution of New Mexico provides:

Except interest or other payments on the public debt, money shall be paid out of the treasury only upon appropriations made by the legislature. No money shall be paid thereon except upon warrant drawn by the proper officer. Every law making an appropriation shall distinctly specify the sum appropriated and the object to which it is to be applied.

(emphasis added). Chapter 354, section E(3) specifically appropriated funds to refurbish a building, in accordance with the constitutional requirement of Article IV, Section 30. It is our understanding that, before the legislature's appropriation, the SAoA had designated a building in San Antonio for refurbishment whose owner intended to donate it to the SAoA. After the appropriation the owner changed his plans and sold the building to another person.

We must ascertain the Legislature's intent primarily from the statute's language. "If the language used is plain and unambiguous, the legislature must be understood as meaning what it expressly declared." *State v. Thompson*, 57 N.M. 459, 464, 200 P.2d

370, 373 (1953). In Chapter 354, section E(3) the legislature used the unambiguous word "refurbish". It therefore is our opinion that the SAoA may not use the appropriation to purchase a building in San Antonio.

ATTORNEY GENERAL

HAL STRATTON Attorney General