

October 19, 2007 Lea County Courthouse Annex in Hobbs

The Honorable Gary L. Clingman, Chief Judge
Fifth Judicial District
100 N. Main, Box 6-C
Lovington, NM 88260

Re: Opinion Request -- Lea County Courthouse Annex in Hobbs

Dear Chief Judge Clingman:

You requested our advice concerning the construction of a district court complex in Lea County. In particular, you ask:

1. Can Lea County construct a courthouse annex in Hobbs to house district court operations?
2. Can two of the three district judges assigned to Lea County operate from the annex?

Based on our examination of the relevant New Mexico statutes, opinions, case law and other legal authorities and the information available at this time, we conclude that, if Lea County constructs a courthouse annex in Hobbs, the Fifth Judicial District Court has statutory authority to establish, by rule, an additional office in the annex for district judges assigned to Lea County. The three judges assigned to Lea County may operate from the annex, but must maintain their principal offices in Lovington, the county seat.

The Fifth Judicial District consists of Lea, Chavez and Eddy Counties. NMSA 1978, § 34-6-1(E) (1992). From your request, we understand that three of the ten district judges in the Fifth Judicial District are assigned to Lea County. Currently, the offices of those judges are located in Lovington, which is the county seat of Lea County. Most of the population of Lea County resides in or immediately around Hobbs, which is approximately 25 miles from Lovington. The Lea County Board of County Commissioners is considering construction of a judicial center in Hobbs that would house the District Attorney's office, probation or parole offices and additional district courthouse facilities.

In general, the district court for a county is required to operate from the county seat. The New Mexico Constitution requires that "at least two terms of the district court shall be held annually in each county, at the county seat," unless the legislature provides otherwise. N.M. Const. art. VI, § 13. By statute, the district court in each county "shall be held at the county seat," and "[e]ach board of county commissioners shall provide adequate quarters for the operation of the district court..." NMSA 1978, § 34-6-24 (1988). Each district judge's "principal office" must be at the county seat, "as provided by rule of the district court." NMSA 1978, § 34-6-17 (1968). "[W]hile absent from their principal offices upon official business," district judges are allowed per diem and reimbursement for their necessary travel expenses." NMSA 1978, § 34-6-23 (1968).

Although a district court must be housed in and operate primarily from the county seat, it may conduct business in other locations within the county. Under NMSA 1978, Section 34-6-23, "[w]hen the convenience of the public can be better served by establishment of an additional office within the county, this may be provided by rule of the district court." Id. See also N.M. Att'y Gen. Op. No. 79-20 (1979) (New Mexico constitution and statutes contemplate and accommodate judicial activity at locations other than the county seat).

Under the constitutional and statutory provisions discussed above, if the Lea County Board of County Commissioners constructed a courthouse annex in Hobbs and "the convenience of the public ... [would] be better served," the Fifth Judicial District Court could, by rule, establish an additional office in the annex. However, while the district judges assigned to Lea County could work at the Hobbs office, they would have to maintain their principal offices in Lovington under NMSA 1978, Section 34-6-17.

You have requested a formal opinion on the matters discussed above. Please note that such an opinion is a public document available to the general public. Although we are providing you with our legal advice in the form of a letter instead of an Attorney General's Opinion, we believe this letter is also a public document, not subject to the attorney-client privilege. Therefore, we may provide copies of this letter to the general public. If we may be of further assistance, or if you have any questions regarding this opinion, please let us know.

Sincerely,

ALVIN R. GARCIA
Assistant Attorney General

cc: Albert J. Lama, Chief Deputy Attorney General