

Opinion No. 16-1711

January 11, 1916

BY: FRANK W. CLANCY, Attorney General

TO: Mr. W. C. Heacock, Albuquerque, New Mexico.

Property of corporation known as the "Town of Atrisco" is exempt from taxation.

OPINION

{*282} I have received your letter of yesterday in which you say that the people of the Atrisco grant have been in to see you regarding the construction to be placed upon the words "Municipal Corporation" in Section 7 of Article VIII of the Constitution, to which you add that the question is "Do they have to pay taxes on the land still owned by the community?"

I assume that you must have meant Section 3 of Article VIII as that is the one as to exemptions of property from taxation. If you will refer to the last published report and opinions of this office, you will find in a letter which begins on page 259, in the last paragraph thereof, the expression of an opinion that if town and {*283} community grants are owned by the state, counties, towns, cities or school districts, the levy of a tax upon such property is not authorized.

I will enclose herewith copy of another opinion given to Mr. Fermin Marquez in June last on the same subject.

I am of opinion that the town of Atrisco, by virtue of its incorporation under the act of 1891, which was substantially reenacted in 1897 and in the later form is to be found in the compiled Laws of 1897 beginning at Section 2148, must be considered as a municipal corporation when it is by the statute declared to be "a body corporate and politic;" although the powers given by the statute are not as extensive as those ordinarily conferred upon municipal corporations. It was incorporated under the name of "Town of Atrisco," and its existence as such was known at the time that the constitution was framed and adopted by the people, and it may well be considered as covered by the word "towns" in the section of the constitution referred to.

It is also to be borne in mind that the section to which you refer was not only a part of the original constitution, but was embodied in the amendment of Article VIII which was adopted by the people in 1914 without any change as to the property of towns or other municipal corporations.

It is my opinion that the property of the corporation known as the "Town of Atrisco," is exempt from taxation under this constitutional provision, but it would be well to have the question judicially passed upon.