

Opinion No. 45-4723

May 22, 1945

BY: C. C. McCULLOH, Attorney General

TO: Mr. C. R. Sebastian State Comptroller Santa Fe, New Mexico

{*74} In your letter dated May 21, 1945, you state that the county commissioners in a certain county have leased office space in the court house to a private individual who, in turn, has subleased the property at a profit to another person. You inquire whether the county commissioners are justified in leasing space in the court house to a private individual. I assume you wish to know whether the commissioners can legally lease office space in the court house, rather than merely whether or not they are justified in so doing, since I am not in a position to determine the justification for such action in the absence of all the facts relative thereto.

The general powers of counties are set forth in Section 15-3401 of the New Mexico 1941 Compilation. Among such powers are the following:

"(3) To sell and convey any real or personal estate owned by the county, and make such order respecting the same as may be deemed conducive to the interests of the inhabitants.

"(4) To make all contracts and do all other acts in reference to the property and concerns necessary to the exercise of its corporate or administrative powers."

Section 15-3512 of the 1941 Compilation provides as follows:

"The board of county commissioners shall have power at any session to make such orders concerning the property belonging to the county as they may deem expedient."

{*75} Section 15-3514 of the 1941 Compilation provides as follows:

"To represent the county and have the care of the county property and the management of the interests of the county in all cases where no other provision is made by law."

The Supreme Court has held that the powers given to counties and boards of county commissioners are very broad and that it is not necessary to contain a specification of each particular act that may be done, when the powers granted are sufficiently comprehensive to include the proposed acts. See *Agua Pura Co. v. Mayor*, 10 N.M. 6, 60 Pac. 208, 50 L. R. A. 224.

Since there is no express prohibition against leasing office space in the court house, I am of the opinion that the broad powers of the county commissioners are sufficient to

authorize them to lease such space to a private individual, especially when such a lease is for a short term and does not interfere with the use of the building for public purposes.

For a complete annotation of cases from other jurisdictions relative to the leasing of municipal or county property, see 63 A. L. R. 614 and 133 A. L. R. 1241.