



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**JOHN BEN SHEPPERD
ATTORNEY GENERAL**

March 10, 1955

Hon. John R. Lee, District Attorney
Hon. Robert Ziesenheim, County Attorney
Ward County
Monahans, Texas

Letter Opinion No. MS-183

Re: Permissibility of
lease of existing
hospital building
by a county, using
proceeds of a bond
issue voted to es-
tablish a permanent
building.

Gentlemen:

Your letter presents three questions under the following fact situation:

In 1954, Ward County authorized the issuance of \$400,000 bonds for the purpose of "establishing and equipping a county hospital and for all necessary permanent improvements and building in connection therewith and the purchase of a site therefor."

Your questions are:

(1) Does the county have the right to rent a now existing hospital building for such purposes pending completion of the construction of a permanent hospital?

(2) If so, may the bond proceeds be used to pay such rental?

(3) Is it necessary to advertise for bids under Article 2368a, Vernon's Civil Statutes, for the "purchase or lease of a hospital site in the county"?

Your first question is answered by two previous opinions of this office (S-126 and O-4569), which hold that a county may lease facilities for a county hospital.

Those previous opinions, also, by inference, if not directly, state that such rental payments are to be paid from the general fund of the county. These particular bonds were voted against the permanent improvement tax fund and are to be paid from tax collected by the county pursuant to that Constitutional authorization. A rental payment in such circumstances

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would not be for a permanent improvement for the county and could not be paid from that Constitutional fund, although it could be paid from the general fund. The elementary rule, of course, being that Constitutional funds authorized and created under Section 9, Article 8, are and must remain inviolate. Carroll v. Williams, 109 Tex. 155, 202 S.W. 504 (1918). Your second question is answered in the negative.

Your third question is answered by the provision of Section 5 of Article 2368a, which provides that the expenditure of bond funds is exempt from the requirement of advertising for bids.

Yours very truly,

JOHN BEN SHEPPERD
Attorney General of Texas

By

Edward M. Marand

Assistant

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