



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**WILL WILSON  
ATTORNEY GENERAL**

January 30, 1958

Honorable Robert S. Calvert  
Comptroller of Public Accounts  
Capitol Station  
Austin, Texas

Opinion No. WW-353

Re: May funds from the State Hospitals Building Fund be used for the purchase of a site for out-patient facilities at Dallas and San Antonio? May a portion of the same funds be used for the construction of out-patient facilities at Dallas and San Antonio?

Dear Mr. Calvert:

You have requested the opinion of this office on the following questions:

- "(1) May funds from the State Hospitals Building Fund be used for the purchase of a site for out-patient facilities at Dallas and San Antonio?
- "(2) May a portion of the same funds be used for the construction of out-patient facilities at Dallas and San Antonio?"

House Bill 169, Acts 55th Legislature, Regular Session, 1957, authorized the establishment of out-patient clinics "in such locations as deemed necessary by said Board and as money for their operation shall be made available." The same session of the Legislature passed House Bill 133, which reappropriated to the Board for Texas State Hospitals and Special Schools all unexpended balances remaining in the State Hospitals Building Fund for certain purposes, including "the construction and equipment of new buildings." House Bill 133 also included a special provision as follows:

Honorable Robert S. Calvert, Page 2 (WW-353).

"d. No money appropriated by this Article may be spent for planning or constructing new or additional institutions, or for the purchase of sites therefor, without specific authorization of the Legislature . . . "

We are advised that the Board now desires to use a portion of the reappropriated funds for the purchase of a site and the construction of out-patient facilities as indicated by your questions.

We are of the opinion that funds have been appropriated and are available for the purposes indicated. Such funds may be used for the purchase of sites and construction of out-patient facilities if there exists prior statutory authorization for the establishment of such facilities. In that connection, Attorney General's Opinion WW-207 held that "House Bill 156, Acts 21st Legislature, 1889, Chapter 69, page 79, constitutes a valid pre-existing law authorizing the construction of out-patient facilities in connection with San Antonio State Hospital." Further, Attorney General's Opinion WW-101 held that "Article 3192a, V.C.S., 1925, as amended, is the enacting statute which creates the Dallas Psychopathic Hospital as defined in Article 3192, V.C.S., 1925." This Opinion also noted that such hospital in Dallas had never been established, and since the statute creating the institution had not been repealed, the same could be established at Dallas, Texas, "as a psychopathic hospital for the treatment of nervous and mental diseases for both an in and out-patient clinic," (Emphasis added).

It is clear, therefore, that sufficient pre-existing statutory authority exists for the establishment of the facilities in question in both Dallas and San Antonio. Implimented by the reappropriation provision of House Bill 133, as cited above, we are of the opinion that funds from the State Hospitals Building Fund may be used for the purchase of a site for out-patient facilities at Dallas and San Antonio, and a portion of the same funds may be used for the construction of out-patient facilities at Dallas and San Antonio.

#### SUMMARY

Funds from the State Hospitals Building Fund may be used for the purchase of a

Honorable Robert S. Calvert, Page 3 (WW-353).

site for out-patient facilities at Dallas and San Antonio, and a portion of the same funds may be used for the construction of out-patient facilities at Dallas and San Antonio.

Yours very truly,

WILL WILSON  
Attorney General of Texas

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Assistant

BHT:jl

APPROVED:

OPINION COMMITTEE

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Ralph R. Rash

Jack Goodman

J. Mark McLaughlin

REVIEWED FOR THE ATTORNEY GENERAL

BY:

W. V. Geppert