



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**WILL WILSON  
ATTORNEY GENERAL**

February 17, 1958

Honorable Sam Lee  
District Attorney  
Brazoria County  
Angleton, Texas

Opinion No. WW-371

Re: Whether Brazoria County  
may construct a museum  
building, issue time war-  
rants to finance such  
construction, and related  
questions.

Dear Mr. Lee:

You have requested our opinion on the following questions:

- "(1) Can the Brazoria County Commissioners' Court issue time warrants to construct a museum building?
- "(2) Can Brazoria County maintain said museum building and facilities in connection therewith?
- "(3) Can Brazoria County provide the funds necessary to pay curators and other personnel necessary to the operation of the museum?
- "(4) Can the museum be built, if it can be built, on a location other than at the county seat, or on what is now known as the Fair Grounds?"

Section 1 of Article 2372d, V.C.S., as amended, is as follows:

"All counties in the State acting by and through their respective Commissioners' Courts may provide for annual exhibits of

Honorable Sam Lee, page #2 (WW-371)

horticultural and agricultural products, livestock and mineral products, and such other products as are of interest to the community. In connection therewith, such counties may also establish and maintain museums, including the erection of the necessary buildings and other improvements, in their own counties or in any other county or city in the United States, where fairs or expositions are being held."

In the case of Adams v. McGill, 146 S.W. 2d 332 (Civ.App., 1941, error ref.), at page 334, the court said:

"The concrete question presented by this appeal is: Has El Paso County the power to contract and pay for the construction of the building in question with time warrants?"

The building was to be constructed as an improvement on the El Paso County Livestock and Agricultural Exhibition Building and the court held (page 335) as follows:

"Article 2372d gives the power to construct the improvement. We think implied in that power is the authority to use the revenues of the county within lawful limits to construct the improvement."

And at page 336 the court announced the rule as follows:

"This proposition we deem sustained by authority: A county, subject to the express restrictions imposed by the Constitution and general laws, has the power to issue time warrants in payment for improvements it is expressly authorized to

construct, provided that the applicable regulations relating to the issuance of such warrants be observed."

We think this holding of the court applies with equal force to the construction of county museum buildings, and your first question is answered in the affirmative, providing the warrants are issued within the limitations of Article 2368a, V.C.S., as amended, and the debt thereby created is justified by the taxable values of the county.

The Commissioners' Court, in the exercise of its sound discretion, may also provide for such building maintenance and personnel as may be necessary for the operation of the museum, the rule being as follows:

"Whenever a power is given by statute, everything necessary to make it effectual or requisite to attain the end is implied . . . The grant of an express power carries with it, by necessary implication, every other power necessary and proper to the execution of the power expressly granted." Terrell v. Sparks, 104 Tex. 191, 135 S.W. 519.

Accordingly, your second and third questions are answered in the affirmative.

In reference to your fourth question, it is noted that Section 1 of Article 2372d, supra, includes the phrase "In connection therewith." We do not construe this phrase to refer to a particular site or exhibition building, but rather to the power conferred upon counties to provide for exhibits. That power is then broadened to include the additional powers pertaining to museums. This statute confers a broad discretionary power upon the Commissioners' Court and we think the legislative intent is clear to the effect that the Commissioners' Court, in the exercise of its sound discretion,

is authorized to choose that site within the county which will best serve the county.

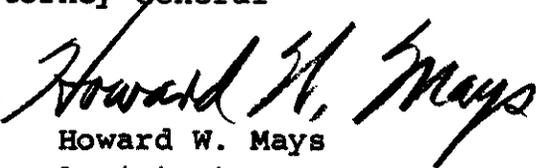
SUMMARY

Brazoria County Commissioners' Court may issue time warrants to the extent permitted by the county's taxable values, within the limitations of Article 2368a, V.C.S., as amended, to finance construction of a museum building, may maintain said building and its contents, and may employ personnel necessary for maintenance of the building and operation of the museum. The building may be constructed upon any site within the county considered suitable by the Commissioners' Court in the exercise of its sound discretion.

Very truly yours,

WILL WILSON  
Attorney General

By

  
Howard W. Mays  
Assistant

HWM-s

APPROVED:

OPINION COMMITTEE

George P. Blackburn, Chairman

Cecil C. Rotsch  
J. Mark McLaughlin  
J. Milton Richardson  
John H. Minton

REVIEWED FOR THE ATTORNEY GENERAL

By: W. V. Geppert