

August 8, 1949

Mr. Ed Atkinson
Chief, Phoenix Real Estate
Field Office
Department of the Army
Phoenix, Arizona

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Dear Mr. Atkinson:

We have your request for our opinion concerning the transfer to the United States by the City of Mesa of Williams Airfield, in which you ask:

- "1. If, in your opinion, the City of Mesa can dispose of this property for a nominal consideration, without holding a special election under the provisions of the Arizona Code of 1939, Section 16-802, and
2. Whether the City of Mesa can give a valid option prior to an affirmative vote on a special election on the question of whether or not a disposal to the United States of an airport for a nominal consideration should be approved."

This transfer is proposed under authority granted municipalities by Section 48-101, as amended, ACA 1939, which states in part:

"* * * Any such governing body may also, by proper resolution, sell, lease and dispose of any airport or landing field acquired under this statute, and if made to the county in which the airport or landing field is located, to the state, or to the United States or any of its agencies, it may be made without advertising as prescribed by section 16-802, Arizona Code of 1939, and for a nominal consideration."

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A reference to Section 16-802 discloses that sale of real property exceeding in value the sum of \$25,000.00 by any municipality may only be made after an election and approval by a majority of the voters and concluding as follows:

"* * * If a majority of the ballots cast are in favor of selling then the legislative body may sell and dispose of the property after giving the notice required in the preceding section, at public auction to the highest bidder for cash, reserving the right to reject any and all bids."

It is our opinion that while Section 48-101 will permit dispensing with the "notice" referred to generally in Section 16-802 and specifically in 16-801, it does not eliminate the necessity of holding the election provided for in 16-802.

It is also our opinion that, until the City has legal authority to sell, it may not execute a valid option as such an option would be ineffective until approved by the voters who could withhold such approval.

Trusting this answers your inquiries, we are

Very truly yours,

FRED O. WILSON
Attorney General

PERRY M. LING
Chief Assistant
Attorney General

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