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March 31, 1978

Mr. Michael A. Ramnes  
Director  
Arizona State Parks  
1688 West Adams Street  
Phoenix, Arizona 85007

Re: 78-69 (R77-285)

Dear Mr. Ramnes:

This is in response to your request for an opinion regarding the following questions:

1. What agency, if any, controls the use of a facility which is acquired or constructed with state lake improvement funds in accordance with A.R.S. § 35-382.A.2?
2. May the State Parks Board lease a portion of a facility acquired with state lake improvement funds to a community college, to be used as a site for courses related to boating, boating safety, and boating repair, as an interim use, until such time as the entire facility can be utilized as a boating safety and law enforcement center?

The state lake improvement fund is created by A.R.S. § 5-382, which provides in pertinent part as follows:

A. There shall be a state lake improvement fund. Monies deposited in the fund shall be used only as provided in this section.

. . . .

2. All monies . . . in the fund . . . shall be used on any waters of the state as approved by the Arizona outdoor recreation coordinating commission. . . . and shall be limited to the following:

- (a) Public launching ramps.

- (b) Public piers, marinas or marina stadia.
- (c) Public toilets, sanitation facilities and domestic waters.
- (d) Public picnic tables and facilities.
- (e) Public parking areas.
- (f) Lake construction or improvement.
- (g) Marking buoys and other safety facilities.
- (h) Watercraft.

B. The state lake improvement fund shall be administered by the Arizona outdoor recreation coordinating commission. Projects involving expenditure of monies from such fund may be constructed by the Arizona state parks board, by the Arizona game and fish commission, by the board of supervisors of any county, or by the governing body of a city or town. . . . The Arizona outdoor recreation coordinating commission shall examine plans for such projects to determine if they come within those projects authorized, are in accordance with the statewide lake development and improvement plan, and to determine if there are sufficient monies available for such project. If it finds the projects qualify and monies are appropriated from the state lake improvement fund by the legislature for such projects, it may approve such plan and disburse such monies as claims against the state lake improvement fund. The Arizona outdoor recreation coordinating commission shall annually on or before January 15 report to the legislature the expenditures made for such projects.

The answer to your first question is in the language of subparagraph B, quoted above. That subparagraph provides that the Arizona Outdoor Recreation Coordinating Commission shall administer the fund, examine and review plans for proposed projects, determine if monies are available, disburse fund monies and report to the Legislature on expenditures. The statute imposes no other obligations or duties on the Commission regarding construction, management or use of a facility con-

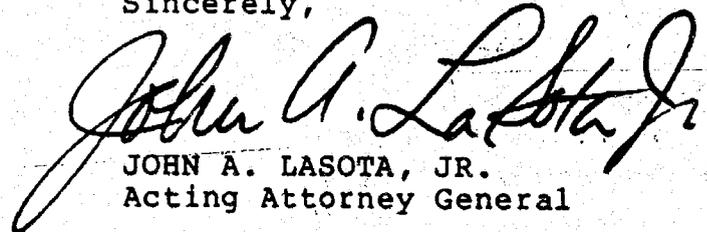
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structed with lake improvement funds. Accordingly, we conclude that the Commission has no responsibility or authority to manage facilities constructed with lake improvement funds. Such responsibility and authority must necessarily lie with the agency or political subdivision that receives and expends the money.

Our answer to your second question--whether the State Parks Board may lease a portion of a facility it has acquired with lake improvement funds for interim use as a classroom site--is "yes". Although A.R.S. § 5-382 limits the types of improvements, e.g., launching ramps, piers and marinas, which may be purchased with the improvement funds, it says nothing about the particular use to be made of any improvements so acquired. We find no impediment in A.R.S. § 5-382 to the use for educational purposes of a facility acquired with improvement funds.

Moreover, the Parks Board is empowered by A.R.S. § 41-511.5(2) to make such "contracts, leases and agreements . . . as are reasonably necessary or desirable within the general scope of its activities and operations to enable it to perform adequately its duties." We think this statute provides the Parks Board with sufficient discretionary authority to allow for an interim, educational use of a portion of the facility, during such time as the entire building is not needed for its ultimate use as a safety and law enforcement center.

Sincerely,

  
JOHN A. LASOTA, JR.  
Acting Attorney General

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