



DEPARTMENT OF LAW
OFFICE OF THE
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

Bob Corbin
~~XXXXXXXXXXXX~~
ATTORNEY GENERAL

February 14, 1979

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ARIZONA ATTORNEY GENERAL

E. Leigh Larson, Esq.
Santa Cruz County Attorney
750 Grand Avenue
Nogales, Arizona 85621

Re: I79-047 (R78-99)

Dear Mr. Larson:

We have reviewed the April 3, 1978 opinion by Roberto C. Montiel, then Chief Deputy, Santa Cruz County Attorney, to James K. Clark, Superintendent, Nogales Public Schools. We concur with that opinion's conclusion that the school district may contract with the City to pay assessments on sewer and water lines only upon the conditions specified in A.R.S. § 15-1237.B. We cannot ascertain from Judge Montiel's letter, however, whether the contract complies with those conditions.

Very truly yours,

Bob Corbin
BOB CORBIN
Attorney General

BC:JAL:lp

Recd

*R78-99
concurring*

April 3, 1978

Mr. James K. Clark
Superintendent
Nogales Public Schools
402 Martinez Street
Nogales, Arizona 85621

Re: Santa Cruz County Attorney School Opinion

Dear Mr. Clark:

Your request for opinion dated January 17, 1978, is hereby acknowledged and said opinion is enclosed.

If there are any questions on which our office can be of assistance please feel free to call.

A copy of this opinion has been sent to the Attorney General for his review.

Sincerely,

154 Roberto C. Montiel
Roberto C. Montiel
Chief Deputy
Santa Cruz County Attorney

RCM:gg

enc.

April 3, 1978

By: Roberto C. Montiel, Chief Deputy

Question:

Can the school district join with the City of Nogales, and/or the County of Santa Cruz to build sewer and water lines to a new school site within the school district and, if so, what funds can be used for this purpose?

Answer:

No.

Rationale:

A school district may enter into a contract with a municipality pursuant to the authority vested in the school district by A.R.S. § 15-1237, which provides as follows:

§ 15-1237. Special district assessment for street improvement by school district

A. Boards of trustees of school districts may contract for constructing, maintaining or otherwise improving any public way adjacent to any parcel of land, owned or leased for school purposes by the district, or an intersection of any public way adjoining a quarter block in which the parcel of land is situated, and for the construction of sidewalks or other betterments in or along such streets and intersections, and to pay for such improvements by the levy of a special assessment upon the taxable property in the district. Such assessment shall be made a part of the itemized statement regularly filed with the county school superintendent and showing the amount of money needed for the expenses of schools within the district for the ensuing year.

B. When any property owned or leased by a school district for school purposes from any city, county, the state or the United States, is included within the assessment district to be assessed to pay the costs and expenses of any public improvements initiated by a city, so as to make the assessments thereon payable by the city in which the improvement is initiated, the board of trustees may contract with the municipality to reimburse it for the amount of the assessment against the property, and to pay the amount so contracted for the levy of a special assessment as provided by subsection A.

A reading of A.R.S. § 15-1237(A), reveals that contracts between a school district and municipalities must be limited to those which would improve a public way; thus, necessarily excluding all contracts

which would not directly benefit the public way. Under no logical interpretation of this subsection could it be established that there is authority for construction of a sewage line.

A.R.S. § 15-1237(B), does give limited authority to a school district to contract with a municipality for the construction of a sewer system. The circumstances under which a contract may be entered into are that the property to be improved must be within a special municipal improvement district and said improvement must be an improvement initiated by the municipality.

In the fact situation under consideration, the proposed sewer line is not within a municipal improvement district and the initiating party appears to be the school district instead of the municipality. It therefore follows that the legislative prerequisites to such a contract have not been met in this case.

This office has on various occasions been cited to the Arizona Attorney General's Opinion numbered 62-13-C, as authority for entering into the contract which is here proposed. This Attorney General's Opinion can be distinguished from this fact situation on the basis that the contractual arrangement in that case was for a sewage line within a municipal improvement district.

The second part of the question was not answered because the answer to the first question is dispositive of this second part.

For the foregoing reasons, the district cannot enter into the proposed contractual arrangement.