



Singer
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

Robert R. Corbin

January 28, 1982

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ARIZONA ATTORNEY GENERAL

Mr. Russell H. Burdick
Chief Deputy County Attorney
Office of Apache County Attorney
P.O. Box 637
St. Johns, Arizona 85936

Re: I82-011 (R81-190)

Dear Mr. Burdick:

This is in response to your opinion dated December 24, 1981, to the Superintendent of Ganado Public Schools concerning whether school boards may allow non-teachers to occupy teacher housing when that housing is vacant. The following is a revision of that opinion.

A school district, a statutory creation, has only the limited powers expressly granted by the Legislature or necessarily implied therefrom. See Oracle School District No. 2 v. Mammoth High School District No. 88, ___ Ariz. ___, 633 P.2d 450, 452 (Ct. App. 1981). A.R.S. § 15-342.7 expressly confers on school districts a discretionary power to construct or provide in rural districts housing facilities for teachers that the board determines are necessary for the operation of the school. If other board powers, such as the power to employ and fix the salaries of school employees, A.R.S. § 15-502.A, or to manage and control school property, A.R.S. § 15-341.5, were broadly interpreted to empower a school board to provide housing for any school district employee, A.R.S. § 15-342.7 would be made superfluous, contrary to principles of statutory construction. See State v. Superior Court, 113 Ariz. 248, 249, 550 P.2d 626, 627 (1976) (the law will be given, wherever possible, such an effect that no clause, sentence or word is rendered superfluous, contradictory or insignificant).

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A.R.S. § 15-342.7 expresses a legislative policy to encourage teachers to work in rural districts. Omitting all other school district employees suggests that the Legislature saw no need to provide housing to attract those employees to rural areas. To provide housing to any school district employee would not effectuate the legislative policy expressed in A.R.S. § 15-342.7 but would contravene the statutory principle of construction that, when a statute enumerates the subjects on which it is to operate, it will be construed as excluding from its effect all subjects not specially mentioned. See Inspiration Consolidated Copper Co. v. Industrial Comm., 118 Ariz. 10, 12, 574 P.2d 478, 480 (1977). That a school district is without statutory authority to construct or provide housing for non-teacher district employees does not prevent renting vacant school district housing unneeded for school teachers to those employees at a fair market value as it could to anyone else under its power to rent, furnish and repair school property. A.R.S. § 15-341.8.

Sincerely,



BOB CORBIN
Attorney General

BC/LPS/ta

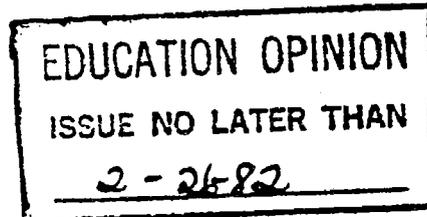
STEPHEN G. UDALL
COUNTY ATTORNEY

WESSELL H. BURDICK, JR.
CHIEF DEPUTY

OFFICE OF
APACHE COUNTY ATTORNEY
P. O. BOX 837
ST. JOHNS, ARIZONA 85936

TELEPHONE (602) 337-4364
EXTENSIONS 31 & 36

December 24, 1981



12-28-81 pc
LOWE
R81-190

Mr. Albert A. Yazzie
Superintendent
Ganado Public Schools
Ganado, AZ 86505

Dear Mr. Yazzie:

You requested an opinion concerning whether or not the Ganado School Board may allow non-teachers to occupy teacher housing when that housing is vacant. As you pointed out in your request, A.R.S. § 15-342(7) states that the governing board may:

"construct or provide in rural districts facilities for teachers which the board determines are necessary for the operation of the school."

Also A.R.S. § 15-502(A) states that:

"the governing board may at any time employ and fix the salaries of teachers principals, janitors, attendance officers, school physicians, school dentists, nurses and other employees necessary for the succeeding year."

A.R.S. § 15-502(A) has been interpreted by the Attorney General as allowing the governing board to have broad discretion in fixing employee benefits. See for example A. G. Opinion I80-137 and opinions cited therein. I80-137 acknowledged the broad discretion of the governing board to provide benefits to its employees, although this discretion may be limited by specific statutory provisions.

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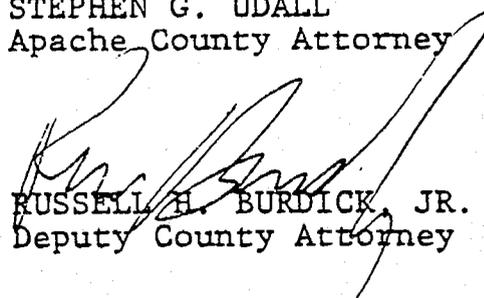
A.R.S. § 15-341(5) states: "The governing board shall manage and control the school property in its district." Under A.R.S. § 15-341(5) there is an affirmative duty upon the school governing board to manage and control school property. If the governing board determines that it would be unreasonable to allow housing to remain vacant, this provision would require that the governing board take steps to protect the school property. Based upon both provisions, it is my opinion that if there is vacant teacher housing that it would be proper for the governing board to provide the housing to non-teachers either as a benefit to the school employees or as a method of managing and controlling the school property.

This opinion is being forwarded to the Attorney General for his review.

Sincerely,

STEPHEN G. UDALL
Apache County Attorney

BY:


RUSSELL H. BURDICK, JR.
Deputy County Attorney

RHB:mp
cc: Attorney General ✓