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ARIZONA ATTORNEY GENERAL

Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert R. Corbin

September 6, 1984

Ms. Nancy K. Anderson  
Deputy Mohave County Attorney  
315 North 4th Street  
Kingman, AZ 85601

Re: I84-122 (R84-117)

Dear Ms. Anderson:

Pursuant to A.R.S. § 15-253.B., we decline to review the opinions expressed in your letter to Superintendent Lutz of Bullhead City Elementary District No. 15 pertaining to the necessity of voter approval of proposed construction of a swimming pool.

Sincerely,

*Bob Corbin*

BOB CORBIN  
Attorney General

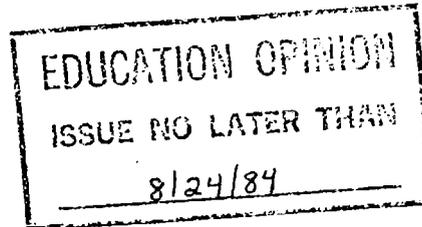
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# MOHAVE COUNTY ATTORNEY

315 NORTH 4TH STREET • KINGMAN • ARIZONA 86401 • (602) 753-9141, EXT. 201



WILLIAM J. EKSTROM, JR.  
County Attorney



R84- 117

June 20, 1984

Douglas W. Lutz  
Superintendent  
Bullhead City Elementary District No. 15  
1004 E. Hancock Rd.  
Riviera, AZ 86442

RE: Request for Opinion

Dear Mr. Lutz:

This is in response to your letter of June 13, 1984, requesting an opinion as to whether the request for the school district to construct and maintain a swimming pool for community and school use may be placed on a ballot to be voted on by the district's eligible voters. And if such is permissible the dates an election could be held. 1.

For your reference a copy of the statutes referred to in this opinion are attached.

The governing board of a school district has the authority to construct school building on approval of a vote of the district's electors, Ref. A.R.S. §15-341(A) (9). The governing board also has authority to operate school buildings and grounds, for the purpose of providing a public play and recreation center. Ref: A.R.S. §15-363(A). They may enter into agreements with other agencies to carry out that purpose (Ref: A.R.S. §15-363(B)), and may contract with other political subdivisions for construction and maintenance of swimming pools on school property under the control of the school district (Ref: A.R.S. §15-364(A)).

The Arizona statutes have specific provisions governing elections on bond issues and/or school property which are set forth in A.R.S. §15-491. The wording of that section states that the calling of an election for the purposes listed there is permissive unless the governing board is petitioned by fifteen per cent of the school electors. However, notwithstanding the permissive wording of that provision, when a statute specifically requires the approval of the district's voters before the governing board can act (such as A.R.S. §15-341(A) (9)) an election is mandatory.

Whether the district can submit the question of constructing and maintaining a swimming pool to the voters depends on whether it falls within the provisions of A.R.S. §15-491(A). That section lists the following purpose for which an election concerning property may be held:

1. To locate or change the location of school buildings.
2. To purchase or sell school sites or buildings or to build school buildings, but the authorization by vote of the school district shall not necessarily specify the site to be purchased.
3. To decide whether the bonds of the school district shall be issued and sold for the purpose of raising money for purchasing or leasing school lots, for building school buildings, for supplying school buildings with furniture and apparatus, for improving school grounds or for liquidating any indebtedness already incurred for such purposes.
4. To lease, as lessor or as lessee, school buildings or grounds for a period of five years or more, but not to exceed ninety-nine years.

Your question does not indicate that bonds or lease arrangements are involved so the last two purposes are eliminated from further discussion. The inquiry then focusses on whether the proposed swimming pool constitutes a school building. If it does then under the second purpose and A.R.S. §15-341(A)(9) the construction of it would have to be submitted to the voters. If the pool does not constitute a school building then there is no authority for the question posed in your letter to be submitted to the districts electors.

One does not usually think of a swimming pool as a building. However, when the pool is an indoor one it is an integral part of the structure which houses it. Publically used outdoor pools are usually accompanied by buildings which house the mechanical, electrical and chemical support systems and provide changing facilities and showers for those who use the pool.

The information provided in your letter does not indicate whether the proposed pool would be an indoor or outdoor one. In either case if there are buildings housing or supporting the pool which are to be built for use by the school then such construction would constitute the building of school buildings. As such under A.R.S. §15-341(A)(9) and §15-491(A) the matter must be approved at an election.

Under A.R.S. §15-491(E) when the governing board calls an election it shall order it to be held not less than sixty nor more than ninety days from the date of the order. The dates for holding the election are set forth in §15-491(F).

A copy of this opinion is being forwarded to the Attorney General for his review pursuant to A.R.S. §15-253(B).

Sincerely,

WILLIAM J. EKSTROM, JR.  
Mohave County Attorney

By *Nancy K. Anderson*  
NANCY K. ANDERSON  
Deputy County Attorney

NKA/mh  
Encls.

1. It should be noted that in the request for an opinion the question to be placed on the ballot would have asked the voters to vote on whether voter approval should be sought for the construction of a swimming pool. Since there is no authority for the governing board to ask the voters whether a matter should be put to the voters, the question was treated as though it asked for approval of the construction of the swimming pool.

# *Bullhead City Schools*

DISTRICT 15, MOHAVE COUNTY, ARIZONA

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1004 E. Hancock Rd.  
Riviera, Arizona 86442  
(602) 758-3961

June 13, 1984

Mr. William J. Ekstrom, Jr.  
County Attorney  
Mohave County Courthouse  
Kingman, Arizona 86401

Dear Mr. Ekstrom:

The Governing Board of Bullhead City Elementary District #15 has had a request by some community members to construct and maintain a swimming pool.

The board has requested that I ascertain from you whether or not it would be permissible to place the following question on a ballot to be voted on by eligible voters of the district.

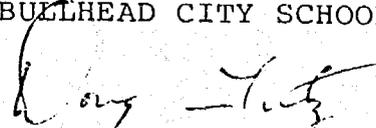
"Should the Governing Board of Bullhead City Elementary District #15 seek voter approval to construct and maintain a swimming pool for community and school use?"

If the above question is permissible, on what dates could the election be held?

Thank you for your assistance.

Sincerely,

BULLHEAD CITY SCHOOL DISTRICT #15

  
Douglas W. Lutz  
Superintendent

DWL/jg