



# Attorney General

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ARIZONA ATTORNEY GENERAL

December 31, 1984

Mr. Sidney B. Brinckerhoff  
Executive Director  
Arizona Historical Society  
949 East Second Street  
Tucson, Arizona 85719

Re: I84-181 (R84-043)

Dear Mr. Brinckerhoff:

You have asked us to address the authority of the Arizona Historical Society to lease the Old Adobe-Charles O. Brown House in Tucson for commercial purposes and to use proceeds from the commercial leases on the property to maintain and protect this historic property.

A.R.S. § 41-821.B authorizes the Society to "purchase, receive, hold, lease and sell property, real and personal, for the benefit of the state and use of the society." This provision allows the Society to enter into lease agreements, subject to any limitation imposed by law. The commercial leases of the Old Adobe property are well within the statutory authority of the Society.

Moreover, we do not think that these leases would violate Laws 1981, Ch. 321, § 11 which prohibits state agencies from engaging in certain activities which would compete with private enterprise. Section 11 of Chapter 321 provides, in pertinent part, as follows:

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A state agency shall not engage in the manufacturing, processing, sale, offering for sale, rental, leasing, delivery, dispensing, distributing, or advertising of goods or services to the public which are also offered by private enterprise unless clearly authorized by law excluding administrative law and executive orders.

Since the subject leases are not for the lease of "goods or services," Chapter 321 would not apply.

As to the broader question of whether the Society may use the proceeds from such commercial leases for the purpose of maintaining and protecting the historic property, we turn again to A.R.S. § 41-821. Paragraph E of that statute establishes a special fund, in the custody of the Society's treasurer, into which funds of the Society, other than legislative appropriations, are placed. In Ariz. Atty. Gen. Op. 181-084, we concluded that A.R.S. § 41-821 contemplates and, indeed, requires that "the proceeds from the sale of Society property must be placed in the special fund [established by paragraph E] and may be used for any society purpose authorized by law." We think that this conclusion applies with equal force to the proceeds from the commercial leases which are entered into pursuant to A.R.S. § 41-821.

Very truly yours,



BOB CORBIN  
Attorney General

BC:JPL:aca