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Robert R. Corbin

July 18, 1985

Mr. Douglas S. Stanley
Hunt, Stanley, Hossler & Rourke, Ltd.
Post Office Box 2919
Yuma, Arizona 85364

Re: I85-094 (R85-075)

Dear Mr. Stanley:

Pursuant to A.R.S. § 15-253.B, we concur with the opinions stated in your letter to Dr. Thomas McCraley, Superintendent of the Yuma School District No. 1, in which you conclude that the governing board should call for an election pursuant to A.R.S. § 15-491 in order to sell the present school bus barn site¹ as well as to obtain approval for building new

1. The governing board's general power to sell school sites after authorization by the electors is found in A.R.S. § 15-342.10, which provides:

§ 15.342. Discretionary powers

The governing board may:

* * *

10. Sell school sites or enter into long-term leases or lease-purchase agreements for school buildings and grounds, as lessor or as lessee, for a period of five years or more, but not to exceed ninety-nine years, if authorized by vote of the school district electors in an election called by the governing board as provided in § 15-491.

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and furnish school buildings from the proceeds of the sale of school property only on approval by a vote of the district electors. (Emphasis added)

A.R.S. §15-341.13 talks of the sale of "school property". This could mean property other than real property which appears to be referred to in all the relevant statutes as school site[s].

The pertinent portions of A.R.S. §15-491 are as follows:

A. The governing board of a school district, may, and upon petition of fifteen percent of the school electors as shown by the poll list at the preceding annual school election shall, call an election for the following purposes:

. . . .

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.

. . . .

When the election is called to decide upon locating, constructing or relocating school buildings, the purchase or sale of school sites or school buildings, or the lease of school buildings or grounds for a period of five years or more, the elections shall be called and conducted as regular school elections [A.R.S. §15-401-406] except as to the time of holding the election, and the governing board shall be governed by the vote of the majority of the qualified electors, as defined in §15-401 and subject to the provisions of §15-402, on all questions submitted. (Emphasis added)

A school site is land used by the school for school purposes or was purchased with that intent (see Attorney General's opinion 79-194).

The statutes seem to be inconsistent. A.R.S. §15-341.11 says the sale of a school site is to be by an election pursuant to A.R.S. §15-481, "override election; budget increases; notice; ballot; effect."

A.R.S. §15-491 says the sale of a ". . . school sites or buildings or to build school buildings . . ." "may be done

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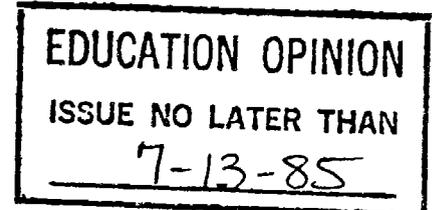
Rec'd 5-14-85

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May 13, 1985

Dr. Thomas McCraley
Superintendent
Yuma School District No. 1
450 W. 6th Street
Yuma, AZ 85364

REPLY TO:



Re: SALE OF BUS BARN PROPERTY AND BUILDING OF
BUS BARNS ON OTHER SCHOOL PROPERTY

Dear Dr. McCraley:

You have asked that I answer the following questions:

1. What does the school district have to do in order to sell the present school property where the bus barns are located at 1250 11th Street, Yuma, Arizona?
2. Since the school district wishes to sell the bus barn property and use the money to build bus barns on other school property near Gwyneth Ham School, are there other additional requirements?

In answer to the above questions I have reviewed the following statutes: A.R.S. 15-341, 481 and 491. The pertinent provision of 15-341, in regards to the general powers and duties of the board, states:

A. The governing board shall:

11. Purchase or sell school sites when authorized by a vote of the district at an election conducted as nearly as practical in the same manner as the election provided in §15-481, and held on a date prescribed in §15-491, subsection F, but such authorization shall not necessarily specify the site to be purchased. Such authorization shall specify the purposes for which the proceeds of the sale of a school site shall be applied, and the proceeds shall only be applied to those purposes.

13. Purchase school sites or construct, improve

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bus barns on existing school sites. We also concur that it is advisable to have the property appraised and to sell it based upon sealed competitive bids.

However, we clarify your opinions to note that the provisions of A.R.S. § 15-341.A.11 are not applicable. The legislature, in Laws 1984, Ch. 349, § 2, deleted "or sell" from A.R.S. § 15-341.A.11. In Laws 1985, Ch. 254, § 2, it deleted the last sentence of A.R.S. § 15-341.A.11.^{2/}

Therefore, it is not necessary to specify the purpose for which the proceeds of the bus barn sites will be used. If the local governing board, however, wishes to use the proceeds to construct new barns, it surely may say so in its authorization. It should be noted that a vote of the district electors to approve such construction is also required. A.R.S. § 15-341.A.9 and 13. The provisions of A.R.S. § 15-491.A.1 and 2, C, E and F, apply to such an election and A.R.S. § 15-491.A.3 and D apply, in addition, if the issuance of bonds question is to be put to the voters.

If the governing board and district electors approve the construction of new bus barns, it is advisable that the board utilize competitive bidding procedures. Hertz Drive-Ur-Self System, Inc. v. Tucson Airport Authority, 81 Ariz. 80, 299 P.2d 1071 (1956).

Sincerely,



BOB CORBIN
Attorney General

BC/TLM/lsp

2. "Such authorization shall specify the purposes for which the proceeds of the sale of a school site shall be applied, and the proceeds shall only be applied to those purposes."