

Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert E. Corbin

March 10, 1988

The Honorable Stephen G. Udall
Apache County Attorney
P.O. Box 637
St. Johns, Arizona 85936

Re: I88-038 (R88-025)

Dear Mr. Udall:

Pursuant to A.R.S. § 15-253(B) this office declines to review your February 12, 1988 opinion to Dr. Robert McKenzie, Superintendent of the Round Valley Unified School District, as the issues raised therein are the subject of litigation in Apache County Superior Court. Ariz. Atty. Gen. Ops. 180-158, 180-56

Sincerely,



BOB CORBIN
Attorney General

BC:TLM:pnw



APACHE COUNTY ATTORNEY

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RUSSELL H. BURDICK, JR.
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February 12, 1988

STEPHEN G. UDALL
COUNTY ATTORNEY

Dr. Robert McKenzie
Superintendent
Round Valley Unified School District
Springerville, Arizona 85938

EDUCATION OPINION
ISSUE NO LATER THAN:
4-15-88

88-025
Martin
2/17/88

Re: Multi-purpose fieldhouse.

Dear Dr. McKenzie:

You requested an opinion concerning whether the dome shaped multi-purpose fieldhouse approved for construction by the qualified electors of the school district is a school building which may be constructed as authorized.

Article 11, Section 1, of the Arizona Constitution provides for the establishment of public school districts by the legislature. "The Legislature shall enact such laws as shall provide for the establishment and maintenance of a general and uniform public school system..." The Arizona Courts have determined that school districts have those powers which are expressly or impliedly granted to them by the legislature. Oracle School District, No. 2 v. Mammoth High School District, No. 88, 130 Ariz. 41, 630 P.2d 450 (App. 1981).

The decision to sell bonds and to build school buildings is given to the qualified electors of the school district. A.R.S. Section 15-341(A)(9) provides that "the governing board shall construct school buildings on approval by a vote of the district electors. . .".

A.R.S. Section 15-491(A)(3) provides that:

"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 last preceding annual school election shall, call an election for the following purposes: . . . [t]o decide whether the bonds of the school district shall be issued and sold for the purpose of raising money for purchasing or long term 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."

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As you indicated in your request for opinion the electors approved the construction of a dome shaped multi-purpose fieldhouse at a special election held on May 19, 1987. Your question is whether this fieldhouse is a school building which may be constructed under the quoted statutes.

The phrase "school buildings" is not specifically defined in the statutes. This phrase could be subject to more than one definition, e.g. school buildings could be only those structures in which people are schooled or school buildings could be any buildings owned by the school district no matter how used. The courts will interpret a statute in such a way as to give it a fair and sensible meaning. See City of Phoenix v. Superior Court, Maricopa County, 139 Ariz. 175, 677 P.2d 1283 (1984). Based upon a reasonable interpretation of the term school buildings it is our opinion that school buildings are those structures used by the school district to carry out the activities and programs of the district as authorized by the legislature.

The prime responsibility of the school district is to educate students. The course of study is prescribed by the governing board of the district within limits set by the state board of education. See A.R.S. Sections 15-341(A)(7); 15-203(A)(15) and (16); 15-701 and 15-701.01. A school district's course of study may include physical education. See Arizona State Board of Education Rules R7-2-301 and R7-2-603.J.5. In examining the design of the fieldhouse it is clear that the structure is intended to be used as a physical education building.

Other uses described in the design of the building are related to the extra curricular activities sponsored by every school district in the state, e.g. athletic teams such as football, basketball, volleyball, track and field, softball, etc. These intended uses of the building clearly indicate that this is a school building which may be authorized for construction by the voters of the school district.

Nevertheless, it is apparently being argued that because this facility may be made available for public activities it is no longer a school building under the statute. This argument ignores the law. The legislature has specifically allowed school districts to make school buildings available for civic centers. A.R.S. Section 15-1105 states:

"A. The governing board may lease school buildings, grounds, buses, equipment and other school property to any person, group or organization for a recreational, educational, political, economic, artistic, moral, scientific, social or other civic purpose in the interest of the community, including extended day resource programs. The governing board shall charge a reason-

able use fee for the lease of the school property, which fee may include goods contributed or services rendered by the person, group or organization to the school district.

B. The governing board may permit the uncompensated use of school buildings, grounds, buses, equipment and other school property by any school related group or by any organization whose membership is open to the public and whose activities promote the educational function of the school district as determined in good faith by the school district's governing board, including extended day resource programs, except as provided in Section 15-511."

The governing board may use school buildings and grounds for the purpose of providing public play and recreation centers. See A.R.S. Section 15-363. The district may also

"enter into agreements with counties, cities, towns or other school district governing boards, in order to provide for the construction development, cooperative maintenance, operation and use of parks and recreational facilities, including swimming pools, on properties used for school purposes and under the control of such school districts. The governing boards may expend public monies for the construction and development of such parks or recreational facilities in cooperation with cities, towns and counties." See A.R.S. Section 15-364 and Attorney General's Opinion 182-143.

In summary, it is our opinion that the structure approved for construction by the voters at the May 19, 1987, election, is a school building which legally may be constructed by the school district using bond funds.

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

Sincerely,


RUSSELL H. BURDICK, JR.
Chief Deputy County Attorney

RHB/mip
Enclosure

Round Valley Unified School District # 10
Springerville - Eagar

P.O. Box 610

SPRINGERVILLE, ARIZONA 85938

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RECEIVED

JAN 25 1983

APACHE COUNTY
ATTORNEY

January 22, 1988

Mr. Russ Burdick
Apache County Attorney's Office
P.O. Box 637
St. Johns, Arizona 85936

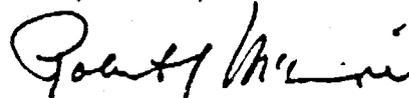
Dear Mr. Burdick:

In a Special Election held on May 19, 1987, the voters of the District authorized the construction of a multi-purpose fieldhouse. The design is in a dome shape rather than the traditional rectangle shape of most fieldhouses.

Because of the size and shape of the facility, Tucson Electric Power Company is questioning the right of the District to build the facility.

Is this facility a school building which the District can build as authorized by the voters?

Respectfully,



Robert J. McKenzie, Ed. D.
Superintendent

RJM:da

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