



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

December 20, 1948

Hon. James C. Martin
County Attorney
Nueces County
Corpus Christi, Texas

Opinion No. V-747.

Re: The authority of Nueces
County to erect branch
county office buildings
in Robstown and Bishop.

Dear Mr. Martin:

Your request for an opinion is substantially
as follows:

"Shall the Commissioners Court of Nueces
County, Texas be authorized to issue bonds
of said county in the amount of \$130,000.-
00, to become due and payable serially in
not to exceed twenty-five years from the
date thereof, bearing interest at a rate
not to exceed 4% per annum, payable annual-
ly or semi-annually for the purpose of se-
curing funds to provide necessary public
buildings to be used for county purposes
and described as follows:

- (1) Horticultural and agricultural exhib-
it building in Robstown, Texas;
 - (2) Branch county office building in Robs-
town, Texas;
 - (3) Branch office building in Bishop, Texas;
- and shall the Commissioners Court of Nueces
County, Texas be authorized to levy, have
assessed and collected annually while said
bonds or any of them are outstanding, a tax
on the \$100.00 valuation of taxable proper-
ty in said county at a rate sufficient to
pay interest on and to provide a sinking
fund to pay the bonds at maturity?

"There is some question in our minds as to
whether the county has authority to build
the branch offices buildings in Robstown,
Texas, and Bishop, Texas. These offices
are to be used by the County Tax Assessor-

Collector, the County Agriculture and Demonstration Agents, and to furnish offices for other county purposes. Neither Bishop nor Robstown had populations in excess of 10,000 in 1940. The population of Robstown, according to the 1940 census was 6,700 and now estimated to be in the vicinity of 20,000. The population of Bishop in 1940 was 1,300 and is now estimated to be in the vicinity of 3,500."

It is the established doctrine of this State and has been repeatedly held that a county may not issue bonds unless such power is expressly conferred by law. *San Patricio County v. McClane*, 44 Tex. 392; *Robinson v. Breedlove*, 61 Tex. 316.

Article 2351, V. C. S., provides, in part, as follows:

"Each Commissioners' Court shall: . . .

"7. Provide and keep in repair Court Houses, Jails and other necessary public buildings."

As to your first factual situation, Article 2372d, V. C. S., furnishes sufficient authority for the County to construct a horticultural and agricultural exhibit building in Robstown, Texas; however, neither this nor any other statutory or constitutional provision authorizes the voting and issuing of bonds for such a purpose. In the absence of such authority, the Commissioners' Court cannot issue said bonds. (*Adams v. McGill*, 146 S.W. 2d, 332).

As to your second and third factual situations, it is the opinion of this office that the Commissioners' Court of Nueces County in the exercise of its sound discretion is legally authorized to purchase the building involved for the intended purpose under and by virtue of the provisions of Section 7, Article 2351, V. C. S.; however, we have been unable to find any authority which would authorize the issuance of bonds for such purpose.

In the case of Dancy v. Davidson, 183 S. W. (2d) 195, the court stated as follows:

"Article 1605, together with the amendments thereto (including Article 1605a), relate to offices which under the provisions of the original article must be maintained at the county seat. This article, or its amendments, can not be construed as restricting or taking away the power of the Commissioners' Court to provide public buildings to house public agencies not required by law to be located at the county seat. Although it is contemplated that a branch of the office of the County Assessor and Collector of Taxes will be located in the building, the primary use intended is not that of a sub-courthouse or building in which to house various branch agencies whose main offices must be situated at the county seat, which is the situation contemplated and provided for by Article 1605a.

"(7) We conclude, therefore, that the Commissioners' Court of Cameron County is legally authorized to purchase the building involved for the purposes intended, provided, of course, that in making the financial arrangements for such purchase, the provisions of the Uniform Budget Law (Article 689a-9 to 689a-12, inclusive, Vernon's Ann. Civ. Stats., relating to counties) were complied with."

Therefore, it is the opinion of this office, based on the foregoing authorities, that Nueces County does not have the authority to issue bonds for the purpose of securing funds to provide necessary public buildings enumerated in your opinion request.

SUMMARY


Nueces County does not have authority to issue bonds for the purpose of securing funds to erect public buildings for horticultural and agricultural purposes, branch

Hon. James C. Martin, page 4 (V- 747)

office building in Robstown, Texas, and
branch office building in Bishop, Texas.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By 
Burnell Waldrep
Assistant

BW:mw:bh

APPROVED:

PRICE DANIEL
ATTORNEY GENERAL