



Attorney General of New Mexico

GARY K. KING
Attorney General

ALBERT J. LAMA
Chief Deputy Attorney General

July 15, 2010

The Honorable Stephen H. Fischmann
New Mexico State Senate
PO Box 2580
Mesilla Park, New Mexico 88047

Re: Opinion Request – Housing Authority of the City of Las Cruces

Dear Senator Fischmann:

This office has completed its review of the questions raised in Commissioner Win Jacobs' April 8, 2010 letter on behalf of the Housing Authority of the City of Las Cruces (the "Authority") and the Authority's understanding of the process utilized by the New Mexico Department of Finance and Administration ("DFA") to identify voidable capital outlay projects. Based on criteria and methodology established by the Legislative Finance Committee, the Legislative Council Service and DFA,¹ capital outlay funds previously appropriated to the Authority to plan, design, and construct transitional housing for homeless veterans were selected for reversion to the General Fund under Senate Bill 182, enacted during the 2010 Regular Session of the 49th Legislature. The Authority believes, however, that the "State should reverse their decision to recapture these funds and award them to the [Authority] so that they can be used for this most worthy of causes." The remedy sought by the Authority lies with the Legislature, as it is within the Legislature's prerogative to decide how public money is spent. DFA acted in accordance with House Bill 17.

Thank you for affording our office the opportunity to be of assistance.

Very truly yours,

A handwritten signature in cursive script that reads "Sally Malave".

Sally Malave
Assistant Attorney General

Cc: Win Jacobs, Chair, Las Cruces Housing Authority

¹ See House Bill 17, N.M. Laws 2009, Chap. 5, sec. 12. (directing the LFC, LCS and DFA to review all unexpended capital outlay funds and identify one hundred fifty million dollars of voidable capital outlay projects by date certain).

Auguie Henry, III, Las Cruces Grants Administrator