



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

May 15, 1957

Hon. S. Perry Brown
Chairman and Executive
Director
Texas Employment Commission
Austin, Texas

Opinion No. WW-119

Re: Methods and manner of purchasing
land for the construction of the
State Headquarters Office Building
for the Texas Employment Commission.

Dear Sir:

In your request for our opinion on the above matter,
you have stated the following:

"Please assume the following language
to be contained in the Texas Employment
Commission portion of the biennial appro-
priation act for 1957-1959 approved by the
Governor:

"Purchase of land and construction
of State Headquarters Office Building,
\$3,150,000.

"This language presently appears in
H. B. 133, the appropriation bill passed
by the House, and in the Senate Appro-
priation Bill, S. B. 57, passed by the
Senate."

Based on the language thus stated above, you asked
these two questions:

"Under the language of the appro-
priation act and Article 5240, V.C.S.,
may the Commission pursue the following
courses:

"1. If the Employment Commission and the owner of the land do not agree upon a purchase price for the land required for the Commission's State Headquarters Office Building, may the Governor request and direct that the Attorney General cause condemnation proceedings to be instituted against the owner?

"2. May an award for damages, if not excessive in the opinion of the Governor, for the acquisition of such land, out of the funds appropriated by the quoted language, take title to the land by a deed and/or court decree conveying such land to the 'State of Texas, for the use and benefit of the Texas Employment Commission.'"

The language used in the assumed appropriation act is sufficient to authorize the proper persons to proceed to purchase land and construct the building for the State Headquarters for the Texas Employment Commission.

There is nothing in the language used in the above assumed appropriation act which would indicate anything other than that the land is to be acquired under the general authority of Article 5240, V.C.S. The word "purchased" as used in the assumed appropriation act is not a restriction on the way the land should be acquired, but merely indicates that the sum thus appropriated would be used to pay for the land needed, whether the land is acquired through voluntary or involuntary sale.

Therefore, under Art. 5240, V.C.S., the Employment Commission may select a site and negotiate with the owner. However, the power to purchase rests exclusively with the Governor and the Employment Commission cannot bind the State on any land purchase contract.

In the event a price cannot be agreed upon between the Governor and the owner, the Governor may direct the Attorney General to institute condemnation proceedings as in any other case where land is acquired for any character of public use.

Upon an award, not considered excessive in the opinion of the Governor, the owner may be paid the amount of the award out of the fund appropriated in the assumed appropriation act, and the title taken in the name of the State of Texas.

SUMMARY

Under the language of the hypothetical appropriation act contained in the opinion request and the authority of Article 5240, V.C.S., the Governor is authorized to purchase land for the Headquarters of the Texas Employment Commission, and upon failing to agree upon a price with the owner, may direct the Attorney General to cause condemnation proceedings to be instituted; and in the event the Governor does not consider the award of damages excessive, such award may be paid out of the funds appropriated, and title to such land may be taken in the name of the State of Texas.

Very truly yours,

WILL WILSON
Attorney General of Texas

By 
Robert O. Smith
Assistant

APPROVED:

OPINION COMMITTEE:

H. Grady Chandler, Chairman

Elbert M. Morrow
Marietta M. Payne
Riley Eugene Fletcher

REVIEWED FOR THE ATTORNEY
GENERAL BY:

Geo. P. Blackburn