



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**WAGGONER GARR  
ATTORNEY GENERAL**

February 1, 1965

Mr. George L. Allen, Chairman  
Board of Directors  
Texas Southern University  
Houston, Texas

Opinion No. C- 385

Re: Authority of Texas Southern  
University to enter into an  
agreement to purchase proper-  
ty in 1966.

Dear Mr. Allen:

You have requested our opinion on the following question:

"Can the University negotiate an agreement with the owners of the property immediately; establish the purchase price; and agree to enter into contract for purchase of the said property in February of 1966, with the necessary contingencies that such funds will be available and conditions of possession?"

In Attorney General's Opinion WW-1213 (1961), it is stated:

"Article 2643d authorizes Texas Southern University to construct and otherwise acquire and equip buildings and structures which the Board of Directors deems proper or suitable for the students and faculty of the University. Section 3 of this statute provides that land owned by the State of Texas or by the University may be used as building sites and grounds 'for such buildings constructed or acquired under this Act; provided that said Board is hereby authorized to acquire by gift, or by purchase out of funds derived from the sale of said bonds, the said building sites and grounds.'

"Article 2909c authorizes the institutions of higher learning, including Texas Southern University, to construct, acquire, improve and equip buildings and other structures and additions to existing buildings and other structures 'and acquire land for said additions, buildings and other structures if deemed appropriate by said governing body.'

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"It is our opinion that Senate Bill No. 296 does not affect or limit the powers granted by Articles 2643d and 2909c. However, it is also our opinion that the land which the University is authorized to acquire under these statutes, like Senate Bill 296, is limited to the sites and grounds for the buildings and structures constructed or acquired under the provisions of such statutes respectively."

Since the Texas Southern University has the authority to acquire land for additional campus space, the question presented concerns whether such a proposed agreement would violate the provisions of Section 49 of Article III of the Constitution of Texas.

Section 49 of Article III of the Constitution of Texas provides:

"No debt shall be created by or on behalf of the State, except . . ." (Exception not applicable).

In Attorney General's Opinion C-134 (1963), it was held that proposed contracts payable out of future revenues are invalid, citing Section 49 of Article III of the Constitution of Texas; Charles Scribner's Sons v. Marrs, 114 Tex. 11, 262 S.W. 722 (1924); Fort Worth Cavalry Club v. Sheppard, 125 Tex. 339, 83 S.W.2d 660 (1935); Attorney General's Opinion O-6246 (1944); and Attorney General's Opinion V-1067 (1950).

In view of the foregoing, you are advised that you are not authorized to obligate future revenues of Texas Southern University since such obligation would create a debt in violation of Section 49 of Article III of the Constitution of Texas. Since the proposed agreement would attempt to obligate the University to pay for property out of future revenues, such proposed agreement is invalid.

#### SUMMARY

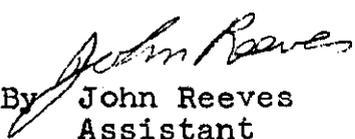
Section 49 of Article III of the Constitution of Texas prohibits the creation of a debt by the State, and any agreement attempting to obligate future revenues

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of Texas Southern University would be  
void.

Yours very truly,

WAGGONER CARR  
Attorney General

  
By John Reeves  
Assistant

JR:sj:cg:ms

APPROVED:

OPINION COMMITTEE  
W. V. Geppert, Chairman  
Larry Craddock  
Allo Crow  
Jack Goodman  
Malcolm L. Quick

APPROVED FOR THE ATTORNEY GENERAL  
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