

March 4, 1969

S11

FILE NO. S-11

COUNTIES:

Power to lease portion
of County Farm to a
City for airport purposes.

S11

Honorable Minton W. Arnold
State's Attorney of Schuyler County
Rushville, Illinois

Dear Sir:

I have your communication of February 17, 1969,

wherein you state:

"The Board of Supervisors of Schuyler County, Illinois, have requested the opinion of the Attorney General as to whether or not they have authority to lease a portion of the County Farm to the City of Rushville, Schuyler County, Illinois, to be used in conjunction with other lands as an Airport for the use of the general public.

The Board desire to lease a portion of the County Farm for such purpose, but question their authority in view of the Attorney General's Opinion of 1940 page 203.

The last poor person who resided at the County Farm left a few years ago, and the buildings used to accommodate poor persons

Honorable Minton W. Arnold - 2.

have been removed; only the tenant farmer now resides on the premises and farms the tillable land.

Will you please be kind enough to give your opinion as to whether or not the Board of Supervisors have authority to

1. Determine that the County Farm shall no longer be known as or used as a "Poor Farm."
2. Lease a portion of the County Farm to the City of Rushville, Schuyler County, Illinois, to be used in conjunction with other lands by the general public as an airport.
3. If so, for what length of time may the Board lease the land for use as an airport.
4. Must there be an adequate consideration for such lease, or may there be only token consideration, since the use may be beneficial to all the people of the community."

In answer to your first and second questions it is my opinion that the Board of Supervisors has authority to determine that the County Farm shall no longer be known or used as a "Poor Farm" and may lease a portion of the County Farm to the City of Rushville, Schuyler County, Illinois, to be used in conjunction with other lands by the general public as an airport, if in the judgment of the Board of Supervisors the County Farm or portion thereof is no longer necessary for the purpose of the county.

Honorable Minton W. Arnold - 3.

Paragraph 303 of Chapter 34, 1967 Illinois Revised Statutes is the statutory authority which authorizes a County Board of Supervisors to sell or lease any of its real estate and do all other acts in relation to the property of the county necessary to the exercise of its corporate powers. I agree with an opinion of my predecessor dated December 29, 1963 and found in the 1960 volume of Opinions of the Attorney General at page 246. Said opinion declared that a county board is authorized to lease a portion of the farm land connected with a county home **for a proper public purpose.**

The operation of an airport is a proper public purpose.

Counties now even have statutory authority to operate airports pursuant to the provisions of Paragraphs 69 through 83 of Chapter 15 1/2, 1967 Illinois Revised Statutes. Cities are also authorized to operate airports and therefore I conclude that the proposed lease is for a proper public purpose.

In answer to your third and fourth question the Board may lease the land for any term not exceeding 20 years upon such terms and conditions as may be agreed upon by the corporate authorities of both the County and City. Said provision limiting to 20 years a lease from one municipality to another municipality is found in Paragraph 158.1 of Chapter 30, 1967 Illinois Revised

Honorable Minton W. Arnold - 4.

Statutes. The nature of the consideration is necessarily a matter of the judgment of the County Board of Supervisors who should determine what is in the best interests of the County.

Very truly yours,

A T T O R N E Y G E N E R A L