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OPINION	:	No. 80-606
of	:	<u>December 23, 1980</u>
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SUBJECT: LAW LIBRARY QUARTERS—This article concerns the payment of rent for county law library quarters. It has been determined that a board of law library trustees is legally empowered to pay rent to the county for such quarters, provided sufficient funds exist over and above those necessary to operate and maintain the county law library.

Is a board of law library trustees legally empowered, if it reasonably determines that it has sufficient funds over and above those necessary for operation and maintenance expenses, to pay rent to a county for quarters provided by the county for the law library?

CONCLUSION

A board of law library trustees has lawful authority to pay rent to the county for law library quarters during such period as it has reasonably determined that it has sufficient funds over and above those necessary for the operation and maintenance expenses for the county law library.

ANALYSIS

The request for this opinion advises us that for many years the Sacramento County Board of Supervisors has provided quarters for operation of the county law library and has also provided janitorial and utility services. Since 1965, the quarters have been within the new county court house. So far as is known, the Sacramento County Board of Law Library Trustees has never reimbursed the county for either the services provided or the quarters.

We are asked if the Sacramento County Board of Law Library Trustees (hereinafter referred to as “the trustees”) may pay rent to the county for the space occupied by the county law library if the trustees reasonably determine that they have sufficient funds over maintenance and operation costs to pay such rent.

Business and Professions Code,¹ division 3, chapter 5 (commencing with § 6300) provides for the establishment, administration, and power of the board of law library trustees of each county that has brought itself within the provisions of the law.²

Section 6300 provides:

“There is in each county of this state a board of law library trustees, which governs the law library established for the county under the provisions of this chapter.”

Section 6340 provides:

“Each board of law library trustees shall establish and maintain a law library and may lease suitable quarters therefor or construct quarters pursuant to the provisions of this chapter, and may provide leased or constructed quarters with suitable furniture and utility services.” (Emphasis added.)

Section 6361 provides:

“The board of supervisors of the county in which the law library is established shall provide sufficient quarters for the use of the library upon

¹ All unidentified statutory references will be to the Business and Professions Code.

² Section 6364 provides that a county need not originally adopt the provision of the chapter. However, once a county has adopted the required ordinance, it cannot then repeal the ordinance and thereby withdraw from the provisions of the act. (*Board of Law Library Trustees v. Board of Supervisors* (1893) 99 Cal. 571, 573.) Section 6365 provides the only method of withdrawal from the provisions of the act.

request of the board of law library trustees, *except that the board need not provide such quarters when the board of law library trustees determines it has sufficient funds over and above those necessary for operation and maintenance expenses, to provide its own quarters.* Such provision may include, with the room or rooms provided, suitable furniture, window shades, floor coverings, lighting, heat, and telephone and janitor service.” (Emphases added.)

Section 6361 imposes a mandatory duty upon the board of supervisors to provide quarters for the county law library. (*Board of Law Library Trustees v. Board of Supervisors, supra*, 99 Cal. at p. 573.) In providing the quarters the board determines the sufficiency and location of the quarters, subject to court review for abuse of discretion. (*Ibid.*; *Cf. Lavine v. Jessup* (1958) 161 Cal. App. 2d 59, 65–67.)

The duty of the board of supervisors under section 6361 is qualified. If the board of law library trustees makes a determination that “it has sufficient funds over and above those necessary for operation and maintenance expenses, to provide its own quarters” the county is relieved of its duty to provide such quarters under the express exception in section 6361. When the trustees determine there is no longer sufficient funds to provide for law library quarters the trustees may rescind the prior determination and thus restore the board of supervisors’ duty to provide quarters for the law library.

During the period when the trustees determination to provide its own quarters for the law library is effective, the trustees are free to negotiate with any property owner for suitable quarters. Section 6340 provides express authority for the trustees to lease such quarters from a property owner. Government Code section 23004(d) provides that “A county may manage, sell, lease, or otherwise dispose of its property as the interests of its inhabitants require.” (Emphasis added.) When this general authority to *lease* county property is considered in the light of section 6361, we believe the Legislature’s intent to authorize the board of supervisors to lease county quarters to the trustees for law library purposes when it has no duty to provide such quarters free of charge is manifest.

We conclude that the trustees have authority to pay rent to the county for quarters for the county law library during such period of time that they have reasonably determined that they have sufficient funds over and above operation and maintenance expenses to provide their own quarters for the county law library.
