



City of San Luis

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San Luis City Attorney Opinion

RE: IMPROVEMENTS TO CITY'S TAXI STAND

DATE: September 21, 2021

TO: Mayor Gerardo Sanchez,
Vice Mayor Africa Luna-Carrasco,
Council Member Mario Buchanan, Jr.,
Council Member Luis Cabrera
Council Member Jose Ponce
Council Member Matias Rosales and
Council Member Gloria Torres

COPY TO: Interim City Manager Lizandro Galaviz
Police Chief Richard Jessup
Fire Chief Angel Ramirez
Public Works Director Eulogio Vera

FROM: City Attorney Kay Marion Macuil

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CITY OF SAN LUIS
OFFICE OF THE CITY CLERK

This memorandum will serve as an official legal opinion of the Office of the City Attorney of the City of San Luis, Arizona. It will be on file with the San Luis City Clerk.

Limitations of this Opinion: This opinion addresses property interests and the Arizona Anti-Gift Clause regarding the city improving the city's taxi stand.

This opinion does *not* address

- how the improvements must be constructed and materials to be used to address public safety nor
- the space required to make the improvements accessible for wheelchairs and otherwise comply with the Americans with Disability Act.

I. **FACTS**

This opinion responds to the direction from Mayor Gerardo Sanchez at the Work Session of City Council on September 1, 2021, regarding the item Council Member Luis Cabrera requested on shades, benches and trash receptacle at the city's temporary Border Area Taxi Stand on the south side of Urtuzuastegui Street (between Cesar Chavez Street and 2nd Street). The Border Area Taxi Stand is on the city's right of way.

II. **QUESTION PRESENTED**

What are the legalities of the city providing shades, benches and trash receptacles at the city's Border Area Taxi Stand?

III. **THE LAW AND ANALYSIS**

A. **The City's Legal Interest in the Taxi Stand: Ownership**

The city owns the right of way where the city designated the Border Area Taxi Stand. The city holds the right of way for public use. As a property owner, the city may improve the amenities for the public in the city's right of way.

B. **Public Interest in Having a Taxi Stand**

A designated taxi stand on the south side of Urtuzuastegui Street at the border reduces pedestrian-vehicle conflicts and helps protect life and limb. In that area, many people desire taxi service, so taxi drivers go to pick up fares. Many other vehicles travel the area (including the city's ambulances and police vehicles), and simultaneously, pedestrians walk amongst it all. Improving the Border Area Taxi Stand to provide shade, a place to sit and a trash container while members of the public wait to use the taxi services would be in the public's interest given the extreme heat in our area.

C. **Use of the Taxi Stand**

1. **Parking Privilege.** The designation of a taxi stand is a type of parking privilege. (See § 26:186. Taxicab stands, 9A McQuillin Mun. Corp. § 26:186 (3d ed.) "*It is in the nature of a special parking privilege.*") The Border Area Taxi Stand was designated under San Luis City Code § 10.15.060(A)(5), which authorizes the Chief of Police, with the concurrence of the City Engineer, the Public Works Director, and the Fire Chief to restrict parking to where a person may only park or stand a vehicle which displays a permit issued by the City. San Luis City Code § 5.15.090 created a

Border Area Taxi Vehicle Permit, which allows those with the permit to use the Border Area Taxi Stand.

2. **No Property Right.** It is a long-established principle of law that “[n]o one has any vested or natural right to use the streets for. . . a business for private gain.” (See *Yellow Cab Taxi Service v. City of Twin Falls*, 68 Idaho 145, 190 P.2d 681 (1948), citing cases from Texas, California, Washington, Maine, and Florida as well as the legal treatise, *McQuillin on Municipal Corporations*). No property right is conferred in using a taxi stand because a permit for a taxi stand may be revoked at any time for public safety, health, or welfare reasons.

D. Anti-Gift Clause Not Implicated

The Anti-Gift Clause is found in Article IX § 7 of the Arizona Constitution. It prohibits cities from giving or loaning their credit to any person or private entity. City improving its own right of way in the public interest and not transferring any property rights to the Border Area Taxi Permit holders does not implicate the prohibitions of the Anti-Gift Clause.

IV. CONCLUSION

If the City Council is inclined to pursue improving the Border Area Taxi Stand, the only area that needs to be addressed is whether it fits into any of the budgeted items for this fiscal year or whether the city can find a source to donate appropriately sturdy and safe shades, benches and trash receptacles.

San Luis City Attorney



Kay Marion Macuil