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COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

B-114874.113

FEB 28 1978

The Honorable Barry Goldwater  
United States Senate

Dear Senator Goldwater:

This is in response to your inquiry regarding mail services to the residents of Lake Havasu City, Arizona. Specifically, you asked us to conduct a study examining whether or not the Postal Service (1) is illegally interpreting and administering a contract so as to deny home or rural delivery to the citizens of Lake Havasu City, or (2) is improperly applying regulations relative to the criteria for providing city or rural delivery service in the case of such citizens.

As we indicated in earlier correspondence, we solicited written reports on this matter from the Postal Service, the Postal Rate Commission and McCulloch Properties, Inc., the developer of Lake Havasu City. We have now received responses from all three parties. In light of the response received from the Postal Service, perhaps the matter can be resolved to the satisfaction of all parties. The Postal Service response states, in substantial part:

"In the experience of postal delivery service managers, the circumstances at Lake Havasu City are unique. Lake Havasu City has been subdivided by its developer like a conventional suburban development into numerous small parcels suitable for business places, single family homes, and small multi-family buildings. However, the parcels of land have generally been sold undeveloped. As a consequence, the decision to develop each parcel is one for its owner rather than the developer to make, and the resulting development has been generally haphazard.

"In addition, most of the parcels remain undeveloped, with the result that many of the residents of the area are not eligible for home delivery under the Postal Service's city delivery regulations, which require that, 'Fifty percent of the building lots in the area to be served . . . [must be] improved with houses or business places.' Postal Service Manual 155.1b, incorporated by reference, 39 C.F.R. 111.1 (1977). There have additionally

been duplications of street names and house numbers which as a practical matter would have made city delivery service difficult to provide. Further, certain of the sparsely and haphazardly developed parts of the 'city' have not been eligible for home delivery service under the Postal Service's rural delivery regulations because of the 'one family per mile' requirement in PSM 158.21. Initially, the extensive city-like system of streets on which the residences had been haphazardly and sparsely located had made it impossible to lay out rural routes that would have passed each of the parcels on which homes were established at an average rate of one family per mile.

"Certain business areas of Lake Havasu City and certain well developed residential areas nearby now receive city delivery service. The provision of delivery service in Lake Havasu City through neighborhood self-service 'delivery service centers' was initiated in 1972 as an experiment.

"Each 'center' contains 320 receptacles which would in our judgment have served the families living in the nearby single- and multi-family buildings very conveniently if the rapid and intensive development of the land which was anticipated had occurred. In addition, the 'centers' have had a coherent system of box numbers which distinguish one person's mailing address from another's, thereby preventing any of the duplicative addresses that would have occurred from the use of the actual street names and house numbers in a city delivery system. The sparse development which actually occurred, however, has meant the assignment of mail receptacles in the centers to families living a substantial distance from the centers.

"Notwithstanding the difficulties which the postal center experiment had encountered, the postal center service was continued in the belief that most of those parts of Lake Havasu City in which it was provided did not qualify under the Postal Service's regulations for either city or rural delivery service, and that a discontinuation of the postal center service would therefore reduce the quality of the delivery service provided to many Lake Havasu City postal customers. Our most recent review, however, shows that the development of Lake Havasu City is now such that the Postal Service can offer some form of city or rural delivery service to most, if not all, customers

in Lake Havasu City who do not receive city delivery service, and I have been advised that such an offer is now being made. On the assumption that the remaining house numbering problems in the proposed new city delivery area can be resolved promptly, it is planned that such service will be initiated within about 90 days. The 'postal center' mail receptacles will then be offered for rental as a special 'lockbox' service for those customers who want it, if there is a demonstrated need for such service.

"In answer to the legal questions in your letter, the contract transmitted by your letter is the lease to the Postal Service by Lake Havasu City's developer of the parcels of land on which the 'postal centers' are installed. In our opinion, the lease contract does not govern the form of delivery service to which our customers in Lake Havasu City are legally entitled, although the existence of this contract was of course relevant to the administrative determination that the provision of service through the postal centers was feasible. The legal entitlement of a postal customer to rural or city delivery service is governed generally by the Postal Service's regulations, rather than by the Postal Service's contracts. The facts that may bear on how postal delivery policy is carried out may include the existence of a contract. The Postal Service's delivery service regulations have been held by the courts to be authorized by law and not in violation of any Constitutional limitation. Bradley v. United States Postal Service, 554 F. 2d 186 (5th Cir. 1977); Grover City v. United States Postal Service, 391 F. Supp. 982 (C. D. Calif. 1975); Parsons v. United States Postal Service, 380 F. Supp. 815 (D. N.J. 1974). The unique delivery service problems in Lake Havasu City resulting from the unusual and unanticipated manner in which the land has been developed were never, in our opinion, matters requiring an advisory opinion of the Postal Rate Commission on 'a change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis' under 39 U. S. C. 3661 (1970)."  
(Underscoring added.)

The Postal Service opinion that "the lease contract does not govern the form of delivery service to which \* \* \* [postal] customers in Lake Havasu City are legally entitled" is in accord with the views received from McCulloch Properties, Inc., as well as our own. Therefore, we do not find that the Postal Service is illegally interpreting and administering the contract so as to deny home or rural delivery to the citizens of Lake Havasu City.

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Moreover, since the Postal Service states that it intends to "offer some form of city or rural delivery service to most, if not all, customers in Lake Havasu City" to be "initiated within about 90 days," detailed examination at this time of the Postal Service's application of its city or rural delivery service regulations to the "unique delivery service problems in Lake Havasu City" associated with the "experiment" of neighborhood self-service delivery service centers does not seem warranted. We have agreed with your office to monitor the Postal Service's actions with respect to Lake Havasu City for compliance with its expressed intentions.

We trust this will be of assistance to you.

Sincerely yours,

SIGNED ELMER B. STAATS

Comptroller General  
of the United States