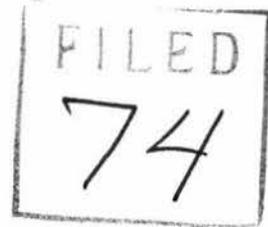


COUNTY COURT:

County Court cannot act as agent of individual in purchasing Federal property.

February 1, 1950

Honorable Matt H. Reichert  
Prosecuting Attorney  
Wayne County  
Greenville, Missouri



Dear Sir:

This is in answer to your letter of recent date requesting an opinion of this department, and reading as follows:

"The problem of the sale and purchase of U. S. Government surplus Property and is confronting the Wayne County Court, and therefor, the Wayne County Presiding Judge, R. L. Garren, has called on me to ask for a ruling from the State Attorney General's Office on the legality of the manner in which the sale and purchase is proposed to be made.

"The Government Village, now a Surplus property, acquired in the years of 1940, consisting of land and buildings, for the purpose of housing the Government Engineers and equipment, during the construction period of the Clear Water Dam on Black River in Wayne and Reynolds Counties, the construction of which has apparently been completed.

"It also would appear that County Municipalities have a preferred right to purchase such property. However, Wayne County is not financially able to purchase the above units outright. However have been approached by an individual asking the County to act as mediator at a profit to the County of \$1000.00, which is to go to the County, as County funds, and also thereby returning the property back into the regular taxable property channel, which the County is in dire need of.

Honorable Matt H. Reichert

"The question is, would the members of the County Court, as individuals, render themselves liable to act as a mediator in a sale of the Government property as above outlined."

The law in this state with regard to the power of county courts is well stated in the case of Lancaster v. County of Atchison, 180 S.W. (2d) 706, where the Supreme Court of Missouri, en Banc, said at 1. c. 708:

"The county courts are not the general agents of the counties or of the state. Their powers are limited and defined by law. These statutes constitute their warrant of attorney. Whenever they step outside of and beyond this statutory authority their acts are void.' Sturgeon v. Hampton, 88 Mo. 203, loc. cit. 213. Quoted with approval in the case of Morris et al. v. Kerr et al., 342 Mo. 179, 114 S.W. 2d 962, loc. cit. 964.

"Both parties to this suit agree that counties, like other public corporations, 'can exercise the following powers and no others: (1) those granted in express words; (2) those necessarily or fairly implied in or incident to the powers expressly granted; (3) those essential to the declared objects and purposes of the corporation--not simply convenient, but indispensable. Any fair, reasonable doubt concerning the existence of power is resolved by the courts against the corporation and the power is denied.' Dillon on Municipal Corporations, 3rd Ed., Section 89. We have repeatedly approved this quotation.  
\* \* \*"

We cannot find no statutory authority for a county court to act as agent of a private individual in purchasing surplus property of the Federal government. Therefore, it is our view that the county court has no such authority.

Honorable Matt H. Reichert

CONCLUSION

It is the opinion of this department that the county court of Wayne County has no authority to purchase surplus Federal property for an individual.

Respectfully submitted,

C. B. BURNS, JR.  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
Attorney General