

ELEEMOSYNARY BOARD - Leases of land for, made by State
Purchasing Agent.

November 8, 1934.

11-8



Honorable W. Ed Jameson, President
Board of Managers
State Eleemosynary Institutions
Jefferson City, Missouri

Dear Sir:

We have your request of October 19,
1934 for an opinion as follows:

"I am the owner of 160 acres
of land adjoining State Hos-
pital #1 grounds at Fulton.
This farm has been leased to
the state for the last five
years, the lease expiring March 1,
1935. This farm is mortgaged to
the Northwestern Mutual Life In-
surance Co., for \$7200.00, my
interest being an uncertain
quantity acquired by the fore-
closure of the second mortgage
on said farm.

"The company has made a propo-
sition to me to take over the
farm under the standard form of
'grant of possession', a copy
of which I enclose herewith.

"I wish you would advise me upon
execution of this instrument,
putting the whole management of
the farm as well as the leasing
of same in the hands of the North-
western Mutual Life Insurance Co.,

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if they would be permitted to rent same to State Hospital #1, Fulton, Mo."

The Grant of Possession form submitted to us with your request provides that you transfer to the insurance company,

"the full right, power and authority to enter into possession of the above described real estate ** expressly assigning and conveying to the Company all of said Owner's right, title and interest in and to the crops, produce and returns from said premises, and the right to collect all the rents and profits therefrom, beginning on the date aforesaid. Said Company may rent and re-rent said premises, pay taxes thereon, obtain insurance coverage, and make repairs and improvements on the buildings located thereon and in general manage said real estate in such manner as it may deem proper and as though absolute owner thereof."

The purport of the above written instrument removes from you any right, authority or power of possession over the premises, and places such power in the hands of the insurance company, wherein the insurance company is given the absolute right to rent or lease the property upon such terms and conditions as the insurance company may see fit.

Furthermore, in accordance with the previous opinion of this office to you under date of December 16, 1933, we held that the Eleemosynary Board is without authority to purchase real estate, and under the provisions of Section 2, Laws 1933, p. 411, the State Purchasing Agent.

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"shall negotiate all leases and purchase all lands, except for such departments as derive their power to acquire lands from the Constitution of the State."

Therefore, any lease of land to be made on behalf or for the use and benefit of the Eleemosynary Board, would have to be made by the State Purchasing Agent.

It is, therefore, the opinion of this office that the Northwestern Mutual Life Insurance Company, under and by virtue of the Grant of Possession hereinabove referred to, would be possessed of the authority to lease or rent the above premises to the State Purchasing Agent.

Respectfully submitted,

FRANKLIN E. REAGAN
Assistant Attorney General

APPROVED:

ROY McKITTRICK
Attorney General

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