

COUNTY COURT: Franklin County Court has authority to convey tract of land for Memorial site to City of Union, Missouri.

March 9, 1937.

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Honorable Otto Buchholtz
Presiding Judge of the County Court
Franklin County
Union, Missouri

Dear Judge Buchholtz:

This is to acknowledge your letter of March 3, 1937, together with certified copies of the proceedings of the county court of Franklin County, consisting of five pages, with reference to the matter of a site for the Soldiers', Sailors' and Marines' Memorial in Franklin County, Missouri.

From the statements in your letter, and the appended records of the county court, we find that in 1922 there was purchased a site for the erection of a Memorial Building or Monument in appreciation of the services rendered by the citizen soldiery of Missouri in the War against Germany and her allies, and that said site was purchased with money raised by the Union Post of the American Legion at Union, Missouri, and funds derived from an appropriation of the State of Missouri, found at pages 78, 79 and 80, Laws of Missouri, 1919. At the time of the purchase of said site, namely, March, 1922, the title to same was lodged in the County of Franklin. By an order of record made by the county court of Franklin County, Missouri, December 7, 1936 the title to said tract of land was ordered transferred by the County of Franklin to the City of Union to be used for the purpose of erecting Soldiers, Sailors' and Marines' Memorial and that a deed of transfer be made upon a proper showing that said property will be used for said purpose. We find nothing in the Act of 1919 which required that the title to the site for the erection of the memorial be actually lodged in the county.

From the statement in your letter we note that it is the present purpose to erect an Auditorium and Community

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Center, and in furtherance of that worthy object the city has voted bonds in the amount of \$40,000 and has made application for a PWA grant of \$32,727, and the building is to be termed a "Memorial Auditorium", the plans of which are to be approved by the City Council of Union and the Union Post of the American Legion, which latter organization contributed \$600.00 of the purchase price of the Memorial site. In such building, according to the plan outlined in your letter, there is to be kept and maintained a Memorial Foyer, approximately 22 by 35, which will serve as a memorial to the Soldiers, Sailors and Marines of the World War. One of your requirements, according to your letter, is that the title to the block of land must be vested in the City of Union before the expenditure of the bond money and PWA funds are expended. We note further that the county contributed nothing to the purchase of said site.

Your question is, has the county court, under the circumstances as detailed in your letter and as set forth in the certified copies of the record, the authority to convey said tract of land to the City of Union for the purposes mentioned therein?

The county in the original acquirement of the tract of land was merely a trustee and seemingly nothing has been done toward the furtherance of the worthy purpose of the American Legion Post of Union and the State of Missouri in contributing and appropriating the funds for that purpose, other than the purchasing of a site.

Under the above circumstances, we can see no legal objection to the county court conveying the property to the City of Union for the purpose of erecting a "Memorial Auditorium" so long as there is set aside in said memorial building suitable space for the original purpose as provided by the act of 1919 and for the purposes which actuated the Union American Legion Post to contribute the sum of \$600.00 for said purposes. We know of no more useful and worthy purpose for which the funds contributed by the American Legion and the State of Missouri could be used than set forth in your letter of March 3, 1937. We understand that the American Legion Post, the City of Union, and the County Court of Franklin County, all approve the plan of transferring the property to the City of Union, and that the only question is, has the County Court the power and authority to transfer the site to the City of Union for the purposes aforementioned?

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It is, therefore, under all the facts and circumstances, our opinion that the county court has the authority to convey said property to the City of Union with such reservation as it desires to make relative to the perpetuating the memory of those who rendered service in the World War.

Very truly yours,

COVELL R. HEWITT
Assistant Attorney-General

APPROVED:

J. E. TAYLOR
(Acting) Attorney-General.

CRH:EG