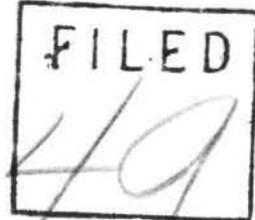


SCHOOLS: Change of boundary lines of school districts gives to the new school district all school property located therein.

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June 14, 1937.



Honorable Lloyd W. King
State Superintendent of
Schools
Jefferson City, Missouri

Dear Mr. King:

This is to acknowledge your letter dated February 3, 1937, as follows: (Illustration omitted)

"Inquiry has come to this Department concerning the ownership of an athletic field, when, by the changing of school district boundary lines, the athletic field becomes located in more than one school district. Illustration:

"A few years ago, the Clayton School officials purchased a twenty-four (24) acre athletic field, which, at that time, was located in the Clayton school district just outside of the city limits. It was not a part of any incorporated city or town. Shortly after the purchase of this tract by the Clayton School Board, the city of University City extended its southern boundary so as to include the strip marked "2" in the sketch, which automatically extended the school district boundary line. Then the city of Clayton extended its boundary so as to include the strip marked "1" in the sketch.

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"Recently, the area marked "3" in the sketch has become included in the corporate village of McKnight. Following the incorporation of the village of McKnight, the school district of Ladue was organized which included the McKnight village.

"Would the changing of school district boundary lines which has placed the major portion of the athletic field in two other school districts affect the Clayton School District's title of ownership of this tract?

"Would the athletic field still belong to the Clayton School District even though the boundary of two other school districts cuts across this tract?

"Or, would the school districts of University City and Ladue have the right of ownership of the parts of this athletic field located in the respective districts by virtue of the fact school district boundary lines were changed?

"I shall be glad to have an opinion at your earliest convenience."

We believe that the recent case of School District of Oakland vs. School District of Joplin, 102 S. W. (2d) 909, decided March 11, 1937, by Division No. 2 of the Supreme Court of Missouri answers your question.

The question submitted in said case was as stated by the Court:

"Does real property purchased from public funds held by and conveyed by general warranty deed to town school district of less than nine square miles in area, vested in city school district on extension of its boundaries so as to embrace territory within which such realty was situated?"

The Court in a very exhaustive opinion reviewed many decisions of the Court on the question, and concluded that the title to school property vests in the district in which the property is located. We quote: (page 915)

"That this is the foundation of the ruling in the Winona Case is evidenced by the statement (40 Minn. 13, loc. cit. 20, 21, 41 N. W. 539, 542, 3 L. R. A. 46, 12 Am. St. Rep. 687): * * * *
Upon reason and principle we cannot see why any distinction should be made as to property, which on change of boundaries falls within the limits of another municipality, or why the title should not, like that of all other property, remain unaffected by the change."
Therein lies the distinction- the distinction between a private and a governmental interest. In Missouri the property of school districts acquired from public funds is the property of the state, not the private property of the school district in which it may be located, and the school district is a statutory trustee for the discharge of a governmental function entrusted to the state by our Constitution."

The above case was an action to "quiet and determine title and for ejectments, damages, and monthly rents and profits." It was between the School District of Oakland and the School District of Joplin. The School District of Joplin in extending its boundaries took in part of the property belonging to the School District of Oakland. Upon trial before the Circuit Court the School District of Oakland prevailed, and the Court vested title to said

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property (sought to be included in the Joplin School District by virtue of the extension of city boundaries) in the school district of Oakland, and also awarded damages. The School District of Joplin appealed, and the Supreme Court reversed the Circuit Court. The Court concluded its opinion as follows: (page 915)

"But, we have ruled the property involved is public property of the state, not the property of plaintiff or defendant. The General Assembly, as within its power, has undertaken to provide protection for the school districts in plaintiff's situation. Under the provisions of section 9344, R. S. Mo. 1929 (Mo. St. Ann., section 9344, p. 7181), plaintiff, its territory not embracing 9 square miles as we read the record, may become, if it so desires, a part of defendant school district. In such event, it appears that plaintiff's obligations would become defendant's obligations. Hughes v. School District, 72 Mo. 643, 644 (1); Thompson v. Abbott, 61 Mo. 176, 177. We need not pursue the issue further.

"The judgment is reversed."

From the above and foregoing it is our opinion that the School Districts of University City and Ladue have the right of control and possession of the parts of the athletic field located in their respective districts by virtue of the fact the school district boundary lines were changed. Title to school property vests in the State and school districts are statutory trustees of same.

Yours very truly,

James L. HornBostel
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General.