

ELEEMOSYNARY BOARD

- Purchase of real estate should
be made through the purchasing
agent

December 22, 1938

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



Dear Mr. Jameson:

This will acknowledge receipt of your letter of December 10, requesting an opinion from this office and which letter reads as follows:

"We have an option on two pieces of property at St. Joseph that the Eleemosynary Board is very anxious to acquire because of the location and the very great advantage that would accrue to our Hospital plant if these two pieces of property can be purchased.

"One piece of property is known as the Berry property and is optioned to us for \$10,000, and contains 20 acres. It is now occupied by the superintendent's dwelling, for which we are paying \$100.00 per month.

"The other piece of property is known as the Guthrie property and contains 30 acres and is optioned to us at \$9000.00. This is less than one-half the amount this property could have been bought for several years ago. They fit into the needs

of the institution at St. Joseph perfectly.

"We have the money in our appropriation for Additions to purchase these properties. What I would like to ask of you is whether or not the Purchasing Agent, upon the recommendation of our Board, can purchase these properties for us under Section 2 of the State Purchasing Agent's Act on page 411 of the 1933 Statutes. If either of these options expire, in my opinion we would never be able to get them renewed. The titles have already been passed upon in your office."

Assuming that your Board has authority to purchase the above mentioned property, which question, however, we are not passing on as same is not presented in your request, we pass on to the question asked, namely, should the contemplated purchase, if made, be handled by or through the State Purchasing Agent.

In this connection we refer you to the pertinent part of Section 2, Laws of 1933, page 411, of the Purchasing Agent Act, which reads as follows:

"The purchasing agent * * * * shall * * * * purchase all lands, except for such departments as derive their power to acquire lands from the Constitution of the State. "

We are unable to find any provision in the Constitution of the State whereby the eleemosynary board is authorized to acquire lands, hence, such exception as made in Section 2 does not apply here.

We note that the Berry property mentioned is land with a dwelling thereon. Whether or not the Guthrie property is bare acreage or contains improvements is not stated. Section 2 mentioned authorizes the Purchasing Agent to purchase lands and says nothing with reference to improvements thereon. However, it is a general principle of law that a transfer of land carries with it all the improvements thereon unless expressly reserved by the deeds of transfer. Consequently, we do not believe it was the intention of the Legislature to limit the purchase to bare land, if, perchance, such interpretation should be sought to be placed upon the wording of such section.

CONCLUSION

It is our opinion that if the contemplated purchases mentioned are to be made same should be handled by or through the State Purchasing Agent.

Yours very truly

J. W. BUFFINGTON
Assistant Attorney General

APPROVED

J. E. TAYLOR
(Acting) Attorney General

JWB LC