

SCHOOLS:

Rural school district may condemn property adjacent to a school for playground purposes.

May 16, 1938 5/17



Mr. Wayne V. Slankard,
Prosecuting Attorney,
Newton County,
Neosho, Missouri.

Dear Sir:

This will acknowledge receipt of your request dated May 12, 1938 for an official opinion which request is as follows:

"I would like your opinion on the following:

The rural school district in this County has only one-half acre of ground in their school house site. As I understand it from them, before their school will be State approved, they must have at least an acre for play ground purposes.

They are unable to agree with the owner, as to the price to be paid for such additional ground. Desire to know whether or not such district is empowered to condemn such additional play grounds."

Section 9215, R.S. Mo. 1929 reads as follows:

"Whenever any district shall select, at the annual or any special meeting, one or more sites for one or more schoolhouses, or the board of education in city, town or con-

solidated school district, under the provisions of the statute applicable thereto, shall locate, direct and authorize the purchase of sites for schoolhouses, libraries, offices and public parks and playgrounds, or additional grounds adjacent to schoolhouse site or sites, and cannot agree with the owner thereof as to the price to be paid for the same, or for any other cause cannot secure a title thereto, the board of directors, or board of education aforesaid may proceed to condemn the same in the same manner as provided for condemnation of right of way in article 2, chapter 7, R.S. 1929, and upon such condemnation and the payment of the appraisement, as therein provided, the title of said lot or land shall vest in the board of directors or board of education aforesaid for use in trust for the district and the purposes for which the same was so selected and located. All laws or parts of laws in conflict with this law are hereby repealed."

This section is applicable to all classes of schools and applies especially to rural school districts. Under this section you will notice that any district shall select, at the annual or special meeting, additional grounds adjacent to schoolhouse site or sites. Also this section provides for condemnation under eminent domain as described in condemnation of right of way in article 2, chapter 7 of the Revised Statutes of 1929. This article was amended in the Session Laws of 1931, at page 171 only to the effect of interlining "telephone" and "street railway", and in no way affect the procedure of the condemnation.

This section was upheld in the case of Gladney et al. v. Gibson and School District of Elsberry, Missouri, 208 Mo. App. 70.

Mr. Wayne V. Slankard

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If the condemnation of the additional ground as set out in your letter provides for an increase of the tax levy, it would be advisable to read Section 9226, R. S. Mo. 1929. The procedure of the condemnation is too lengthy to set out in this opinion but should follow all of article 2, chapter 7, Revised Statutes of Missouri 1929, and Session Laws of 1931, page 171.

CONCLUSION

In view of the above section which applies to all classes of schools, it is the opinion of this office that the rural school district in your county is empowered to condemn such additional land adjacent to schoolhouse thereon situated.

Respectfully submitted

W. J. BURKE
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

WJB:DA