

**ARMORIES:** County Courts' authority to furnish sites to the State for armories.

County Courts may give or convey lands of the County to the State for armories.

August 4, 1938

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Honorable Wayne V. Slankard  
Prosecuting Attorney  
Neosho, Missouri



Dear Sir:

This is in reply to yours of July 26, 1938, requesting an official opinion from this department based upon the following letter:

"The County Court of this County has requested that I secure your opinion on the following:

"After the construction of the new jail, the old jail building and lot are no longer needed by the County and the location is particularly suited for an Armory.

"The National Guard locally has secured a grant for the purpose of the construction of a new Armory and desire this lot for this purpose. Does the County Court have a right to give this property to the State for an Armory site and if not, could it be sold to the State for a nominal sum."

Your request involves the question of the right of a County Court to dispose of county properties.

Section 2078, R. S. Mo. 1929, provides as follows:

"The said court shall have control and management of the property, real and personal, belonging to the county, and shall have power and authority to purchase, lease or receive by donation any property, real or personal, for the use and benefit of the county; to sell and cause to be conveyed any real estate, goods or chattels belonging to the county, appropriating the proceeds of such sale to the use of the same, and to audit and settle all demands against the county."

Counties and other political subdivisions of the State are restricted in disposing of public funds and county properties by Section 46, Article IV, of the Constitution of Missouri, which provides as follows:

"The General Assembly shall have no power to make any grant, or to authorize the making of any grant of public money or thing of value to any individual, association of individuals, municipal or other corporation whatsoever: Provided, That this shall not be so construed as to prevent the grant of aid in a case of public calamity."

However, the provisions of the above section do not apply to grants of public moneys or property to the State.

Section 7 of Article XIII of the Missouri Constitution provides as follows:

"The General Assembly shall provide for the safe-keeping of the public arms, military records, banners and relics of the State."

Pursuant to this section, the Legislature enacted Sections 7213 and 7214, R. S. Mo. 1929, which are as follows:

"Sec. 7213. All cities, towns, villages and counties in this state are hereby given power and authority to build or acquire, by purchase, lease, gift or otherwise, suitable armories, drill halls and headquarters, and the land necessary therefor, for such organizations of the national guard of Missouri as may be stationed or located therein, and to provide for the maintenance and repair of the same."

"Sec. 7214. In case any organization of the national guard of Missouri now or hereafter occupies any armory, drill hall or headquarters not owned or leased by the city, town, village or county wherein it is located, such city, town, village or county is hereby given power and authority to provide for the maintenance and repair of such armory, drill hall or headquarters."

By these sections and by authority of the foregoing provisions of the Constitution, the Legislature has authorized the counties, cities or villages to build or acquire by purchase or lease, gift or otherwise, armories, etc. The county courts, by virtue of said authority, may purchase sites for armories or may rent such sites.

In the case of State ex rel. v. Turner, 93 Ohio State 379, 113 N. E. 327, the court held:

"A municipality may deed land to the state for an armory, reserving the right to use the armory for purposes of drill by its police and fire departments."

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As to the manner in which the title to such armory may be taken by the State, I am enclosing a copy of an official opinion dated January 4, 1938, to Honorable Lewis M. Means, Adjutant General, written by Mr. W. J. Burke, Assistant Attorney General, which covers that question.

CONCLUSION.

From the foregoing authorities, it is the opinion of this department that the county court of a county may give a site for an armory to the State, and that the State may take title thereto as is provided by Laws of 1933 at page 251.

Respectfully submitted

TYRE W. BURTON  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
(Acting) Attorney General

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