

SCHOOL: Board of Directors of common school may convey real estate upon order of voters at annual meeting.

STATE PARK BOARD: State Park Board has no power to convey State Park property except by act of Legislature.

September 27, 1939

Honorable I. T. Bode, Director  
State Conservation Commission  
Jefferson City, Missouri

9-30



Dear Sir:

We are in receipt of your request for an opinion, dated September 20, 1939, as follows:

"At Chesapeake State Park in Lawrence County there is one-half acre of land on the inside of the park boundary fence which is the property of a rural elementary school which is located across the road from the park. The road referred to is State Highway No. 14. Also, on the south side of the highway, adjacent to this school building and on the opposite side of the road from the park, there is one acre of land which is the property of the State.

\*\*\*\*\*

Do we have authority in the name of the State of Missouri to give this rural school board a deed to the one acre of land which is south of the highway, and to accept from this rural school board a deed to the one-half acre of land which is north of the highway? Or, should any deed which we accept from this rural school board be signed by the County Court of Lawrence County, or by any other agency? It is the opinion of the local residents that the members of the school board have authority to negotiate this land to the State.

\*\*\*\*\*"

Section 9269, R. S. Mo. 1929, places the title of all school property in the school district in which the same may be located, and is as follows:

"The title of all school house sites and other school property shall be vested in the district in which the same may be located; and all property leased or rented for school purposes shall be wholly under the control of the board of directors during such time; but no board shall lease or rent any building for school purposes while the district schoolhouse is unoccupied, and no schoolhouse or school site shall be abandoned or sold until another site and house are provided for such school district."

The only mention found in the statutes of the right of a school district to dispose of its real estate is found in the seventh provision under Section 9284, R. S. Mo. 1929, which sets out the powers of the qualified voters when assembled at the annual meeting, said provision being as follows:

"Seventh--To direct the sale of any property belonging to the district but no longer required for the use thereof, to determine the disposition of the same and the application of the proceeds."

This section is under Article III, Chapter 57, R. S. Mo. 1929, relating to common schools.

Under Section 9330, R. S. Mo. 1929, under Article IV relating to city, town and consolidated schools, we find the following:

" \* \* \* \* and whenever there is within the district any school property that is no longer required for the use of the district, the board is

hereby authorized to advertise, sell and convey the same, and the proceeds derived therefrom shall be placed to the credit of the building fund of such district."

It is apparent from the foregoing provisions that the property of a school district, which is no longer required for school purposes, may be disposed of by the voters of the district assembled at their regular annual meeting, the actual conveyance to be made by the Board of Directors of such district in accordance with the instructions of the voters.

The State Park Board was created in 1937, its powers and duties being found in Laws of Missouri, 1937, page 520, and they are set out as follows:

"The State Park Board shall have the power to acquire by purchase, eminent domain or otherwise, all property necessary, useful or convenient for the use of said Park Board or the exercise of its powers hereunder necessary for the recreation of the people of the State of Missouri. In the event the right of eminent domain be exercised, it shall be exercised in the same manner as now or hereafter provided for the exercise of eminent domain by the State Highway Commission. Said Park Board shall have the power to make and promulgate all rules and regulations as it may deem necessary for the proper maintenance, improvement, acquisition and preservation of all state parks. Said park board is hereby authorized to employ such persons or assistants as may be necessary and may fix the compensation of persons thus employed within the amount appropriated therefor by the Legislature. All vouchers for the payment of bills or for compensation shall be drawn and approved by the Director of State Parks and when presented to the State Auditor shall be paid out of the funds appropriated for such purposes."

September 27, 1939

While the above section gives the State Park Board full power to acquire any lands necessary or convenient for its use, we find no provision given the Park Board to sell, exchange or in any manner dispose of any of the lands belonging to the state acquired by it. In the absence of any specific grant of this power, we must assume that the legislators did not intend that such authority be given.

From the foregoing, it is our conclusion that a school district may convey its property to the State Park Board at its annual meeting if the voters of the district so desire, but that the State Park Board has not the power, in the absence of express legislation so directing, to convey any of the property under its control belonging to the state.

Respectfully submitted,

ROBERT L. HYDER  
Assistant Attorney General

APPROVED:

---

W. J. BURKE  
(Acting) Attorney General

RLH:VC