

SCHOOLS: Directors of town school district cannot dispose of building or school house site until another building or school house site has been provided.

March 28, 1939

Hon. Roy W. McGhee  
Prosecuting Attorney  
Wayne County  
Greenville, Missouri



Dear Sir:

This will acknowledge receipt of your letter of March 8, 1939, requesting an opinion on the following:

"Mr. C.E. Stephens, president of school district c-3, Greenville, Missouri, has requested that I ask you for an opinion on behalf of the board of directors.

"The school building and other property belonging to this district is located in the Wappapello Dam basis and the federal government is seeking to acquire title to all that they own. The main building cost in the neighborhood of \$100,000.00 and is located within the corporate limits of Greenville and the town of Greenville is to be abandoned and flooded upon the completion of the dam.

"Mr. Stephens wants to know if the school board, which is a six-man board, has the authority to option the property to the government."

Section 9194, R.S. Missouri, 1929, pertaining to the classification of public schools provides "all districts governed by six directors in which is located any city of the fourth class, or any incorporated town or village, shall be known as town school districts". We gather from your request that school district C-3, Greenville, Missouri, is a town school district.

Section 9330, R.S. Missouri, 1929, provides as follows:

"\* \* \* 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."

Section 9269, R.S. Missouri, 1929, 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.

It will be noted that the board of directors in such school district is authorized by statute to sell the school property, but that the above quoted sections place certain restrictions upon the sale. These are that the property be no longer required for the use of the district and that no school house or school site shall be sold until another site or school house is provided for such district.

While there is nothing to prevent the district from optioning this property for sale to the federal government, the above statutes would of course prevent the exercise of that option because it is apparent that no new school house or school site has been provided for the school district  
C-3.

In Consolidated School District No. 6 v. Shawhan, 273 S.W. 1.c. 184, the court, in speaking of the duty of a school director on taking office, said:

"By accepting such trust each director obligates himself to perform the duties as the law directs."

Thus, under the above statutes, the directors are obligated not to sell school buildings or sites unless another site or building has been provided.

CONCLUSION

Therefore, it is the opinion of this department that the directors of a town school district may not option their property for sale and complete said sale until the school district no longer requires the property proposed to be sold, and if said property be the school house or school site, until there has been provided another school house or site.

Our suggestion is that a friendly condemnation suit will have to be brought by the federal government in order to obviate the above statutes.

Respectfully submitted,

LAWRENCE L. BRADLEY  
Assistant Attorney General

APPROVED By:

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J. E. TAYLOR  
(Acting) Attorney General