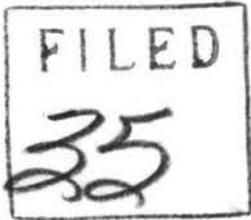


STATE PARK BOARD: State park Board is vested with authority under Section 253.020, RSMo 1949, to purchase property within Roaring River State Park, being sold at auction by the Eagle Rock School Board.



May 28, 1953

Mr. Abner Gwinn
Chief of Parks
State Park Board
Jefferson City, Missouri

Dear Mr. Gwinn:

This will acknowledge receipt of your request for an opinion on whether the State Park Board may bid on and purchase property being sold by the Eagle Rock School Board at public auction on June 3, said property being within Roaring River State Park, and in your opinion said property is needed and necessary for expansion of the picnic and public camp grounds in said park.

Section 253.020, RSMo 1949, vests in the State Park Board authority to acquire all property necessary, useful or convenient for the use of said park board or necessary for the recreation of the people of the State of Missouri, and reads:

"1. 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.

"2. 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.

Mr. Abner Gwinn

"3. 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."

The primary rule of construction of statutes is to ascertain and give effect to the lawmaker's intent, and this should be done from words used, if possible, considering the language honestly and faithfully. (See City of St. Louis vs. Senter Commission Company, 85 SW (2d) 21, 337 Mo. 238.)

In answering your request we are assuming that there is no question as to said school board having authority to convey said property.

The word "acquire" has been defined to mean to become the owner of property and imports ownership. In Weinberg vs. Baltimore & Annapolis R. Co., 88 A. 2d 575, l.c. 577, the court in defining the word "acquire" said:

"There does not seem to be any dispute that the word 'acquire' means 'to become the owner of property' or 'to make property one's own'. In the final analysis 'acquire' imports 'ownership'. * * * "

The word "purchase" in the foregoing statute has been defined by nearly all the states. In Byrd v. Allen, 171 S.W. (2d) 691, l.c. 695, 351 Mo. 99, the court defined "purchase" as follows:

"Plaintiffs do not take as purchasers under the will of Joseph Hunter. 'The words "purchase" and "descent" are employed to designate the only two methods of acquiring title to real property * * *; but they are readily distinguished as each is the opposite of the other, title by descent being acquired by mere operation of law and title by purchase being acquired by act or agreement of the

Mr. Abner Gwinn

parties, or, as frequently stated, by any means other than descent.' * * *"

See also Strudthoff vs. Yates, 162 P. 2d 845, 852, subsequent opinion, 170 P. 2d 873, 28 Cal. 2d 602, in which the court defining the word "purchase" said:

"The word 'purchase', in a technical and broader meaning relative to land generally, means the acquisition of real estate by any means whatever except by descent. Kelly v. Southworth, 38 Wyo. 414, 267 P. 691. In a popular and confined sense, it means acquisition by way of bargain and sale or other valuable consideration, or the transmission of property from one person to another by their voluntary act and agreement founded on a valuable consideration. Cobb v. Webb, 26 Tex. Civ. App. 467, 64 S.W. 792. See also, 35 Words and Phrases, Permanent Edition, p. 473; Robbins v. Pacific Eastern Corporation, 8 Cal. 2d 241, 269, 65 P. 2d 42."

CONCLUSION.

In view of the foregoing statute and definitions, it is the opinion of this department that the State Park Board has authority to bid on said school property in an effort to acquire and purchase said property.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Aubrey R. Hammett, Jr.

Yours very truly,

JOHN M. DALTON
Attorney General

ARR:sw