



February 18, 1969

OPINION LETTER NO. 18

Honorable Ralph Combs
State Representative - District 89
Missouri House of Representatives
State of Missouri
State Capitol Building
Jefferson City, Missouri 65101

Dear Representative Combs:

You submitted a request for an opinion from this office as follows:

"* * * The City of Pattonsburg is located within an area proposed to be acquired by the Federal Government for the creation of a reservoir. This City will be put out of existence by reason of this federal project. Under these circumstances, does this City have the power to condemn other land in order to relocate outside of the reservoir area. If it has such right of condemnation, does the City have the authority to issue bonds in order to pay for the acquisition of the new territory?"

We assume from the facts stated that the town of Pattonsburg will be inundated by the proposed reservoir that is to be created by the Federal government, and your question is whether the city has authority to condemn lands some distance from the present boundaries of the City of Pattonsburg and not adjacent thereto for the purpose of relocation of the city. The question of annexation of property adjacent to the present boundaries is not in issue.

Pattonsburg is a fourth class city. It is a municipal corporation, State ex rel Audrain County vs. City of Mexico, 197 S.W.2d 301.

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A municipal corporation is but a creature or political subdivision of the state and, therefore, in possession only of such powers and authority as are conferred upon it by express or implied provisions of the law. State ex rel Jack Frost Abattoirs vs. Steinbach, 274 S.W.2d 588.

We must determine whether there is any statutory authority for a fourth class city to purchase or condemn lands for the purpose of relocation.

Chapter 79, RSMo, applies to fourth class cities. Section 79.010, RSMo, provides in part that cities of the fourth class,

"* * * may receive and hold property, both real and personal, within such city, and may purchase, receive and hold real estate within or without such city for the burial of the dead; and may purchase, hold, lease, sell or otherwise dispose of any property, real or personal, it now owns or may hereafter acquire; may receive bequests, gifts and donations of all kinds of property, * * *"

In regard to the location of the property which may be purchased by a city, in 63 C.J.S., Municipal Corporations, paragraph 952, it is stated:

"It has been announced as a general rule that a municipal corporation has no power to purchase and hold land beyond its territorial limits, unless the power has been specially conferred on it by the legislature; and such power is not necessarily conferred by a general grant of power to purchase, hold, and convey such property, real and personal, as may be necessary for its public uses and purposes. The legislature, however, may confer such power, either in express terms or by necessary implication; and there are cases in which, without any special grant of such power, it has been implied as necessary in order to carry out powers granted. It has been held, however, that, where a statute authorizes the purchase of lands within the corporate limits only, power to purchase land outside such limits may not be implied."

There is no statute authorizing a city of the fourth class to purchase real estate beyond the boundaries of the city for the purpose of relocation of the inhabitants of the city or for the change of the situs of the municipality. If it has no authority to purchase, it has no authority to acquire property by condemnation.

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It is the opinion of this department that the City of Pattonsburg, Missouri, has no authority to purchase or condemn real estate outside its boundaries for the purpose of relocating such city.

Yours very truly,

JOHN C. DANFORTH
Attorney General