

1969



OPINION LETTER NO. 194
Answered by letter - Bern

Honorable Robert L. Dunkeson
Executive Secretary
State Inter-Agency Council for
Outdoor Recreation
1203 Jefferson Building
P.O. Box 564
Jefferson City, Missouri 65101

Dear Mr. Dunkeson:

This is in response to your request for an opinion from this office, regarding the time at which the City of Joplin "assume[d] legal ownership" of a particular piece of property.

On the basis of the information which has been supplied we are unable to render an opinion as to the date on which "the City of Joplin did in fact assume legal ownership of the . . . 8.3 acres of land," and this for the reasons set out below.

The only information we have regarding the transaction is as follows:

1. It appears that on October 18, 1966 a general warranty deed was signed by Leona E. Martin, Katherine F. Sebastian, John W. Freeman, Bonnie Freeman, John R. Foster, Martha Foster, William E. Freeman, Florence E. Chadwell, and Earl Chadwell, grantors, notarized by Betty Ann Mathis, running in favor of the City of Joplin, grantee.
2. The City of Joplin entered into an agreement with the State Inter-Agency Council for Outdoor Recreation for the acquisition of 8.3 acres of land for an addition to Spiva Park, the terms of said agreement requiring that the property be purchased by the City during the project period, August 1, 1967 to May 1, 1968.

Honorable Robert L. Dunkeson

3. A check for the purchase of the property described in the above-mentioned general warranty deed is dated April 25, 1968, a point in time within the project period.

4. The Department of the Interior's Bureau of Outdoor Recreation Manual currently in effect provides in pertinent part:

Relationship of Costs to Project Period.
To be eligible for matching assistance, costs must have been incurred within the project period or the period covered by the agreement . . .

Acquisition costs are incurred when the signed deed, lease, or other appropriate conveyance is taken by the participant.
(Emphasis added).

In view of the fact that the Outdoor Recreation program, 16 U.S.C. 460 l, is national in scope, the directions with regard to determining when acquisition costs are incurred are apparently intended to produce a system of uniform application throughout the nation, and thus to avoid such local doctrines regarding the passage of title as the doctrine of equitable conversion. The provision with regard to when acquisition costs are incurred clearly does not appear to suggest that they are incurred when the deed is signed by the grantees, for the language is in terms of when something is done with the signed deed. Nor would one expect that the Secretary of the Interior, or his authorized delegate, would mean to imply a taking by the grantee against the will of the grantor. It is our opinion that the term "taken" as used in the Department's Bulletin is intended to encompass the common requirements of: (1) delivery of the deed by the grantor, and (2) acceptance of the same by the grantee. See: Sando v. Phillips, 319 S.W.2d 648 (Mo. 1959) (delivery is essential to the validity of the deed, which takes effect from the date of delivery and not from the date of execution); Donnelly v. Robinson, 406 S.W.2d 595 (Mo. 1966) (to be operative as transfer of ownership deed must be delivered to grantee or someone for him); Weigel v. Wood, 194 S.W.2d 40 (Mo. 1946) (acceptance of deed by grantee is necessary to its validity).

It being clear that your agency will want to inquire further to determine the precise facts with regard to the elements of delivery and acceptance, we are not in a position at this point to render an opinion as to the date when the acquisition costs

Honorable Robert L. Dunkeson

were incurred. It appears that your inquiry with regard to when the City of Joplin "assume[d] legal ownership" of the land is likewise dependent upon your additional findings as to when delivery and acceptance occurred. For this same reason we are unable at this point to render an opinion as to when the City "assume[d] legal ownership."

Yours very truly,

JOHN C. DANFORTH
Attorney General