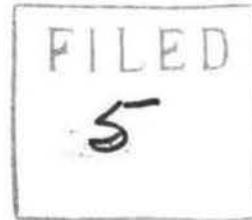


(Answer by Letter) Burns

January 12, 1970

OPINION LETTER NO. 5

Honorable William H. Wessel
Prosecuting Attorney
Gasconade County
303 Schiller Street
Hermann, Missouri 65041



Dear Mr. Wessel:

This is in answer to your request as to the legality of the leasing of certain tower facilities belonging to Gasconade County to a private citizen. You state that the tower is being used presently by the sheriff for radio transmission purposes.

We are enclosing Opinion No. 92, rendered July 28, 1961, to Harold L. Volkmer, which we believe answers the question contained in your request.

Such opinion holds that county property may be leased for short terms to individuals when the county has no immediate need of the facilities for county purposes. Such holding is based on the fact that the temporary leasing or renting of the county property must be consistent with the public use the county has or will have for such property. It follows, therefore, that if the lease can be made in this case without interfering with the public use of the county property by the county, the lease would be authorized. On the other hand, if the lease in any way interfered with the public use of the property by the county, there would be no authority for the county to enter into such a lease.

Very truly yours,

JOHN C. DANFORTH
Attorney General

Enclosure