

Answer by letter-Wood

March 25, 1970

OPINION LETTER NO. 251

Mr. Joseph Jaeger, Jr.
Director of Parks
Missouri State Park Board
P. O. Box 176
1204 Jefferson Building
Jefferson City, Missouri 65101



Dear Mr. Jaeger:

You recently inquired if Section 111.121, V.A.M.S., affects the following buildings or facilities under the jurisdiction of the State Park Board:

- "1. Buildings and/or facilities leased to concessionaires by the State Park Board?
- "2. State Park Board personnel residences?
- "3. State Historic Shrines and Buildings?"

Section 111.121, V.A.M.S., reads as follows:

"The county clerk, board of election commissioners, or other proper election officials having authority over any general, special or local election may designate tax-supported public buildings to be used as polling places, and no official having charge or control of any public building shall refuse to permit the use of the building for election purposes."

It is my opinion that a building owned by the State of Missouri but properly leased by the State Park Board to a private individual or corporation is not a "tax-supported public building" within the contemplation of Section 111.121 during the leased period.

Mr. Joseph Jaeger, Jr.

". . . 'When a lease is given by the state to an individual or private corporation, the lessee thereby obtains for his or its private use certain rights and privileges in, to and upon such real estate. These rights and privileges constitute private property over which the lessee has, and may exercise, absolute dominion and ownership within the limitations of his or its lease. . . . ' . . . ' (Iron County v. State Tax Commission, 437 S.W.2d 665, 670 (Mo. en banc 1968))

It is my further opinion that buildings owned by the State of Missouri and used by the State Park Board solely as dwelling houses or residences by its employees are not "tax-supported public buildings" within the meaning of Section 111.121.

". . . 'Manifestly that language means a place exposed to the public, and where the public gather together or pass to and fro, and the building referred to means a public one, and belonging to or used by the public for the transaction of public or quasi public business, such as a schoolhouse, courthouse, or other similar one.' . . . ' (State ex rel Ferguson v. Donnell, 163 S.W.2d 940, 944 (Mo. en banc 1942))

Finally, it is my opinion that historic buildings owned by the State of Missouri and controlled by the State Park Board for display to the public would be "tax-supported public buildings" as envisioned by Section 111.121.

Yours very truly,

JOHN C. DANFORTH
Attorney General