

COUNTY COURTS:
COUNTY FAIRS -
PURCHASE OF LANDS, ERECTION
OF BUILDINGS AND APPROPRIATIONS
OF MONEY FOR:

County Court may purchase lands, erect
buildings and appropriate public funds
to county fair associations by following
the procedure set out in Section 12490,
RSMo 1929, and Sections 12508 and 12509,
Laws of Missouri 1931, page 133.

September 16, 1938 9/19

Honorable Edward V. Long
Prosecuting Attorney
Pike County
Bowling Green, Missouri



Dear Sir:

In compliance with your telephone conversation, we are submitting an opinion on the following questions:

- "1. Whether or not the County Court of Pike County has power to use funds to purchase land and to construct buildings thereon to be used for fair purposes.
2. Does the County Court have the authority to make a contribution out of county funds to a non-profit corporation engaged in holding and operating fairs?"

In approaching your question, we are not unmindful of the limitation of the powers of the county courts when they are performing public duties.

In the case of Bayless v. Gibbs, 251 Mo. 492, 1. c. 506, in speaking of the limitations of such powers, the court said:

"This court, in numerous cases, has repeatedly held, that the county courts of the respective counties of the State are not the general agents of the

counties of the State. They are courts of limited jurisdictions, with powers well defined and limited by the laws of the State; and as has been well said, the statutes of the State constitute their warrant of authority, and when they act outside of and beyond their statutory authority, their acts are null and void."

As to the authority of a county court to use county funds to purchase land and construct buildings thereon to be used for county fair purposes, and as to the authority of such court to appropriate public funds to a non-profit fair association, the only statutes we find giving the court such authority are as follows:

Section 12490, R. S. Mo. 1929, provides as follows:

"The county court of any county in which there shall be a regularly organized county agricultural and mechanical society, county fair, county corn growers' association, county poultry association, county stock growers' association, or any other organization or incorporated society having for its object the holding of county fairs or the advancement of agriculture or its allied industries may, if it be deemed expedient, appropriate out of the county treasury for the benefit of any such society a sum not exceeding three hundred dollars in any one year; and the money so appropriated shall be drawn by the treasurer of the society on proper warrant: Provided, said money shall be awarded by the board of directors or other proper officials in premiums or expended by them in the purchase of premiums, to be known as 'the _____ county court premiums,' to be awarded according to the rules,

regulations and by-laws of the society: Provided further, that in all counties in this state having seventy thousand inhabitants or more, the county court of such county may, if it be deemed expedient, appropriate out of the county treasury, for the benefit of any such society, a sum not exceeding one thousand dollars, to be used as in this section above set out, or in any other manner that said board of directors may deem best."

By this section the court is only authorized to appropriate a sum not exceeding three hundred dollars to the fair associations named therein. No authority is granted by this section to purchase land or to erect buildings for such associations.

However, by Sections 12508 and 12509, Laws of Missouri, 1931, page 133, the county courts are given more authority in respect to aiding fair associations than is given by Section 12490, supra. These sections are as follows:

"Sec. 12508. That in all counties of this state in which the constitutional limit is not levied for county purposes, it shall be the duty of the county court, upon the filing of a petition signed by not less than 300 resident taxpayers and qualified electors of such county, to call an election to submit to the qualified voters thereof, a special levy of not more than two mills and not less than one-third mill on the dollar (\$1.00) valuation, which levy, together with all other levies for county purposes, shall not exceed the constitutional limit of levy for the county affected, for the purpose of encouraging, promoting and improving the live stock, poultry, agricultural, horticultural, mechanical fabrics and fine arts, products and articles of domestic industry, and the

exhibition of such stock, poultry articles and commodities, at the district or county fair held in such county. If a majority of the voters voting at said election shall be in favor of such proposition, then it shall be the duty of the county court at its next regular term thereafter to make said levy, one-half of which levy shall be set aside by the county court and distributed ratably to the exhibitors of the oldest district or county fair held in said county, for the purpose of paying premiums to exhibitors of the articles and commodities in sections 12508 to 12512, inclusive; the other one-half of which levy may, in the judgment and discretion of the court, be used for the purpose of purchasing grounds and/or erecting suitable building for such fair purposes; but if grounds for said purposes are owned by the county, or be leased or otherwise secured or obtained for such uses, then such other one-half of such funds may be used by the court in erecting such building; and if it be the discretion and judgment of the court that said other one-half of said levy be not used for such grounds or buildings, then the whole of the levy may be used for paying such premiums: Provided, however, that if such petition for such an election ask that one-half of such levy be devoted to the acquiring of such lands and/or erecting of such buildings, then the proposition submitted shall contain provision for such devotion; and if such majority favor such proposition, then it shall be the duty of said court so to expend and use the proceeds of such one-half of said levy. The surplus remaining out of the proceeds of any levy made under sections 12508 to 12512, inclusive, in any year, shall in the hands of the county treasurer constitute a fund

for the purposes of sections 12508 to 12512, inclusive, and may be used either as premiums offered or advertising for exhibits to be made under any provision of sections 12508 to 12512, inclusive."

"Sec. 12509. It shall also be the duty of the county court in every such county to apportion the proceeds of the levy made pursuant to section 12508 hereof, and in accordance with the provisions of said section 12508, among the several objects and subjects in said section 12508 mentioned, and to offer suitable premiums in each class thereof to the full amount available from said levy. All such premiums shall be offered for exhibits made at the largest and oldest public fair held in such county, such exhibits shall be in place at such fair at least twenty-four hours before the opening thereof to the public, and remain in place until midnight of the last day of such fair."

By this section, one-half of the levy authorized is to be used to pay premiums of the fair and the other one-half for purchasing grounds and/or erecting suitable buildings. However, if the county owns, leases or otherwise obtains lands suitable for fair purposes, then it may use said one-half of the tax for the erecting of buildings for fair purposes. This section makes it discretionary with the county court whether or not it will use one-half of the levy for grounds and/or erecting buildings unless the petition for the submission of the proposition to vote the levy provides that one-half of said levy be used for lands and/or the erection of buildings, in which case the county court must use one-half of the levy for lands and/or erecting buildings.

September 16, 1938

CONCLUSION

From the foregoing, we are of the opinion that the county court may appropriate money from available funds in the county treasury not exceeding three hundred dollars in any one year for the premiums or to be expended for premiums, to be known as " county premiums." Such appropriation should be made to the board of directors or other proper officials of the fair organization named in said Section 12490, supra.

We are further of the opinion that by the provisions of said Sections 12508 and 12509, Laws of Missouri, 1931, page 133, the county court may use one-half of the levy authorized by said sections to buy lands and to erect buildings thereon unless the petition for the election authorizing such levy requires that one-half of same be used for acquiring fair grounds and/or erecting buildings, in which case the county court must use said portion of the levy for lands and/or erecting buildings. We are further of the opinion that one-half of the levy and any moneys not used for said lands and/or erecting buildings should be set aside and distributed by the county court to the oldest exhibitors of the county or district fair to pay the premiums designated by said section. Only the moneys derived from the levy authorized by said Section 12508, Laws of Missouri, 1931, page 133, may be used for the purposes set out in said section, and no part of the levy authorized for current county expenses may be expended for fair grounds and/or buildings for a fair.

Respectfully submitted

TYRE W. BURTON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

TWB:HR