

SCHOOLS: Rural School District may purchase land adjacent to a school for road purposes.

March 1, 1939

Mr. Frank W. McGraw
County Superintendent of Schools
Marshall, Missouri

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Dear Sir:

We are in receipt of your request for an opinion under date of February 23, 1939, which reads as follows:

"I am writing you at the request of one of my rural school boards relative to the purchasing of a right-of-way for a road to the school building.

"It so happens when this school district was formed, the building erected, private roads let to it and no provision was made for a public road. In later years the private roads have been closed and the board has now an opportunity to purchase a right-of-way.

"We are requesting you to advise us what authority the board has to purchase this road and what would be the necessary and lawful procedure in paying for it.

"The board consulted Mr. James, our County attorney, but he seemed to think the matter had not been dealt with in our courts. The proposition does not involve but only about two or three hundred dollars of expense and the board has sufficient money on hands to purchase the right-of-way but are in doubt to whether they have authority to proceed."

Section 9215 R. S. Missouri, 1929, provides as follows:

"Whenever any district shall select, at the annual or any special meeting, one or more sites for one or more schoolhouses, or the board of education in city, town or consolidated school district, under the provisions of the statute applicable thereto, shall locate, direct and authorize the purchase of sites for schoolhouses, libraries, offices and public parks and playgrounds, or additional grounds adjacent to schoolhouse site or sites, and cannot agree with the owner thereof as to the price to be paid for the same, or for any other cause cannot secure a title thereto, the board of directors, or board of education aforesaid may proceed to condemn the same in the same manner as provided for condemnation of right of way in article 2, chapter 7, R. S. 1929, and upon such condemnation and the payment of the appraisement, as therein provided, the title of said lot or land shall vest in the board of directors or board of education aforesaid for use in trust for the district and the purposes for which the same was so selected and located. All laws or parts of laws in conflict with this law are hereby repealed."

This section is applicable to all classes of schools and applies especially to rural school districts. Under this section any district shall select at the annual or special meeting additional grounds adjacent to school house site or sites. Also, this section provides for condemnation under eminent domain, as described in condemnation of right-of-way, in article 2, chapter 7, R. S. Missouri, 1929. This article was amended in the Session Laws of 1931, at page 171, only to the effect of interlining "telephone" and "street railway", and in no way effects the procedure of the condemnation. This section was

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upheld in the case of Gladney et al, v. Gibson and School District of Elsberry, Missouri, 208 Mo. App. 70, and also in the case of Corley v. Montgomery, 226 Missouri Appeal 795.

It will be noticed by the above section 9215, supra, that it especially sets out or additional grounds adjacent to school house site or sites. Under your request you state that you have agreed upon the purchase of the land and in that event it would not be necessary to follow condemnation proceedings.

CONCLUSION.

In view of the above authorities it is the opinion of this department that a rural school board may by agreement with the owners of land, purchase land, for any purpose, that is adjacent to the school site.

It is further the opinion of this department that the rural school board may purchase land for a right-of-way into the school site for the reason that said land would be adjacent to the school site.

Respectfully submitted,

APPROVED:

W. J. BURKE
Assistant Attorney General

J. W. BUFFINGTON
(Acting) Attorney General

WJB:RW