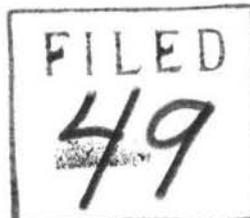


SCHOOLS: A new building may be erected on present site and not violate Sec. 9330, R. S. 1929. Words "addition" and "supplemental" defined; notice to voters should be full enough to apprise them of the exact purpose for which the building is being erected.

February 11, 1937.



Honorable Lloyd W. King
State Superintendent
Department of Public Schools
Jefferson City, Missouri

Dear Mr. King:

This is to acknowledge your letter dated February 10, 1937. Your letter is quite lengthy but as it contains a complete explanation of the questions with citations of authorities, we copy it, as follows:

"This Department has received a request for an interpretation of Section 9330, R. S., 1929, as it applies to the erection of a new elementary school building in addition to, and on the site of the present elementary school building. The facts as reported to this office are as follows:

"The Board of Education of the School District of Washington, Franklin County, Missouri, finds it necessary to erect and furnish a new elementary school building containing an auditorium, library, classrooms, etc. The Board of Education desires to locate the proposed new building on the site of the old primary (or elementary) school building in said district and borrow money and issue bonds for the payment thereof, under the provisions of Section 9198, Revised Statutes of Missouri, 1929.

"The School District of Washington is a city district duly organized and existing under Article 4, Chapter 57, Revised Statutes of Missouri, 1929, relating to

city, town and consolidated schools, on the site of the present elementary school in said district is located a school building which is now, and was for a long time heretofore, used as an elementary grade school. For the past several years, the first seven elementary school grades have been housed in this building. This building is somewhat congested and lacks the facilities of an auditorium, study hall, library, and sufficient classrooms for efficient instruction.

"It is the purpose of the board to construct, in addition to the present building, a new building about sixty feet from the old building to take care of the fifth, sixth, and seventh grades while permitting the first four grades to remain in the old building. Both divisions of the elementary school would then use the auditorium in the new building. The proposed new building will not be directly connected with the old building except by a concrete walk. Members of the board believe it would be better to build a new building to which new additions could later be made than it would be to construct a building contiguous with an old building erected in 1871, to which one addition has already been made.

"The district is not divided into primary or ward schools, and, in the opinion of the board, the necessities of the district do not demand such division at this time.

"References:

"1. Section 9198, Revised Statutes of Missouri, 1929, - the board of directors has power, when authorized by a two-thirds vote, to borrow money and issue bonds for the payment of schoolhouse sites, school buildings, furnishing buildings, and building additions to old buildings.

- "2. Section 9330, Revised Statutes of Missouri, 1929, provides for the establishment of an adequate number of primary or ward schools.
- "3. In the case of Martin v. Bennett, 139 A. 237, 122 S.W. 729, the court ruled as follows:

'The statute should receive a reasonable construction. Such a construction, I think, would authorize school boards of districts organized under Article 2, Chapter 154, Revised Statutes, 1899, to build additions to a primary school building when the necessities of the district do not demand a division of the district into a primary or ward school, but prohibits the erection of more than one primary school building on one school site.'

"Questions:

- "1. Under the facts and circumstances stated herein, and the law providing for the erection of new buildings, Section 9198, R. S., 1929, would the construction of a new elementary school building, on the same site and non-contiguous to the old building but as an addition to and supplementing the present building, conflict with the law governing the establishment of primary or ward schools, as provided in Section 9330, R. S., 1929?
- "2. Does the construction of an addition to a school building require that the new building be contiguous to the old building? Or could the new building be erected several feet away from the old building and be considered as an addition to the present building facilities?

"3. Would the following proposition to be submitted at a special election meet the legal requirements for authorizing the board to erect a new elementary building in addition to, but non-contiguous to, the old building?

'(1) To authorize the Board of Education of the School District of Washington, Franklin County, Missouri, to incur an indebtedness of said District in the amount of Thirty-six Thousand Dollars (\$36,000.00) for the purpose of erecting and furnishing a school building on the site of the present primary school in said District and to evidence such indebtedness by the issuance of Bonds of said District in said amount for said purpose.'

Or, should this proposition contain a qualifying statement following the word "building" to indicate that the construction would be in addition to, and supplementing the present building?

"I shall appreciate your advice and opinion. Since the board plans to call a special election early in March, an immediate opinion is needed."

I.

Section 9198, R. S. Mo., 1929, referred to in your letter, gives the school boards power to erect school houses. Said section, in part, reads:

"For the purpose of * * * erecting school houses * * * and furnishing the same, and building additions to or repairing old buildings, the board of directors shall be authorized to * * * issue bonds for the payment thereof, in the manner herein provided.

* * * * *

When bonds are voted under this section for the erection of one or more school houses, to be erected on the same or different sites in common school districts, said bonds shall not be negotiated by said board until said bonds have been deposited with the county or township in which said district shall be situated, * * * * *."

It is thus seen that bonds may be voted in order to erect school houses and additions thereto.

Section 9330, R. S. Mo. 1929, and referred to in your letter, in our opinion does not apply to the situation under consideration for the reason that said section provides in part as follows:

"When the demands of the district require more than one public school building therein, the board shall, as soon as sufficient funds have been provided therefor, establish an adequate number of primary or ward schools, corresponding in grade to those of other public school districts, and for this purpose the board shall divide the school district into school wards and fix the boundaries thereof, * * *"

Section 9330 merely means that when a district is overcrowded with pupils, that for the purpose of making the school buildings more accessible to the pupils, that then the board of directors is to divide the district into wards.

The facts presented in your letter indicate that there is no demand for more than one school building but only for an enlargement of the present school building. As stated in your letter, the present building is congested and "lacks the facilities of an auditorium, study hall, library, and sufficient class rooms for efficient instruction" and that the building will "take care of the fifth, sixth and seventh grades while permitting the first four grades to remain in the old building." You further state that the new building will be an addition to and supplement the old building. The new addition will be about sixty feet from the old building.

The serious question involved is as to what is meant by an addition to, or supplementing the present building.

Words and Phrases, 2d Series, Vol. 1, page 105, says the following as to the word "additional":

"'Additional' means 'added; supplemental; coming by way of addition.' Collier v. Smaltz, 128 N. W. 396, 399, 149 Iowa, 230, Ann. Cas. 1912C 1007."

The Kansas City Court of Appeals in Tate v. Insurance Co., 133 Mo. App. 584, had the following to say as to whether a detached building was an addition to a main building (p. 588):

"Was the detached building, although used as a part of the main dwelling, an addition within the description of the policy? The question is answered in the affirmative by numerous decisions of which the following are a part: * *"

In Manufacturing Company v. Insurance Company, 167 Mo. App. 566, the Kansas City Court of Appeals in its opinion detailed the facts as follows (p. 569):

"The factory consisted of the main building and three other structures. One 35 by 60 feet, was known as the lumber shed, paint shop and storage room, which was 13 feet distant from the main building. Another, 12 by 14 feet, was a coal house, and some castings were kept there; and it was fifteen feet from the main building. The third was a store and work house and was about 28 feet from the main building. The last mentioned was an old house and had once been a residence. All were parts of an entire plant."

The court held, (P. 572):

"It is not to be denied that an addition to a building may commonly mean something attached thereto, but no one should say that such word necessarily means that.

It often is plainly seen to have a broader meaning. A clearly appearing intention will give it a broader meaning. Circumstances and conditions, as, for instance, such as shown in this case, will influence the interpretation. so we repeat that the expression: 'One-story frame building, and its additions adjoining and communicating,' does not always mean structures physically attached to, or otherwise connected with the building by machinery, or specific passways. That cannot be said as a matter of law."

Words and Phrases, 2nd Series, Vol. 4, page 797, has the following to say as to the word "supplement":

"The term 'supplement' signifies something additional, something added to supply what is wanting. It is that which supplies a deficiency, adds to or completes, or extends, that which is already in existence, without changing or modifying the original. * * McCleary v. Babcock, 82 N. E. 453, 455, 169 Ind. 228."

II.

We answer your questions in the order presented.

Question 1.

It is our opinion that under the facts and circumstances enumerated in your letter that the erection of a new building on the same site and not contiguous "to the old building but as an addition to and supplementing the present building" would not conflict with Section 9330, R. S. Mo. 1929.

We answer your first question in the negative.

Question 2.

We answer your second question as to "Does the construction of an addition to a school building require that the

new building be contiguous to the old building?" in the negative.

In our opinion the new building could be erected several feet away from the old building and yet be considered as an addition to the present building.

Question 3.

In our opinion the notice for election should be more complete in order to fully apprise the voters of what the board intends to do. In other words, the proposition should contain the qualified statement found in your letter that the word "building" should "indicate that the construction would be in addition to, and supplementing the present building" and that it would be erected on the present site.

Trusting the above answers your questions and if you desire further clarity, kindly so apprise us.

Yours very truly,

James L. HornBostel
Assistant Attorney-General

APPROVED:

J. E. TAYLOR
(Acting) Attorney-General

JLH:EG