

STATE FAIR:

Commissioner of Agriculture may not lease fair grounds to United States from year to year for military purposes.

September 7, 1950



Honorable Robert T. Thornburg
Commissioner
Department of Agriculture
Jefferson City, Missouri

Dear Sir:

We have received your request for an opinion of this department, which request is as follows:

"Enclosed please find photostatic copies of deeds to lands near Sedalia, Missouri, on which has been established and is now located the Missouri State Fair.

"Would you kindly advise whether or not I have authority unconditionally to lease all of the lands encompassed in said deeds to the United States for military purposes, for a term of one year, with option in the United States to renew said lease from year to year thereafter."

Section 14154, R. S. Missouri, 1939, provides in part as follows:

"For the purpose of encouraging the development of the agricultural, horticultural, mechanical, mineral, stock raising and all other industrial interests of the state of Missouri, there is hereby established a state fair, to be held annually at Sedalia, Missouri, and on the state fair grounds heretofore conveyed by deeds of conveyance to the state of Missouri and hereafter to be acquired by the state of Missouri as hereinafter provided; and said fair shall be under the control and management of the state commissioner of agriculture, as hereinafter provided; and said state commissioner of agriculture shall, with the approval of the governor, have authority to lease or purchase

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such lands, suitable for the use of the state fair, as may be deemed by said commissioner necessary and proper for such purposes. * * *"

Section 14155, R. S. Missouri, 1939, provides in part as follows:

" * * * and provided further, that should the state fail for three consecutive years to hold a fair, the land thus used for state fair purposes shall revert to the parties donating it."

Section 14159, R. S. Missouri, 1939, provides in part as follows:

"The commissioner of agriculture shall have power to make all rules, regulations and by-laws necessary and suitable for the conduct and government of the exhibitions, the sale of privileges, and for the proper control, operation and conduct of the fair not inconsistent with the purposes of this article, nor with the Constitution and laws of this state. He shall have the power to employ marshals, superintendents and assistants, needful for the proper management of the fair, and may rent out or donate the use of the grounds for stabling and training stock and holding stock sales, and the grounds herein named may be used, free of charge, by the state for encampment grounds for the state troops under the direction of the adjutant-general of Missouri, and other uses not inconsistent with the objects for which the fair is created: * * *"

(Underscoring ours.)

You have submitted copies of four deeds to the state of Missouri covering land now occupied by the state fair. The first is dated September 13, 1899, and conveyed 136 acres of ground. The deed contained the following recital:

"Know all men by these Presents, That J. C. Van Riper and Anna M. Van Riper, his wife, of the County of Pettis, in the State of Missouri, have this day, for and in consideration of the sum of One Dollar, and the permanent location and maintenance of the State Fair by the State of Missouri on the land

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hereby conveyed pursuant to the act of the
General Assembly establishing a State Fair,
Granted, Bargained and Sold, * * *"

Section 14155, quoted above, was in effect at the date of this deed (Section 7411, R. S. Mo., 1899). The other three deeds are dated May 28, 1921, January 23, 1922 and June 5, 1946. These deeds conveyed smaller tracts of land and no condition is contained in the deeds themselves.

The general law regarding contracts by public officers is stated in 43 Am. Jur., Public Officers, Section 290, page 100, as follows:

"Inasmuch as a public officer has only the authority that is conferred on him by law he may make for the government he represents only such contracts as he is authorized by law to make and he must comply with the requirements of law in respect to the manner in which, and the conditions upon which, contracts may be entered into."

Section 14159, quoted above, authorizes the Commissioner of Agriculture to rent the land occupied by the state fair for stabling and training stock and holding stock sales. The Legislature has also provided that the land may be used for encampment grounds for state troops under the direction of the adjutant general of Missouri and other uses not inconsistent with the objects for which the fair is created. Certainly the leasing of the entire grounds to the United States for military purposes would not involved a use consistent with the object for which the fair is created.

The Legislature has seen fit to permit the use of the grounds by state troops, but in doing so it undoubtedly had in mind the fact that encampments of state troops are of only limited duration, ordinarily lasting only two or three weeks in any one year, and, therefore, would not interfere with the use of the grounds as fair grounds. Leasing of the entire grounds to the United States for military purposes for a period of a year with right to renew from year to year is a far different matter from the temporary use of the grounds by state troops.

Furthermore, under Section 14155, quoted above, and the deed from the Van Rippers, quoted above, should the land covered by that deed not be used for state fair purposes for three consecutive years, the land would revert to the donors or their heirs. Certainly, any disposition of the lands by you which might result in their reversion under the provisions of the statute and the terms

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of the deed would be wholly inconsistent with the use of the grounds for state fair purposes.

CONCLUSION

Therefore, it is the opinion of this department that the Commissioner of Agriculture has no authority to lease unconditionally to the United States for military purposes for a term of one year with option to renew from year to year lands owned by the State of Missouri and occupied for the Missouri State Fair.

Respectfully submitted,

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APPROVED:

J. E. TAYLOR
Attorney General