

COUNTY COURTS: The county court of Howell County may not
CITIES: contribute county funds to the city of
CITY HOSPITAL: West Plains for the purpose of erecting a
DONATIONS BY city hospital in the city of West Plains.
COUNTY COURT: Such activity may be done by a joint co-
operative basis in accordance with the
laws of the State of Missouri.



March 27, 1957

Honorable Richard D. Moore
Prosecuting Attorney
Howell County
West Plains, Missouri

Dear Sir:

Your recent request for an official opinion reads:

"The City of West Plains is trying to finance the building of a memorial hospital in West Plains. They have raised most of the necessary funds.

"Mrs. Dean Davis of West Plains, who is one of the leaders of the hospital committee, recently came to me and requested that I write you and obtain your opinion on an idea she had for additional financing of the building. She was wondering if the County Court would be permitted to invest money through the purchase of one of the hospital rooms or as an actual shareholder in the hospital itself. I can find no authority for expenditure of funds in this manner by the County Court.

"The hospital committee is in need of completing their financial arrangements by some date in April, so if you could give me your opinion as to this question at your earliest possible convenience, it would be greatly appreciated."

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All references to statutes will be to Revised Statutes of Missouri, 1949, unless otherwise indicated.

Subsequent to receiving the above opinion request we asked you to clarify the meaning of the terms used by you above, "to invest money through the purchase of one of the hospital rooms or as an actual shareholder in the hospital itself."

You orally explained to us that by the first term you meant that the county court would contribute a sum of money approximately sufficient to build one of the hospital rooms, and that the size of such a contribution would, of necessity, be very general and approximate. You also explained that the meaning of the other term was also very general and simply meant that, although no shares of stock were issued in the hospital, contributors were entitled to a seat on the hospital board. You stated that in both instances the terms used were simply means by which the County of Howell could contribute to the city hospital of West Plains, and that actually any money which Howell County gave to the hospital would be a pure donation.

This we do not believe that the county court of Howell County can do.

On July 8, 1954, this department rendered an opinion, a copy of which is enclosed, to Dick B. Dale, Jr., Prosecuting Attorney of Ray County. This opinion, as you will note, held that the county court of Ray County had no authority to make donations to the city of Richmond for a city park.

On May 12, 1952, this department rendered an opinion, a copy of which is enclosed, to Roger Hibbard, Prosecuting Attorney of Marion County. In that opinion we held that the county court of Marion County had no authority to contribute county funds to aid in the construction of a sewer system for the city of Hannibal, Missouri. You will also note that the Dale opinion refers back to the Hibbard opinion.

The matter of importance to which we would direct at-

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tention in both opinions is expressly stated on page 2 of the Hibbard opinion in which we quote from the case of King v. Maries County, 297 Mo. 488, l. c. 496, where the court stated:

"It has been held uniformly that county courts are not the general agents of the counties, or of the State. Their powers are limited and defined by law. They have only such authority as is expressly granted them by statute."

In the Dale and Hibbard opinions we were unable to find any statutory grant of power which would permit the county courts of these respective counties to make contributions of county funds for the purposes discussed, to wit, the construction of a city park and of a city sewer system. We, likewise, have searched the statutes for any authorization conferred by statute upon county courts to donate county funds for the purpose of erecting a city hospital in a municipal corporation within the county and we, likewise, are unable to find such authorization.

It is, therefore, our opinion that Howell County may not make a donation of county funds for the purpose of helping erect a city hospital in the city of West Plains in Howell County.

However, in the two opinions which we have discussed, a method has been indicated by which the counties involved might make contributions. This method is set forth in Chapter 70, which is entitled, "Powers Of Political Subdivisions To Cooperate Or Contract With Governmental Units." We particularly direct attention to Section 70.210 which is entitled, "Cooperation By Political Subdivisions Under Contract." That section defines "political subdivisions" to mean and to include counties and cities.

Section 70.220 reads:

"Any municipality or political subdivision of this state, as herein defined, may contract and cooperate

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with any other municipality or political subdivision, or with an elective or appointive official thereof, or with a duly authorized agency of the United States, or of this state, or with other states or their municipalities or political subdivisions for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service; provided, that the subject and purposes of any such contract or cooperative action made and entered into by such municipality or political subdivision shall be within the scope of the powers of such municipality or political subdivision. If such contract or cooperative action shall be entered into between a municipality or political subdivision and an elective or appointive official of another municipality or political subdivision, said contract or cooperative action must be approved by the governing body of the unit of government in which such elective or appointive official resides."

Section 70.250 reads:

"Any such municipality or political subdivision may provide for the financing of its share or portion of the cost or expenses of such contract or cooperative action in a manner and by the same procedure for the financing by such municipality or political subdivision of the subject and purposes of said contract or cooperative action if acting alone and on its own behalf."

For reasons which must be obvious, we shall not here make any attempt to define the terms of any contract or

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cooperation which might be made between the city of West Plains and Howell County for the erection of this afore-said hospital. We do believe that such discussion of this matter as is found in the enclosed opinions, together with our own discussions of it, may point the way to you for a method by which the County of Howell may have a part in the highly meritorious project of erecting a hospital from which the inhabitants of Howell County outside of the city limits of West Plains will greatly benefit.

CONCLUSION

It is the opinion of this department that the County Court of Howell County may not contribute county funds to the city of West Plains for the purpose of erecting a city hospital in the city of West Plains.

However, we are of the further opinion that such activity may be done by a joint cooperative basis in accordance with the laws of the State of Missouri.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Hugh P. Williamson.

Very truly yours,

John M. Dalton
Attorney General

HPW:lc

2 enclosures