

BONDS:
REVENUE BONDS:
NURSING HOMES:
COUNTY COURTS:

The county court has authority under Section 205.375, RSMo 1959, to issue revenue bonds for the purpose of acquiring land and sites for nursing homes.

March 6, 1964

OPINION NO. 67



Honorable Thomas D. Graham
Speaker, House of Representatives
201-204 Monroe Building
235 East High Street
Jefferson City, Missouri

Dear Mr. Graham:

This is in response to your request dated January 13, 1964, for an official opinion, which reads as follows:

"I should like to know whether or not, under the provisions of Section 205.375, RSMo 1959, a county court may issue revenue bonds for the purpose of acquiring sites for nursing homes as well as providing funds for the construction and equipping of said homes."

The pertinent part of Section 205.375, RSMo 1959, is as follows:

"* * * 2. The county court of any county or the township board of any township may acquire land to be used as sites for, construct and equip nursing homes and may contract for materials, supplies, and services necessary to carry out such purposes.

"3. For the purpose of providing funds for the construction and equipment of nursing homes the county courts or township boards may issue bonds as

Honorable Thomas D. Graham

authorized by the general law governing the incurring of indebtedness by counties, or may provide for the issuance and payment of revenue bonds in the manner provided by and in all respects subject to chapter 176, RSMo, which provides for the issuance of revenue bonds of state educational institutions. * * *

This office in opinion No. 11, dated May 29, 1963, to J. W. Colley, has held that Section 205.375 authorizes the county court to acquire land for the purpose of being used as a location for the construction of a nursing home. Said opinion further held that the county could issue general obligation bonds for the purpose of the purchase of an existing rest home to be used as a county nursing home.

It is clear from subparagraph 2 of Section 205.375, that the county is authorized to acquire land to be used as a site for a nursing home as well as to construct and equip a nursing home, and may also acquire materials, supplies, and services necessary to construct and equip a nursing home. Subparagraph 3 of said Section 205.375, expressly authorizes the county court to provide funds for the "construction and equipment of nursing homes" and to issue both general obligation bonds and revenue bonds subject to Chapter 176, RSMo, to carry out these purposes. It is manifest that the Legislature omitted to expressly provide in Section 205.375 for the financing by the issuance of bonds for the acquisition of land and sites for nursing homes. Generally, if the power to issue bonds to acquire sites has not been granted by the statutes, then the power does not exist. Meyers v. Kansas City, 323 Mo. 200, 18 SW2d 900; Horsefall v. School District, City of Salem, 143 Mo. App. 541, 128 SW 33.

The problem then is did the Legislature intentionally decline to grant power to the county court to finance the acquisition of land and sites for nursing homes by the issuance of revenue bonds.

It will be noted that the Legislature, in subparagraph 3 of Section 205.375, provided ". . . or may provide for the issuance and payment of revenue bonds in the manner provided by and in all respects subject to Chapter 176, RSMo, . . ."

Honorable Thomas D. Graham

The use of this language requires an examination of the provisions of Chapter 176 to ascertain the legislative intent in this respect. Chapter 176 relates to the issuance of revenue bonds to state educational institutions, and Section 176.020, RSMo 1959, contains the following language:

"1. Any state educational institution of the state of Missouri, as herein defined, shall have the power, acting through its governing body, to acquire, construct, erect, equip, furnish, operate, control, manage and regulate a project, * * *." (Emphasis ours.)

Further, under subsection 2 of said Section 176.020, is the following language:

"2. Such state educational institutions shall have the further power to use real property now or hereafter belonging to such educational institution as a site for any such project, or to acquire by purchase, lease, gift or otherwise such real or personal property as in the judgment of the governing body of such educational institution shall be necessary, advisable and suitable for such purpose." (Emphasis ours.)

Further, in Section 176.030, is the following language:

"For the purpose of providing funds for the acquisition, construction, erection, equipment and furnishing of any such project, and for providing a site therefor, as herein provided, the governing body of such educational institution shall have the power to issue and sell revenue bonds, as herein defined, * * *." (Emphasis ours.)

It therefore appears from the above quoted provisions of Chapter 176, that the Legislature expressly authorized the governing body to finance the acquisition of sites and land with the sale of revenue bonds. Therefore, when the Legislature made Section 205.375, "in all respects subject to

Honorable Thomas D. Graham

Chapter 176," it intended to give the county court the same power and authority which educational institutions have respecting the legitimate purposes for which revenue bonds may be used to finance nursing homes.

CONCLUSION

The county court has authority under Section 205.375, RSMo 1959, to issue revenue bonds for the purpose of acquiring land and sites for nursing homes.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, J. Gordon Siddens.

Yours very truly,


THOMAS F. EAGLETON
Attorney General