

October 28, 1969

OPINION LETTER NO. 420

Mr. Joseph Jaeger, Jr., Director
Missouri State Park Board
Jefferson Building
Jefferson City, Missouri 65101

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Dear Mr. Jaeger:

In your letter of September 12, 1969, you asked for my opinion on the legality of the State Park Board's financial participation in the repair and development of facilities owned or leased by a municipality, county, or other political subdivision.

By statute, the Park Board has been authorized:

". . . to accept or acquire by purchase, lease, donation, agreement or eminent domain, any lands, or rights in lands, sites, objects or facilities which in its opinion should be held, preserved, improved and maintained for park or parkway purposes. . . ." (Section 253.040, RSMo 1959)

It is my opinion that Section 253.040, read in its entirety, is clear in providing that no authority is given the park board to participate financially in repair, construction and development of lands, or facilities which are owned by municipalities even though there might be some sort of "formal" agreement to permit public use of the facility for park purposes. It seems clear that such section provides that the park board can accept by agreement, lands, or rights in lands, sites, objects or facilities which in the opinion of the park board should be held, preserved, improved and maintained for park or parkway purposes. It appears that it is clear that the last part of such sentence referring to facilities held, preserved, improved and maintained for park or parkway purposes means state park purposes or state parkway purposes. It is also clear that the rights in lands or rights in facilities which are referred to in

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such sentence mean an actual right such as a lease interest or some other interest that the park board has in the land or the facilities. This is amply demonstrated further by the next sentence in such section which provides, that the park board is authorized to improve, maintain, operate and regulate any such lands, sites, objects or facilities when such action would promote the park program and the general welfare. This is obviously a reference to lands or facilities in which the park board has rights and does not apply to a situation where land is held by another and the person owning the land or the municipality owning the land agrees that if the park board will expend money on such property the person or municipality will let the general public use such facilities. There is no right in the park board to expend public monies on private land owned by an individual if there is an agreement made that the private individual will allow the general public to use the facilities. The only power given under Section 253.040, insofar as land owned by an individual or land owned by a municipality or political subdivision is concerned, is that the park board has the right to acquire the land or the facility or a specific actual right in the land or facility, and that such land or facility is to be held, preserved, improved and maintained for state park or state parkway purposes.

Therefore, it is our view that under existing statutory law, the Missouri State Park Board may not financially participate in the repair and development of facilities owned or leased by a municipality, county or other political subdivision.

Yours very truly,

JOHN C. DANFORTH
Attorney General