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OPINION LETTER NO. 183

Honorable DeVerne Calloway
State Representative, District 81
Room 406 State Capitol Building
Jefferson City, Missouri 65101

Dear Mrs. Calloway:

This letter opinion is in response to your request for a ruling on the following question:

"Does a board of education have the authority to lease or otherwise acquire property outside the boundaries of the district for use by the district in carrying a regular program of instruction for elementary and secondary pupils who reside in the district?"

As set forth in your opinion request, the factual setting giving rise to your opinion is as follows:

"The board of education for the School District of the City of St. Louis has insufficient funds with which to construct new buildings or additions to existing buildings. However, due to the closing of one or more nonpublic schools, buildings are available for leasing only a short distance outside the boundary of the district. Leasing of these facilities would alleviate serious overcrowding in existing facilities."

Since your opinion request deals specifically with the school district of the City of St. Louis, our response will refer primarily to that district. The government of the school system in St. Louis, a metropolitan district under Missouri law, is entrusted

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to a twelve member board of education, which has the power to ". . . purchase, receive, hold and sell property, and do all things necessary to accomplish the purpose for which the school district is organized." Section 162.571, RSMo 1969. The board of education is given the general powers of other school districts in the state, and specifically is authorized to "purchase and hold" property needed for public education. Section 162.621(6), RSMo 1969. These general powers include the power to select and abandon school sites and the power to rent school buildings when the school board believes that to be desirable. Crow v. Consolidated School Dist. No. 7, 36 S.W.2d 676 (Spr.Ct.App. 1931); Kemper v. Long, 212 S.W. 871 (Mo. 1919). The question asked by you is whether these powers extend to the rental of school buildings located outside the territorial confines of the district.

As a starting point, we must begin with the general rule that political subdivisions of a state can operate only within their boundaries unless expressly authorized by statute to go beyond:

"As a general rule the powers of a municipal corporation cease at municipal boundaries and cannot, without plain manifestation of legislative intention, be exercised beyond its limits, at least as far as governmental functions are concerned, even though it may have acquired property outside of its geographical limits. Within and subject to its constitutional limitations, the legislature, however, may, and often does, authorize the exercise of powers beyond municipal limits, and in accordance with the terms of the authorization, a municipal corporation may operate beyond its boundaries." 62 C.J.S., Municipal Corporations, Sec. 141, p. 283.

"It has been announced as a general rule that a municipal corporation has no power to purchase and hold land beyond its territorial limits, unless the power has been specially conferred on it by the legislature; and such power is not necessarily conferred by a general grant of power to purchase, hold, and convey such property, real and personal, as may be necessary for its public uses and purposes. The legislature, however, may confer such power, either in express terms or by necessary implication; and there are cases in which, without any special grant of such power, it has been implied as necessary

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in order to carry out powers granted. It has been held, however, that, where a statute authorizes the purchase of lands within the corporate limits only, power to purchase land outside such limits may not be implied." 63 C.J.S., Municipal Corporations, Sec. 952, p. 502.

Accord, Taylor v. Dimmitt, 78 S.W.2d 841, 98 A.L.R. 995 (Mo. 1934).

Although these authorities speak in terms of municipal corporations, we believe that the principles expressed apply equally to school districts. A school district is a public corporation granted limited powers by the legislature, but it lacks the general governmental powers possessed by municipal corporations such as cities and counties. State ex rel. Carrollton School Dist. No. 1 v. Gordon, 133 S.W. 44 (Mo. 1910); School Dist. of Oakland v. School Dist. of Joplin, 102 S.W.2d 909 (Mo. 1937); cf. Wilson v. School Dist. of Philadelphia, 195 A. 90, 94, 95, 113 A.L.R. 1401 (Pa. 1937). Restrictions applicable generally to municipal corporations are also applicable to bodies with lesser authority such as school districts, and this would include geographical restrictions on the exercise of public functions. Therefore, the St. Louis Board of Education has no common-law power to lease property outside the district's boundaries, and before it can do so it must be able to point to specific statutory authority.

Our analysis of the statutes starts with Section 162.621, RSMo 1969, dealing with the powers of metropolitan school boards:

"The board of education shall have general and supervisory control, government and management of public schools and public school property of the district in the city and shall exercise generally all powers in the administration of the public school system therein. The board of education has all the powers of other school districts under the laws of this state except as herein provided and shall perform all duties required by general laws of school districts so far as they are applicable to the public school affairs of the city and are consistent with this law. It shall appoint the officers, agents and employees it deems necessary and proper and fix their compensation. The board of education may:

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"(1) Make, amend and repeal rules and bylaws for its meetings and proceedings, for the government, regulation and management of public schools and school property in the city, for the transaction of its business, and the examination, qualification : and employment of teachers, which rules and bylaws are binding on the board of education and all parties dealing with it until formally repealed;

* * *

(6) Purchase and hold all property, real and personal, deemed by it necessary for the purposes of public education; . . ."
(Emphasis added)

The language of this section implies that school property of the district must be located within the city limits.

Since school districts are political subdivisions of the state and since they derive their powers from the legislature, it is clear that the legislature may give school districts the power to buy, rent, or otherwise acquire property located outside the district's boundaries. However, in the absence of any such grant of power, the St. Louis district lacks the authority to enter into the proposed school rental about which you inquire.

It is therefore our view that the board of education of a metropolitan school district does not have the authority to lease or otherwise acquire property outside the boundaries of the district for use by the district in carrying out a regular program of instruction for elementary and secondary pupils who reside in the district.

Very truly yours,



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