

CITIES:  
PUBLIC PURPOSE:

A city of the fourth class may convey by gift land it owns in fee simple to a public community college to build a community college on such land.

April 19, 2001

OPINION NO. 111-2001

The Honorable Don Koller  
State Representative, District 153  
State Capitol Building  
Jefferson City, MO 65101

Dear Representative Koller:

You have asked whether the city of Winona, a city of the fourth class, can donate 20 acres of land to Mineral Area College for it to build a branch of its college.

Section 79.010, RSMo 1994, provides in pertinent part, "Any city of the fourth class . . . may receive and hold property, both real and personal, within such city . . . and may purchase, hold, lease, sell or otherwise dispose of any property, real or personal, it now owns or may hereafter acquire." The city of Winona, as a fourth class city, has the statutory authority to "sell or otherwise dispose" of real property, which would include the authority to dispose of it by a gift.

There are constitutional limitations on the use of public money or property. Article III, Section 38(a) of the Missouri Constitution prohibits the granting of public money or property to private individuals or institutions, with certain enumerated exceptions. However, if the granting of the public money or property fulfills a public purpose, the grant does not violate this provision. Fust v. Attorney General, 947 S.W.2d 414 (Mo. banc 1997). Expending resources for public education serves a valid public purpose. See Article IX, Section 1(a) of the Missouri Constitution. We have concluded that the expenditure of public money for transportation of students to public schools is a proper expenditure that fulfills a public purpose. See Attorney General Opinion No. 186-76, a copy of which is attached. By the same token the providing of land upon which a public community college will be built fulfills a public purpose.

In answering your question we have assumed that the land the city is considering to donate is owned by the city in fee simple and that there were no

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restrictions in the use of the land by the city when it acquired the land. If there were restrictions on the deed when the city acquired the property, or if the city acquired the property through condemnation for a particular public purpose, then the documents have to be examined to determine whether the city can donate the land.

CONCLUSION

A city of the fourth class may convey by gift land it owns in fee simple to a public community college to build a community college on such land.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", written in a cursive style.

JEREMIAH W. (JAY) NIXON  
Attorney General

Enclosure