

COUNTY
COURTS:

County Courts may purchase real estate improved or unimproved as an addition and enlargement of court house facilities; payment subject to the county budget law and section 13118. R. S. Missouri, 1939.

March 10, 1944



Honorable James S. Simrall, Jr.,
Prosecuting Attorney
Clay County
Liberty, Missouri

Dear Mr. Simrall:

We are in receipt of your letter of March 2, 1944, in which you request an opinion of this office, which letter reads as follows:

"The County Court of Clay County, Missouri, is contemplating the purchase of a building formerly occupied by the Citizens Bank of Clay County, Missouri, which is now closed.

"At the present time the County Court is paying rental on offices for the Rationing board, Social Security office, Agricultural Adjustment office, Farm Security office and Public Administrator's office, for the reason that there is not sufficient office space in the Court House for these offices.

"They felt that if they could legally purchase the bank building, as an addition to our enlargement of the Court House facilities, that it would be a wise move for them to take. The County Court is extremely anxious to secure an opinion as to the legality of such a purchase as soon as possible, because, it is the only building available, and there are other investors that are interested in purchasing same.

"If the Court can legally purchase this building, which would probably cost in the neighborhood of \$15,000 to \$20,000, they would pay for it out of the fund in Class Six (6), which they have on hand,

but for which are not budgeted for this particular purchase, because at the time the budget was prepared, they did not anticipate or contemplate such purchase. In this connection, Section 13717 of the Revised Statutes of Missouri for 1939 is as follows:

"The County Court of any county in this state shall have power to acquire by purchase, for such county, improved or unimproved real estate for a site for a Court House, jail or poor house or infirmary, or, when the County owns such site or sites, to acquire by purchase, improved or unimproved real estate, if an addition to, or enlargement of the same."

"Said section also provides that property for such purchase may be condemned by the county, if they can not agree as to a purchase price.

"I would greatly appreciate an opinion from your department, concerning the legality of the above proposition as soon as such can be conveniently sent to me.

"Thanking you for your trouble and cooperation in this connection, I remain, "

Section 13717 R. S. Missouri, 1939, provides:

"The county court of any county in this state shall have power to acquire by purchase, for such county, improved or unimproved real estate for a site for a court house, jail or poorhouse or infirmary; or, when the county owns such site or sites, to acquire by purchase improved or unimproved real estate as an addition to or enlargement of the same; and if the county court and the owner or owners of the real estate sought to be purchased for any of said purposes cannot agree upon the compensation to be paid therefor, or if for any other reason, the title thereto cannot be acquired by contract, the county court of such county may proceed, in the name and on behalf of said county, to appropriate and condemn such real estate in the manner provided by article 2 of chapter 9, R. S. 1939, and the same proceedings shall be taken as provided in said article for the condemnation of lands for other public uses, as far as the same may be applicable. "

Clearly under this section the county may purchase property "as an addition or enlargement" of the courthouse. Your contemplated purchase for office space of various county offices clearly comes within the provisions of this section.

Section 13781, R. S. Missouri, 1939, provides:

"The county court of any such county may pay for the real estate acquired under the provisions of section 13717 out of any money in the county treasury belonging to the contingent fund or out of any surplus in any other fund at the close of any fiscal year, after the payment of all warrants drawn during such year against such fund and of all other previously issued and outstanding warrants against the same."

Section 10914, R. S. Missouri, 1939:

"* * * Amount available for all other expenses after all prior classes have been provided for. No expense may be incurred in this class until all the prior classes have been provided for. No warrant may be issued for any expense in class 6 unless there is an actual cash balance in the county treasury to pay all prior classes for the entire current year and also any warrant issued on class six. No expense shall be allowed under class six if any warrant drawn will go to protest: Provided, however, if necessary to pay claims arising in prior classes warrants may be drawn on anticipated funds in class six and such warrants to pay prior class claims shall be treated as part of such prior funds. Nor may any warrant be drawn or any obligation be incurred in class six until all outstanding lawful warrants for prior years shall have been paid. The court shall show on the budget estimate the purpose for which any funds anticipated as available in this class shall be used."

An allocation of the purchase price in class six and the payment in accordance with the terms of section 10914 would not violate section 13718 heretofore quoted.

Hon. James S. Simrall, Jr.

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CONCLUSION.

It is therefore, the opinion of this office that a county court has the right to purchase real estate, improved or unimproved, as an addition or enlargement of its courthouse facilities; payment for said property being subject to the provisions of section 13718 R. S. Missouri, 1939, and the county budget law.

Respectfully submitted

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APPROVED:

ROY MCKITTRICK
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