

**Counties — County Commissioners — County Property —  
Leasing—Renting.**

County commissioners do not have the right to rent or lease the county equipment or machinery for use by other persons except where the county has offered to sell the same but was unable to find a buyer.

Mr. M. R. Wood,  
Chairman, Board of County Commissioners,  
Kalispell, Montana.

August 4, 1931.

My dear Mr. Wood:

You inquire if the county commissioners have the legal right to rent or lease the county equipment and machinery for use by other persons.

There is no provision of law authorizing the board of county commissioners to lease the property of the county except subdivision 28 of section 4465 R. C. M. 1921 as amended by chapter 100 laws of 1931 which provides as follows:

“To lease and demise county property, however acquired, which is not necessary to the conduct of the county’s business or the preservation of the county property and for which immediate sale cannot be had.”

It will be observed that only county property which is not necessary to the conduct of the county’s business or the preservation of the county’s property may be leased, and then only when it cannot be sold. As it is not the intention of the county to sell the machinery and equipment but rather to retain it for future use, leasing it only for intervals when it is not in actual use by the county, it is apparent that the county does not consider the property as not being necessary to the conduct of the business of the county and has not offered the same for sale at which it was unable to procure a buyer. As the property can only be leased after an unsuccessful effort has been made to sell it and as these conditions precedent to the right to lease are not present in your case it follows that the property cannot be rented or leased.

Very truly yours,  
L. A. FOOT,  
Attorney General.