

Leasing—County Property—Sale—Fairs.

Before county property can be leased it must first be offered for sale. Property not intended to be sold but intended to be used for county fair purposes not subject to lease.

Mr. Charles M. Reardon,
Western Montana Fair,
Missoula, Montana.

May 1, 1931.

My dear Mr. Reardon:

You have requested an opinion relative to the authority of the board of county commissioners to lease one of the buildings on the fair grounds, the lessee to operate private or public dances for his own profit and pay the county a rental.

Under the law as it existed prior to the last session of the legislature the only authority the county had to lease any county buildings or property was contained in subdivision 28 of chapter 38, laws of 1929, amending section 4465, R.C.M. 1921. This section authorized the board "to lease and demise county buildings, equipment, furniture and fixtures, for hospital purposes," (only). Therefore, any lease entered into prior to the amendment of this chapter was unauthorized where the lease was for purposes other than hospital purposes.

The present law (substitute for senate bills 23 and 26) amended the above section and now section 28 provides "to lease and demise county property however acquired, which is not necessary to the conduct of any of the county's business or the preservation of county property, and for which immediate sale cannot be had. Such lease shall be in such manner and for such purposes as in the judgment of the board shall seem best suited to advance the public benefit and welfare and all revenues so received as provided shall be payable to the county treasurer."

It will be observed that the county property which may be leased under the existing law is property which the county would sell but which has not been sold because the county was unable to make a sale thereof. The building at the fair grounds apparently is one of the buildings which the county intends to continue to use for fair purposes. Therefore, the building does not come within the class of property which may be leased. Before any such property may be leased it must be first exposed to sale and the fact thus established that there is no immediate sale for it.

Very truly yours,

L. A. FOOT,

Attorney General.