

**Sale of Public Lands. Auction, Sale of Public Lands.**

Lots in the townsite of Cut Bank may not be sold by the State Board of Land Commissioners, except at public sale to the highest bidder. This is provided for by Section 39, Chapter 147, laws 1909.

Helena, Montana, April 9, 1909.

Hon. F. H. Ray, Register, Helena, Montana.

Dear Sir:

I am in receipt of your letter of April 7, 1909, wherein you ask my opinion as to whether or not the State Board of Land Commissioners has authority to sell lots of the townsite of Cut Bank other than at public auction.

The law governing this matter is found in what will be Chapter 147, Laws of 1909, and particularly Section 39 thereof, which section provides that state lands situated in, or adjacent to, a city or town may be surveyed into lots, blocks, streets, etc., in conformity with the law governing the platting of townsites and additions. The section further provides:

"The board may, in its discretion, sell the same, or any part thereof, at public sale to the highest bidder."

Certain other terms and conditions prescribe the number of contiguous lots that may be sold to the same person. I therefore advise you that these lots can be sold only at public sale.

Section 37 provides that all sales of state lands shall be conducted by the register of state lands, and section 38 provides for the time and place of holding such sales, and Section 39, of the same act, provides for the publication of notice of such sales. All of these sections, in my opinion, relate to lands surveyed and platted as townsites or additions to cities or towns as well as lands sold under the United States government subdivisions.

In passing I think it advisable to call your attention to the fact that a portion of the land included in the Cut Bank townsite is in controversy—litigation to determine its ownership being now pending before the Department of the Interior.

Very truly yours,  
ALBERT J. GALEN,  
Attorney General.