

Opinion No. 59.

**Schools—School Districts—Trustees—
Right to Sell School Sites.**

HELD: School trustees have no right to sell or dispose of school sites without authority from electors of the District.

—
March 12, 1937.

Mr. George F. Higgins
County Attorney
Missoula, Montana

My dear Mr. Higgins:

You have submitted the following statement of facts, and ask for an opinion thereon.

The Trustees of School District No. 1 in Missoula, own a plot of land,

the school house has been torn down and removed from the premises, and the lot is not being used. The board has been offered \$200.00 for this lot, and the question to be determined is whether or not this lot may be sold by the school board, unless directed so to do by a majority of the electors of the school district.

Sub-division 8 of Section 1015, R. C. M., 1935, provides:

"To purchase, acquire, sell and dispose of plots or parcels of land to be used as sites for school dormitories and other school building, and for other purposes in connection with the schools in the district; to build, purchase or otherwise acquire schoolhouses, school dormitories and other buildings necessary in the operation of schools of the district, and to sell and dispose of the same; provided, that they shall not build or remove schoolhouses or dormitories, nor purchase, sell or locate school sites unless directed so to do by a majority of the electors of the district voting at an election held in the district for that purpose, and such election shall be conducted and votes canvassed in the same manner as at the annual election of school officers, and notice thereof shall be given by the clerk by posting three notices in three public places in the district at least ten days prior to such election, which notices shall specify the time, place, and purpose of such election."

The language in the above statute is clear and no ambiguity exists, so therefore no interpretation of subdivision 8 is necessary, for the language lends its own interpretation.

The case of *Nichols v. School District No. 3*, 87 Mont. 181, is authority for the rule that school boards shall not sell school sites, unless directed so to do by the majority of the electors of the district, and the case of *State ex rel Blume v. School District No. 1*, 97 Mont. 371, has no application, directly or by implication to this question. Neither can it be urged that because the site is not now being used for school purposes, that the plot or lot is not a school site, because the school board would be without the authority to acquire lands unless the same were acquired for school purposes, and the board would not have

the power to acquire such lots to be used for speculative purposes or any other purpose foreign to a school site. Any lands owned by such a district, whether being used or not, constitute school sites, and therefore, this particular lot being a school site, comes within the terms and restriction of sub-division 8, of Section 1015.

Perhaps the value of the lot would not justify the expense of a special election, but it would seem that you can very well have this matter separately submitted at your next general election, with very little additional expense.

Therefore, it is my opinion that your school board cannot sell the lot or school site referred to by you, unless directed so to do by a majority of the electors of School District No. 1.