

Opinion No. 133.**County Treasurer—Townsites of Public Domain—Disposition of Proceeds of Sales in Townsites on Public Domain.**

Held: All money remaining from sales of lots on townsites on public domain after payment of expenses must be transferred to credit of school district in which townsite is located.

September 27, 1943.

Mr. H. D. Hiebert
County Treasurer
Blaine County
Chinook, Montana

Dear Mr. Hiebert:

An opinion has been requested of this office as to the proper disposition of funds received from the sale of lots in the townsite of Chinook, a patent having been issued to the district judge, who in turn deeds the land to the individual owners, under the provisions of Sections 5331 to 5336, inclusive, Revised Codes of Montana, 1935.

The congressional authority for the entry of this townsite now appears as Section 718, Title 43, Federal Code Annotated, and after providing for entry to be made in the proper land office by the judge, it is specifically provided:

“ . . . the execution of which trust, as to the disposal of lots in such town, and the proceeds of the sales thereof, to be conducted under such regulations as may be prescribed by the state legislative authority of the State or Territory, in which the same may be situated.”

It was in compliance with the authority contained in this Congressional Act, that the legislature of the State of Montana enacted the sections of the code above cited.

Section 5339, Revised Codes of Montana, 1935, provides after defraying all necessary expenses of location, entry,

surveying, platting and recording of lands, and the expenses of the judge, as mentioned in the act, all remaining money must be deposited in the county treasury, to the credit of the fund of each particular town, kept separate by the county treasurer, to be paid out by him only on written order of the judge, until after the expiration of the time for a final settlement of the affairs of such town lands, at which time any and all balances of moneys so remaining to the credit of each town shall be transferred by such county treasurer to the school fund of the particular school district in which the town is situated.

The language of this section is plain and unambiguous, and the legislative provision that the balance of the money after payment of the items specified, shall be transferred to the school fund of the particular school district in which the town is located within the congressional authority set forth above.

It is therefore my opinion any balance remaining after the payment of the items specified, must be transferred to the school fund of the school district in which the townsite of Chinook is located.

Sincerely yours,
R. V. BOTTOMLY
Attorney General