

Opinion No. 41

**Counties—Board of County
Commissioners—County Property,
Management of—Court House
Grounds—Parking Area**

Held: That the Board of County Commissioners has authority and discretion to convert a portion of the court house grounds for use as a parking area for county purposes.

October 15, 1951.

Mr. Charles B Sande
County Attorney
Yellowstone County
Billings, Montana

Dear Mr. Sande:

You have requested my opinion as to whether or not the County Commissioners have authority to convert a 25 foot strip of the court house grounds adjacent to an alley for use as a parking area.

Section 16-1007, Revised Codes of Montana, 1947, authorizes the County Commissioners to obtain real and personal property necessary for the use of the county and to "preserve, take care of, manage and control the same."

Sections 16-1008 and 16-1008A, as amended by Chapter 5, Montana Session laws, 1949, authorizes the Board of County Commissioners to "cause to be erected, furnished and maintained, a court house, jail, etc." (Emphasis supplied)

Section 16-1024 authorizes the Board of County Commissioners to "represent the county, and have the care of the county property, and the management of the business and concerns of the county in all cases where no other provision is made by law."

Finally, Section 16-1027 authorizes the Board of County Commissioners "to perform all other acts and things required by law not in this title enumerated, or which may be necessary to

the full discharge of the duties of the chief executive authority of the county government."

While it is clear that there is no specific statute giving the Board of County Commissioners power or authority to establish a parking lot at the court house for the use of the county, it is equally clear that such authority may be implied from the oft-repeated legislative statement of responsibility in the Board for the care, management and maintenance of the county property. It should be noted, too that there is no specific statutory authority for the county to plant and maintain a lawn around the court house. Yet no one would question the authority of a county so to do.

While you make no mention in your statement of request as to the means which will be employed to do the work of conversion of an area to a parking area, it is presumed herein that such means will be subjected to the limitations and restrictions prescribed by law with reference to expenditure and labor.

The matter of authority is so clearly established by the above cited sections that an extended discussion or citation of authority is unnecessary.

It is, therefore, my opinion that the Board of County Commissioners has authority and discretion to convert a portion of the court house grounds for use as a parking area for county purposes.

Very truly yours,
ARNOLD H. OLSEN,
Attorney General