

Opinion No. 15.

**Cities and Towns—Plats of Municipal Additions—Dedication to Public Use by Plat.**

HELD: The notation on one block of a plat of an addition to a town or city, "Proposed High School Site," made at the time of filing and recording of the plat constitutes a dedication for school purposes and a conveyance to an existing school district of the area so marked on the plat.

April 3, 1953.

Mr. Walter T. Murphy  
County Attorney  
Mineral County  
Superior, Montana

Dear Mr. Murphy:

You have requested my opinion concerning the title to a city block in the Town of Superior, Mineral County. From the facts you give it appears that Eidell's Addition to the Town of Superior was platted in 1914 and there was written on the part of the official plat designated as Block 4, the words, "Proposed High School Site." On the area designated as Block 5 was written "Proposed Site Courthouse." Subsequent to the filing of the plat the corporate successor of the creator of the addition conveyed the two blocks to Mineral County without reference

in the deed to the public use of the lots. A courthouse was built on Block 5, and Block 4 has continued to be a vacant lot. There has never been a county high school in Mineral County.

The legal effect of the notation on Block 4, "Proposed High School Site," is controlled by Section 11-611, R. C. M., 1947, which states:

"Every donation or grant to the public, or to any person, society, or corporation, marked or noted as such on the plat of the city or town, or addition, must be considered, to all intents and purposes, as a deed to the said donee."

Our Supreme Court in *Mineral County vs. Hyde*, 111 Mont. 535, 111 Pac. (2d) 284, considered the plat of the Eidell Addition to the Town of Superior and found that the plat with its certificate complied with the law and held:

"The rule is that a plat, when accompanied by a certificate of dedication, and accepted and filed, has the same force and effect as a deed."

The court in its opinion found that the plat conveyed the land in question to the public, and that it controlled a subsequently executed deed by the grantors. The case applies to the facts here, as the deed to the county was executed subsequently to the dedication of Block 4 as a high school site and the designation by virtue of the statute in effect was a deed.

At the time of the dedication of the addition there was a school district which had the legal authority to establish a high school and to hold land for high school purposes. Of necessity the school district was the donee which received title to the block, otherwise the grant would fail. If there had been a county high school, the county might have been the intended donee, but such a high school did not exist and under the present state of the law there is no method for establishing a county high school. (Chap. 148, Laws of 1931.) A school district is a corporate body and may acquire and hold real property. (Section 75-1803, R. C. M., 1947.)

The subsequent deed to the county constitutes a cloud on the title of the school district in Block 4. This cloud

may be removed by a quit-claim deed to the school district as Section 16-804, R. C. M., 1947, provides that a county has the power "4. To make such orders for the disposition or use of its property as the interests of its inhabitants require." Such a deed would not be a sale of real property within the meaning of Section 16-1009, R. C. M., 1947, as the county does not have an interest that could be sold. Clarification of the record by the quit claim deed would be in the best interest of the inhabitants of the county.

It is therefore my opinion that the notation on one block of a plat of an addition to a town or city, "Proposed High School Site," made at the time of filing and recording of the plat constitutes a dedication for school purposes and a conveyance to an existing school district of the area so marked on the plat.