

VOLUME NO. 37

OPINION NO. 14

HOSPITAL DISTRICTS - Transfer of assets; HOSPITAL DISTRICTS - Dissolution; REVISED CODES OF MONTANA, 1947 - Section 16-4301, 16-4308, and 16-4313.

HELD: A public hospital district may not transfer title to its assets to the county in which it is located unless the district is dissolved in accordance with section 16-4313, R.C.M. 1947.

13 April 1977

Charles M. Joslyn, Esq.
Teton County Attorney
Teton County Courthouse
Choteau, Montana 59422

Dear Mr. Joslyn:

I am in receipt of your letter wherein you asked for my opinion on the following question:

Do the trustees of a public hospital district have authority to dispose of the district's assets by transferring title to those assets to the county in which the district is located without dissolving the district as required in section 16-4313, R.C.M. 1947?

The 1953 act authorizing the formation of public hospital districts was enacted to provide a vehicle for the creation and management of health service facilities in those areas of the state where the citizenry deemed such facilities necessary. Section 16-4301, et seq. R.C.M. 1947.

Section 16-4308, R.C.M. 1947, provides:

A hospital district shall have all powers necessary and convenient to the acquisition, betterment, operation, maintenance, and administration of such hospital facilities as its board of trustees shall deem necessary and expedient.

Therefore the district has general powers to acquire and operate hospital facilities. Without limiting these general powers section 16-4308 goes on to say that the district may employ personnel, lease and purchase property, construct

buildings, adopt rules for the operation of the facilities, levy taxes, issue bonds and "(10) Sell or lease any of its facilities or its equipment as may be deemed expedient."

It would seem that the district, through its trustees, can do as it pleases with any of the assets it may have. However, such a district, being a public corporation, is a creature of statute, and has only such power as is expressly conferred upon it by statute and such as is necessarily implied in the exercise of that authority conferred. McNair v. School District No. 1, 87 Mont. 423, 288 P. 188 (1930); Dietrich v. City of Deer Lodge, 124 Mont. 8, 218 P.2d 708 (1950); Roberts v. Spray, 71 Ariz. 60, 223 P.2d 808 (1950).

You state in your letter that the hospital district in question has issued bonds as authorized by section 16-4308, R.C.M. 1947, and is in the process of constructing a hospital to be completed shortly.

Legislative intent is not determined from the wording of a particular sentence but from the Act as a whole. State v. Giles, ___ Mont. ___, 541 P.2d 355 (1975).

The entire act is written in terms of providing medical facilities. Any acquisition or disposal of assets must necessarily be in the furtherance of that purpose.

The effect of transferring title to all assets to the county is to, in fact, dissolve the district and leave only its shell in existence.

The Legislature has provided specific and exacting procedures for dissolution of a district. Section 16-4313, R.C.M. 1947. A hospital district may be dissolved if, at any time after five years from the date of creation, the county commissioners are presented with a petition signed by at least 51 percentum of the owners of property within such district. The county commissioners may dissolve the district if it finds that the district is not indebted in any amount beyond funds immediately available and that there is good reason for the dissolution of such district. The dissolution shall become effective six months after its filing provided the trustees of the district certify to the county commissioners that all of the debts of the district have been discharged. Any assets remaining become the property of the county. Section 16-4313, R.C.M. 1947.

Therefore a hospital district can be dissolved only if five years have elapsed since its creation and all of its debts have been extinguished. Whether or not the hospital district in question has been in existence for the required length of time, it would appear that there is no means of extinguishing debts except by retirement of the bonds that have been issued.

THEREFORE, IT IS MY OPINION:

A hospital district may not transfer title to its assets to the county in which it is located unless the district is dissolved in accordance with section 16-4313, R.C.M. 1947.

Very truly yours,

MIKE GREELY
Attorney General