

**OPINION
62-64**

February 23, 1962 (OPINION)

COUNTIES

RE: Sale of County Property - Procedure

This is in response to your letter in which you ask for an opinion as to whether or not the Board of County Commissioners has the authority to sell certain real estate owned by Benson County and used in connection with the Benson County Agricultural School.

The intended purchaser is Maddock School District No. 9. The property is intended to be used for a permanent site for a school building to be erected by Maddock School District No. 9. The question then is whether or not Benson County has the authority to sell such real property, and whether or not the school district has the authority to purchase said property.

The board of County Commissioners are the governing board of the county. We are aware from other sources that the county operates and maintains the agricultural school located in the Maddock School District. Section 11-27-01 of the N.D.C.C. authorized the board of county commissioners to sell property which was acquired by any other means than a tax sale proceedings. We have also been informed that the property in question was not acquired by the county through a tax sale but through an outright purchase or grant. The aforementioned section authorizes the county commissioners to sell the property at a private sale if it is less than one hundred dollars. The board of county commissioners would have to adopt and pass a proper resolution to accomplish this. Such resolution would have to set forth the estimated value of the property and reasons why the sale should be private rather than by public sale. If the property is of a greater value than one hundred dollars, section 11-27-02 must be followed. This section requires that the county commissioners by resolution authorize the sale to be held at public sale, and that the county auditor shall publish in the official county newspaper once each week for three consecutive weeks a notice of such sale.

A notice would also have to contain a description of the property to be sold. The notice would also have to specify whether the sale would be auction or by sealed bids. This is to be determined by the county commissioners. The property so advertised is then to be sold to the highest bidder if the bid is deemed sufficient by the board of county commissioners.

As to the authority of the school board to purchase the property, section 15-29-08(5) provides that the school board shall have the power to purchase, sell and exchange schoolhouses and rooms, lots or sites for schoolhouses, teacherages and dormitories, and to lease such facilities for a period not to exceed one year. Thus, it is observed that

the school board has the authority to acquire the realty in question for the purposes of erecting a schoolhouse.

It is, therefore, our opinion that the county commissioners have authority to sell certain realty under the conditions set forth above either by public sale or by private sale, depending on the value of the realty involved.

It is our further opinion that the school district has the authority to purchase realty for the purposes of erecting a school building thereon.

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