

**OPINION
50-138**

August 23, 1950 (OPINION)

PROPERTY

RE: Liability of State-owned Property for Special Assessments

Your letter of August 22, with enclosure of letter of the city auditor of Hettinger, re special assessments on certain lots in Hettinger belonging to the State of North Dakota, has come to my desk for reply.

From your letter we infer that these lots belong to the state and are used by your department, and that the city of Hettinger has made special improvements and has made assessments against this property. You ask our opinion as to whether or not the state of North Dakota is liable for such special assessments.

McQuillin says:

Apart from constitutional or statutory authorization public property used for public purposes is not liable to special assessment for local improvements provided the property actually belonged to the public at the time the assessment was levied. * * * For example, park property, school lands, school property and state property, unless made assessable by appropriate legislation."

McQuillan Municipal Corporations

Rev. Vol. 5, Section 2212, p. 859.

By chapter 285 Laws 1947 our legislature amended the statute then in force and provided:

"Benefited property belonging to counties, cities, villages, school districts, park districts, and townships, shall not be exempt from such assessment, * * *."

Section 40-2307 1949 Supplement.

This amendment clearly does not specifically make state-owned property liable for special assessments. Therefore, it is the opinion of this office that the state-owned property referred to in your letter and enclosure is not liable for the special assessments referred to by the city auditor.

ELMO T. CHRISTIANSON

Attorney General