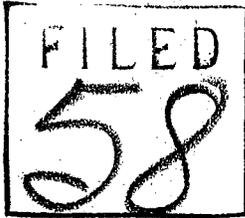


FEDERAL SOLDIERS' HOME:
DONATIONS:

The Board of Trustees of the State Federal Soldiers' Home of Missouri is authorized to accept gifts of money or property from any source, including inmates of the Home. That the approval of the Governor is not necessary in the matter of the acceptance of a gift for the Home by the trustees.



September 21, 1955

Honorable Marvin H. McDaniel
Superintendent
State Federal Soldiers' Home
St. James, Missouri

Dear Sir:

Your recent request for an official opinion reads as follows:

"The Board of Trustees of this State institution requested I communicate with you and request you furnish us an official opinion relative to the Missouri Revised Statutes, 1949, Section 212.120, Board to hold and convey certain property - limitations.

"The Board of Trustees would like to know if it would be permissible for them to accept donations of money from members of this institution, and would it be necessary for them to have the approval of the Governor whenever a donation is received. At this particular time let us say the donation would be between \$100 and \$2,000.

"I want to thank you for your very prompt attention concerning our State Federal Soldiers' Home affairs in the past and the many courtesies shown this institution."

The only question contained in your above letter is whether it would be proper for the board of trustees to accept donations of money from "members of this institution," and whether it would be necessary to have the approval of the Governor when a donation is received. By the words "members of this institution," we can only assume that you mean inmates. We shall so consider the meaning to be.

Section 212.120 RSMo 1949, to which you refer, reads as follows:

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"The board of trustees may receive any grant or devise of land, or any gift or bequest of money or other personal property to the Federal Soldiers' Home, at St. James, as an endowment of the Federal Soldiers' Home at St. James, thereby vesting title to any such property in the state of Missouri for the sole use and benefit of the home. The board of trustees may sell, convey, or otherwise convert into money any such property for the use and benefit of the home, however, any such sale, conveyance or conversion shall be first approved by the governor of the state of Missouri."

It seems plain to us from the above that the board of trustees may accept gifts of money to the Federal Soldiers' Home. The above section does not restrict the source of these gifts in any way, and it would, therefore, appear that any person, including an inmate of the Home, could make such a gift. From Section 212.120, supra, it appears equally clear that the approval of the Governor is not necessary for the acceptance of gifts by the board of trustees.

In 1949 this issue of the acceptance of gifts by the Board of Trustees of the Federal Soldiers' Home arose in the case of Mississippi Valley Trust Company v. Ruhland, 222 S.W.(2d) 750. In that case Rosa Ruhland, an individual residing in the City of St. Louis, by her last will and testament bequeathed a considerable sum of money to the "Federal Old Soldiers' Home, located at St. James, Missouri." Heirs of Rosa Ruhland sought to break the will making the above bequest, on the ground that the home was not permitted to accept such gifts. In regard to this matter the court, in its opinion, at l.c. 753, stated:

"Express statutory provisions contemplate the receipt of private gifts of money and property for the use of the Federal Soldiers' Home and refute the contention of the heirs that it may be maintained only by the appropriation of State funds therefor. Mo. R.S.A. Sec. 15137, supra, expressly requires the Trustees of said Home to periodically report under oath 'giving a detailed statement of all moneys and other property received on account of such home'; and requires said Trustees 'to immediately transmit to the state treasurer all moneys received by them, or by any financial officer of the institution, from whatsoever source, except (not material here), and the state treasurer shall * * * credit the same to the federal soldiers' home fund, which is hereby created and established.' (Emphasis ours.) This

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harmonizes with Sec. 2 of the original act (Laws 1897, p. 29). The provision in said Sec. 2 of the original act that the Trustees' 'actual expenses incident to the care and maintenance and establishment of said home shall be borne by the state and be paid out of any moneys appropriated for its maintenance' is not to be tortured into a covenant by the State to reject gifts for the maintenance of said Home. The extent of the authority conferred upon the Trustees by the original act to covenant with respect to the acquisition of said Home was explicitly limited to receive the property 'for a nominal consideration.' Laws, 1897, p. 30, Sec. 3, Mo.R.S.A. Sec. 15138. Sections 9363 and 9366 likewise recognize the right of the State to accept gifts on behalf of said Home."

From the above it would appear that the board had the power to accept gifts from any source.

It is to be understood that in our holding regarding the issue here involved, we are not passing upon the propriety or public policy involved.

CONCLUSION

It is the opinion of this department that the Board of Trustees of the State Federal Soldiers' Home of Missouri is authorized to accept gifts of money or property from any source, including inmates of the home.

It is the further opinion of this department that the approval of the Governor is not necessary in the matter of the acceptance of a gift for the home by the trustees.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Hugh P. Williamson.

Very truly yours,

JOHN M. DALTON
Attorney General

HPW/LA