

Chapter 271

Use and Disposition of Public Lands Generally; Scenic Easements

271.010

NOTES OF DECISIONS

A petition which shows that persons other than the petitioners own property abutting upon streets and alleys sought to be vacated, is insufficient, if it fails to disclose who they are and how they would be affected by the vacation. *Merchant v. Town of Marshfield*, (1899) 35 Or 55, 61, 56 P 1013.

The application provided for is an essential without which there can be no vacation of a block contained in the original plat of a town. *State v. Bay City*, (1913) 65 Or 124, 130, 131 P 1038.

The courts may take judicial notice of the boundaries of a city having a legislative charter and a public survey referred to in the plat sought to be vacated. *Eugene v. Garrett*, (1918) 87 Or 435, 169 P 649, 170 P 731.

The vacation of a road or street is the exercise of a power properly within the domain of the legislature. *Portland Baseball Club v. Portland*, (1933) 142 Or 13, 18 P2d 811.

The nonentry in the journal at the time of the resolution declaring that proceedings to vacate a county road would be taken did not render the proceedings void. *Holmes v. Graham*, (1938) 159 Or 466, 80 P2d 870.

ATTY. GEN. OPINIONS: Authority of county acquiring land for delinquent taxes to vacate subdivisions, 1932-34, p 425; jurisdiction of county courts to vacate platted areas, 1942-44, p 323; construing procedures to vacate streets outside cities, 1960-62, p 225.

271.020

ATTY. GEN. OPINIONS: Construing procedures to vacate streets outside cities, 1960-62, p 225.

271.030

NOTES OF DECISIONS

The "may," as used in this section, is not to be construed as "must." *Merchant v. Town of Marshfield*, (1899) 35 Or 55, 56 P 1013.

This section evidences a legislative intent to provide that the tribunal having jurisdiction of the proceedings shall act judicially therein. *Id.*

The proceeding must be dismissed if the petition fails to state the necessary statutory facts upon which to predicate relief. *Id.*

271.040

NOTES OF DECISIONS

The petition must show that ownership of all the lands proposed to be vacated are in the petitioner. *Merchant v. Town of Marshfield*, (1899) 35 Or 55, 56 P 1013.

271.050

NOTES OF DECISIONS

The petition must show that ownership of all the lands proposed to be vacated are in the petitioner. *Merchant v. Town of Marshfield*, (1899) 35 Or 55, 56 P 1013.

The courts may take judicial notice of the boundaries of a city having a legislative charter and a public survey referred to in the plat sought to be vacated. *Eugene v. Garrett*, (1918) 87 Or 435, 169 P 649, 170 P 731.

271.060

NOTES OF DECISIONS

A purchaser of a lot abutting on a public street acquires a possible reversionary interest in half of the street. *Barton v. Portland*, (1914) 74 Or 75, 144 P 1146.

Upon the closing of a street, the title reverts to the owner of the abutting premises freed from the easement. *Portland Baseball Club v. Portland*, (1933) 142 Or 13, 18 P2d 811.

An adjoining landowner's title is extended to the center of the street upon its vacation by this section which adopted the common law rule. *Fowler v. Gehrke*, (1941) 166 Or 239, 111 P2d 831.

Evidence that east line of vacated street was within territorial road did not support plaintiff's claim to title to center of street. *Id.*

ATTY. GEN. OPINIONS: Refund of motor vehicle fuel taxes for operation on vacated road, 1958-60, p 176.

LAW REVIEW CITATIONS: 20 OLR 111.

271.080

ATTY. GEN. OPINIONS: Authority of city to vacate tract of land included within city limits, 1932-34, p 551; authority of City of Springfield to vacate tract, 1932-34, p 551; procedure to be followed by county court in vacating plats pursuant to ORS 275.105, 1942-44, p 367.

271.120

NOTES OF DECISIONS

An ordinance vacating a street may be conditioned upon the performance of an act promised by the petitioner. *Portland Baseball Club v. Portland*, (1933) 142 Or 13, 18 P2d 811.

FURTHER CITATIONS: *Simmons v. Holm*, (1961) 229 Or 373, 367 P2d 368.

271.130

NOTES OF DECISIONS

The final action of the council is the ordinance and the appeal must be from that. *Bitte v. City of St. Helens*, (1968) 251 Or 548, 446 P2d 978.

This section uses "order" and "ordinance" interchangeably. Id.

271.140

NOTES OF DECISIONS

The buyer of a lot also acquires a possible reversionary interest in the portion of the street bordering thereon. *Barton v. Portland*, (1914) 74 Or 75, 144 P 1146.

ATTY. GEN. OPINIONS: Refund of motor vehicle fuel taxes for operation on vacated road, 1958-60, p 176.

271.300 to 271.370

ATTY. GEN. OPINIONS: Necessity for competitive bidding, 1964-66, p 77; authority of State Land Board to lease to municipality without advertising for bids, 1964-66, p 241; application to State Board of Higher Education, 1966-68, p 76; authority of State Board of Forestry to sell state land to a city, disposition of proceeds, 1966-68, p 493.

271.300

CASE CITATIONS: *State Land Bd. v. W. Pac. Dredging Corp.*, (1966) 244 Or 184, 416 P2d 667.

ATTY. GEN. OPINIONS: State Land Board's authority to convey real property acquired for benefit of state institutions of higher learning, 1934-36, p 482; authority of Provisional Government Park Board to lease property within boundaries of Champoeg Park, 1938-40, pp 241, 276; authority of state to sell property on deferred payments, and to incur abstract expense, 1940-42, p 322; school board donating property without an election, 1942-44, p 17; county court representing the county and state in quit-claiming property acquired by execution of a judgment for costs, 1942-44, p 66; power of cemetery maintenance district to convey land to State Board of Higher Education, 1958-60, p 111; sale by State Land Board of school grant lands to State Game Commission without advertising for bids, 1958-60, p 178; disposition of state's easement for water pipe, 1958-60, p 187; authority to sell Agriculture Building, 1964-66, p 302.

271.310

NOTES OF DECISIONS

This section is as controlling as if copied into the deed of a school district conveying land to the county, and the only question is whether the statute has been obeyed. *School Dist. 1 v. Multnomah County*, (1940) 164 Or 336, 101 P2d 408.

A school district's deed to the county would be canceled where the county could not comply with the terms of the statute within a reasonable time, regardless of the terms of the deed. Id.

FURTHER CITATIONS: *Pullen v. Ore. Ind. Dev. Corp.*, (1965) 240 Or 583, 402 P2d 240.

ATTY. GEN. OPINIONS: Authority to grant easement for water pipe line, 1936-38, p 81; sale by State Land Board for right of way to highway commission without advertisement, 1936-38, p 209; treasurer's authority to employ real estate dealer on commission basis to sell real property acquired by foreclosure, 1936-38, p 253; authority of Provisional Government Park Board to lease property within boundaries of Champoeg Park, 1938-40, pp 241, 276; state's authority to sell property on deferred payments, and to incur abstract expense, 1940-42, p 322; authority of the

department of agriculture to lease fairground property when not being used for state fair purposes, 1944-46, p 128; authority of school district board to dispose of school buildings and land, 1946-48, p 465; inclusion of land acquired by tax foreclosure in the operation of this section, 1950-52, p 227; power of State Highway Commission to exchange real property for a present railroad right of way, 1950-52, p 283; authority of a school district to construct and dedicate to the public a city street in exchange for the vacation of a street the title of which would revert to the district, 1950-52, p 387; lease or sale by State Land Board of overflow lands for boat slips to game commission, 1956-58, p 32; power of cemetery maintenance district to convey land to State Board of Higher Education, 1958-60, p 111; disposition of state's easement for water pipe, 1958-60, p 187; authority of Board of Control to lease part of Dammasch State Hospital land, 1958-60, p 251; authority of general staff to lease portion of Slusher Lake for exclusive private hunting, 1958-60, p 311; authority of State Land Board to lease submerged coast lands for oil and gas discovery, 1960-62, p 99; disposition of money derived from leasing state-owned real property, 1958-60, p 386; leasing real property to an agency of the U. S. Government, 1960-62, p 112; limitations on authority to lease public land, 1960-62, p 172; authority to enter long-term timber contract, 1962-64, p 356; authority to sell Agriculture Building, 1964-66, p 302; authority of State Highway Commission to convey state park land to the United States, 1966-68, p 60; protecting state's remainderman interest in real property, 1966-68, p 279; leasing building not required for state purpose, (1969) Vol 34, p 735; county authority to develop industrial sites, (1970) Vol 34, p 1000; authority to donate state park to federal agency for a monument, (1970) Vol 35, p 56.

271.330

ATTY. GEN. OPINIONS: Donation by fish commission to United States, 1938-40, p 305; deposit of funds received from sale of lands belonging to state institutions, 1938-40, p 620; authority of land board to convey to game commission title to bed of Summer Lake without compensation of at least \$5 per acre, 1940-42, p 56; authority of school district or board to accept title to land acquired from a county upon condition that it will maintain forestry classes, plant trees and sell timber, 1940-42, p 226; authority of school district to transfer land not needed by it to the Federal Government without consideration for the construction of school buildings, 1942-44, p 17; authority of the board of forestry to convey lands not needed for public use to the United States, 1944-46, p 497; authority of State Land Board to lease a portion of bed of a river without advertising, 1946-48, p 142; authority of State Board of Control to allot and assign lands formerly used by the Oregon State Prison, 1946-48, p 315; necessity for vote for school district to grant an easement over school lands to a private person, 1946-48, p 346; power of county court to deed lands obtained on tax foreclosure to the state without consideration, 1950-52, p 61; power of State Land Board to convey tide and overflow lands to another governmental body, 1950-52, p 274; sale to state agency without competitive bids, 1958-60, p 178; sale to municipality without competitive bids, 1958-60, pp 178, 179; authority of Board of Control to lease part of Dammasch State Hospital land, 1958-60, p 251; leasing real property to an agency of the U. S. Government, 1960-62, p 112; legality of transfer for nominal consideration, 1964-66, p 189.

271.360

ATTY. GEN. OPINIONS: Disposition of money derived from leasing state-owned real property, 1958-60, p 386; leasing building not required for state purpose, (1969) Vol 34, p 735.

271.370

ATTY. GEN. OPINIONS: County authority to develop industrial sites, (1970) Vol 34, p 1000.

271.375

ATTY. GEN. OPINIONS: Exchange of land suitable for grazing, 1936-38, p 581.

271.380

LAW REVIEW CITATIONS: 46 OLR 307.

271.390

NOTES OF DECISIONS

A lease of premises for use as a courthouse is invalid, if the total rent payable thereunder exceeds the limitation

imposed by Ore. Const. Art. XI, §10. *Brewster v. Deschutes County*, (1931) 137 Or 100, 1 P2d 607.

ATTY. GEN. OPINIONS: Leasing of vacant school building for use as a courthouse, 1934-36, p 315; lease option agreements, 1956-58, p 287.

271.440

ATTY. GEN. OPINIONS: Authority to grant easement for use in maintaining power lines over state highways, 1938-40, p 597; Bonneville Power Administration as required to pay for permit to construct power lines over state lands, 1940-42, p 32.

271.520

LAW REVIEW CITATIONS: 48 OLR 188.