August 15, 1996

OPINION NO. 96-042

The Honorable R. Alan Corbin
Brown County Prosecuting Attorney
200 E. Cherry Street
Georgetown, Ohio 45121

Dear Prosecutor Corbin:

I am in receipt of your letter asking what is the meaning of the term "calendar years" as used in R.C. 519.25.

R.C. 519.25 provides that when a board of township trustees receives a proper petition for repeal of the township zoning plan, the board must adopt a resolution to submit the question to the voters at the next primary or general election and certify that resolution to the board of elections. R.C. 519.25 further provides that "[n]ot more than one such election shall be held in any two calendar years."

It is my understanding that the question of repeal of the zoning plan for a township in your county was on the ballot on November 8, 1994. Based on a new petition, a resolution to place the question on the ballot again was certified to the county board of elections in July of this year. You wish to know if R.C. 519.25 permits the question to be placed on the ballot on November 5 of this year, 1996.

In interpreting another statute involving measurement of time from preceding elections, the Ohio Supreme Court held that the term "calendar year" should be accorded its common, ordinarily accepted meaning, which is "the period of time from January 1 through December 31." *State ex rel. Gareau v. Stillman*, 18 Ohio St. 2d 63, 247 N.E.2d 461 (1961) (interpreting R.C. 3513.191, which at that time prohibited a person from being a candidate in a party primary, who had voted "within the next preceding four calendar years" in a different party primary). The court rejected the argument that the phrase means only the passage of 365 days, noting that the more general term "year" encompasses that meaning. By using the more specific term "calendar year" the General Assembly intended to define precisely the beginning and end dates of the period of time to be used as a

measuring unit.[1] *Id.* at 65, 247 N.E.2d at 462; *accord* 1990 Op. Att'y Gen. No. 90-023; 1972 Op. Att'y Gen. No. 72-024.

The term "year" is now defined at R.C. 1.44(B) as "twelve consecutive months." The statute does not specify when a year begins and ends, however. Thus the analysis used in *Gareau* remains applicable to the statute you have presented. Whether defined in days or months, the general term "year" is flexible in meaning with respect to the time when it should start and stop. *See, e.g., Temple v. Liquor Control Comm'n*, 12 Ohio Misc. 38, 230 N.E.2d 457 (C.P. Franklin County 1965) (holding that, in connection with a statute prohibiting local liquor option elections "more than once in four years," the term "year" refers to the election cycle, running from one year's primary to the next, or one year's general election to the next, depending on when the original election has occurred). With respect to R.C. 519.25, if the General Assembly had intended that zoning repeal elections must be separated by two full years, i.e. twenty four months or, as interpreted in *Temple*, two election cycles, it would have used the general term "year," not the more specific term "calendar year." Use of the term calendar year indicates that the time period intended by the General Assembly, for purposes of R.C. 519.25, is the period of time from January 1 through December 31. I note further that the language of R.C. 519.25 requires only that "not more than one election" be held in two calendar years; there is no requirement that there be two complete calendar years with no election.

This standard applies to your situation as follows. There was an election for the repeal of township zoning in 1994. That is one calendar year. There was no such election in 1995. That is two calendar years. Thus, the statutory limitation of R.C. 519.25 has been satisfied and the issue may be placed on the ballot in November 1996.

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[1] I note further that, because the disqualification was determined on the basis of voting record in the "preceding four calendar years," the actual year of candidacy was excluded from the calculation. The relator was barred from being a candidate in May of 1969 on the basis of a disqualifying primary vote in May of 1965. Even though four years in time had passed between the elections involved, the bar extended through the end of calendar year 1969. Thus for all practical purposes, use of calendar year as a measuring unit resulted in a disqualification of five years measured in time alone.

It is, therefore, my opinion and you are hereby advised that, for purposes of R.C. 519.25, a calendar year is the period of time from January 1 through December 31.

Respectfully,

BETTY D. MONTGOMERY
Attorney General

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