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SYLLABUS:

1. A board of township trustees may, under authority of Section 505.37, Revised Code, establish a regulation requiring members of the township fire department to be resident within the township.

2. There is no provision in either the Ohio Constitution or the Revised Code under which a referendum vote may be compelled on the subject of a fire regulation adopted by a board of township trustees under authority of Section 505.37, Revised Code.

Columbus, Ohio, July 25, 1963

Hon. Earl W. Allison
Prosecuting Attorney
Franklin County
Columbus, Ohio

Dear Sir:

You have requested my opinion in answer to the following questions: May a board of township trustees adopt a rule or regulation requiring both volunteer and regular members of the township fire department to be resident within the township? If such a regulation is adopted, can it be made subject to a referendum vote?

Section 505.37, Revised Code, provides in pertinent part:

"The board of township trustees may establish all necessary regulations to guard against the occurrence of fires, protect the property and lives of the citizens against damage and accidents, and may, with the approval of the

specifications by the prosecuting attorney, purchase or otherwise provide such fire apparatus, mechanical resuscitators, or other equipment, appliances, materials, fire hydrants, and water supply for fire-fighting purposes as seems advisable to the board. * * *

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(Emphasis added)

This provision constitutes a grant of authority to boards of township trustees to make such regulations as they may deem necessary for fire protection and the protection of the lives and property of the citizens from accident.

In Opinion 1311, Opinions of the Attorney General for 1957, page 684, I concluded that there is no general requirement of law that firemen be resident in the township which they serve, and I remain of that opinion. Should a board of township trustees deem it necessary to complete fire protection, however, that firemen be resident in the township in order to be readily available in case of emergency, it is my opinion that such board may, under authority of the above quoted provision, establish a regulation making such residence a requirement of those, either paid or volunteer, who are to serve as firemen.

You have also asked me whether such a regulation might be made subject to a referendum vote; and by that question I understand you to mean, could the township electorate *require* that such a regulation be submitted to a referendum vote. I have carefully examined both the Constitution of Ohio, particularly Article II, Sections 1 through 1g, thereof, and the Ohio Revised Code; and, although I find some provisions which allow a township electorate to compel a referendum vote in certain cases, *e.g.* Sections 519.12 and 519.25, Revised Code, on the subject of township zoning, I find no such provision, either constitutional or statutory, which could be deemed applicable to a fire regulation established by a board of township trustees under authority of Section 505.37, *supra*. I must conclude, therefore, that no power exists in the township electorate to compel a referendum vote on such a regulation.

In summary, it is my opinion and you are hereby advised that:

1. A board of township trustees may, under authority of Section 505.37, Revised Code, establish a regulation requiring members of the township fire department to be resident within the township.

2. There is no provision in either the Ohio Constitution or the Revised Code under which a referendum vote may be compelled on the subject of a fire regulation adopted by a board of township trustees under authority of Section 505.37, Revised Code.

Respectfully,
WILLIAM B. SAXBE
Attorney General