

OPINION NO. 85-024**Syllabus:**

1. A board of township trustees may give financial aid to a community improvement corporation to help the corporation defray its administrative expenses, but a board of township trustees may not contribute or loan township funds to a community improvement corporation for the purpose of acquiring a site for future industrial development or paying off a loan on an existing site owned by the corporation for future industrial development. (1967 Op. Att'y Gen. No. 67-056, overruled.)
2. A board of township trustees may not use township funds to acquire real property for the purpose of industrial development.

To: J. David Webb, Paulding County Prosecuting Attorney, Paulding, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, May 22, 1985

I have before me your opinion request in which you ask the following questions:

1. May a Board of Township Trustees contribute or loan Township Funds to a community improvement corporation for the purpose of acquiring a site for future industrial development or paying off a loan on an existing site owned by a community improvement corporation for future industrial development?
2. May a Board of Township Trustees acquire real estate with Township Funds for the purpose of industrial development and making industrial sites readily available for future development?

A township is a creature of statute, and, therefore, has only those powers granted to it by the General Assembly. Trustees of New London Township v. Miner, 26 Ohio St. 452 (1875); see State ex rel. Schramm v. Ayres, 158 Ohio St. 30, 106 N.E.2d 630 (1952). The authority of a township to use township funds to assist a community improvement corporation is set forth in R.C. 505.701 as follows:

The board of trustees of any township, through unanimous vote of its membership, may designate, participate in, and cooperate with any community improvement corporation organized under [R.C. Chapter 1724], and may give financial or other assistance, including any fees generated by the corporation, to such a corporation to defray its administrative expenses. Any moneys contributed by the board for this purpose shall be drawn from the general fund of the township not otherwise appropriated. (Emphasis added.)

Pursuant to R.C. 505.701, a board of township trustees may give financial assistance to a community improvement corporation. R.C. 505.701 does not, however, give a township unlimited authority with respect to financially aiding a community improvement corporation. Rather, R.C. 505.701 empowers a township to give financial aid to such a corporation only for the limited purpose of helping the corporation defray its administrative expenses.¹

Although the term "administrative expenses," as used in R.C. 505.701, is not defined, that term generally refers to expenses which are necessarily incidental to the primary activities of the office or agency. See, e.g., State ex rel. Ray v. South, 176 Ohio St. 241, 198 N.E.2d 919 (1964) (syllabus, paragraph 3) ("[a]s used in [R.C. 2101.11 and 2151.10] 'administrative expenses' of the Juvenile and Probate Courts, respectively, include expenses of office equipment, stationery and supplies"); State ex rel. Clarke v. Board of County Commissioners, 141 Ohio St. 16, 46 N.E.2d 410 (1943) (salary and traveling expenses of probation officer are administrative expenses of juvenile court). In the situation you pose, the acquisition of a site for future industrial development or the payment of a loan on an existing site owned by the corporation for future development is not merely an "administrative expense" of the community improvement corporation. Rather, the acquisition of real property is one of a community improvement corporation's primary powers. See R.C. 1724.02(C). Thus, the acquisition of property is not an "administrative expense" of a community improvement corporation, and a township may not, therefore, contribute or loan township funds to a community improvement corporation for such purpose. Had the legislature intended to authorize a township to give financial assistance to a community improvement corporation for purposes in addition to that of aiding the corporation in paying its administrative expenses, it could easily have deleted the language in R.C. 505.701 setting forth the purpose for which such financial assistance could be given. See generally R.C. 1.47 ("[i]n enacting a statute, it is presumed that. . .[t]he entire statute is intended to be effective"); Dougherty v. Torrence, 2 Ohio St. 3d 69, 442 N.E.2d 1295 (1982) (in construing a statute, words used may not be deleted). R.C. 505.701 does not, therefore, empower a township to contribute or loan township funds to a community improvement corporation for the purpose set forth in your first question.

Your second question asks whether a board of township trustees may use township funds for the acquisition of real estate for the purpose of industrial

¹ 1967 Op. Att'y Gen. No. 67-056 concluded that: "A political subdivision may not appropriate monies derived from taxation to provide for the maintenance or operating expenses of a community improvement corporation." Since issuance of Op. No. 67-056, however, the General Assembly has authorized certain political subdivisions to contribute funds to community improvement corporations to help defray their administrative expenses. See, e.g., R.C. 307.78. Because of such legislation I hereby overrule 1967 Op. Att'y Gen. No. 67-056 to the extent that it is inconsistent with this opinion.

development and making industrial sites readily available for future development. A board of township trustees has statutory authority to acquire property for specific purposes. See, e.g., R.C. 505.26 (acquisition of sites for township hall, township park, public library, bridges, viaducts, and space for township offices); R.C. 505.37 (acquisition of site for fire fighting purposes); R.C. 505.50 (acquisition of site for township police district); R.C. 517.01 (acquisition of site for township cemetery). The legislature has also empowered boards of township trustees to "acquire by purchase, appropriation, or otherwise, any private or public lands which it might deem necessary for its use" (emphasis added). R.C. 511.11. In order for the township trustees to acquire property under authority of R.C. 511.11, such acquisition must be for a township use. The acquisition of such property generally to be used for current or future industrial development does not appear, however, to constitute a township use.

An examination of R.C. 1724.10, which provides for the designation of a community improvement corporation as the agency of certain political subdivisions, including townships, for the industrial, commercial, distribution, and research development in such subdivisions, indicates the broadest extent to which the General Assembly intended to allow a township to participate in such development. R.C. 1724.10 provides, in part, that when a political subdivision designates a community improvement corporation as its agency for industrial, commercial, distribution, and research development, it may enter into an agreement with the corporation agreeing, among other things, that the political subdivision "will convey to the community improvement corporation lands and interests in lands owned by the political subdivision and determined by the legislative authority thereof not to be required by the political subdivision for its purposes" (emphasis added). R.C. 1724.10(C). Thus, even where a community improvement corporation has been designated by a political subdivision as its agency, the political subdivision may convey to the corporation only those lands no longer required by the political subdivision for its purposes. See generally 1973 Op. Att'y Gen. No. 73-060 (discussing R.C. 1724.10(C)). It is apparent, therefore, that, although a township may designate a community improvement corporation to act on its behalf in the establishment and growth of industrial, commercial, distribution and research facilities, the General Assembly did not contemplate that a township could directly carry out such purposes. See R.C. 1724.10 (authorizing a township to "promote the health, safety, morals, and general welfare of its inhabitants through the designation of a community improvement corporation" as its agency). Thus, the acquisition of property for the purpose of industrial development does not appear to be a township use, and R.C. 511.11 may not be read as authorizing such acquisition. Absent statutory authority to acquire property for industrial development, a board of township trustees has no authority to make such acquisitions.

It is, therefore, my opinion, and you are advised, that:

1. A board of township trustees may give financial aid to a community improvement corporation to help the corporation defray its administrative expenses, but a board of township trustees may not contribute or loan township funds to a community improvement corporation for the purpose of acquiring a site for future industrial development or paying off a loan on an existing site owned by the corporation for future industrial development. (1967 Op. Att'y Gen. No. 67-056, overruled.)
2. A board of township trustees may not use township funds to acquire real property for the purpose of industrial development.