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1. COUNTY—COOPERATION BETWEEN PLANNING COMMISSION—SECTION 713.22 R. C.—COMMISSIONERS—IN CREATION OF REGIONAL PLANNING COMMISSION—SECTION 713.21 R. C.
2. REGIONAL PLANNING COMMISSION—DUTIES, POWERS AND RESPONSIBILITIES—CANNOT BE LIMITED BY COOPERATIVE AGREEMENT CREATING REGIONAL AGENCY—EXCEPT FINANCIAL RESOURCES LIMITATION.

## SYLLABUS:

1. The fact that a county planning commission has been created in a particular county, as provided in Section 713.22, Revised Code, does not preclude action by the board of county commissioners of such county in cooperating in the creation of a regional planning commission under the provisions of Section 713.21 Revised Code.

2. The duties, powers and responsibilities of a regional planning commission are those provided in Section 713.23, et seq., Revised Code, and such duties, powers, etc., may not be limited by any provision to such purported effect set out in the cooperative agreement by which such regional agency is created as provided in Section 713.21, Revised Code, except as such powers, etc., are limited in practice by a limitation in such cooperative agreement on the financial resources of such regional agency.

Columbus, Ohio, September 15, 1956

Hon. Alva J. Russell, Prosecuting Attorney  
Summit County, Akron, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“Summit County, Ohio, now has a County Planning Commission duly organized and operating under a comprehensive plan for the unincorporated areas of the County, and in which all municipal corporations are participating and cooperating, including duly authorized rules and regulations for plats.

“For some time, there has been a great community of interest between Summit, Portage and Medina Counties in mutual cooperation to attract industry to the area. It is now desired to form a regional planning commission under the provisions of Section

713.21 R. C. It is intended that such regional planning commission be purely advisory upon matters of area-wide concern, and overall master planning, and that the individual county planning commission administer and direct the rules and regulations of plats within its own county, and the planning of their individual counties within the scope of overall planing of the regional planning commission.

“I have been requested to ask your opinion on the following:

“1. Can a county establish and contribute to the operation of a regional planning commission and a county planning commission concurrently?

“2. May such commissions, duties, powers and responsibilities be so separated by resolution of the County Commissioners, that the regional planning commission is merely advisory and the county planning commission is limited to ministerial functions?”

Section 713.21, Revised Code, makes provision for the organization of a regional planning commission, which may consist of one or more counties uniting by agreement with one or several municipal corporations, in which agreement they are to determine the share of the costs to be born by each. Such regional commission is authorized to employ such engineers, accountants and clerks as are deemed necessary.

Section 713.22, Revised Code, provides that the commissioners of any county may, and “on petition of the planning commissions of a majority of the municipal corporations in the county having such planing commission shall, provide for the organization and maintenance of a county planning commission.” Such commission is likewise authorized to employ such engineers, accountants and other employes as are necessary.

Section 713.23, Revised Code, sets forth the powers and duties of both regional and county commissioners in the following words:

“The regional *or* county planning commission shall make plans and maps of the region or county respectively, showing the commission’s recommendation for systems of transportation, highways, park and recreational facilities, the water supply, sewerage and sewage disposal, garbage disposal, civic center, and other public improvements which affect the development of the *region or county* respectively, as a whole or as more than one political unit within the region or county, and which do not begin and terminate within the boundaries of any single municipal corporation.” (Emphasis added.)

Section 713.24, Revised Code, requires the “regional *or* county planning commission” making such plan to certify a copy thereof to the

planning commission of each municipal corporation included in the plan.

Section 713.24, Revised Code, provides :

“The regional planing commission of any region, or the county planning commission of any county, shall, after making the regional or county plan as provided by Section 713.23 of the Revised Code, certify a copy thereof to the planning commission of each municipal corporation of the region or county and the board of county commissioners of each county or part thereof included in the plan. \* \* \*”

The effect of filing such regional or county plan is stated in Section 713.25, Revised Code, as follows :

“The planning commission of any municipal corporation to which a regional or county plan is certified under section 713.24 of the Revised Code may adopt such plan, and it shall thereupon have the same force within such municipal corporation as is provided by law or charter for plans prepared and adopted by the local planning commission. The board of county commissioners may adopt such plan so far as it relates to nonmunicipal territory. Thereafter no public building, roadway, bridge, viaduct, or other public improvement or utility, publicly or privately owned, whose construction or location would constitute a departure from the plan, shall be constructed or authorized by the board except by unanimous vote. Such plans shall not designate the specific lots or parcels of land upon which such system, facilities, buildings, and improvements are proposed to be placed, but only the general site or location thereof. The effect of the adoption of such plan by the board shall cease as regards the location of any sewage or garbage disposal plant, and no official action of the board shall be controlled thereby in such respect, unless the site shown on the plan as the location of such plant is purchased within six months after the adoption of the plan by the board, or unless proceedings for the appropriation of the necessary property are commenced within a period of six months and such property is then or thereafter appropriated in such proceedings.”

It is obvious that the simultaneous existence and operation of a county planning commission, and of a regional planning commission in the creation of which such county has cooperated, will involve a certain amount of duplication of effort and expense, and this circumstance is suggestive of a legislative intent not to authorize or require such duplication. However, the legislative intent must be initially sought in the language employed by the lawmakers, and if that language is free of ambiguity there is no occasion to resort to other means of interpretation. *Slingluff v. Weaver*, 66 Ohio St., 621.

In the case at hand I find no ambiguity on the point here involved. The statutes in clear terms authorize the formation of both regional and county planning commissions. Neither Section 713.21 nor 713.22, Revised Code, in any way compels the view that the authorization granted to act under the one section is conditional on failure to act under the other, or that action under one section thereafter precludes action under the other.

Moreover, it will be seen that Section 713.22, Revised Code, contains a positive mandate regarding the formation of a county planning commission on petition of the planning commissions of a majority of the municipal corporations in the county having such planning commissions, and this wholly without reference to the possibility that the board of county commissioners of the county in which such municipal corporations are located had previously cooperated in the creation of a regional commission.

In this connection it should be borne in mind that as a practical matter the work of regional and county planning commissions need not necessarily be duplicative. Certainly the work of a regional agency, so far as it affects planning in areas which, as to a particular county, may be called "extra-county" territory, will not duplicate county planning, and it is quite clear that in numerous instances the future development of territory adjacent to a county will have a definite bearing on development of territory within the county. In short, county residents and property owners may well have a definite and substantial interest in the planning of the development of territory located beyond the jurisdiction of the planning commission of their own county; and regional planning may well largely embrace the coordination of planning within the several counties within a regional area.

I conclude, therefore, that the fact that a county planning commission has been created in a particular county, as provided in Section 713.22, Revised Code, does not preclude action by the board of county commissioners of such county in cooperating in the creation of a regional planning commission under the provisions of Section 713.21, Revised Code.

As to your second question, I find nothing anywhere in the law which suggests the possibility of limiting or confining to designated fields, the authority of either regional or county planning commissions by a provision to that effect set out in the cooperative agreement for which provision is found in Section 713.21, Revised Code. Rather, the provisions in Section 713.23, et seq., Revised Code, as to the powers of both

regional and county agencies, and the legal effect of their exercise, are so plainly stated as to leave no doubt that each possesses such powers despite the circumstance that the territory of a particular county falls within the jurisdiction of both.

I would point out, however, in view of your query as to the regional commission being a "merely advisory" agency, that all planning commissions are "merely advisory", for, as provided in Section 713.25, Revised Code, quoted above, the plans made and certified by them are without any legal force or effect unless adopted by local municipal planning commissions or by the board of county commissioners.

I have no doubt, as a practical matter, however, that a regional planning commission could voluntarily elect to refrain from certifying plans as provided in Section 713.24, Revised Code, leaving that function to the several county planning commissioners within the region, and could, if it chose, limit its activities to the coordination and correlation of the efforts of such county agencies. Moreover, as a practical matter, it would appear to be possible to limit rather effectively the operations of a regional planning commission by a limitation, set out in the agreement by which that agency is created, on its financial resources. See the final sentence in Section 713.21, Revised Code.

This brings us to a question which is latent, but not expressed in your inquiry, i. e., the effect of the certification of conflicting plans by the regional and county agencies. As already noted, neither regional nor county plans have any legal effect in and of themselves, but can be given force and effect only after adoption by other local agencies, i. e., by a municipal planning commission or by a board of county commissioners, as provided in Section 713.25, Revised Code. Should two such conflicting plans be adopted by the same local agency it would be necessary to regard that which is later adopted as being an amendment of the former. In this regard the situation would be no different from the later approval of successive plans certified by the same planning commission. That such successive and changing plans could be made and adopted appears to be implied from the continuing existence of planning commissions generally, and there is certainly nothing in the law that suggests that a plan once approved may never be revised.

For these reasons, in specific answer to your inquiry, it is my opinion that :

1. The fact that a county planning commission has been created in a particular county, as provided in Section 713.22, Revised Code, does not preclude action by the board of county commissioners of such county in cooperating in the creation of a regional planning commission under the provisions of Section 713.21, Revised Code.

2. The duties, powers, and responsibilities of a regional planning commission are those provided in Section 713.23, et seq., Revised Code, and such duties, powers, etc., may not be limited by any provision to such purported effect set out in the cooperative agreement by which such regional agency is created as provided in Section 713.21, Revised Code, except as such powers, etc., are limited in practice by a limitation in such cooperative agreement on the financial resources of such regional agency.

Respectfully,

C. WILLIAM O'NEILL  
Attorney General