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BOARD OF TOWNSHIP TRUSTEES MAY NOT IMPROVE TOWNSHIP HALL AT COST IN EXCESS OF \$2,000.00 WITHOUT SUBMITTING QUESTION TO TOWNSHIP ELECTORS—§511.01, R.C.

SYLLABUS:

Under Section 511.01, Revised Code, a board of township trustees may not improve a township hall at a cost in excess of \$2,000.00 without submitting the question to the electors of the township.

Columbus, Ohio, July 28, 1961

Hon. James H. DeWeese, Prosecuting Attorney  
Miami County, Troy, Ohio

Dear Sir:

Your request for my opinion asks the following:

“A Board of Township Trustees is contemplating the improvement of the township hall at a cost of approximately \$25,000.00, which funds are available in the General Fund. I request your opinion as to whether or not it is necessary for the matter of the improvement to be submitted to the electors of the township before the trustees may proceed with the improvement.

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Section 511.01, Revised Code, which provides for the improvement of a township hall, reads as follows:

“If, in a township, a town hall is to be built, *improved*, enlarged, or removed at a cost greater than that authorized by section 503.23 of the Revised Code, the board of township trustees shall submit the question to the electors of such township, shall certify their resolution to the board of elections not later than four p.m. of the ninetieth day before the day of the election, and shall cause the township clerk to give notice of an election on such question and of the estimated cost of the improvement, by written notices, posted, at least forty days prior to such election, in not less than three public places within the township.”

(Emphasis added)

Section 503.23, Revised Code, which provides for the purchase of a site and *erection* of a town hall, reads:

“The board of township trustees shall fix the place of holding elections within its township or within any election precinct in such township. For such purpose the board may purchase or lease a house and suitable grounds, or, by permanent lease or otherwise, may acquire a site and erect thereon a house. *The board may purchase a site and erect thereon a town hall for such township and pay for the same out of funds in the township treasury, or the board may proceed as provided in sections 511.01 and 511.02 of the Revised Code.*”

(Emphasis added)

Thus, although Section 511.01, *supra*, refers to “a cost greater than that authorized by Section 503.23,” said Section 503.23 does not contain a reference to any cost. Prior to September 9, 1957, however, the then

existing Section 503.23, Revised Code, did contain a cost reference. The section then read:

“The board of township trustees shall fix the place of holding elections within its township, or within any election precinct in such township. For such purpose the board may purchase or lease a house and suitable grounds, or, by permanent lease or otherwise, may acquire a site and erect thereon a house. If a majority of the electors of such township or precinct, voting at any general election, vote in favor thereof, the board may purchase a site and erect thereon a town hall for such township or precinct, and levy a tax on the taxable property therein *to pay such cost, which shall not exceed two thousand dollars.* At least thirty days’ notice shall be given in at least five of the most public places in the township or precinct, that at such election a vote will be taken for or against a tax for such purpose.” (Emphasis added)

It was the general interpretation prior to September 9, 1957, that a township hall could not be purchased, built, removed, or enlarged at a cost over \$2000.00 without submitting the question of purchase etc., to the electors. Opinion No. 330, Opinions of the Attorney General for 1929, Volume I, page 517; Opinion No. 1103, Opinions of the Attorney General for 1949, page 753; Opinion No. 2404, Opinions of the Attorney General for 1934, Volume I, page 314.

Clearly, under present Section 503.23, Revised Code, a town hall may be erected at any cost without a vote of the people. This authority does not extend, however, to an *improvement* of a township hall, the provision applying there being found only in Section 511.01, *supra*. Thus, it remains to be determined whether the reference in Section 511.01, *supra*, to Section 503.23, Revised Code, has any validity.

Section 511.01, *supra*, so far as it refers to Section 503.23, *supra*, may be classified as a reference statute, and should, therefore, be governed by the rules of statutory interpretation pertaining to this particular type of statute. As to “reference statutes,” it is stated in Sutherland Statutory Construction, Third Edition, Volume II, at page 547:

“There are two general types of reference statutes: statutes of specific reference and statutes of general reference. A statute of specific reference, as its name implies, refers specifically to a particular statute by its title or section number. A general reference statute refers to the law on the subject generally.”

Ohio has many examples of reference statutes, and in 37 Ohio Jurisprudence 341, Statutes, Section 49, page 341, there is a general

discussion of amendment or repeal of a statute referred to by another statute. Said discussion reads:

“It is a general rule that when a statute adopts a part or all of another statute, domestic or foreign, general or local, by a specific and descriptive reference thereto the adoption takes the statute as it exists at that time. The subsequent amendment or repeal of the adopted statute has no effect on the adopting statute, unless it, also, is repealed expressly or by necessary implication. The same result has been reached in an early supreme court case in Ohio in regard to a reference statute referring, not to a specified statute, but to the law generally governing a particular subject. \* \* \*”

See also *Stoner v. Railway*, 9 N.P. (N.S.), 337. I note that in 1904 the antecedent to Section 511.01, *supra*, was a general reference statute reading as follows:

“In any township in which a townhall, or the removal, improvement, or enlarging of a townhall, *costing more than is heretofore provided in this chapter*, is desired, \* \* \*  
\* \* \* \* \* \* \* \* \*  
\* \* \*”  
(Emphasis added)

See 97 Ohio Laws, 189.

Section 511.01, *supra*, was amended and became a specific reference statute in 1954 (125 Ohio Laws, 725, effective January 1, 1954).

Using either the date of general reference or the date of specific reference it appears that prior to September 9, 1957, Section 503.23, *supra*, contained a \$2,000.00 restriction. (73 Ohio Laws, 203, 90 Ohio Laws, 257). Using the rules of statutory construction set out previously, the reference in Section 511.01, *supra*, to the cost authorized by Section 503.23, Revised Code, refers to the amount of \$2,000.00 which previously appeared in the latter named statute. It follows, therefore, that if the cost of the improvement of the township hall will exceed \$2,000.00, the question must be submitted to the electors under Section 511.01, *supra*.

Accordingly, it is my opinion and you are advised that under Section 511.01, Revised Code, a board of township trustees may not improve a township hall at a cost in excess of \$2,000.00 without submitting the question to the electors of the township.

Respectfully,  
MARK McELROY  
Attorney General