

OPINION NO. 85-061**Syllabus:**

1. Pursuant to R.C. 1711.31, a county agricultural society may restrict the use of the fairground race track for training purposes to those persons who have rented stall space at the fairground or to use by only those persons who are training standardbred horses, so long as the society determines that such restrictions are reasonable.
2. R.C. 1711.31 empowers a county agricultural society to assess a charge for the use of the fairground race track for training purposes.

To: Frederick D. Pepple, Auglaize County Prosecuting Attorney, Wapakoneta, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, September 17, 1985

I have before me your opinion request concerning the county agricultural society's authority with respect to the use of the race track at the fairground. I have stated your questions as follows:

1. May a county agricultural society limit the use of the fairground race track for training purposes to those persons who have rented stalls at the fairground?
2. May a county agricultural society assess a charge for the use of the fairground race track for training purposes?
3. May a county agricultural society limit the use of the fairground race track to only those persons who are training standardbred horses?

County agricultural societies are provided for generally in R.C. Chapter 1711. County agricultural societies are established pursuant to R.C. 1711.01, and have broad powers to "perform any acts best calculated to promote the agricultural interests and household manufacturing interests of the counties concerned and of the state," R.C. 1711.04. Dunn v. Agricultural Society, 46 Ohio St. 93, 18 N.E. 496 (1888).

You have informed me that the property on which the county fairground is located is owned by the board of county commissioners. See generally R.C. 1711.15 ("[i]n any county in which there is a duly organized county agricultural society, the board of county commissioners may purchase. . .real estate on which to hold fairs under the management and control of the county agricultural society, and may erect thereon suitable buildings and otherwise improve it"). Concerning fairground property owned by a board of county commissioners, R.C. 1711.31 states, in pertinent part:

When the title to grounds and improvements occupied by an agricultural society is in the board of county commissioners, the control and management of such lands and improvements shall be vested in the board of directors of such society so long as they are occupied by it and used by it for holding agricultural fairs. (Emphasis added.)

See generally R.C. 1711.07 (board of directors of county agricultural society). Pursuant to R.C. 1711.31, so long as the county agricultural society occupies the fairground and uses it for holding agricultural fairs, the society is vested with the management and control of the property, even though title to the grounds and improvements is in the board of county commissioners. See 1957 Op. Atty Gen. No. 516, p. 141.

The extent of authority vested in a county agricultural society to manage and control property under R.C. 1711.31 is not specified by statute. See Dunn v. Agricultural Society. In the absence of statutory provision directing how the agricultural society is to manage and control the fairground property, the society may do so in any reasonable manner. See Jewett v. Valley Railway Co., 34 Ohio St. 601, 608 (1878) ("[w]here authority is given to do a specified thing, but the precise mode of performing it is not prescribed, the presumption is that the legislature intended the party might perform it in a reasonable manner").

Your first and third questions relate to limitations which the county agricultural society may impose on the use of the fairground race track and will, therefore, be addressed together. You specifically ask whether the use of the race track for training purposes may be restricted to use by only those persons who have rented stalls at the fairground or to only those persons who are training standardbred horses. As set forth above, the only limitation placed upon the county agricultural society in its control and management of the fairground property is that it exercise its discretion in a reasonable manner.

By way of background, your letter states, in part:

[T]he fair grounds has horse stables located at the fair grounds, with owners of standard bred horses renting the stalls at the track. As a part of their stall rental, the standard bred owners also have access to and use the race track for training their horses.

Recently, an owner of thoroughbreds who does not rent a stall space at the track has been transporting his horses by trailer to the track, making use of the track for training purposes, and hauling his horses back home to his stable each night in order to train the horses.

A determination as to whether the proposed restrictions are reasonable is, of course, a matter to be determined by the society's directors in light of the particular circumstances involved. Since I have no basis for concluding that such restrictions are unreasonable, I believe that the society may adopt the proposed limitations on the use of the fairground race track.

Your second question asks whether a county agricultural society may charge a fee for the use of the race track. As discussed above, pursuant to R.C. 1711.31, a county agricultural society has the power to control and manage fairground property owned by the county, so long as such property is occupied and used by the society for holding agricultural fairs. Furthermore, R.C. 1711.31 states, in part:

Money realized by the society in holding county fairs and from renting or leasing all or part of the grounds and buildings for the conduct of fairs or otherwise, over and above the necessary expenses thereof, shall be paid into the treasury of the society and used as a fund for keeping such grounds and buildings in good order and repair and for making other improvements deemed necessary by the society's directors. (Emphasis added.)

In 1959 Op. Att'y Gen. No. 576, p. 302, one of my predecessors concluded that R.C. 1711.31 empowers an agricultural society to lease fairground property "for any lawful purpose, although not connected in any way with the operations of the society, in holding the county fair, or otherwise." 1959 Op. No. 576 (syllabus, paragraph one). See 1971 Op. Att'y Gen. No. 71-061 at 2-207 (R.C. 1711.31 indicates that, "the legislature anticipated the leasing out of county grounds by an agricultural society"); 1934 Op. Att'y Gen. No. 2488, p. 449 (syllabus, paragraph one) ("[t]he grounds owned, controlled or used by a county agricultural society for county fair purposes, may be leased for a horse racing meeting at which pari-mutuel or certificate form of wagering is allowed by virtue of a license issued by the State Racing Commission").

The term "renting," as used in R.C. 1711.31, is not defined by statute. It is, therefore, necessary to examine the common meaning of that term in order to determine whether the proposed action of charging a fee for use of the fairground race track is encompassed within the terms of R.C. 1711.31. R.C. 1.42. In Webster's New World Dictionary 1204 (2d college ed. 1978), the term "rent" is defined, in part, as: "to give temporary possession and use of in return for the payment of rent or a fee; lease or let." Thus, the agricultural society's plan to charge a fee for the use of the fairground race track is clearly within the society's authority to rent or lease fairground property under R.C. 1711.31.

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

1. Pursuant to R.C. 1711.31, a county agricultural society may restrict the use of the fairground race track for training purposes to those persons who have rented stall space at the fairground or to use by only those persons who are training standardbred horses, so long as the society determines that such restrictions are reasonable.
2. R.C. 1711.31 empowers a county agricultural society to assess a charge for the use of the fairground race track for training purposes.