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## SYLLABUS:

The board of county commissioners is empowered to lease space in a county-owned airport facility for a period not exceeding twenty years, for the purpose of providing a restaurant for the comfort and accommodations of air travelers. Such lease must be made in accordance with the procedures established by Section 307.10, Revised Code.

Columbus, Ohio, July 3, 1963

Hon. Everett Burton  
Prosecuting Attorney  
Scioto County  
Portsmouth, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“Pursuant to a meeting held by the Board of County Commissioners on June 7, 1963, you are hereby requested to render an opinion to determine can the County Commissioners lease space in the administration building at the County Air Port for a period in excess of one year?”

It is my understanding that the proposed lease will be to a private organization for the purpose of providing a restaurant for public use in a county-owned airport facility.

Section 307.09, Revised Code, establishes the authority of the board of county commissioners to lease county property. Section 307.09, Revised Code, insofar as pertinent to your question, provides as follows:

“If the interests of the county so require, the board of county commissioners may sell any real estate belonging to the county and not needed for public use, or may lease it, but no such lease shall be for a longer term than one year, unless such lease is part of a lease-purchase agreement, in which case the lease may be for a period not exceeding twenty-five years; *except that in the case of real estate used or to be used for the purpose of airports, landing fields, or air navigational facilities, or parts thereof*, belonging to the county, the term of such lease shall not exceed twenty years and may renew such leases for similar terms of years; \* \* \*” (Emphasis added)

The procedures of granting such lease are set forth in Section 307.10, Revised Code, as follows:

“No sale of real estate, or lease of real estate used or to be used for the purpose of airports, landing fields, or air navigational facilities, or parts thereof, as provided by Section 307.09 of the Revised Code shall be made unless it is authorized by a resolution adopted by a majority of the board of county commissioners. When such a sale or lease is authorized a deed or lease shall be made by the board to the highest responsible bidder, after advertisement once a week for four consecutive weeks in a newspaper of general circulation within such county. The board may reject any bids and readvertise until all such real estate is sold or leased.

“Such board, by resolution adopted by a majority of the board, may grant leases, rights, or easements to municipal corporations and other governmental subdivisions or to privately owned electric light and power companies or natural gas companies or telephone or telegraph companies for purposes of rendering their several public utilities services in accordance with such section without advertising for bids. When such grant of lease, right, or easement is authorized, a deed or other proper instrument therefor shall be executed by the board.”

“Air navigation facility” is defined in Section 4561.01, (E), Revised Code, as follows:

“(E) ‘Air navigation facility’ means any facility used, available for use, or designed for use in aid of navigation of aircraft, including airports, landing fields, facilities for the servicing of aircraft *or for the comfort and accommodation of air travelers*, and any structures, mechanisms, lights, beacons, marks, communicating systems, or other instrumentalities or devices used or useful as an

aid to the safe taking off, navigation, and landing of aircraft, or to the safe and efficient operation or maintenance of an airport or landing field, and any combination of such facilities.”  
(Emphasis added)

“Airport facility” is defined in Section 308.01 (B), Revised Code, as follows:

“(B) ‘Airport facility’ means any facility used, available for use, or designed for use to aid in the safe taking off and landing of aircraft, for the safety, storage, and maintenance of aircraft, *for the comfort and accommodation of the users of air transportation* of persons, property, and mail, or for the safe and efficient operation and maintenance of an airport, and any combination of such facilities.”  
(Emphasis added)

In view of the above provisions of the Revised Code, it is my opinion and you are hereby advised that the board of county commissioners is empowered to lease space in a county-owned airport facility for a period not exceeding twenty years, for the purpose of providing a restaurant for the comfort and accommodation of air travelers. Such lease must be made in accordance with the procedures established by Section 307.10, Revised Code.

Respectfully,  
WILLIAM B. SAXBE  
Attorney General