

119

LIBRARIES — §3375.14 R.C. — TRANSFER OF SCHOOL TERRITORY—CONTROL OF LIBRARIES WITHIN DISTRICT.

SYLLABUS:

Where, pursuant to the provisions of Section 3375.14, Revised Code, a public school library has been established by the board of education of a local school district which has subsequently been transferred to and become a part of another district, such library falls under the dominion and control of the district to which the transfer has been made, and members of the board of library trustees theretofore appointed will continue to hold their offices until the expiration of their respective terms, at which time their successors will be appointed by the board of education of the enlarged district.

Columbus, Ohio, February 13, 1959

Hon. Donovan Lowe, Prosecuting Attorney
Morgan County, McConnelsville, Ohio

Dear Sir:

I have before me your request for my opinion reading as follows:

“A considerable number of years ago, the Kate Love Simpson Library in McConnelsville, Ohio, by appropriate action, was

established as a free public library by the Malta-McConnelsville Exempted Village School District.

“In 1958, the Malta-McConnelsville Exempted Village School District became a local school district supervised by the Morgan County Board of Education as provided by Section 3311.09 of the Revised Code of the State of Ohio. No change was made in the operation of the public library at the time the school district gave up its exempted village status and became a local school district.

“The Kate Love Simpson Library is being operated by a board of trustees appointed under the provisions of Section 3375.15 of the Revised Code of the State of Ohio.

“Appropriate action has been taken by the Morgan County Board of Education under Section 3311.22 of the Revised Code to transfer the Malta-McConnelsville Local School District to the Morgan Local School District. This proposal was approved by the voters at the last general election and will become effective July 1, 1959. After that transfer, there will be only one school district for Morgan County, viz. Morgan Local School District.

“The Kate Love Simpson Library holds title to the real estate in which it is being operated and has on hand certain funds. Can it continue to exist with its present organization after July 1, 1959? Can the present trustees continue in office and continue to operate a free, public library for the Morgan Local School District without further action by the members of the Board of Education of Morgan Local School District?”

Under the provisions of Section 3311.22, Revised Code, where the territory of an entire local school district has been transferred by action of the county board of education, approved by the electors in the territory transferred, it is provided:

“If an entire district is transferred the board of education of such district is thereby abolished or if a member of the board of education lives in that part of a school district transferred the member becomes a nonresident of the school district from which the territory was transferred and he ceases to be a member of the board of education of such district.

“The legal title of all property of the board of education in the territory transferred shall become vested in the board of education of the school district to which such territory is transferred.”

Under Section 3375.14, Revised Code, the board of education of any school district is authorized to provide for the “establishment, *control and*

maintenance of school libraries for the purpose of providing school library service to the pupils under its jurisdiction.” (Emphasis added.)

Section 3375.15, Revised Code, provides in pertinent part as follows:

“In any school district in which a free public library has been established, by resolution adopted by the board of education of such school district, prior to September 4, 1947, such library shall be under the control and management of a board of library trustees consisting of seven members. * * * Such trustees shall be qualified electors of the school district and shall be appointed by the board of education of the school district. Such trustees shall serve for a term of seven years and without compensation. All vacancies on such board of library trustees shall be filled by the board of education by appointment for the unexpired term.”

It appears obvious that if a board of education has established a library for the pupils of its district, changes in the territorial boundaries of such district, or even the transfer of such district to another would not change the status of the library, or of the library trustees appointed for its management, since as already noted, the transfer of an entire district into another district carries with it all the property of the transferred district. A library which it has established would inure to the benefit of and become the property of the district of which the original district has become a part.

It is true that under the provision of Section 3375.40, Revised Code, it is provided as to public libraries generally:

“Each board of library trustees appointed pursuant to sections 3375.06, 3375.10, 3375.12, 3375.15, 3375.22, and 3375.30 of the Revised Code may:

“(A) Hold title to and have the custody of all property both real and personal of the free public library under its jurisdiction;”

The fact that under the terms of this section, the board of library trustees may hold title to the real and personal property of the library does not, in my opinion, alter the conclusion which I have indicated. The real beneficial ownership of the library attached originally to the district which was its creator. The library board is, after all, only an agency of the district which appointed it; and the title which such board holds in the library is held in trust for the benefit of its parent organization. Furthermore, such library board is a continuing body, charged with the responsibility of operating and managing the library.

Accordingly, referring again to Section 3375.15, *supra*, I see no reason why a library board which has been appointed prior to the territorial

transfer should not continue to function until the time arrives for the appointment of successors to the members as their terms expire.

Therefore, in specific answer to the questions which you have submitted, it is my opinion that where, pursuant to the provisions of Section 3375.14, Revised Code, a public school library has been established by the board of education of a local school district which has subsequently been transferred to and become a part of another district, such library falls under the dominion and control of the district to which the transfer has been made, and members of the board of library trustees theretofore appointed will continue to hold their offices until the expiration of their respective terms, at which time their successors will be appointed by the board of education of the enlarged district.

Respectfully,
MARK McELROY
Attorney General