

---

OPINION NO. 560

SYLLABUS:

Township trustees may only acquire and operate or contract for the operation of "Life Squads" or rescue vehicles when they are used by fire departments, volunteer or hired, in conjunction with fire protection.

Columbus, Ohio, October 8, 1963

Honorable Ralph A. Hill  
Prosecuting Attorney  
Clermont County  
Batavia, Ohio

Dear Sir:

Your request for my opinion points out that in some communities the emergency ambulance services previously furnished by undertakers are now being performed by "Life Squads," composed of privately incorporated groups of citizens in the different communities who donate their time and ability to the maintenance and services of these life squads in their free time. You also indicate that these units are furnishing a very worthwhile service to the community in which they operate. More particularly, your request for my opinion reads as follows:

"Do the Township Trustees have the duty or authority to legally contract with a municipal life squad, a privately operated life squad, or to organize a township life squad, all of the expenses for either the contract or operation of the squad to be paid from the general tax monies, or a tax levy of the township. We feel that the clarification of the former attorney general's opinion referred to would be of general interest throughout the State and respectfully request your opinion on this matter."

It is stated in 52 Ohio Jurisprudence 2d, Townships, Section 42, at page 295, that:

"Township trustees, who act in a judicial as well as a ministerial capacity in certain instances, possess only such powers as are expressly conferred upon them by statute or are by necessary implication requisite to perform the duties so imposed upon them.

"Although a liberal view is characteristically taken as respects the form and regularity of the proceedings of township trustees, no such liberal view is taken of the powers of the trustees. In other words, the statutes under which they act are in derogation of the common law and are strictly construed. Hence, the trustees of townships cannot, in general, do any act foreign to the purposes for which their offices were created."

Consequently, in ascertaining the extent of the township trustees' powers in regards to emergency or "rescue" vehicles, it is necessary to examine the statutes, particularly Title V of the Revised Code pertaining to townships and Chapter 505 thereof on trustees.

As you have indicated in your request, this question has arisen as a result of Opinion No. 2416, Opinions of the Attorney General for 1953, wherein my predecessor held:

"1. Under the provisions of Section 3298-54, General Code, township trustees, in addition to being authorized to guard against the occurrence of fires, are further authorized to protect property and lives against damages and accidents; and under such authority may acquire and operate emergency vehicles or 'rescue cars' for such purposes.

"2. Township trustees may enter into an agreement with a volunteer fire company for the operation of any such equipment as the township itself is authorized to operate, designed to protect against fires, damages and accidents."

However, it must be recognized that this power to acquire "rescue cars" was found under the broader power of the trustees to purchase or acquire facilities for *fire-fighting purposes*. In addition, the section of the Code authorizing the acquisition of such vehicles is within the subtopic of FIRE PROTECTION, which includes specific provisions relating to how and by whom such equipment shall be used and operated, and how the expenses of the equipment and operation thereof shall be financed. (See Sections 505.37 through 505.45, Revised Code.) Therefore, since these sections, Sections 505.37 through 505.45, Revised Code, all deal with the subtopic of fire protection, they must be construed *in pari materia*. Consequently, it necessarily follows that the authority of power of the township trustees in dealing with emergency or rescue vehicles is no greater than their authority in dealing with other fire protection equipment. There is no other authority or power conferred upon township trustees in regards to emergency vehicles other than that specified in Sections 505.37 through 505.45, *supra*.

The first paragraph of Section 505.37, Revised Code, as amended by 130 Ohio Laws, S. 69, effective September 2, 1963, expressly provides:

"The board of township trustees may establish all necessary regulations to guard against the occurrence of fires, protect the property and lives of the citizens against damage and accidents and may, with the approval of the specifications by the prosecuting attorney, purchase or otherwise provide such fire apparatus, mechanical resuscitators or other equipment, appliances, materials, fire hydrants, and water supply for fire-fighting purposes as seems advisable to the board. Such board shall provide for the care and maintenance of fire equipment, and, for such

purposes, may purchase, lease, or construct and maintain necessary buildings, and it may establish and maintain lines of fire-alarm communications within the limits of the township. *The board may employ one or more persons to maintain and operate fire-fighting equipment, or it may enter into an agreement with a volunteer fire company for the use and operation of such equipment.* The board may compensate the members of a volunteer fire company on such basis and in such amount as it deems equitable.

“\* \* \*

\* \* \*

\* \* \*”

(Emphasis added)

It is manifest from this portion of the section that the township trustees have alternatives in regards to the maintenance and operation of fire-protection equipment, *which includes rescue cars*, and they are either to employ persons to maintain and operate the fire-fighting equipment or to enter into an agreement with a volunteer fire company for the use and operation of the equipment. In addition, the costs of maintaining and operating such emergency or rescue vehicle can only be financed by the two means provided in Sections 505.39 and 505.40, *supra*, namely, either a tax levy or a bond issue for fire protection.

Therefore, it is my opinion and you are hereby advised that township trustees may only acquire and operate or contract for the operation of life squads or rescue vehicles when they are used by fire departments, volunteer or hired, in conjunction with fire protection.

Respectfully,  
WILLIAM B. SAXBE  
Attorney General