

2437.

MUNICIPALITY AND TOWNSHIP MAY NOT UNITE IN THE CONSTRUCTION AND OPERATION OF HOSPITAL FOR COMMUNICABLE DISEASES.

SYLLABUS:

A municipality and a township may not unite in the construction and operation of a hospital for communicable diseases.

COLUMBUS, OHIO, May 5, 1925.

HON. J. E. MONGER, *Director of Health, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your communication as follows:

"I have been requested by the board of health of the city of Ashtabula to submit to you, the following proposition and to ask for your opinion.

"The city of Ashtabula and the trustees of Ashtabula township are very desirous to construct and operate a contagious disease hospital. Some years ago the township trustees raised by special levy a fund of \$25,000 for the purpose of building a contagious disease hospital, but the project was not carried further and the money is still in the fund.

"The matter has been discussed with the city solicitor of Ashtabula and with the prosecuting attorney of the county, with the result that this department was requested to secure an opinion from your department.

"We shall be very glad to know if there is authority in law for the city and the township to unite in the construction and operation of a communicable disease hospital."

Section 4452, General Code, provides:

"The council of a municipality may purchase land within or without its boundaries and erect thereon suitable hospital buildings for the isolation, care or treatment of persons suffering from dangerous contagious disease, and provide for the maintenance thereof. The plans and specifications for such buildings shall be approved by the board of health."

This section relates only to municipalities and provides how they may proceed to establish a hospital for communicable diseases. I can find no section of the statute providing for the erection of hospitals for communicable diseases by township trustees and am unable to find any statutes relating to the joint ownership of such hospital.

In an opinion of the Attorney General for 1918, Vol 1, p. 336, the question was passed upon as to whether two cities could purchase land jointly and jointly construct and maintain a pest house or a quarantine hospital. In that opinion it was held that "two cities cannot purchase lands jointly and jointly construct and maintain a pest house or quarantine hospital." In that opinion may be found the following:

"The authority herein granted is to a municipality, not to two municipalities acting jointly. I find no authority of statute which will permit two municipalities to join in the purchase of land and the erection thereon of a pest house or quarantine hospital and the joint maintenance thereof.

"In an opinion by Hon. Edward C. Turner, at page 1293 of the opinions of the attorney general for 1916, he had under consideration the authority of a city and a township to unite in the erection of a city hall and township house. His conclusion is:

" 'A city as well as a township has only limited power and each must act within the limits of its powers as prescribed by statute. I find no provision of the statute authorizing a city and township to join in the erection of a city hall and township house, and I am of the opinion therefore, that your question must be answered in the negative.'

"The rule is well established in Ohio that municipal corporations have only such powers as are expressly granted, and such as may be implied to carry out the powers expressly granted."

Ravenna vs. Pennsylvania, 45 O. S., 118.

"There is no express provision of statute granting authority to two cities to jointly erect and maintain a pest house or quarantine hospital, and such authority is not implied from the grant to one municipality to erect and maintain such pest house or hospital."

It will be noted that in this opinion attention is directed to the opinion of the Attorney General for 1916, Vol. 2, p. 1293, in which it was held that a city and township have no authority to unite for the erection of a city hall and township house. The establishment of a hospital for communicable diseases is along the same lines as the projects considered by the above opinions. As township trustees have only limited power, they may do only the things provided by statute.

It is therefore my opinion that a municipality and a township may not unite in the construction and operation of a hospital for communicable diseases.

Respectfully,

C. C. CRABBE,

Attorney General.

2438.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND THE NEWTON BAXTER COMPANY, OF TOLEDO, OHIO, FOR CONSTRUCTION AND COMPLETION OF ELECTRIC WIRING IN ANNEX TO COTTAGE "N," TOLEDO STATE HOSPITAL, TOLEDO, OHIO, AT COST OF \$277.00. SURETY BOND EXECUTED BY THE METROPOLITAN CASUALTY INSURANCE COMPANY OF NEW YORK.

COLUMBUS, OHIO, May 5, 1925.

HON. L. A. BOULAY, *Director, Department of Highways and Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the state of Ohio, acting by the department of highways and public works, and The Newton Baxter Company, of Toledo, Ohio. This contract covers the construction and completion of electric wiring in annex to Cottage "N," Toledo State Hospital, Toledo, Ohio, and calls for an expenditure of \$277.00.