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SYLLABUS:

During the pendency of appeals prosecuted under Sections 2506.01 to 2506.04, inclusive, and Sections 2505.01 to 2505.45, inclusive, Revised Code, county officials are bound by the doctrine of "*lis pendens*" to maintain the status quo.

Columbus, Ohio, March 21, 1963

Hon. George C. Steinemann
Prosecuting Attorney
Erie County
Sandusky, Ohio

Dear Sir:

Your request for my opinion reads as follows:

"The Officials of Erie County are faced with the following problems and we desire your Opinion as to what steps should be taken in view of the pending Appeal proceedings:

"1) Shall the Board of Elections determine the voters in the 'annexed' area to be voters in the City of Sandusky and eligible to vote in a special city election to be held this Spring?

"2) Shall the Board of Erie County Commissioners consider a Petition presented by the City of Sandusky under Section 503.07 requesting a change in the township lines of Margaretta Township so that said township lines and the limits of the City of Sandusky after such change shall be identical in part with respect to that territory annexed to the City of Sandusky?

"3) How shall the Erie County Auditor apportion local taxes presently being collected among the subdivisions affected?"

In light of the statutory restatement of the ancient common law doctrine of "*lis pendens*" as found in Revised Code, Section 2703.26, which reads as follows:

"When summons has been served or publication made, the action is pending so as to charge third persons with notice of its pendency. While pending, no interest can be

acquired by third persons in the subject of the action, as against the plaintiff's title."

There seems to be but one answer to your questions, i.e., in the negative as to all. Your request does not question the jurisdiction of either the Court of Common Pleas or the Court of Appeals of Erie County, Ohio, and I feel that there is no such question.

Consequently, during the pendency of appeals pursuant to Revised Code, Sections 2506.01 to 2506.04, inclusive, and Sections 2505.01 to 2505.45, inclusive, county officials including the Board of County Commissioners, the Board of Elections and the Auditor must maintain the status quo. No action may be taken affecting the voting qualifications of residents of territory concerned. The boundaries may not be altered. The taxes collected from the area must be apportioned in the same amount in effect at the inception of the litigation. See 34 Ohio Jurisprudence 2d, 682, et seq., and 34 American Jurisprudence, 360, et seq.

Accordingly, it is my opinion and you are advised that during the pendency of appeals prosecuted under Sections 2506.01 to 2506.04, inclusive, and Sections 2505.01 to 2505.45, inclusive, Revised Code, county officials are bound by the doctrine of "*lis pendens*" to maintain the status quo.

Respectfully,
WILLIAM B. SAXBE
Attorney General