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TOWNSHIP TRUSTEES — NO POWER TO APPROPRIATE  
LAND ON WHICH TO ERECT BUILDING TO STORE FIRE  
EQUIPMENT.

SYLLABUS:

Township trustees do not have the power to appropriate land for the purpose of erecting a building thereon to store fire equipment.

Columbus, Ohio, April 30, 1951

Hon. Ralph E. Carhart, Prosecuting Attorney  
Marion County, Marion, Ohio

Dear Sir:

This will acknowledge receipt of your request for my opinion, which reads as follows:

“Recently, the voters of Salt Rock Township, Marion County, Ohio, approved a tax levy for fire protection to provide protection against fire and to provide and maintain fire apparatus and appliances and buildings and sites therefor.

“The Township Trustees of Salt Rock Township, at this time, desire to appropriate a tract of land in the Village of Morral, Ohio, which is located in Salt Rock Township, Marion County, Ohio, for the purpose of erecting a building to be used for the storing of fire equipment. The owner of the lot does not want to voluntarily sell it, and the Township Trustees desire to start an action for the appropriation of said real estate.

“Kindly advise me whether or not such Township Trustees have the right to start an action to appropriate this property.”

Since your request does not include any reference to a joint project, I have eliminated from consideration those sections of the General Code covering joint projects, confining myself to the specific question as to whether or not a township board of trustees has the power of appropriation of the purpose of establishing a firehouse.

I have examined the general provisions of Chapter I, Division II of Title XI of the General Code covering civil townships. Sections 3244 to 3376, both inclusive, of the General Code, do not provide a grant of general authority to township trustees to acquire land by appropriation.

Section 3298-54 of the General Code, as amended, provides in part as follows:

“Township trustees may establish all necessary regulations to guard against the occurrence of fires, protect the property and lives of the citizens against damages and accidents resulting therefrom and may, with the approval of the specifications by the county prosecuting attorney, purchase or otherwise provide such fire apparatus, appliances, materials, fire hydrants and such water supply for fire fighting purposes as may seem to the trustees to be advisable, in which event they shall provide for the care and maintenance thereof, and, for such purposes, may *purchase, lease or construct* and maintain necessary *buildings*; and they may establish and maintain lines of fire alarm telegraph within the limits of the township. \* \* \*” (Emphasis added.)

It may not be argued that there may be an implied grant of power to bring appropriation proceedings by virtue of the above wording. A further examination of the sections of the General Code treating with the powers of township trustees reveals that in the authority granted to township trustees in the matters of improvement of roads or highways, or to provide a hall for a voting place, or to provide cemeteries, or additions thereto, or to erect memorials, there is included, in each instance, a specific provision conferring the right to appropriate all necessary land. It follows that since the Legislature, in granting authority to township trustees in various matters, has, in some instances specifically conferred the power of appropriation upon the township trustees, and in other instances not, and in the instance covered in Section 3298-54 of the General Code, has not included the power of appropriation, the township trustees are without such power and authority.

Under the general statutes covering township trustees there is no general grant of authority for township trustees to acquire land by appropriation.

Under the provisions of Section 3298-54 of the General Code, which section contains all of the authority granted to township trustees with respect to fire protection, there is significantly no provision granting power to acquire land by appropriation.

Township trustees have only the authority conferred upon them by statute.

Therefore, in specific answer to your question, I am of the opinion

that township trustees do not have the power to appropriate land for the purpose of erecting a building thereon to store fire equipment.

Respectfully,

C. WILLIAM O'NEILL  
Attorney General