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1. COUNTY COMMISSIONERS, BOARD OF—MUST PROVIDE SUITABLE QUARTERS FOR BOARD OF HEALTH OF GENERAL HEALTH DISTRICT—OPINIONS ATTORNEY GENERAL, 1932, VOLUME I, 3989, PAGE 106, APPROVED AND FOLLOWED.
2. SUITABLE QUARTERS FOR GENERAL HEALTH DISTRICT—OFFICE SPACE WITHOUT RUNNING WATER, TOILET FACILITIES, HEAT AND LIGHT, NOT SUITABLE QUARTERS—SECTION 1261-36 G. C.

SYLLABUS:

1. A board of county commissioners must provide suitable quarters for the board of health of a general health district. (Opinion of the Attorney General for 1932, Volume I, No. 3989, page 106, approved and followed).

2. Office space without running water, toilet facilities, heat and light is not "suitable quarters" for a general health district within the purview of Section 1261-36, General Code

Columbus, Ohio, October 7, 1949

Hon. John D. Porterfield, Director of Health
State of Ohio, Columbus, Ohio

Dear Sir:

Your request for my opinion is as follows:

“The board of county commissioners of a county in this state has refused to furnish suitable quarters for the office of the board of health of a general health district.

“I should like to have your opinion as to whether Section 1261-36 of the General Code of Ohio requires the commissioners of any county to provide suitable quarters for the office of the board of health of a general health district.

“If your opinion is in the affirmative, would you consider office space without running water, toilet facilities, heat and light as suitable quarters for the office of the board of health of a general health district?”

The answer to your question is, I believe, contained in an opinion of the Attorney General for 1932, Vol. 1, No. 3989, page 106. The syllabus of that opinion reads as follows:

“The council of a municipality must provide suitable quarters for the board of health of a city health district, and consequently a city board of health has no authority to rent the same.”

That opinion involved a construction of Section 1261-36, General Code, which reads as follows:

“The county commissioners of any county or the council of any city may furnish suitable quarters for any board of health or health department having jurisdiction over all or a major part of such county or city in accordance with the provisions of this act (G. C. Secs. 1261-16 to 1261-22 and 1261-25 et seq.)

In the construction of Section 1261-36, *supra*, which reads the same today as it did in 1932, the then attorney general reasoned as follows:

“It should be noted from a reading of Section 1261-36, above quoted, that the word ‘may’ is used therein. It is well settled in the State of Ohio that ‘The word “may” when used in statutes which confer powers upon officers or official boards is construed to be the equivalent of “shall” or “must” where the public has an interest in the exercise of the powers conferred.’ State, *ex rel. v. Evans*, 30 O. A. 419. See also State, *ex rel. Myers v. Board of Education of Spencer Twp.*, 95 O. S. 367; *Stanton v. Frankel Bros. Realty Co., et al.*, 117 O. S. 345.”

I call your attention to the fact that Section 1261-36 refers to county commissioners as well as the council of a city. Therefore, it is my opinion that the reasoning of the 1932 opinion, *supra*, is applicable and contains the answer to your question.

Section 1261-36 provides that the county commissioners may furnish *suitable quarters*. It is my opinion that "office space without running water, toilet facilities, heat and light" does not constitute "suitable quarters", within the terms of Section 1261-36. In the 1932 opinion, *supra*, the quarters involved could not be subdivided, were difficult to heat, and because of their location were difficult of access to mothers and others who came to the board of health for service. The attorney general was of the opinion that these were not "suitable quarters". I therefore concur in this conclusion because, considering the function of the board and the services it performs, quarters that lack running water, toilet facilities, heat and light are certainly not "suitable quarters", as the term is used in Section 1261-36, General Code.

Respectfully,

HERBERT S. DUFFY,
Attorney General.