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FAIR GROUNDS—RENTALS TO PRIVATE PERSONS—  
§1711.31 R.C.

## SYLLABUS:

Under the provisions of Section 1711.31, Revised Code, an agricultural society, being in control of lands belonging to the county, has a right to lease such grounds for any lawful purpose, although not connected in any way with the operations of the society, in holding the county fair, or otherwise; but the rentals arising from such leases are to be retained by the society and used for the maintenance of the fairgrounds and for necessary improvements thereon.

Columbus, Ohio, June 8, 1959

Hon. Robert H. Terhune, Director, Department of Agriculture  
State of Ohio, Columbus, Ohio

Dear Sir:

I have before me your request for my opinion reading as follows:

“Would you please furnish us with your written opinion upon the proposition that may an officer or the officers of a county agricultural society lease property held by such organization or by the county to persons or corporations for the conduct of activities thereon not associated with the county fairs when such leasing of property to said organizations stand definitely as a lease for the purpose of private development and only in an indirect, and sometimes difficult to observe, fashion benefits in any way the county agricultural society.”

The pertinent statute on the question you raise is Section 1711.31, Revised Code. That section reads as follows:

“When the title to grounds and improvements occupied by an agricultural society is in the board of county commissioners, the control and management of such lands and improvements shall be vested in the board of directors of such society so long as they are occupied by it and used by it for holding agricultural fairs. *Moneys realized by the society in holding county fairs and from renting or leasing all or part of the grounds and buildings for the conduct of fairs or otherwise, over and above the necessary expenses thereof, shall be paid into the treasury of the society and used as a fund for keeping such grounds and buildings in good order and repair and for making other improvements deemed necessary by the society’s directors.*” (Emphasis added)

It will be noted that this section assumes that the title to lands which are proposed to be leased is in the county. While the statute does not expressly confer authority on agricultural societies to lease such land, it certainly gives rise to an assumption that the society has much authority even if the title to the land is in the county.

If, as frequently happens, the society has acquired the title to its grounds, there could, of course, be no question as to its authority to lease its own property.

The long contended practice has been for these societies to lease the grounds which are under their control where the title is in the county. These leases have been before the Attorney General on a number of occasions, and no question ever seems to arise as to the right to make the leases. In Opinion No. 1600, Opinions of the Attorney General for 1933, 1452, it was held:

“4. In the event the County Agricultural Society leases their fair grounds owned by the County to an individual, firm or corporation for the purpose of conducting a street fair or carnival, these laws (G.C. Sec. 9884-5 to 9884-11, inclusive) do not apply to the lessee, but the provisions of Sections 13062 *et seq.* of the Criminal Code, with regard to gambling, should be enforced by the Sheriff and the Prosecuting Attorney, at such fairs and carnivals.”

The right to make such lease and the right to make it for a purpose that could be in no respect beneficial to the society except for the rental, appears to have been assumed and the only question apparently was as to the application of certain restrictive sections to the rights of the lessee. Sections 9884-5 *et seq.*, General Code, were intended to prohibit the *exhibitors at a regular fair* from conducting side shows and other amusements without first obtaining from the Director of Agriculture a license to do so. The effect, therefore, of the reference to these sections is simply to relieve lessees of the grounds from the requirement of this section, Section 13062, *et seq.*, of the General Code related to gambling devices and this opinion in effect prevents such lessees maintaining such gambling devices during the term of their lease.

In Opinion No. 2488, Opinions of the Attorney General for 1934, page 449, it was held:

1. The grounds owned, controlled or used by a county agricultural society for county fair purposes may be leased for a

horse racing meeting at which pari-mutuel or certificate form of wagering is allowed by virtue of a license issued by the State Racing Commission.”

Plainly this lease had nothing to do with holding the county fair, and was not for any purpose which related to the benefit to the society except as to the rental money. The opinion last referred to was reviewed and approved in Opinion No. 2886, Opinions of the Attorney General for 1938, page 1644. In this case the lease was to the American Legion for a period of five years. While the opinion does not disclose the uses to which the American Legion proposed to put the premises, it is plain that they had nothing to do with the annual county fair, and were not for the benefit of the society excepting for the money arising from the rentals. As I understand your letter of inquiry, the only question you raise is whether the leases which the agricultural society has a right to make must be limited to activities directly connected with the purposes of the county agricultural society, to wit the county fair. It appears very plainly that the privileges given to these societies to rent these lands, although belonging to the county is for the purpose of producing revenues to the society, to be used as stated in the statute quoted “as a fund for keeping such lands and buildings in good order and repair and for making other improvements deemed necessary by the society’s directors.”

Accordingly, in specific answer to your question, it is my opinion that under the provisions of Section 1711.31, Revised Code, an agricultural society, being in control of lands belonging to the county, has a right to lease such grounds for any lawful purpose, although not connected in any way with the operations of the society, in holding the county fair, or otherwise; but the rentals arising from such leases are to be retained by the society and used for the maintenance of the fairgrounds and for necessary improvements thereon.

Respectfully,

MARK McELROY  
Attorney General