

OPINION NO. 69-026

Syllabus:

Section 343.01, Revised Code, does not permit a board of county commissioners to lease land for use as a landfill operation in connection with a garbage and refuse disposal district.

To: Harry A. Sargeant, Jr., Sandusky County Pros. Atty., Fremont, Ohio
By: Paul W. Brown, Attorney General, March 6, 1969

I have before me your request for an opinion on the following question:

Is the authority granted to a board of county commissioners by Section 343.01 of the Revised Code broad enough to permit the board to lease land for use as a landfill operation in connection with a garbage and refuse disposal district?

Section 343.01, Revised Code, reads in pertinent part:

"* * *the board may acquire, construct, improve, enlarge, replace, maintain, and operate such garbage and refuse collection systems within any such district and such garbage and refuse disposal plants and facilities within or without any such district as are necessary for the protection of the public health."

If we are to construe statutes strictly, we must look closely at the language of the law. Although at first blush the language of the statute seems broad enough to encompass your request, a closer look reveals the lack of express authority for the board to lease land for use as a landfill operation.

The word "acquire" in the statutes has been held in Ohio to mean the purchase of something, or to make property one's own. State ex rel. Fisher v. Sherman, 21 N.E. 2d 447, 135 Ohio St. 458 (1939).

Since county offices are created by the legislature, the determination of the powers and duties of these offices is likewise wholly a matter for the legislature. In other words, county officials have only such powers and duties as are expressly given them by statute. Acts of county officers which exceed the limits of their powers are void. State v. Griggsby, 6 ONP 202, 8 ODNP 616 (1899). It would seem, therefore, that the leasing of land for a landfill operation is not authorized by the statute in question.

Your second question is as follows: "* * *may the Board of County Commissioners contract with a person or firm to construct, operate and maintain a landfill operation on the leased grounds?" The answer to your first question obviates an answer to your second question.

Therefore, it is my opinion and you are hereby advised that Section 343.01, Revised Code, does not permit a board of county commissioners to lease land for use as a landfill operation in connection with a garbage and refuse disposal district.