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TOWNSHIP TRUSTEES MAY ACQUIRE AN AMBULANCE—
§505.37, REVISED CODE, OPINION 2416, OAG, 1953.

SYLLABUS:

Under Sections 505.37 and 505.39, Revised Code, a board of township trustees may acquire and operate an ambulance for the purpose of protecting property and lives against damages and accidents. (Opinion No. 2416, Opinions of the Attorney General for 1953, page 114, followed.)

Columbus, Ohio, October 9, 1962

Hon. John G. Peterson, Prosecuting Attorney
Greene County, Xenia, Ohio

Dear Sir:

I have your request for my opinion reading:

“The Sugarcreek Township Trustees of Greene County, Ohio, have posed the following question, to-wit:

“Can the Sugarcreek Township Trustees purchase an ambulance out of their fire operating levy if the cost is less than \$1,000.00, and also, may the ambulance be maintained, equipped, etc., from said fund?”

“This question would appear to fall under Section 505.37 of the Ohio Revised Code, which authorizes the purchase of fire-fighting apparatus, equipment, etc., however, the section does not specifically enumerate an ambulance, and, of course, this is the reason for our request for an opinion. Therefore, will you kindly advise as to whether the purchase and maintenance of an ambulance would fall under the provisions of this section or possibly some other section of the Revised Code.”

Section 505.37, Revised Code, provides in pertinent part:

“The board of township trustees may establish all necessary regulations to guard against the occurrence of fires, protect the property and lives of the citizens against damage and accidents and may, with the approval of the specifications by the prosecuting attorney, purchase or otherwise provide such fire apparatus, *mechanical resuscitators or other equipment, appliances, materials*, fire hydrants, and water supply *for firefighting purposes as seems advisable to the board*. Such board shall provide for the care and maintenance of fire equipment, and, for such purposes, may

purchase, lease, or construct and maintain necessary buildings, and it may establish and maintain lines of fire-alarm communications within the limits of the township. The board may employ one or more persons to maintain and operate fire-fighting equipment, or it may enter into an agreement with a volunteer fire company for the use and operation of such equipment. The board may compensate the members of a volunteer fire company on such basis and in such amount as it deems equitable.

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(Emphasis added)

Accordingly, the board of township trustees is authorized, with the approval of the specifications by the prosecuting attorney, to purchase or otherwise provide such fire apparatus, mechanical resuscitators or other equipment, appliances, materials, fire hydrants, and water supply for fire-fighting purposes as seems advisable to the board, with the view of protecting the property and lives of the citizens against damages and accidents.

It thus appears that the board of township trustees is given broad discretionary authority as regards the purchase of apparatuses specified in Section 505.37, *supra*. Whether the purchase of an ambulance for use by the fire department of a township comes within the language of the quoted statute must be weighed in light of the often quoted statement that public officers have no power except such as is expressly given or which may be necessarily implied therefrom. *Schwing v. McClure*, 120 Ohio St., 315, 341.

An ambulance is defined in 3 Words and Phrases, page 444, as:

“a vehicle, used for the purpose of conveying sick or wounded persons.”

Under Section 505.37, *supra*, a board of township trustees is authorized to acquire a resuscitator and, accordingly, it may be said that the acquisition of an ambulance and equipping the same with a resuscitator would come within the spirit, if not within the express provisions of the statute. I note in this connection, that substantially the same question was before one of my predecessors in Opinion No. 2416, Opinions of the Attorney General for 1953, page 114, except that there, the purchase of “rescue cars” by township trustees in connection with their authority to purchase fire-fighting equipment was involved. The first paragraph of the syllabus of Opinion 2416, *supra*, reads:

“1. Under the provisions of Section 3298-54, General Code, (predecessor of present Section 505.37, Revised Code) township

trustees, in addition to being authorized to guard against the occurrence of fires, are further authorized to protect property and lives against damages and accidents; and under such authority may acquire and operate emergency vehicles or 'rescue cars' for such purposes."

I think it is quite plain that under the facts here and those in Opinion No. 2416, *supra*, "rescue car" and "ambulance" mean the same thing, although the word "rescue" carries the connotation of urgency which the term "ambulance" lacks, as shown by the definition of the former in Webster's International Dictionary (3rd Ed.), where the verb "rescue" is defined as meaning, among other things:

" * * freeing from capture, assault, evil, death, or destruction by ready prompt action." (Emphasis added)*

A vehicle, equipped with a resuscitator, which township trustees are expressly authorized to purchase, would apparently be used primarily in emergencies in connection with the fighting of fires. However, since the protection of lives of citizens in case of accidents is also mentioned in the statute, the use of such vehicle in an emergency not connected with the putting out of fires is clearly implied. Whether a vehicle serving such purposes is called "rescue car" or "ambulance" is, really, immaterial. In Opinion No. 2416, *supra*, it is stated, at page 116:

" * * Fire departments today, through their emergency squads, attend to a great variety of mishaps. A record of an averday's 'runs' may well include a rescue from drowning, resuscitation of persons overcome by gas fumes, aiding persons who have fallen from ladders, etc. In short, I am of the opinion that township trustees have authority, by and with the approval of the prosecuting attorney, to purchase 'rescue cars' for the township. If it be objected that 'rescue cars' are not specifically mentioned in the statute, it might be noted that 'fire engines' are not specified either, and yet it has never been questioned that the township trustees might purchase fire trucks under Section 3298-54, General Code.
* * **

Your attention is at this point directed to my Opinion No. 3066, issued on June 14, 1962, in which Opinion No. 2416, *supra*, was cited as supporting the conclusion I reached therein that a board of township trustees is authorized under Section 505.37, *supra*, to furnish water of the township fire department to private citizens where drought or other causes have created an emergency, although a fee may not be charged for such emergency service.

Having arrived at the conclusion that the board of township trustees is empowered to purchase an ambulance pursuant to Section 505.37, *supra*, it cannot be doubted, I think, that such board has also the authority to maintain and equip, i.e., to operate such vehicle. Moreover, an examination of Section 505.39, Revised Code, which authorizes such board to levy a property tax to provide protection against fire, leads me to conclude that the revenue from such tax may be used for such purpose.

As to the amount that may be used, I find no statutory authority for the implication suggested in your question that more than \$1,000.00 may not be expended by the board of township trustees for the purchase of an ambulance. It is accordingly my opinion that the trustees must in this regard exercise their own best judgment, bearing in mind the actual needs and the proportion of the expenditure to the total resources of the township on hand for the purpose concerned.

Summarizing the above and answering your specific question, it is my opinion and you are advised that under Sections 505.37 and 505.39, Revised Code, a board of township trustees may acquire and operate an ambulance for the purpose of protecting property and lives against damages and accidents. (Opinion No. 2416, Opinions of the Attorney General for 1953, page 114, followed.)

Respectfully,
MARK McELROY
Attorney General