

Upon examination of this lease, I find that the same has been properly executed by you and by The Akron and Barberton Belt Railroad Company by the hands of its president and secretary, acting pursuant to the authority of a resolution of the board of directors of said company. I further find upon examination of the provisions of this lease that the same are in conformity with section 14009, General Code, under the authority of which the same is executed, and with other related sections of the General Code applicable in the consideration of leases of this kind.

I am accordingly approving this lease as to legality and form as is evidenced by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith enclosed.

Respectfully,  
 JOHN W. BRICKER,  
*Attorney General.*

1829.

PUBLIC BUILDING—VOTE OF ELECTORS NECESSARY IN ERECTING  
 SAME JOINTLY BY TOWNSHIP AND VILLAGE—HOW EXPENSE  
 THEREOF PAID.

*SYLLABUS:*

1. *A township and village located in such township cannot unite in the erection of a public building without submitting the same to a vote of the electors of both subdivisions.*
2. *The only method by which the approval of such electors to such an improvement can be obtained, is by submitting to them the question as to whether or not a tax shall be levied on all the property subject to taxation in such township and village for such improvement.*
3. *Upon the approval of the electors by the vote required by section 3402 of the General Code, the cost of said improvement may, if it is not necessary to levy an additional tax therefor, be paid out of the general funds of said subdivisions.*

COLUMBUS, OHIO, November 4, 1933.

HON. RUSSELL V. MAXWELL, *Prosecuting Attorney, Bryan, Ohio.*

DEAR SIR:—I acknowledge receipt of your communication in which you ask certain questions concerning the erection of a public building jointly by a village and township. In the case you present, both the village and township desire to pay their share of the cost of such building out of their general fund which can be done without borrowing and without the assessing of an extra tax levy. The questions presented are whether it is necessary to submit the proposition to a vote of the people, and, if so, if it can be voted upon without submitting to them the question of tax levy since you say an additional tax levy is not necessary.

Sections 3399, 3400, 3401 and 3402, General Code, provide as follows:

Sec. 3399.

"The electors of a township in which a village is situated, and the

electors of such village may if both so determine, as hereinafter provided, unite in the enlargement, improvement or erection of a public building."

Sec. 3400.

"For such purpose an application shall be made to and filed with the trustees of the township, signed by not less than twenty-five resident freeholders of such township, who are not residents of the village, and application shall also be made to and filed with the mayor of the village, signed by not less than twenty-five resident freeholders of the village."

Sec. 3401.

"At the next general township and municipal election after such applications have been so filed, the question as to whether or not a tax shall be levied upon all the property subject to taxation in such township and village for the enlargement, improvement or erection of a public building, shall be submitted to the electors of such township and of such village. Ten days' notice that the question will be submitted to the electors, shall be given by the trustees of the township and the mayor of the village, in a newspaper of general circulation in such township and village, which notice shall state the maximum amount of money proposed to be used for such purpose, and the rate of tax proposed to be levied."

Sec. 3402.

"If at such election two-thirds of the electors of the township and of the village voting, vote in favor of such improvement, the trustees of such township and the council of the village shall jointly take such action as is necessary to carry out such improvement."

The township trustees, of course, have only such powers as are expressly granted to them, and such as are necessarily implied from those expressly given. Section 3399 authorizes the erection of such a joint building as "hereinafter provided" if the electors of both the township and the village so determine. Clearly, such a building cannot be erected without the vote of the electors thereon, regardless of the necessity of a tax levy, since there is no authority therefor. The method outlined in these statutes of having the electors vote upon such a proposition is to submit the question to them as to whether or not a tax shall be levied for such improvement. In the case of the erection of a town hall by the township trustees alone, sections 3395 and 3396, General Code, provide for a submission to the electors of the question of making such improvement, and the trustees then are authorized to levy such taxes which may be necessary to pay the cost thereof. That procedure does not apply to a building to be erected by both the township and village. The only method which the statutes provide for securing the approval of the electors of such an improvement, is by submitting to them the question of a tax levy therefor. While upon the approval of two-thirds of the electors of both the township and village the township trustees and the village council are authorized to make such a tax levy, I am of the view that, if it then appears that the cost of said improvement can be paid out of the general funds of said subdivisions without the necessity of an extra tax levy, the taxing authority of such subdivisions would not be required to levy any additional tax.

I am of the opinion therefore that:

1. A township and village located in such township cannot unite in the erection of a public building without submitting the same to a vote of the electors of both subdivisions.
2. The only method by which the approval of such electors to such an im-

provement can be obtained, is by submitting to them the question as to whether or not a tax shall be levied on all the property subject to taxation in such township and village for such improvement.

3. Upon the approval of the electors by the vote required by section 3402 of the General Code, the cost of said improvement may, if it is not necessary to levy an additional tax therefor, be paid out of the general funds of said subdivisions.

Respectfully,  
 JOHN W. BRICKER,  
*Attorney General.*

1830.

FEDERAL HOME LOAN BONDS—GUARDIAN MAY NOT INVEST FUNDS OF WARD THEREIN.

*SYLLABUS:*

*A guardian may not legally invest the funds of his ward in Federal Home Loan Bonds, since his investments are specifically limited to those mentioned in Section 10506-41, General Code.*

COLUMBUS, OHIO, November 4, 1933.

HON. HOWARD S. LUTZ, *Prosecuting Attorney, Ashland, Ohio.*

DEAR SIR:—I am in receipt of your request for my opinion concerning the following matter:

“Can a guardian use funds of his ward to purchase Federal Home Loan Bonds as an investment for his ward?”

Section 10506-41, General Code, as amended by House Bill No. 437, enacted by the 90th General Assembly, specifies the type of investments that may be made of fiduciary funds. From an examination of such section as so amended it would appear that “Federal Home Loan Bonds” could not be included in any classification of such section unless it be clause (a) or clause (d) thereof, which read:

“(a) Bonds or other obligations of the United States or of the state of Ohio.

\* \* \* \* \*

(d) Any bonds issued by any bank, organized under the provisions of the act of congress, known as the federal farm loan act, approved July 17, 1916, and amendments thereto.”

“Federal Home Loan Bonds” are issued pursuant to the provisions of an act of congress approved July 22, 1932, popularly known as the “Federal Home Loan Bank Act” (H. R. 12280). An examination of such act discloses that the act merely authorizes a corporation with certain powers to be incorporated under federal laws rather than state laws. The bonds issued thereby are the obligations