

4601.

ENDOWMENT FUNDS—MUNICIPAL HOSPITAL—MAY BE INVESTED
IN MUNICIPAL BONDS HELD BY SINKING FUND TRUSTEES.

SYLLABUS:

Where the endowment funds of a municipal hospital were bequeathed to a city for hospital purposes and the will bequeathing such funds contains a provision authorizing the investment, with the approval of an advisory committee, of the principal of such funds in such manner as may be provided by law for the investment of trust funds by guardians or trustees of individuals, the board of hospital trustees may, with the approval of such advisory committee, purchase with the principal of such funds valid bonds of the city in which such hospital is located, which bonds are being sold by the board of sinking fund trustees of such city for the purpose of satisfying obligations under the supervision of such sinking fund trustees.

COLUMBUS, OHIO, September 10, 1932.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—I acknowledge receipt of your communication which reads as follows:

“We are enclosing herewith a letter from the City Solicitor of the City of Springfield in which he encloses an opinion which he rendered to the Board of Hospital Trustees of the City of Springfield. You will note by his letter that there is a request for a review of this opinion by you.

You are respectfully requested to advise this department whether you agree with the opinion as rendered.”

The question presented is whether the board of hospital trustees of the municipal hospital of Springfield has authority to purchase with its endowment funds bonds of the City of Springfield which are held by the board of sinking fund trustees of said city. The bonds are offered at par and accrued interest. I assume that the bonds are valid obligations of the city and that their sale is necessary to meet the obligations under the supervision of the sinking fund trustees.

Section 4517, General Code, gives such trustees specific authority to sell any of the securities in their possession when necessary for the satisfaction of any obligation under their supervision. See Opinions of the Attorney General for 1928, page 1811.

The funds proposed to be so invested were bequeathed to the city for hospital purposes under the following conditions:

“To hold, manage and keep invested, the principal of said fund in such manner as now is or hereafter may be provided by law for the investment of trust funds by guardians or trustees of individuals, and to use and expend the trust and profits thereof in the manner hereinafter provided * * * but no investment or change in the investment of the principal of said fund or of any part thereof shall ever be made by

said trustee or by any successor of its, without a written approval of a majority of three (3) persons of good business standing and experience, to be appointed as an advisory committee by the Court of Common Pleas of said Clark County or by the Judge thereof in vacation, by an entry made upon the Journal of said Court or by such other Court or a Judge thereof in vacation, as hereafter may be created by law to exercise the General Chancery powers now vested in said Common Pleas Court * * *.”

Section 4036, General Code, provides as follows:

“In any municipal corporation which has become or may hereafter become the owner or trustee of property for hospital purposes, or of funds to be used in connection therewith, by deed or gift, devise or bequest, such property or funds shall be managed and administered in accordance with the provisions or conditions of such deed of gift, devise or bequest.”

Section 4037, General Code, provides as follows:

“When such deed of gift, devise or bequest requires the investment, or change of investment of the principal of such property (or) funds, or any part thereof, to be made upon the approval of an advisory committee appointed by the court or judge, such property or funds, and any hospital property for the care or management of which in whole or in part, such fund is used, shall be managed, controlled and administered by a board of hospital trustees.”

Section 4038, General Code, provides among other things that the trustees shall be appointed by the trustees of the sinking fund.

Section 4039, General Code, reads as follows:

“Such board of trustees shall have the right to apply, control and invest and reinvest the funds coming or arising from such gift, devise or bequest according to the terms and conditions on which acquired.”

Under these statutes the funds in question must be invested and reinvested in accordance with the terms of the will. As the will provides that the funds may be invested in such manner as may be provided by law for the investment of trust funds by guardians or trustees of individuals, and as section 10506-41, General Code, expressly authorizes such fiduciaries to invest trust funds in bonds of a city within the State of Ohio in the absence of other provision therefor, it follows that such bonds may be purchased from the principal of such funds by such trustees with the approval of a majority of the advisory committee.

Respectfully,

GILBERT BETTMAN,

Attorney General.