

2715

TOWNSHIP TRUSTEES MAY PROVIDE TELEPHONE IN HOME OF TOWNSHIP CLERK IF SAID CLERK HAS NO OTHER OFFICE. § 505.26, R.C. INFORMAL OPINION NO. 30, INFORMAL OAG FOR 1959; OPINION 1572, OAG FOR 1933, VOL. II, PAGE 1430; OPINION 650, OAG FOR 1959, PAGE 353.

SYLLABUS:

A board of township trustees may have a telephone installed in the home of the township clerk for use in the duties pertaining to the office of clerk, provided that the home of the clerk is used as the official office, no office being provided by the township hall or otherwise.

Columbus, Ohio, December 28, 1961

Hon. Donovan Lowe, Prosecuting Attorney
Morgan County, McConnelsville, Ohio

Dear Sir:

Your request for my opinion asks whether or not a telephone may be installed in the home of a township clerk for the use and benefit of the township; said telephone to be listed in the name of the board of township trustees.

Township trustees possess only such powers as are expressly conferred upon them by statute or are by necessary implication requisite to perform the duties so imposed upon them (39 Ohio Jurisprudence, Section 46, page 306).

I have found no provision of law dealing with telephone services for township offices; thus, the question is whether the power to install a telephone as in the instant question may be implied. As to township office space in general, Section 505.26, Revised Code, reads as follows:

“The board of township trustees may purchase, appropriate, construct, enlarge, improve, rebuild, repair, furnish, and equip a township hall, a township park, and bridges and viaducts over streets, streams, railroads, or other places where an overhead roadway or footway is necessary, and such board may acquire sites for any of such improvements.

“If sufficient space for township offices is not available, the board of township trustees may purchase, lease, or construct, and furnish, equip, and maintain office space. When such offices are to be provided by construction, a site upon which to erect such offices may be acquired by purchase, lease for twenty-five years or longer, or otherwise. The cost of providing such office space shall be paid out of funds in the township treasury. If sufficient funds are not available the board shall proceed as provided in sections 511.01 to 511.04, inclusive, of the Revised Code.”

Chapter 507., Revised Code, deals with the township clerk. The main duty of such clerk is the keeping of township records, and it is assumed that this duty is generally performed at the township offices.

There would appear to be no doubt that a telephone is an essential part of a township office, and that the board of township trustees is authorized to provide telephone service at such offices. It is possible, however, that in the case at hand, the township has not provided an office and that the clerk uses his home for an office. In such case, the need for a telephone would appear to be just as urgent.

In Opinion No. 6071, Opinions of the Attorney General for 1936, Volume III, page 1392, one of my predecessors had occasion to consider a question somewhat similar to that here presented. The question in that instance was whether a board of county commissioners could install a telephone in the private residence of a deputy sheriff. The syllabus of that opinion reads:

“County commissioners are authorized to pay the expense of a telephone in the private residence of the deputy sheriff, when such residence is not at the county jail.”

In Opinion No. 1572, Opinions of the Attorney General for 1933, Volume II, page 1430, it was held that a board of elections, *which had its own office*, could not provide a telephone in the residence or private business office of its clerk.

In my Informal Opinion No. 30, Informal Opinion of the Attorney General for 1959, issued on May 12, 1959, I stated:

“In this modern day the use of the telephone is in many instances as much of a necessity in the transaction of both public and private business as is the postal service. *Motley v. Pike County*, 233 Mo., 46, 135 S.W., 39 (1911). While the telephone may be a necessity, the board of county commissioners may not

provide for a telephone, at the expense of the county, in the residence of a county employee *where an office for such employee is furnished in the court house and equipped with a telephone at the expense of the county*. The foregoing principle was the basis for the opinion in Opinion No. 6071, Opinions of the Attorney General for 1936, page 1392, wherein it was stated that the county commissioners are unauthorized to pay the expense of a telephone in the private residence of a deputy sheriff. In the present situation, however, the only office which the dog warden maintains is at his residence.

“Accordingly, in specific answer to the question submitted, it is my opinion and you are advised that the county commissioners are authorized to enter into a contract with a dog warden and agree to pay for his monthly telephone bill when the office of the dog warden and the dog pound are maintained at his residence, *there being no other office for the dog warden.*” (Emphasis added)

I might also note that I held in the syllabus of my Opinion No. 650, Opinions of the Attorney General for 1959, page 353:

“The board of county commissioners have the authority to authorize the purchase and installation of a two-way radio in the private automobile of an assistant coroner for purposes of official business.”

In view of the foregoing, therefore, I am of the opinion and you are advised that a board of township trustees may have a telephone installed in the home of the township clerk for use in the duties pertaining to the office of clerk, provided that the home of the clerk is used as the official office, no office being provided by the township in the township hall or otherwise.

Respectfully,
MARK McELROY
Attorney General