

reached, that is, when such lands are of legal value to one person only there can be no possible competition and it would be an absurdity to require an opportunity for competition that is known not to exist.

I have assumed that there is only one adjoining property owner to whom the parcel sought to be traded is of value. I have not intended to hold, and do not hold, that when there are two or more adjacent owners to whom the parcel in question is of value opportunity need not be given for competitive bidding. Such question is not presented by your inquiry and I express no opinion thereon. Whether competition is of value to the municipality is a question of fact in each instance.

Specifically answering your inquiry I am of the opinion that when a municipality, after having acquired a parcel of real estate for the purpose of extending a street, determines that a portion of such real estate is not needed by the city for such purpose or any other purpose, if such land is of no legal value to anyone, by reason of its shape and dimensions, except one adjoining owner who is willing to exchange therefor lands needed by the city for the completion of such improvement, such exchange may legally be made without competitive bidding, even though the municipal charter provides that in all sales or purchases of real property an opportunity shall be given for competitive bidding.

Respectfully,

GILBERT BETTMAN,

*Attorney General.*

4778.

INDIGENT PERSON—RELIEF SHOULD BE FURNISHED BY CITY OR TOWNSHIP OF LEGAL SETTLEMENT—NO RECOVERY BY SUBDIVISION FURNISHING RELIEF FROM PLACE OF LEGAL SETTLEMENT.

*SYLLABUS:*

1. *Relief to an indigent person having a residence as defined in sections 3477 and 3479, General Code, in a city, should be furnished by such city regardless of the present abode of such indigent person.*

2. *The cost of temporary or partial relief furnished by the trustees of a township to an indigent resident of the county may not be recovered from the township or city of legal settlement of such indigent.*

COLUMBUS, OHIO, December 2, 1932.

HON. CALVIN CRAWFORD, *Prosecuting Attorney, Dayton, Ohio.*

DEAR SIR:—This will acknowledge a request for my opinion from your office which reads:

“We have quite an urgent and serious problem locally involving the application of sections 3476 and 3480-1 and related sections of the General Code.

It seems that in the past it was generally understood that if an indigent person had a legal settlement in the County for twelve

months and for three months in a municipality or township, that same would fix responsibility upon a subdivision where said legal settlement was had for relief, and in case that the indigent person moved to another township or into a municipality and had failed to there establish a legal settlement, that the township or municipality where the indigent last had a legal settlement would be responsible for relief.

The question arises locally by reason of the fact that quite a few indigents having legal settlements in the city of Dayton moved into the townships of the County, and within three months applied for relief. The township trustees have been attempting to collect from the municipal authorities of the city of Dayton, but the city officials refuse to accept responsibility claiming that the bureau of inspection will not permit the city to pay out funds for the relief of persons living without the limits of the municipality.

The same problem has arisen where an indigent having a legal settlement in a township moves into another township of the County, but fails to establish a legal settlement in the latter township.

Therefore, with the above facts before you, will you kindly advise us:

First: Under above state of facts, can the city of Dayton be required legally to expend its funds for relief of an indigent who has a legal settlement in the city but has moved to another township of the County?

Second: If an indigent having a legal settlement in one township of a County moves into another township of the County and applies for relief, can the trustees of the second township supply said relief and legally collect same from the township where the indigent had a legal settlement?

Section 3480-1 seems to partially take care of the matter where the service furnished is of a medical nature, but the immediate problem relates to services in the nature of furnishing groceries, coal, shoes, clothing, etc., not mentioned in 3480-1.

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Section 3476, General Code, which is pertinent to your inquiry, reads in part as follows:

“Subject to the conditions, provisions and limitations herein, the trustees of each township or the proper officers of each city therein respectively, shall afford at the expense of such township or municipal corporation public support or relief to all persons therein who are in condition requiring it. It is the intent of this act (G. C. §§3476 et seq.) that townships and cities shall furnish relief in their homes to all persons needing temporary or partial relief who are residents of the state, county and township or city as described in sections 3477 and 3479. \* \* \*”

It is clear from the above that the duty of furnishing poor relief is placed upon townships and cities in which the persons requiring same are residents according to the terms of sections 3477 and 3479, General Code.

Section 3477, General Code, is as follows:

"Each person shall be considered to have obtained a legal settlement in any county in this state in which he or she has continuously resided and supported himself or herself for twelve consecutive months, without relief under the provisions of law for the relief of the poor, or relief from any charitable organization or other benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief."

Section 3479, General Code, provides:

"A person having a legal settlement in any county in the state shall be considered as having a legal settlement in the township, or municipal corporation therein, in which he has last resided continuously and supported himself for three consecutive months without relief, under the provisions of law for the relief of the poor, or from any charitable organization or other benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief. When a person has for a period of more than one year not secured a legal settlement in any county, township or city in the state, he shall be deemed to have a legal settlement in the county, township or city where he last has such settlement."

From the foregoing sections, it is clear that townships and cities have the duty of furnishing temporary or partial relief to those persons who have resided in the county one year and in the city or township three months without relief under the provisions of law for the relief of the poor, or from any charitable organization or other benevolent association which investigates and keeps a record of facts relative to persons who seek or apply for relief.

In your communication you state that the questions presented by you concern the payment of funds for relief of indigents who have a legal settlement in a city or in a township, by a township which is not the legal settlement of such indigent person. It clearly follows from the provisions of sections 3476 and 3479 that the duty of furnishing such relief is upon the city or township of legal settlement.

In view of the foregoing and in specific answer to your first inquiry, I am of the opinion that relief to an indigent person having a residence as defined in sections 3477 and 3479, General Code, in a city, should be furnished by such city regardless of the present abode of such indigent person.

Your second inquiry presents the question as to whether or not a township expending funds for the relief of an indigent whose legal settlement is in another township of the county may recover the amount of such funds from the township of legal settlement.

An examination of the statutes discloses that there is no duty placed upon a township to afford temporary relief to an indigent whose legal settlement as defined in sections 3477 and 3479, General Code, is in another township of the county and, furthermore, section 3478, General Code, provides that such fact shall be a sufficient defense in an action to compel the support or relief of a pauper, or in an action based upon the refusal of the township trustees or proper municipal officers to afford support or relief to an indigent.

The legislative intent in enacting such sections is apparent, namely, that a township or city be placed under no obligation to furnish relief to an indigent not having a legal settlement in such township or city.

Since no authority exists for the expenditure of money for poor relief by a township for an indigent whose legal settlement is in another township of the county, it would seem that no obligation would exist upon the township of legal settlement to reimburse such expense if so made. This conclusion is strengthened by a consideration of section 3480-1, General Code, which specifically provides for the method to be followed for the recovery of the expenses of medical services rendered by a township or city to an indigent whose legal settlement is in another township or city located in the county. If the legislature had intended that expenses for poor relief be so recovered, it would have so provided.

In view of the foregoing and in specific answer to your inquiry, I am of the opinion that the cost of temporary or partial relief furnished by the trustees of a township to an indigent resident of the county may not be recovered from the township or city of legal settlement of such indigent.

Respectfully,  
 GILBERT BETTMAN,  
*Attorney General.*

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4779.

BUDGET COMMISSION—MAY NOT MODIFY AUTHORIZED LEVY  
 OUTSIDE FIFTEEN MILL LIMITATION TO MEET BONDS PAY-  
 ABLE BY LEVIES OUTSIDE SUCH LIMITATION.

SYLLABUS:

*The budget commission of a county has no authority to modify a properly authorized levy outside of the fifteen mill limitation to meet the interest and principal requirements of bonds payable by levies outside the fifteen mill limitation, when the amount of such levy is augmented on account of previous tax delinquencies.*

COLUMBUS, OHIO, December 2, 1932.

HON. JAMES M. AUNGST, *Prosecuting Attorney, Canton, Ohio.*

DEAR SIR:—This is to acknowledge your request for my opinion upon the question of whether or not the budget commission of your county shall approve an item in the annual tax budget for a tax levy to meet the interest and principal requirements of bonds which were properly authorized at the time of their issuance to be paid by a levy outside of the fifteen mill limitation, notwithstanding the fact that the amount of this item is materially augmented on account of tax delinquencies in the year 1931 and the first half of 1932.

Section 11, Article XII of the Constitution provides as follows:

“No bonded indebtedness of the state, or any political subdivision thereof, shall be incurred or renewed, unless, in the legislation under which such indebtedness is incurred or renewed, provision is made for levying and collecting annually by taxation an amount sufficient to pay the interest on said bonds, and to provide a sinking fund for their final redemption at maturity.”