

**Note from the Attorney General's Office:**

1960 Op. Att'y Gen. No. 60-1464 was modified by  
1967 Op. Att'y Gen. No. 67-109.

1464

THERE IS NO AUTHORITY IN SECTION 5153.01, *et seq.*, R.C. ALLOWING A COUNTY CHILD WELFARE BOARD TO PURCHASE REAL PROPERTY—§§5153.01, 5153.34, 5153.35—OAG 1168—1946, PAGE 628.

SYLLABUS:

There is no authority in Section 5153.01, *et seq.*, Revised Code, allowing a county child welfare board to purchase real property.

Columbus, Ohio, June 14, 1960

Hon. Harry Friberg, Prosecuting Attorney  
Lucas County, Toledo, Ohio

Dear Sir :

Your request for my opinion reads as follows :

“The local Child Welfare Board is charged with the responsibility of collecting and disbursing the monies which are allocated for the retarded childrens’ program. At the present time the Child Welfare Board needs school facilities for the training of the retarded children.

“The Federal Government has for disposal a parcel of real estate which was originally purchased for a veterans’ hospital in Lucas County. The plans for that project have been abandoned and the Child Welfare Board is now in a position to acquire this land which is exceptionally suited for their needs.

“We ask your opinion on whether or not the Child Welfare Board can purchase and hold title to real property. This question was raised in the copy of the letter which was received by the Executive Secretary of the Board from the Regional Representative of the Health, Education and Welfare Department.”

Paragraph one of the syllabus in Opinion No. 1168, Opinions of the Attorney General for 1946, page 268, reads as follows :

“1. County child welfare boards are not empowered by Section 3070-1 *et seq.*, General Code, to purchase real estate and buildings thereon to be used as a receiving home for the temporary care of children.”

In the instant case Section 5153.16, Revised Code, empowers county child welfare boards, subject to the approval of the board of county commissioners and the division of social administration, to establish and operate a training school,” and Section 5153.34, Revised Code, provides, *inter alia*, that child welfare boards “may acquire such property and equipment and purchase such supplies and services as may be necessary for the proper conduct of its work.” Section 5153.35, Revised Code, provides in part as follows :

“The boards of county commissioners shall levy taxes and make appropriations sufficient to enable the county child welfare

board or county department of welfare to perform its functions and duties 5153.01 to 5153.42, inclusive, of the Revised Code.”

Sections 5153.34 and 5153.35, *supra*, are substantially the same as Sections 3070-35 and 3070-36, General Code, which were cited or commented on in Opinion No. 1168, *supra*. Evidently my predecessor felt that the word “property” in Section 3070-35, *supra*, (Sections 5153.34, *supra*) did not refer to real estate in view of the statutory law (Section 307.02, Revised Code) governing the purchase of real estate by the board of county commissioners and the fact that county child welfare boards, unlike boards of county commissioners, have no authority to levy taxes, or to borrow money, or to issue bonds. While the word “property,” in its general signification, is comprehensive enough to include both real and personal property, it does not necessarily refer to both in every case. *Purdy v. Purdy*, 36 App. Div., 535; 57 N.Y.S., 166. In the case of county child welfare boards, I am of the opinion that the word “property” in Section 5153.34, *supra*, does not refer to real estate. Therefore, county child welfare boards are not empowered to purchase real property. Opinion No. 1168, *supra*.

Boards of county commissioners, however, are empowered to purchase necessary buildings and sites therefor. Section 307.02, Revised Code. The power of a county child welfare board to establish a training school is specifically made subject to the approval of the board of county commissioners, Section 5153.16, *supra*, who are also required to levy taxes and make appropriations sufficient to enable the county child welfare board to perform its duties. Section 5153.35, *supra*. I can see no reason why a board of county commissioners, if it approves the establishment of a training school, could not purchase the necessary building and site therefor.

In answer to your specific question, however, it is my opinion and you are advised that there is no authority in Section 5153.01, *et seq.*, Revised Code, allowing a county child welfare board to purchase real property.

Respectfully,

MARK McELROY  
Attorney General