

386

TOWNSHIP TRUSTEES AND MUNICIPAL CORPORATION—  
SECTIONS 3411-1, 3411-2, G. C., CONFER NO AUTHORITY TO  
ENTER INTO AGREEMENT IN WHICH TRUSTEES AGREE TO  
FURNISH TOWNSHIP FUNDS FOR ADDITION TO HOSPITAL  
TO BE ERECTED BY MUNICIPALITY.

SYLLABUS:

Sections 3411-1 and 3411-2, General Code, confer no authority upon township trustees and a municipal corporation to enter into an agreement in which the trustees agree to furnish township funds for an addition to a hospital to be erected by the municipality.

Columbus, Ohio, August 3, 1945

Hon. Raymond O. Morgan, Acting Prosecuting Attorney  
Wooster, Ohio

Dear Sir:

This will acknowledge receipt of your letter in which you state that the electors of the city of Wooster have authorized the issuance of bonds for the purpose of erecting a municipal hospital; and inquiring if township trustees have authority under Sections 3411-1 and 3411-2, General Code, to enter into an agreement with the city to furnish township funds for an addition to the hospital which the city proposes to erect.

An examination of Sections 3411-1 and 3411-2, General Code, discloses that the authority conferred upon township trustees to make an agreement for the erection of a hospital, or for an addition thereto, and to furnish funds, is confined solely to an agreement to be made, not with a municipal corporation, but with a corporation organized for charitable purposes and not for profit. These two statutes read as follows:

Section 3411-1: "Such trustees may agree with a corporation organized for charitable purposes and not for profit, for the erection and management of a hospital suitably located for the treatment of the sick and disabled of such township, or for an addition to such hospital, and for a permanent interest therein to such extent and upon such terms as may be agreed upon between them, and the trustees shall provide for the payment of the

amount agreed upon for such interest, either in one payment or in annual installments as may be agreed upon. Provided that such agreement shall not become operative until approved by a vote of the electors of such townships as provided for in the next section."

Section 3411-2: "Upon the execution of the agreement provided for in section 3411-1 the trustees of the township shall submit to the electors of the township, at the next general election occurring more than sixty days after the passage of the resolution providing for such submission the question of the ratification of such agreement, and if the sum or sums to be paid by the township under the terms of such agreement are not available from current general revenues of the township, the trustees shall also submit to the electors, at the same election, the question of the issue of bonds of the township in the amount specified in such agreement for the purpose of providing funds for the payment thereof. The proceedings in the matter of such election and in the issuance and sale of such bonds, if authorized, shall be as otherwise provided by law for township bonds. Provided that such agreement shall not be effective, and no bonds shall be issued, unless the electors approve of both the agreement and the bond issue, if the question of the issue of bonds is so submitted."

As already stated, these statutes confer no authority upon township trustees to enter into an agreement with a municipal corporation, and I have been unable to find any other statute which either expressly or impliedly authorizes the trustees to make such a contract. In the absence of such authority, your question must be answered in the negative, because the law is well settled in this state that township trustees possess only such powers and authority as are expressly conferred upon them by statute, and such as are clearly implied from those granted. 39 O. Jur., page 306, Section 46; Opinions of the Attorney General, 1939, No. 1545; for 1945, No. 271.

You also inquire if the city of Wooster has authority to enter into such an agreement with the trustees. It is quite obvious that the city has no such authority, because, as already stated, these sections have no application to a municipal corporation.

You are therefore advised that Sections 3411-1 and 3411-2, General Code, confer no authority upon township trustees and a municipal cor-

poration to enter into an agreement in which the trustees agree to furnish township funds for an addition to a hospital to be erected by the municipality.

Respectfully,

HUGH S. JENKINS

Attorney General