

property which is not needed for school purposes and which it cannot advantageously dispose of by sale, it may be said, in my opinion, that the power to lease that property temporarily, until it may be advantageously sold, is an incident to the possession of the property. If such property cannot be advantageously sold, and may be leased so that the school district receives some benefit from the ownership of the property which it would not receive if it lay idle, it certainly cannot be said that the board exceeds its powers in so leasing the property. This often happens where a new school building is erected on a new location, leaving the board in possession of a school lot and building which are not needed at that time for school purposes and which, on account of business conditions, may not at that time be advantageously sold. This often happens, especially in city school districts. Any such lease should, in my opinion, be limited so that it would terminate at any time the school board might determine that the property was needed for school purposes, or that it should be sold.

To acquire property, however, which the board does not intend to utilize for school purposes, and which is not needed for school purposes, merely for the purpose of renting or leasing the same is, in my opinion, wholly unauthorized, and beyond the powers of the board.

In the instance cited by you in your inquiry it may be possible that the board needs a building for a recreational hall and that the building in question may be the only one available and may be acquired for less money than a new building might be erected. The mere fact that it is larger, and has more space than the board needs at this time, should not stand in the way of the board's power to purchase it if the location is suitable and the price right, under the circumstances. It is possible that it would be good business on the part of the board to acquire this building rather than construct one which is merely large enough for its present purpose. These are questions of fact and have such bearing on the matter that I would not be prepared to say, as a matter of law, that the board may not, in the lawful exercise of its powers, purchase this building. Having purchased it, the second story of course could not be separated from the rest of the building and sold. The mere fact that the board has no use at the present time for the second story would not require the board to allow the second story to remain idle if it might utilize it to the advantage of the school district permitting its use for some purpose by third parties who were willing to and do pay for such use.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4589.

MEMBER—BOARD OF TRUSTEES OF PUBLIC AFFAIRS OF VILLAGE—
MAY NOT HOLD POSITION AS SEWER INSPECTOR AND RECEIVE
COMPENSATION.

SYLLABUS:

* *A member of a board of trustees of public affairs of a village may not be employed as a sewer inspector by the village council and receive compensation for*

his position as sewer inspector in addition to his compensation as member of the board of trustees of public affairs.

COLUMBUS, OHIO, September 2, 1932.

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

GENTLEMEN:—This will acknowledge receipt of your recent communication which reads as follows:

“Section 3808, G. C., reads in part as follows:

‘No member of the council, board, officer or commissioner of the corporation, shall have any interest in the expenditure of money on the part of the corporation other than his fixed compensation. * * *’

A member of the board of public affairs of a village has been employed by the council of that village as a sewer inspector to inspect sewer construction work being done for the village by contract.

Question: May a member of the board of public affairs of a village be also employed as a sewer inspector by the council of the village, and receive compensation for both positions?”

Section 4357, General Code, provides for a board of trustees of public affairs in a village, and the last sentence of said section states that the three members of such board shall be elected for a term of two years each. There is no doubt but that a member of the board is an officer of the village.

Section 4219, General Code, states that the council of a village shall fix the compensation of all officers in the village government, and I assume that the compensation of the member of the board of trustees of public affairs involved in your communication was fixed by council of the village in accordance with section 4219, General Code.

From the foregoing, it seems clear that if the member should receive any compensation for personal services performed for the village, outside of his duties as board member, he would be having an interest in the expenditure of money on the part of the village other than his fixed compensation, in violation of the portion of section 3808, General Code, quoted in your communication.

An analagous situation to that presented here was before me for consideration in Opinion No. 3835, rendered December 10, 1931. The syllabus of said opinion reads:

“Concurrent employment of a village clerk by the village council as caretaker of parks, and by the village board of trustees of public affairs as superintendent of the water department and as assistant superintendent of the light department, is in violation of section 3808 of the General Code.”

I am enclosing herewith a copy of said opinion for your consideration and attention.

In view of the above discussion, I am of the opinion, in specific answer to your question, that a member of a board of trustees of public affairs of a village may not be employed as a sewer inspector by the village council and receive com-

pensation for his position as sewer inspector in addition to his compensation as member of the board of trustees of public affairs.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4590.

INDIGENT EPILEPTIC—NOT ELIGIBLE FOR TREATMENT AT COUNTY INFIRMARY—DUTY OF COUNTY OF RESIDENCE TO FURNISH RELIEF.

SYLLABUS:

Where an indigent epileptic, not an inmate of the State Hospital for Epileptics, who by virtue of section 2451, General Code, can not be received at the county infirmary, requires permanent and total relief, it is the duty of the county of his or her residence to furnish outside relief to such person.

COLUMBUS, OHIO, September 3, 1932.

HON. CHARLES O. CHAPMAN, *Prosecuting Attorney, McArthur, Ohio.*

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

“A short time ago a female resident of Jackson Township in Vinton County was brought before the Probate Court of this County upon complaint of epilepsy. A proper inquest was held and she was adjudged to be an epileptic and was committed to the Ohio Hospital for Epileptics at Gallipolis, Ohio. The Superintendent of the said Ohio Hospital for epileptics refused to accept the commitment for the reason that the said institution is now full and Vinton County has more than its quota of patients in the said institution now.

This woman is indigent and is not able to support herself and has no relatives who may be held liable for her support. She has a husband who is now confined as a patient in the Athens State Hospital for the insane and who has no property or income which is subject to be used for her support.

Section 2541 of the General Code of Ohio provides that no insane or epileptic person shall be received or kept at any county infirmary in this state.

The township trustees are now furnishing relief for this woman, but, if she can not be admitted to an institution soon, her case becomes one for permanent and total relief, which the township trustees are not authorized to provide.

Kindly advise us what can be done in this case.”

Your question relates to the manner in which relief may be afforded to an indigent epileptic, not an inmate of the Hospital for Epileptics, who requires permanent and total relief, and who, by virtue of the provisions of section 2541, General Code, cannot be kept at a county infirmary. Section 5625-5, General Code,