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(1) A "HOUSEHOLDER" IS A PERSON WHO, AS HEAD OF THE FAMILY, KEEPS OR OCCUPIES A HOUSE WITH HIS FAMILY.

(2) WHERE A NEW TOWNSHIP IS DESIGNATED FROM THE TERRITORY OF TWO TOWNSHIPS, THE ZONING REGULATIONS OF THE TWO TOWNSHIPS CEASE TO APPLY—§503.02, R.C.

SYLLABUS:

1. As used in Section 503.02, Revised Code, a "householder" is a person who, as the head of a family, keeps house or occupies a house with his family.

2. Where under Section 503.02, Revised Code, a new township is designated from the territory of two townships, the zoning regulations of said two townships cease to apply when the designation is effected.

Columbus, Ohio, June 22, 1961

Hon. John S. Ballard, Prosecuting Attorney
Summit County, Akron, Ohio

Dear Sir:

Your request for my opinion reads as follows:

"Our office has been requested to inquire of your office for a definition of the word 'householder' as the saying should be used pursuant to Section 503.02, Revised Code, for signatories to a petition for merger of two present Townships which will total less than twenty-two square miles in area.

“They have also requested information in connection with the status of zoning in the two present Townships during the time that merger would be in process and before the new Township adopted its own zoning regulations.

“The ninety-day term for carryover of present Township zoning rules in connection with incorporation of a municipality did not seem to afford enough time in this new situation even if it were assumed that the same rules applied.”

As to the first question raised in your request, Section 503.02, Revised Code, reads :

“The board of county commissioners may change the boundaries of any civil township, or partition any township among other townships within the county, by attaching a part of one township to another, by dividing one township and attaching the parts to other townships, or by laying off and designating a new township from the territory of one or more townships of the same county or from territory not before included in a civil township, when it is made to appear necessary or expedient by a petition for that purpose, signed by a majority of the householders residing within the bounds of the townships to be affected by such partition or division.”

I am unable to find any statutory definition of the word “householder.” Nor do I find any Ohio cases in which said word has been defined. Accordingly, to resolve the question, it appears necessary to determine what is the generally accepted definition of that word.

In referring to the word “householder” it is stated in 41 Corpus Juris Secundum, pages 368 and 369 :

“It has been said that the term implies the idea of a domestic establishment or the management of a household, and the idea of residence, and that its common and generally accepted meaning embraces the idea of anyone, man or woman, who maintains a home in the community. Hence it is defined generally as the chief, head, or master of a family; the occupier of a house; one who keeps house or maintains a domestic establishment; one who keeps house, or who occupies a house, with his family; a person owning or holding and occupying a house; a person who has a family, whom he keeps together and provides for, and of which he is the head or master.

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In Ballentine's Law Dictionary, 2d Edition, page 597, it is stated:

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“Under a statute requiring a juror to be a householder, the term is defined as a person who has a family, whom he keeps together and provides for, and of which he is the head or master. He need be neither a father nor a husband, but he must occupy the position towards others of head or chief in a domestic establishment. The statute refers to a civil status of the person who is to be a competent juror, and not to his property. See *Nelson v. State*, 57 Miss, 286, 34 Am. Rep. 444.

“As the word is used in exemption statutes, it signifies a person owning or holding and occupying a house. See 22 Am. Jur. 18.”

In *Words and Phrases*, Vol. XIX, at page 705, the word is defined as follows :

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“The ordinary signification of a ‘householder’ is that such a person is the head of the family upon whom the other members are dependent.

“A householder is a person who occupies a house as a place of residence or business, without any relation to the character of the title by which the property is held. *Shepard v. City of New Orleans*, 25 So. 542, 543, 51 La. Ann. 847.

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“A householder is defined to be a master or chief of a family, which family occupies a dwelling house. *Hutchins v. Chamberlain*, 11 N.Y. Leg. Obs. 248, 249; *Carpenter v. Dame*, 10 Ind. 125, 130. One who keeps house with his family. *Greenwood v. Maddox*, 27 Ark. 648, 655.

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“The word ‘householder’ means merely, according to Webster, a master or chief of a family; one who keeps house with his family. Mr. Anderson defines ‘householder’ to be the head of a household, a person who has charge of a family or household. The word conveys, with the word ‘family,’ the idea of a domestic establishment or management of a household. *Fore v. Hoke*, 48 Mo. App. 254, 261.”

It appears to be generally accepted, therefore, that, in the absence of specific definition, a “householder” is a person who, as the head of a family, keeps house or occupies a house with his family; and I conclude that, as used in Section 503.02, *supra*, the word should be given that definition.

Coming to your second question, under Section 503.02, *supra*, the board of county commissioners is authorized to lay off and designate a

new township from the territory of one or more townships when a proper petition is filed, under that section. Under Section 503.03, Revised Code, however, no township may be:

“* * * laid off containing less than twenty-two square miles, or have its boundaries so changed as to reduce its territory below that quantity, unless it includes a municipal corporation, except as provided by sections 503.09 to 503.13, inclusive, of the Revised Code. * * *”

Under the given facts, the township to be formed will contain less than twenty-two square miles, and, in the absence of further information, it is assumed that existing factors allow the establishment of such township.

I am unable to find any statutory provision relating to the effect of the merger on the zoning regulations of the two original townships. As you note in your letter of request, there is a provision applying to the zoning regulations of township territory which is incorporated. This is found in Section 519.18, Revised Code, reading:

“Regulations enacted by a board of township trustees under sections 519.02 to 519.25, inclusive, of the Revised Code, shall not apply within municipal corporations, except that where township territory, subject to such regulations, is incorporated, such regulations shall apply therein and be enforced by the township officials until the election and qualification of the officers for the newly incorporated territory, and for not to exceed ninety days thereafter, to enable the officers of the newly incorporated territory to adopt zoning regulations. Upon annexation of township territory to an existing municipal corporation the zoning regulations then in effect shall remain in full force and shall be enforced by the township officials until the legislative authority of said municipal corporation shall either officially adopt the existing zoning regulations or new regulations for such territory.”

The above provision does not, however, apply to a designation of a township effected under Section 503.02, *supra*.

I note that where pursuant to Section 503.02, *supra*, a new township is formed from the territories of two existing townships, said two townships must necessarily no longer exist. Thus, in the absence of any statutory provision to the contrary, the zoning regulations of the two townships would also no longer exist.

One of my predecessors, in Opinion No. 2499, Opinions of the Attorney General for 1950, page 734, had occasion to consider a some-

what similar question. At the time that the 1950 opinion was issued there was no specific provision of law relating to the effect of township zoning regulations when the territory was incorporated. Section 3180-42, General Code (now Section 519.18, Revised Code), then read:

“Regulations enacted by a board of township trustees under the authority of this act shall not apply within municipal corporations.”

The syllabus of the opinion reads:

“Where a township zoning plan has been effected under the provisions of Section 3180-27 et seq. of the General Code, and a part or all of the area in such plan is incorporated into a municipality or is annexed to a municipality, the regulations affecting such zone shall cease to apply to such area incorporated or annexed when such incorporation or annexation is effected.”

Without specific statutory authority, the zoning regulations of the township could not apply to the incorporated area during the period of transition. Likewise, the zoning regulations of one township cannot apply to another township. It follows, therefore, that when a new township is created from two existing townships, the zoning regulations of said two townships cease to apply.

In conclusion, therefore, it is my opinion and you are advised:

1. As used in Section 503.02, Revised Code, a “householder” is a person who, as the head of a family, keeps house or occupies a house with his family.

2. Where under Section 503.02, Revised Code, a new township is designated from the territory of two townships, the zoning regulations of said two townships cease to apply when the designation is effected.

Respectfully,

MARK McELROY

Attorney General