

functions of a city. It would appear that the same rule would be applicable to the present inquiry. The first branch of the syllabus of the Samuels' case reads as follows:

"Where in the discharge of official duty a police officer fails to take that precaution or exercise that care which due regard for others requires, resulting in injury, his conduct constitutes misfeasance."

In that case suit was brought against the surety on a police officer's bond, seeking to subject the surety to the payment of a judgment which had been recovered against the police officer on account of the negligence of the officer while in the performance of his duty as such police officer. In the course of the opinion the following appears at page 593:

"It does not follow that, because an action cannot be maintained against the city for the act of an official representing the city in the discharge of a governmental duty, there can be no recovery by a third person against the surety on the bond of such official. If there be a violation of the guaranty that the official will faithfully discharge his duties, there can be a recovery upon his bond by one injured by such failure, although there could be no recovery from the city."

Without further prolonging this discussion, it is my opinion in specific answer to your question that the driver of a county owned motor vehicle employed by the county for that purpose, is liable in damages for the direct and proximate results of his negligence in the operation of said motor vehicle.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

3342.

TOWNSHIP TRUSTEES—AUTHORIZED TO PAY RENT UNDER SECTION 3476 ET SEQ. G. C. TO FAMILIES NEEDING SUPPORT WHEN UNDER EXTRAORDINARY CIRCUMSTANCES HELP IS NEEDED ONLY TEMPORARILY.

**SYLLABUS:**

*Township trustees have authority to pay rent under Sections 3476 et seq., General Code, to families in need of support when under extraordinary circumstances such help is needed only temporarily. (Opinions of the Attorney General 1915, Vol. 1, page 609, approved and followed.) Amended Senate Bill No. 200, 115 O. L. 194 as amended by Amended Substitute Senate Bill No. 53 of the first special session of the 90th General Assembly gives authority to the county commissioners to provide direct housing relief for indigent persons.*

COLUMBUS, OHIO, October 24, 1934.

HON. FRANK D. HENDERSON, *Chairman, State Relief Commission of Ohio, Columbus, Ohio.*

GENTLEMEN:—I am in receipt of your recent communication which reads as follows:

"The township trustees of several townships in Knox County are refusing to pay house rents for indigent families, on the ground that no statutory authority for the expenditure of public funds for such purpose exists.

An opinion is requested."

I wish to call your attention to an opinion of one of my predecessors in office to be found in Opinions of the Attorney General for 1915, Vol. I, page 609, which held as disclosed by the syllabus:

"As a general rule, township trustees have no authority to pay rent under sections 3476 et seq., G. C., to families in need of support. They can only do so when, from extraordinary circumstances, such help is needed only temporarily."

The body of this opinion at pages 609 and 610 stated:

"Under date of March 11th, you inquire, whether under the provisions of section 3476, et seq., of the General Code, township trustees have authority to pay rent to families who are in need of support as provided in said sections.

Section 3476, G. C. § makes it the duty, subject to certain conditions, provisions and limitations, of the trustees of each township, at the expense of such township, to afford public support or relief to all persons therein who are in condition of requiring it.

Section 3486, G. C., provides for the annual report of the township clerk to the auditor, and requires said report to show 'all expenditures in that behalf as follows: First, the aggregate of physicians' fees paid; second, the aggregate paid for supplies, food, clothing, etc.; third, aggregate of per diem and expenses of such trustees and municipal officers in connection with the poor laws.'

Section 3486 shows from its provisions relative to the annual report that something further than supplies, food and clothing is contemplated to be within the power of the trustees to furnish. Rent has always been considered in law as one of the necessities which come within the purview of the attachment laws of Ohio, and is classed in the same category with food and necessary clothing.

The relief which the township trustees are authorized to grant under the above sections is only what can be termed 'temporary' relief; that is to say, in order to help those in need of support over a temporary emergency.

As a general rule, I would state that the township trustees are not authorized to pay rent for families who are in need of support; and the only exception thereto would be when under extraordinary circumstances such help is needed only temporarily. If a family should be in need of other than temporary support, such family should be warranted by the township trustees over to the county infirmary to become county charges."

Sections 1 and 2 of Amended Senate Bill No. 200 of the regular session of the 90th General Assembly, 115 O. L. 194, as amended by Amended Substitute Senate Bill No. 53 of the first special session of the 90th General Assembly, provide in part:

## "Sec. 1.

In addition to all other forms of relief, the commissioners of any county are authorized to appropriate the sum that said commissioners decide is necessary for the purpose of direct housing relief to indigent persons. Said commissioners may appoint the clerk of the board of county commissioners to investigate claims and demands for such relief. The clerk may issue a voucher to the auditor of the county each month for the rent of any indigent person whom he finds is entitled to such relief, \* \* \*."

## "Sec. 2.

Any municipality by its legislative body or any township by its trustees may appoint one or more officials, individuals, or corporations not for profit, to receive applications and make investigations of persons applying for such direct housing relief, and the commissioners shall deputize and authorize such persons and/or corporations so appointed by said municipalities or townships, to represent the commissioners in making investigations and, subject to the approval of said commission, issue the vouchers mentioned in Section 1 of this act."

It should be noted from a reading of this act that the authority is given to the county commissioners and not to the township trustees, to provide direct housing relief for indigent persons.

Inasmuch as I believe the result and reasoning of the 1915 opinion to be sound, it is my opinion, in specific answer to your inquiry that as a general rule, township trustees have no authority to pay rent under sections 3476 et seq., General Code, to families in need of support. They can do so only when, from extraordinary circumstances, such help is needed only temporarily. Amended Senate Bill No. 200, 115 O. L., 194, as amended by Amended Substitute Senate Bill No. 53 of the first special session of the 90th General Assembly gives authority to the county commissioners to provide direct housing relief for indigent persons.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

3343.

APPROVAL, CERTAIN LEASES TO LAND IN TUSCARAWAS AND  
KEENE TOWNSHIPS, COSHOCTON COUNTY, OHIO.

COLUMBUS, OHIO, October 24, 1934.

HON. WILLIAM H. REINHART, *Commissioner, Division of Conservation, Columbus, Ohio.*

DEAR SIR:—You have submitted for my examination and approval certain leases executed to the state of Ohio by several property owners in Tuscarawas and Keene Townships, Coshocton County, Ohio, leasing and demising to the State for the purpose therein stated tracts of land in said townships and county.

The leases here in question, designated with respect to the number of the lease, the owner of the property and the acreage of land covered by the respective leases, are as follows: