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1. COUNTY COMMISSIONERS, BOARD OF — CANNOT GRANT FUNDS TO INDEPENDENT AGRICULTURAL SOCIETIES UNDER SECTION 9887 G. C. TO ERECT, REPAIR OR IMPROVE BUILDINGS ON LAND WHERE SOCIETY HOLDS ITS FAIR.
2. BOARD CANNOT GRANT FUNDS TO INDEPENDENT AGRICULTURAL SOCIETY, SECTION 9894 G. C. FOR "ENCOURAGING SUCH INDEPENDENT AGRICULTURAL SOCIETY" UNLESS SOCIETY HAS COMPLETE CONTROL AND MANAGEMENT OF REAL ESTATE AND BUILDINGS AND OTHER STRUCTURES WHEREON AND WHEREIN ITS FAIRS ARE HELD.

SYLLABUS:

1. A board of county commissioners cannot grant funds to independent agricultural societies, under, and by virtue of section 9887 of the General Code of Ohio, to erect, repair or improve buildings situated on a tract of land where such society holds its fair.

2. A board of county commissioners cannot grant funds to an independent agricultural society under the provisions of Section 9894, General Code of Ohio, for "encouraging such independent agricultural society", unless such society has complete control and management of the real estate and buildings, and other structures whereon and wherein its fairs are held.

Columbus, Ohio, October 28, 1944

Hon. Forrest E. Sidener, Jr., Prosecuting Attorney
London, Ohio

Dear Sir:

I am in receipt of your request for my opinion, which reads as follows:

"The board of county commissioners of Madison County, Ohio, is confronted with a problem in connection with the contemplated allowance of funds to the Plain City Independent Agricultural Society for 'improvement purposes'.

The Plain City Independent Agricultural Society is a joint board composed of members from Madison and Union Counties and the Village of Plain City is almost equally divided by the county line.

The Society holds its annual fairs on 'leased' or 'gratis' park land owned and controlled by the village and/or a Park Commission. The exact location where the fair is held, and of the Society owned buildings, is in Union County and no part in Madison County.

Heretofore allowances have been made by the Madison County Commissioners to the said Independent Society under Section 9880-1 (Premiums), Section 9880-2 (Junior Club) and Section 9894 (Additional Sum) on the basis by which Madison County's population bears to the total population of both Madison and Union Counties, which slightly exceeds 50%.

(1) For 'Improvement Purposes', such as a grand stand, etc., can the Board of County Commissioners of Madison County allow funds pursuant to Section 9887 or Section 9894, or any other sections, to the Plain City Independent Agricultural Society, to erect or repair or improve buildings situated in Union county where the title to the land is not vested in either Madison or Union Counties.

(2) In the event an allowance can be made by the Commissioners of Madison County, upon what basis should it be made?"

Section 9887 of the General Code reads in part as follows:

"In any county in which there is a duly organized *county agricultural society*, the board of county commissioners is authorized to purchase or lease, for a term of not less than twenty years, real estate whereon to hold fairs under the management and control of the *county agricultural society*, and may erect thereon suitable buildings and otherwise improve the same.

In counties wherein there is a county agricultural society which has *purchased, or leased*, real estate for a term of not less than *twenty years*, a site whereon to hold fairs or where the title to such site is vested in fee in the county, the county commissioners, if they think it is for the best interest of the county, and society, may erect or repair buildings or otherwise improve such site and pay the rental thereof, or contribute to or pay any other form of indebtedness of said society. The commissioners are authorized to appropriate from the general fund such an amount as they deem necessary for any of said purposes. * * *

(Emphasis added.)

It will be noted that the statute constantly refers to a county agricultural society and such designation cannot be held to embrace an independent agricultural society.

Your question is—can a board of county commissioners provide funds to an independent agricultural society for the erection, repair or improvement of buildings located at the place where such society holds its fair?

Section 9887 of the General Code of Ohio is the only section specifically covering this subject matter, and from the plain wording thereof confines itself to *county agricultural society*. Such societies are restricted to one county and must be organized by residents of such county (Sec. 9880 G. C.).

The distinction between county and independent agricultural societies was pointed out in an opinion of one of my predecessors in Opinions of Attorney General for 1919, Volume I, page 418, wherein he said:

“However, it appears to have long been determined by administrative construction that section 9880 G. C., and its predecessors in the development of the legislation, as well as the several other sections providing for public aid in various forms for county societies, contemplate the existence of but one county society, and that when the field has once been occupied by the proper formation and continuation of a society, the authorization in that regard has been exhausted. Such other societies as may be formed within the county are thus relegated to the domain of independent societies.”

Since this is a matter involving the expenditure of public funds, the law must be strictly construed. This principle of law has been well established by the courts of Ohio. The Supreme Court of Ohio in the case of *State ex rel Locher v. Menning, et al.*, 95 O. S. 97, at page 99 said:

“The authority to act in financial transactions must be clear and distinctly granted, and, if such authority is of doubtful import, the doubt is resolved against its exercise in all cases where a financial obligation is sought to be imposed upon the county.”

This same principle was followed in *State ex rel. Bentley & Sons v. Pierce, Auditor*, 96 O. S. 44, third branch of the syllabus, and in *State ex rel. Smith v. Maharry*, 97 O. S. 272, first branch of the syllabus.

The other section involved was Section 9894, General Code, which

reads in part as follows:

“When a county or duly organized county agricultural society owns or holds under a lease real estate used as a site whereon to hold fairs and the county agricultural society therein has the control and management of such lands and buildings, for the purpose of encouraging agricultural fairs, the county commissioners shall, on the request of the agricultural society, annually appropriate from the general fund not to exceed the sum of two thousand dollars or less than fifteen hundred dollars for such purposes, and in any county wherein is located one or more independent agricultural society or societies as provided for in section 9880-1 herein, the county commissioners of said county, for the purpose of encouraging such independent agricultural society or societies, may appropriate, in addition to the sum appropriated for the county agricultural society, a sum not greater than the amount appropriated for the county society, * * *.”

This section embraces both county agricultural societies and independent agricultural societies.

In Opinion No. 5508, Opinions Attorney General for 1942, I held that:

“Upon compliance with the provisions of section 9884, General Code, a county agricultural society which owns or holds under lease real estate whereon to hold fairs, is entitled to receive from the county commissioners, upon request therefor, the amounts specified in section 9894, General Code, provided such county agricultural society has complete control and management of such real estate and buildings, tents and other structures erected thereon.”

It certainly cannot be said that any other reasoning could be applied to independent agricultural societies. I infer from your letter that no such control and management exists in your independent agricultural society.

Therefore, and in specific answer to your questions, it is my opinion that:

1. A board of county commissioners cannot grant funds to independent agricultural societies, under and by virtue of section 9887 of the General Code of Ohio, to erect, repair or improve buildings situated on a tract of land where such society holds its fair.
2. A board of county commissioners cannot grant funds to an inde-

pendent agricultural society under the provisions of Section 9894, General Code of Ohio, for “encouraging such independent agricultural society”, unless such society has complete control and management of the real estate and buildings, and other structures whereon and wherein its fairs are held.

Respectfully,

THOMAS J. HERBERT

Attorney General