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1. MUNICIPAL CORPORATION—LOT ESTABLISHED, DESIGNATED, NUMBERED—LAY OUT—VILLAGE OR SUBDIVISION—SECTION 711.01 ET SEQ., RC—DISTINCT BODY OR PARCEL OF LAND—TORRENS LAW—SECTION 5310.15, PARAGRAPH B, RC.
2. TRANSFER OF LANDS—SECTION 5309.01 ET SEQ., RC—ACCOMPLISHED BY SINGLE DEED OR CONVEYANCE—DESCRIPTION, TWO OR MORE PLATTED LOTS—AGGREGATE COULD COMPRISE CONTINUOUS TRACT IN ONE POSSESSION—TRANSFER RELATES TO MORE THAN ONE “DISTINCT BODY OR PARCEL OF LAND.”

SYLLABUS:

1. A lot established, designated, and numbered in proceedings to lay out a village or subdivision or addition to a municipal corporation under the provisions of Section 711.01 et seq., Revised Code, is a “distinct body or parcel of land” as this language is used in the Torrens Law, paragraph (B) of Section 5310.15, Revised Code.

2. Where a transfer of lands, registered under the provisions of Section 5309.01, et seq., Revised Code, is accomplished by a single deed or conveyance which describes the lands to be conveyed by the designation of two or more platted lots, whether or not in the aggregate comprising a continuous tract in one possession, such transfer is one relating to more than one “distinct body or parcel of land” within the meaning of the Torrens Law paragraph (B) of Section 5310.15, Revised Code.

Columbus, Ohio, November 9, 1953

Hon. Robert E. Cook, Prosecuting Attorney
Portage County, Ravenna, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“A question has been raised by our County Recorder as to an interpretation of the recently amended Section 5310.15 of the Revised Code relative to the schedule of fees to be charged for handling transfers of Registered Land Titles. This question concerns paragraph (B) in the list of fees to be charged which reads ‘for examining and registering each transfer of registered land, including the filing of all papers therewith, handling memorials, issuing new duplicate certificate of title and indexing it,

\$5.00 for the first distinct body or parcel of land contained in such certificate, and \$1.00 for each additional distinct body or parcel of land contained in such certificate.'

"His question is whether by the words 'distinct body or parcel of land' is meant each individual lot mentioned in the transfer or what is commonly known as a parcel, which may include several lots within the same general description of the 'parcel' involved in the transfer.

"I would appreciate your opinion as to the correct interpretation of the above mentioned section."

We may first observe the statutory method by which a transfer of title of registered lands is ordinarily accomplished, i.e., in the case of a fee simple estate. The requirements are set out in Section 5309.40, Revised Code, Section 8572-37, General Code, as follows:

"A registered owner in fee of real property, in order to transfer his whole interest in such property or in any part thereof, or any undivided interest therein, shall execute to the intended transferee a deed or instrument of conveyance which in case of transfer of the whole of the land may be on the duplicate certificate of title, in any form authorized by law. When such transferee presents such deed or instrument to the county recorder of the county where the land is situated, such recorder shall file the same, and if he finds that such transferor is entitled to make the transfer as provided in sections 5309.02 to 5310.21, inclusive, of the Revised Code, the recorder shall register the title, in accordance with such deed or instrument of conveyance, in the transferee, upon a new folium in the register of titles, and enter thereon all memorials, notations, and memorandums, to which the land is subject at the time of the transfer, and shall issue a new certificate of title to the transferee, stating therein his full name, residence, and post-office address, whether married, and if so, the name of husband or wife. If the transferee is a minor, his exact age must be given, or if under other disability the nature and character of such disability must be stated. Before a transfer can be registered, the transferor or the transferee must deliver to the recorder the duplicate certificate of title of the transferor, and the recorder shall enter upon the folium of the register where such title of the transferor is registered, and upon the duplicate certificate of title, a memorial or memorandum canceling the same, in whole or in part, as the interest of the transferee may appear from the deed or other instrument of transfer, with such particulars of the transfer as may be necessary for identification, together with the date of transfer, the name and residence and post-office address of the transferee, and volume and folium of the register in which the transferee's title is registered."

In your inquiry you have invited attention to one of the provisions of paragraph (B) of Section 5310.15, Revised Code. The provision analogous to this prior to October 2, 1953, was set out in Section 8572-112, General Code, as follows:

“* * * The recorder shall receive the following fees: * * *

“For examining and registering each transfer of registered land, including the filing of all papers therewith, entering memorials, issuing new duplicate certificate of title and indexing the same, \$5.00.”

In the recodification of 1953, by the enactment of Amended House Bill 1, 100th General Assembly, this provision was included as paragraph (B) in Section 5310.15, Revised Code, and as amended in House Bill 29, effective October 2, 1953, the provision now in effect is set out in the following language:

“For examining and registering each transfer of registered land, including the filing of all papers therewith, entering memorials, issuing new duplicate certificate of title and indexing it, \$5.00 *for the first distinct body or parcel of land contained in such certificate, and \$1.00 for each additional distinct body or parcel of land contained in such certificate; * * **”

(Emphasis added.)

The portion of the quotation emphasized above indicates the material which was added by the amendment which became effective October 2, 1953.

It is apparent that the Legislature, by the addition of the language indicated above, intended to make provision for the collection of additional fees where a transfer of title was effected in one instrument describing two or more parcels. Actually the statutory language is “distinct body or parcel of land” and your specific question is whether this language means (a) individual lot or (b) a parcel which might include several lots within the same general description.

The expression “parcel of land” ordinarily means “a continuous tract or plot of land in one possession, no part of which is separated from the rest by intervening land in another possession.” 31 Words and Phrases, 60; Restatement, Torts, section 843. Under this definition it is readily apparent that if a single instrument conveys a number of lots which in the aggregate constitute a continuous tract in one possession,

the aggregate so conveyed could be deemed to be a parcel. It should be pointed out, however, that we are not concerned only with the definition of the word "parcel" but rather with the entire expression "distinct body or parcel of land."

The word "distinct" is defined in Websters New International Dictionary as "distinguished; separated by a visible sign; marked out." And again, as "that which may be clearly seen or discerned; clear; plain; well defined; well marked * * *." The word "distinguish" is defined in the same work as "to recognize or discriminate (one thing from or among others) by marks, signs, or characteristics."

The term "lot" is commonly understood as designating a comparatively small area of land set out and numbered in the course of proceedings to plat a subdivision, provision therefor being found in Sections 711.01 to 711.38, inclusive, Revised Code. In Chapter 711, Revised Code, provision is made for the surveying of a tract or subdivision to be platted, and for the making of a plat or map thereof particularly describing the streets, alleys, commons, public grounds and all lots into which the area is divided. In Section 711.29, Revised Code, Section 3605, General Code, provision is found for the renumbering of lots of a subdivision included within a municipal corporation in such a manner as to harmonize those of the original plat of such corporation. Moreover, in Section 711.30, Revised Code, Section 3606, General Code, following such revision and renumbering of lots, it is provided that each of such lots is to be assessed and entered on the tax list for taxation according to their new numbers; and it is expressly provided that conveyance of such lots by the new numbers shall be sufficient to pass the title.

From these provisions it is abundantly clear that a lot which has been established by the statutory platting procedure and which has been assigned a distinctive number, becomes a body or parcel of land which is readily capable of being distinguished from other land; and in this sense it is clear that it is also a "distinct" body or parcel of land. Accordingly, where a transfer of registered land is effected by a single conveyance, and where the body or parcel of land is described therein, not as one body or parcel or tract, but by designation by number of numerous lots of platted land, it would appear that the provisions of paragraph (B) of Section 5310.15, Revised Code, would require the collection of the addi-

tional fee as to the second and any additional lots thus conveyed by such instrument.

Accordingly, and in specific answer to your inquiry, it is my opinion that :

1. A lot established, designated and numbered in proceedings to lay out a village or subdivision or addition to a municipal corporation under the provisions of Section 711.01 et seq., Revised Code, is a "distinct body or parcel of land" as this language is used in the Torrens law, paragraph (B) of Section 5310.15, Revised Code.

2. Where a transfer of lands, registered under the provisions of Section 5309.01, et seq., General Code, is accomplished by a single deed or conveyance which describes the land to be conveyed by the designation of two or more platted lots, whether or not in the aggregate comprising a continuous tract in one possession, such transfer is one relating to more than one "distinct body or parcel of land" within the meaning of the Torrens law, paragraph (B) of Section 5310.15, Revised Code.

Respectfully,

C. WILLIAM O'NEILL

Attorney General