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SCHOOL TUITION—VETERANS RESIDING ON MILITARY LANDS IN GREENE COUNTY ON MONTGOMERY COUNTY VETERANS HOUSING PROJECT—CONTINUE TO BE RESIDENTS OF MONTGOMERY COUNTY, OHIO—TUITION FOR THEIR CHILDREN ATTENDING SCHOOL—SHALL BE PAID BY SCHOOL DISTRICTS OF RESPECTIVE RESIDENCES IN MONTGOMERY COUNTY.

SYLLABUS:

Veterans residing on military lands in Greene County, Ohio, on a Montgomery County Veterans Housing Project continue to be residents of Montgomery County, and the tuition for their children attending school shall be paid by the school districts of their respective residences in Montgomery County.

Columbus, Ohio, May 9, 1949

Hon. George R. Smith, Prosecuting Attorney
Greene County, Xenia, Ohio

Dear Sir:

So much of your request for my opinion which presents your problem is as follows:

“It has long been our understanding that land owned by the Federal Government is not a part of the State and therefore not subject to real estate taxes. A great portion of the military reservation known as Wright-Patterson Field is located in Bath Township. No real estate tax is collected on this land but a tuition fee in lieu of taxes is paid by the war department for the education of the children residing on this military reservation.

Until now we have had no difficulty and everyone seemed perfectly happy. However, more than a year ago the Montgomery County Commissioners leased a certain tract of this military reservation located in Bath Township and established a housing project known as ‘Happy Homes.’ The Bath Township Board of Education feels as though someone is responsible for a payment in lieu of real estate taxes for these children from ‘Happy Homes.’

We should like a ruling of the Attorney General if it is a responsibility of the war department since it is on Federal land

or is it the responsibility of Montgomery County since they have the land leased and the project is controlled by the Montgomery County Commissioners and the homes are being filled with Montgomery county war veterans, or is it the responsibility of the individual families?"

I have examined your request, and on further investigation I find the following material facts to exist:

In compliance with House Bill No. 508, 121 O. L. 806, 808 (1946,) which provides for immediate temporary housing for veterans of World War II and their families, and to declare an emergency, and being Section 1078-62 et seq. of the General Code, the commissioners of Montgomery County procured a revocable permit to use and occupy buildings at Wright Field, Dayton, Ohio, which permit was made and dated the twentieth of March, 1947. Said permit was granted to the Board of Commissioners of Montgomery County by the United States of America, acting by the Commissioner of the Federal Public Housing Authority or any successor to its powers, functions or duties hereinafter called the "FPHA". Under the provisions of such permit the Board of Commissioners of Montgomery county were granted the right and privilege of entering upon, using and occupying eight buildings on military lands situated in Greene County, Ohio, being the Army Air Force Technical Base, Wright Field, Dayton, Ohio, for the purpose of providing temporary housing for distressed families of service men, for veterans and their families, or for single veterans attending educational institutions.

Under the provisions of said permit the United States of America receives no remuneration. The Board of Commissioners are granted the right to expend such moneys as is deemed necessary to convert the buildings into habitable family dwelling units.

Section 2 of said House Bill No. 508 (121 O. L. 806) and being Section 1078-63 of the General Code of Ohio, reads as follows:

"The county commissioners of each county are hereby authorized to expend all or any part of their county veterans housing fund for the purpose of providing immediate temporary emergency housing facilities *for residents of their counties who were members of the armed forces of the United States who have served in World War II and have been discharged other than dishonorably, and for their families.*" (Emphasis added.)

There is no evidence that such military lands in question are on the tax duplicate of the State of Ohio or any of its political subdivisions. It is

an island of federal government land lying within the geographical boundaries of the State of Ohio. The individuals and families in question who abide there do so by virtue of their being legal residents of Montgomery county. They can not change such legal residence status by their own volition without forfeiting their privilege of abiding in said project. They are temporarily living in said project which is known as Happy Homes, and the mere fact, if it is a fact, that such project lies contiguous to or within the geographical boundaries of the Bath School District, does not make them either legal residents or school residents of such school district. For instance, it cannot be contended that if the Bath School District did not have school facilities sufficient to accommodate all the children temporarily residing on the project, that such school district would be required to furnish such facilities under the provisions of the school laws of Ohio.

I am of the opinion that the land upon which Happy Homes is located, is exempt from taxation because it is government land. The land cannot be placed on the tax duplicate against Montgomery County because it is a welfare project not for profit.

As stated before, the people living at "Happy Homes" reside there by virtue of the fact that they are legal residents of Montgomery County within the contemplation of House Bill No. 508 (1946.) Having a residence in Montgomery County, it must be determined in what particular school district their residence in Montgomery County is established, and then it becomes merely a matter of accounting to determine the amount of tuition to be paid by the school district of their residence to the Bath School District. The provisions of Section 4848-5 of the General Code, provide for tuition for non-resident pupils. Such tuition of course is supplemented by the State under Section 4848-1 of the General Code.

Therefore, specifically answering your question, I am of the opinion that the tuition of the school children residing in "Happy Homes" on the Montgomery County Veterans Housing Project on military lands within the Bath School District shall be paid to the Bath School District in conformity with the provisions of Sections 4848-1 and 4848-5 of the General Code of Ohio.

Respectfully,

HERBERT S. DUFFY,
Attorney General.