

OPINION NO. 69-038

Syllabus:

A fire department, volunteer or hired, maintained by a township may operate an ambulance purchased under authority of Section 505.37, Revised Code, to protect property and lives against damages and accidents, and such use is not limited to emergency situations in conjunction with fire protection.

To: William F. McKee, Richland County Pros. Atty., Mansfield, Ohio
By: Paul W. Brown, Attorney General, April 24, 1969

I am in receipt of your opinion request wherein you inquire as to whether or not a fire department, volunteer or hired, maintained by a township, may operate an ambulance purchased under authority of Section 505.37, Revised Code, for any emergency situation or whether such ambulance may be used only in emergency situations in conjunction with fire protection.

Section 3298-54, General Code, (predecessor to Section 505.37, Revised Code) as enacted in 1920, provided in part as follows:

"Township trustees may establish all necessary regulations to guard against the occurrence of fires, protect the property and lives of the citizens against damages and accidents resulting therefrom. * * *" 108 Ohio Laws, Pt. II, 1152. (Emphasis added)

In 1951 Section 3298-54, General Code, was changed to read in part as follows:

"Township trustees may establish all necessary regulations to guard against the occurrence of fires, protect the property and lives of the citizens against damages and accidents and may, with the approval of the specifications by the county prosecuting attorney, purchase or otherwise provide such fire apparatus, appliances, materials, fire hydrants and such water supply for fire fighting purposes as may seem to the trustees to be advisable. * * *" 124 Ohio Laws, 397. (Emphasis added)

The words "resulting therefrom" were removed from the statute and "damages and accidents" were no longer limited to those resulting from fires.

Section 505.37, Revised Code, in pertinent part, presently reads substantially as it did after the 1951 amendment, and provides as follows:

"The board of township trustees may establish all necessary regulations to guard against the occurrence of fires, protect the property and lives of the citizens against damage and accidents and may, with the approval of the specifications by the prosecuting attorney, purchase or otherwise provide such fire apparatus, mechanical resuscitators or other equipment, appliances, materials, fire hydrants, and water supply for fire-fighting purposes as seems advisable to the board. Such board shall provide for the care and maintenance of fire equipment, and, for such purposes, may purchase, lease, or construct and maintain necessary buildings, and it may establish and maintain lines of fire-alarm communications within the limits of the township. The board may employ one or more persons to maintain and operate fire-fighting equipment, or it may enter into an agreement with a volunteer fire company for the use and operation of such equipment. The board may compensate the

members of a volunteer fire company on such basis and in such amount as it deems equitable.

"* * * * *
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* * * * *"
(Emphasis added)

After the 1951 amendment, Opinion No. 2416, Opinions of the Attorney General for 1953, page 114, held:

"1. Under the provisions of Section 3298-54, General Code, township trustees, in addition to being authorized to guard against the occurrence of fires, are further authorized to protect property and lives against damages and accidents; and under such authority may acquire and operate emergency vehicles or 'rescue cars' for such purposes.

"2. Township trustees may enter into an agreement with a volunteer fire company for the operation of any such equipment as the township itself is authorized to operate, designed to protect against fires, damages and accidents."

Subsequently, Opinion No. 3066, Opinions of the Attorney General for 1962, page 437, held in part as follows:

"1. A board of township trustees may, under Section 505.37, Revised Code, furnish water of the township fire department to private citizens to protect the property and lives of such citizens where drought or other causes have resulted in an emergency situation.

"2. In such a situation, if the emergency so requires, the board of township trustees may, under Section 505.37, Revised Code, deliver such water for the use of such citizens.

"* * * * *
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* * * * *"

Opinion No. 3332, Opinions of the Attorney General for 1962, page 793, held as follows:

"Under Sections 505.37 and 505.39, Revised Code, a board of township trustees may acquire and operate an ambulance for the purpose of protecting property and lives against damages

and accidents. (Opinion No. 2416, Opinions of the Attorney General for 1953, page 114, followed.)"

The most recent opinion relating to an interpretation of Section 505.37, Revised Code, is found in Opinion No. 560, Opinions of the Attorney General for 1963, page 570, and holds as follows:

"Township trustees may only acquire and operate or contract for the operation of 'Life Squads' or rescue vehicles when they are used by fire departments, volunteer or hired, in conjunction with fire protection."

In addition to the guidelines heretofore set forth by the opinions cited, Section 505.443, Revised Code, became effective on September 20, 1967 and reads as follows:

"In order to obtain ambulance service, or to obtain additional ambulance service in times of emergency, any township may enter into a contract, for a period not to exceed three years, with one or more townships, municipal corporations, or private ambulance owners, regardless of whether such townships, municipal corporations, or private ambulance owners are located within or without the state, upon such terms as are agreed to by them, to furnish or receive ambulance services or the interchange of ambulance services within the several territories of the contracting subdivisions, if such contract is first authorized by respective boards of township trustees or other legislative bodies.

"Such contract may provide for a fixed annual charge to be paid at the times agreed upon and stipulated in the contract, or for compensation based upon a stipulated price for each run, call, or emergency, or the elapsed time of service required in such run, call, or emergency, or any combination thereof."

(Emphasis added)

The legislature could have placed but did not place words of limitation on the kind of ambulance service for which the township might contract under the provisions of Section 505.443, supra, and thereby limit such ambulance service to service in conjunction with fire protection. In reflecting upon the legislative intent, it would appear inconsistent that the township itself could acquire and operate rescue vehicles or ambulances only in conjunction with fire protection, but could contract under Section 505.443, supra, for ambulance service not limited to fire

protection. As heretofore indicated, Section 505.37, supra, provides that the board of township trustees may establish all necessary regulations to protect the property and lives of the citizens against damage and accidents.

Opinion No. 560, Opinions of the Attorney General for 1963, page 570, is overruled.

Accordingly, it is my opinion and you are hereby advised that a fire department, volunteer or hired, maintained by a township may operate an ambulance purchased under authority of Section 505.37, Revised Code, to protect property and lives against damages and accidents, and such use is not limited to emergency situations in conjunction with fire protection.