

OPINION NO. 84-051

Syllabus:

R.C. 503.14 does not provide an alternate, automatic method to that found in R.C. 503.07 for changing township boundaries to conform to municipal boundaries; if a municipality does not, after annexing township territory, initiate the procedure set forth in R.C. 503.07,

such annexed township territory continues to be a component part of the township in which it was situated prior to municipal annexation.

To: Stephen E. Kelster, Van Wert County Prosecuting Attorney, Van Wert, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, October 17, 1984

I have before me your request for my opinion on the following question:

In order to have a municipality within one township only for taxation and voting purposes, must ORC 503.07 be implemented for each annexation wherein Township "A" property (located to the east of the municipality) is annexed to a municipality which is predominantly located in Township "B" and where, in 1874, the County Commissioners, in compliance with the predecessor statutes to ORC 503.07, made a blanket resolution placing the east boundary line of Township "B" identical to the east boundary line of said municipality.

You explain in your letter of request, that prior to 1874, the municipality of Van Wert was located in both Pleasant Township and Ridge Township. In 1874, the Van Wert County Commissioners, pursuant to the predecessor statute to R.C. 503.07, resolved to change the east boundary line of Pleasant Township so that it would be identical to the east boundary line of the municipality of Van Wert and the entire municipality of Van Wert would be within Pleasant Township. Since 1874, additional municipal annexations have been made from Ridge Township to Van Wert without subsequent action by the city legislative authority or county commissioners pursuant to R.C. 503.07. The predominant portion of Van Wert, however, still lies within Pleasant Township. You note that, "[f]or purposes of taxation and voting, the County Auditor and County Board of Elections have, since 1874, assumed that the entire City of Van Wert is located in Pleasant Township and have acted accordingly even though various annexations from Ridge Township to the City have occurred since 1874." You question whether the resolution of 1874 making the east boundaries of Van Wert and Pleasant Township contiguous, when considered with R.C. 503.14, would make each Ridge Township annexation automatically part of Pleasant Township without regard to R.C. 503.07, or whether R.C. 503.07 must be followed after each annexation to the city from Ridge Township in order to place such annexed territory in Pleasant Township for voting and tax purposes.

As you note in your request, in 1977 Op. Att'y Gen. No. 77-031 my predecessor considered the issue of whether the inhabitants of township territory which has been annexed to a municipal corporation remain eligible to vote on township tax levies and issues where the municipal authorities have not adjusted the township limits pursuant to R.C. 503.07. R.C. 503.07 provides:

When the limits of a municipal corporation do not comprise the whole of the township in which it is situated, or if by change of the limits of such corporation include territory lying in more than one township, the legislative authority of such municipal corporation, by a vote of the majority of the members of such legislative authority, may petition the board of county commissioners for a change of township lines in order to make them identical, in whole or in part, with the limits of the municipal corporation, or to erect a new township out of the portion of such township included within the limits of such municipal corporation. The board, on presentation of such petition, with the proceedings of the legislative authority authenticated, at a regular or adjourned session, shall upon the petition of a city change the boundaries of the township or erect such new township, and may upon the petition of a village change the boundaries of the township or erect such new township.

In Op. No. 77-031, it was determined that if a municipality does not, after annexing township territory, initiate the procedure set forth in R.C. 503.07, the annexed territory continues to be a component part of the township in which it was situated

prior to municipal annexation. Thus, the inhabitants of such annexed territory were said to be residents of both the municipality and the township, with all of the benefits and obligations attendant thereto. Because this situation may sometimes result in inequities, such as where the residents of the annexed territory find themselves subject to taxation by both the township and the municipality, the opinion advised that R.C. 503.07 be followed as a matter of course each time a municipality annexes part of a township.

Your opinion request mentions R.C. 503.14, which states:

When the change of boundaries of townships is required by reason of the extension of the limits of a municipal corporation, such change shall be made by annexation to the township in which the municipal corporation or the greater part of it was previously situated, of such parts of other townships as are covered by such extension.

You ask whether R.C. 503.14 provides an alternate, automatic method for changing township boundaries to conform to municipal boundaries.

In 1954 Op. Att'y Gen. No. 4642, p. 648, various questions were addressed concerning the changes in municipal and township boundaries following the annexation of part of a township by a municipality. The first paragraph of the syllabus states that:

The extension of the limits of a municipality by the annexation of territory in an adjacent township does not per se affect the limits or political existence of such township. The municipal authorities may, however, initiate proceedings under the provisions of Section 503.07, Revised Code, to adjust the township limits to make them identical in whole or in part with the municipal limits so as to accomplish the abolition of certain township offices under the provisions of Section 703.22, Revised Code.¹ (Footnote added.)

In discussing the relationship between R.C. 503.07 and R.C. 503.14, 1954 Op. No. 4642 noted:

[R.C. 503.14] was originally enacted as section 482 of the Municipal Code in 70 Ohio Laws, 4. As originally enacted it provided

¹ R.C. 703.22 reads in part: "When the limits of a municipal corporation become identical with those of a township, all township offices shall be abolished, and the duties thereof shall be performed by the corresponding officers of the municipal corporation." In 1954 Op. Att'y Gen. No. 4642, p. 648, 652, it was stated that R.C. 703.22 "does not purport to abolish the township, but merely the offices thereof." In Franklin Township v. Village of Marble Cliff, 4 Ohio App. 3d 213, 217, 447 N.E.2d 765, 769 (Franklin County 1982), which dealt with the petition of a village, submitted pursuant to R.C. 503.07, to detach itself from a township and to create a new township with boundaries identical to the boundaries of the village, the court concluded that R.C. 503.07 and R.C. 703.22 are not irreconcilable, stating:

R.C. 703.22 does not limit the authority of the board of county commissioners to detach a municipal corporation from the rest of a township but, instead, only deals with the result of a detachment. . . the effect of R.C. 703.22 is simply to preclude a meaningless duplication of offices, duties, and responsibilities once a municipal corporation has been detached from a township pursuant to R.C. 503.07.

See 1954 Op. No. 4642 (a municipal corporation may achieve identity of boundaries with a township for purposes of R.C. 703.22 by utilizing the procedure of R.C. 503.07). See also 1967 Op. Att'y Gen. No. 67-013.

substantially the same as present 503.14, Revised Code, except that after the word "required" the words "under Section 480" appeared. Section 480 of the former Municipal Code is now substantially Section 503.07, Revised Code. Notwithstanding that this section reference was eliminated upon the incorporation of the Municipal Code into the General Code and subsequently upon the incorporation of the General Code into the present Revised Code, I am nevertheless convinced that no substantial change was intended. . . .

Id. at 653. This conclusion is consistent with the principle set forth in Village of Elmwood Place v. Schanzle, 91 Ohio St. 354, 110 N.E. 922 (1915). In interpreting a statute which had been modified during the codification which resulted in the General Code, the court stated:

It is well settled that where the general statutes of the state are revised and consolidated there is a strong presumption that the same construction which the statute had had before revision should be applied to the enactment in the revised form, although the language may have been changed. In such case a court is only warranted in holding the construction to be changed when the intent of the legislature to make such change is clear and manifest. . . . (Citations omitted.)

91 Ohio St. at 357, 110 N.E. at 923.

Thus, in examining the legislative history of R.C. 503.14, it is apparent that this provision does not establish an alternate, automatic method of changing township boundaries to conform to municipal boundaries. Rather, the section operates to provide guidance as to how a change in boundaries under R.C. 503.07 is to be accomplished. R.C. 503.07 and R.C. 503.14 operate such that in the situation where municipal boundaries have been extended to encompass more than one township, a change made in township boundaries under R.C. 503.07 must be accomplished by annexation to the township in which the municipal corporation, or the greater part of it, was situated prior to the extension of the municipal boundaries. See 1967 Op. Att'y Gen. No. 67-013.

Therefore, it is my opinion, and you are advised, that R.C. 503.14 does not provide an alternate, automatic method to that found in R.C. 503.07 for changing township boundaries to conform to municipal boundaries; if a municipality does not, after annexing township territory, initiate the procedure set forth in R.C. 503.07, such annexed township territory continues to be a component part of the township in which it was situated prior to municipal annexation.