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AN APPLICANT WHICH HAS CONDUCTED HORSE-RACING MEETING UNDER PERMIT—NOT REQUIRED TO FILE PETITION OF THE ELECTORS WHEN APPLYING FOR PERMIT TO CONDUCT HORSE-RACING MEETING AT ANOTHER TRACK. § §3796.04, 3796.13, 3769.13, R.C.

SYLLABUS:

Where a person, association, trust or corporation which has conducted a horse-racing meeting under permit issued by the state racing commission, applies for a permit to conduct a horse-racing meeting at another track pursuant to Section 3769.13, Revised Code, and a horse-racing meeting has been conducted previously at such other track under permission of the commission, the applicant is not required to file the petition of the electors of the townships as provided in Section 3769.04, Revised Code.

Columbus, Ohio, October 29, 1959

Hon. Thomas R. Lloyd, Chairman, Ohio State Racing Commission  
Columbus, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“The past session of the Legislature enacted into law Amended House Bill 214 and Substitute Senate Bill 16. Both of

these acts have been signed by the Governor and have been filed in the office of the Secretary of State. It is respectively requested that you advise me whether or not under the provisions of the two bills above referred to, that Section 3769.04, Revised Code, is applicable in so far as that section requires a permit for a horse racing meeting to be accompanied by a petition signed by at least 50% of the qualified electors voting for Governor at the last preceding general election in the townships in which the racing meeting is proposed to be conducted. For example, the Commission has an application filed by Applicant A requiring a permit for a horse race meeting at a location in which A has not previously conducted such a meeting. However, previous meetings have been conducted at such said location by B. Under such circumstances, must the application of A be accompanied by a petition referred to in Section 3769.04?"

Amended House Bill No. 214, to which you refer, amended Section 3769.13, Revised Code, to allow a person, association, trust or corporation which has in any year been granted a permit to operate a racing meet at a race track to hold a racing meet at another race track in the event the original track has been damaged by fire or other cause. This bill became effective on July 16, 1959.

Substitute Senate Bill No. 16, to which you also refer, also amended Section 3769.13, Revised Code, incorporated the provisions of Amended House Bill No. 214, *supra*, and further added a provision that allows the transfer of a racing meeting from one track to another track within fifty miles, provided the second track has substantially better facilities. This bill became effective on July 24, 1959.

Section 3769.04, Revised Code, which you cite in your letter, provides for the application for a permit to conduct a horse-racing meeting. That part of the section relative to your inquiry reads as follows:

“\* \* \*

“If the said application requests a permit for a horse-racing meet *at a location at which such a meet has not previously been conducted by permission of the commission*, then, in addition to the other requirements for said application, there shall accompany the application a petition signed by at least fifty-one per cent of the qualified electors voting for governor at the next preceding general election in the township in which the racing meet is proposed to be conducted, together with a certificate of the board of elections

of the counties in which such townships are situated that the signatures on said petition are valid and comply with this section. (Emphasis added)

“\* \* \*

Since in the case at hand horse-racing meeting *have* been conducted at the location to which the race-meeting is to be transferred, and for which the permit is sought, I am of the opinion that the petition requirement of Section 3769.04 *supra*, does not apply.

If a person, association, trust or corporation were to apply for a permit for a horse-racing meeting at a location at which such a meeting *has not* previously been conducted by permission of the racing commission, then, of course, the petition requirement would apply. In such a case, however, there would be no need for the applicant to apply under the authority of Section 3769.13, *supra*, as application for permit could be made under Section 3769.04, 3769.05 and 3769.06, Revised Code.

Answering your specific question, therefore, it is my opinion and you are advised that where a person, association, trust or corporation which has conducted a horse-racing meeting under permit issued by the state racing commission, applies for a permit to conduct a horse-racing meeting at another track pursuant to Section 3769.13, Revised Code, and a horse-racing meeting has been conducted previously at such other track under permission of the commission, the applicant is not required to file the petition of the electors of the township as provided in Section 3769.04, Revised Code.

Respectfully,

MARK McELROY

Attorney General