

**OPINION NO. 91-030****Syllabus:**

A county agricultural society is authorized, pursuant to R.C. 1711.31, to remove existing structures from, and to construct and place structures upon, lands occupied by that society for holding agricultural fairs, but titled in the board of county commissioners, provided the removal of the structure from, or the construction and placement of a structure upon, such lands is reasonably determined by the society to be an improvement of the land.

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**To: Anthony L. Gretick, Williams County Prosecuting Attorney, Columbus, Ohio**  
**By: Lee Fisher, Attorney General, July 15, 1991**

I have before me your request for my opinion regarding an interpretation of R.C. 1711.31. In particular you wish to know whether a county agricultural society is empowered, under R.C. 1711.31, to remove existing structures from, and to construct and place structures upon, lands occupied by that society, but titled in the board of county commissioners.<sup>1</sup>

R.C. 1711.31, in general, provides for the control and management of the lands occupied by a county agricultural society, where title to such lands is in the board of county commissioners, and for the disposition of receipts when the title to such lands is appropriated for another purpose. More specifically, this section states, in part:

When the title to grounds and improvements occupied by an agricultural society is in the board of county commissioners, the control and management of such lands and improvements shall be vested in the board of directors of such society so long as they are occupied by it and used by it for holding agricultural fairs.

A county agricultural society, thus, is legislatively vested with the "control and management" of the improvements and lands titled in the board of county commissioners, but occupied and used by the society for holding agricultural fairs.

Since the words "control" and "management" are not statutorily defined for purposes of R.C. 1711.31, the common or plain meaning of these words is used. See R.C. 1.42 ("[w]ords and phrases shall be read in context and construed according to the rules of grammar and common usage"); *State v. Dorso*, 4 Ohio St. 3d 60, 62, 446 N.E.2d 449, 451 (1983) ("any term left undefined by statute is to be accorded its common, everyday meaning"). The word "control," as defined in *Webster's Third New International Dictionary* 496 (3d ed. 1971), means "the act or fact of controlling...: power or authority to guide or manage; directing or restraining domination...: application of policies and procedures for directing, regulating, and coordinating production, administration, and other business activities in a way to achieve the objectives of the enterprise." *Accord Black's Law Dictionary* 329 (6th ed. 1990); *Webster's New World Dictionary* 303 (3d college ed. 1988). Similarly, the word "management" means "the act or art of managing; as...the conducting or supervising of something (as a business); [especially]: the executive function of planning, organizing, coordinating, directing, controlling, and supervising any industrial or business project or activity with responsibility for results." *Webster's Third New International Dictionary* at 1372; *accord Black's Law Dictionary* at 960; *Webster's New World Dictionary* at 820. The words "control" and "management," thus, commonly denote the concept of administration. The General Assembly's utilization of these words in R.C. 1711.31, therefore, evidences a legislative intent to place the improvements and lands titled in the board of county commissioners, but occupied and used by the county agricultural society, under the administration of the society.

It is unclear, however, whether the General Assembly intended the phrase "control and management" to include the removal of existing structures from, and the construction and placement of structures upon, the lands occupied by the society for agricultural fairs, but titled in the board of county commissioners. Given this ambiguity in the statute, it is necessary to invoke general rules of statutory construction in order to determine the intention of the General Assembly. See *Wingate v. Hordge*, 60 Ohio St. 2d 55, 58, 396 N.E.2d 770, 772 (1979) (per curiam) ("[w]here the court is confronted with a statutory ambiguity, the rules of statutory interpretation may be invoked for the purpose of ascertaining the true intent of the General Assembly").

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<sup>1</sup> I note that you have not indicated whether the deed to the lands titled to the board of county commissioners, but occupied by the county agricultural society, sets forth any restrictions concerning the removal of existing structures from, or the construction and placement of structures upon, the lands. Therefore, I assume, for purposes of this opinion that the deed to these lands sets forth no restrictions prohibiting the actions contemplated by the county agricultural society.

It is a fundamental rule of statutory interpretation that "[s]tatutes relating to the same matter or subject, although passed at different times and making no reference to each other, are *in pari materia* and should be read together to ascertain and effectuate if possible the legislative intent." *State ex rel. Pratt v. Weygandt*, 164 Ohio St. 463, 132 N.E.2d 191 (1956) (syllabus, paragraph two); *accord Hough v. Dayton Mfg. Co.*, 66 Ohio St. 427, 434, 64 N.E. 521, 523 (1902); *Suez Co. v. Young*, 118 Ohio App. 415, 423-24, 195 N.E.2d 117, 123 (Lucas County 1963). See generally *State ex rel. Celebrezze v. Board of County Comm'rs*, 32 Ohio St. 3d 24, 27-28, 512 N.E.2d 332, 335 (1987) (per curiam) ("[w]hile the *in pari materia* rule of construction is an acknowledged aid in the interpretation of statutes, its use is limited to those situations where some doubt or ambiguity exists in the wording of a statute"). Since the provisions setting forth the powers and duties of the county agricultural society relate to the same subject matter, to wit, defining the authority of the society, these provisions are *in pari materia*. See *State ex rel. Pratt v. Weygandt* (syllabus, paragraph two); *Warner v. Ohio Edison Co.*, 152 Ohio St. 303, 89 N.E.2d 463 (1949) (syllabus, paragraph one). Accordingly, recourse may be had to these provisions in order to determine whether the county agricultural society's power to control and manage the lands and improvements occupied by the society encompasses the authority to remove existing structures from, and to construct and place structures upon, these lands.

An examination of the relevant provisions which set forth the powers and duties of a county agricultural society, R.C. 1711.16, R.C. 1711.31, and R.C. 1711.33, reveals that the General Assembly has statutorily provided such a society with the authority to expend moneys to make necessary improvements to lands occupied by the society. Specifically, R.C. 1711.16 empowers a county agricultural society, with the consent of the board of county commissioners, to contract, under certain circumstances, "for the erection or repair of buildings or otherwise improve said site, to the extent that the payment for said improvement is provided by said board." In addition, R.C. 1711.31 authorizes the county agricultural society to use funds, generated by the society through county fairs and the lease of its grounds and buildings, "for [the purpose of] keeping such grounds and buildings in good order and repair and for making other improvements deemed necessary by the society's directors." Furthermore, R.C. 1711.33 provides, in part:

When a board of county commissioners pays or has paid money out of the county treasury for the purchase of real estate as a site for the holding of fairs by a county agricultural society, the society shall not encumber such real estate with any debt, by mortgage or otherwise, without the consent of the board, entered upon its journal.

When such consent is obtained, the society may encumber such real estate, *in order to pay the cost of necessary repairs and improvements thereon*, up to an amount not exceeding fifty per cent of its value. (Emphasis added.)

It is, thus, clear that R.C. 1711.16, R.C. 1711.31, and R.C. 1711.33 expressly authorize the expenditure of moneys by a county agricultural society to make necessary "improvements" to the lands occupied by the society.

The General Assembly, however, did not define "improvements" for purposes of R.C. 1711.16, R.C. 1711.31, or R.C. 1711.33. As stated previously, in the absence of a statutory definition, a term must be accorded its natural, literal, common or plain meaning. R.C. 1.42; *State v. Dorso*. *Webster's Third New International Dictionary* at 1138 defines "improvement" as follows:

1: the act or process of improving: as a: profitable employment or use...b: BETTERMENT...: AMELIORATION...c: the enhancement or augmentation of value or quality: an increasing of profitableness, excellence, or desirability...2 a: the state of being improved: [especially]: enhanced value or excellence...b: an instance of such improvement: something that improves in this way: as (1): a permanent addition to or betterment of real property that enhances its capital value and that involves the expenditure of labor or money and is designed to make the property more useful or valuable as distinguished from ordinary repairs....

*Accord Black's Law Dictionary* at 757; *Webster's New World Dictionary* at 679; see also 1990 Op. Att'y Gen. No. 90-085, at 2-368 (indicating that the term "improvement" as used in R.C. 3313.46 means "[a] change or addition that improves" (quoting *The American Heritage Dictionary* 648 (2d college ed. 1985))). The term "improvement," thus, commonly denotes an addition or betterment of real property that enhances the property's value. See generally 41 Am. Jur 2d *Improvements* §1 (1968) ("[g]enerally speaking, the word 'improvement' includes everything that permanently enhances the value of premises for general uses" (footnote omitted)). Hence, a county agricultural society has the authority, pursuant to R.C. 1711.16, R.C. 1711.31, or R.C. 1711.33, to expend moneys to make additions or betterments which enhance the value of the lands occupied by the society.

Since a county agricultural society may expend, pursuant to either R.C. 1711.16, R.C. 1711.31, or R.C. 1711.33, moneys to make necessary additions or betterments to the lands the society occupies, it appears that the General Assembly intended to vest the society with the corresponding power to determine which additions or betterments are necessary. See generally *State ex rel. Hunt v. Hildebrant*, 93 Ohio St. 1, 112 N.E. 138 (1915) (syllabus, paragraph four) ("[w]here an officer is directed by the constitution or a statute of the state to do a particular thing, in the absence of specific directions covering in detail the manner and method of doing it, the command carries with it the implied power and authority necessary to the performance of the duty imposed"), *aff'd sub nom. State ex rel. Davis v. Hildebrant*, 241 U.S. 565 (1916); *Dunn v. Agricultural Society*, 46 Ohio St. 93, 99-100, 18 N.E. 496, 499 (1888) ("[w]hile the authority is not in terms conferred on such societies, to hold fairs, and charge for admission to them, the power to 'perform all such acts as they deem best calculated to promote the agricultural and household manufacturing interests' of the county, appears to be ample, for that purpose, and also to authorize the society to select the site whereon to hold the fair, adopt plans for buildings and superstructures, and erect them, at its pleasure. The society is absolutely free, to determine whether it will erect any buildings, or seats, for the accommodation of its patrons, and, if any, what kind, and of what material. It is subject to no control, either in the selection of the material, or in the employment of the architect, superintendent or workmen; and the whole management and conduct of the fair, is committed to it, and its officers, with the power, to determine what shall be done, how it shall be done, and by whom it shall be done").

Accordingly, if the removal of a structure from, or the construction and placement of a structure upon, the lands occupied by that society for holding agricultural fairs is determined by that society to be an addition or betterment to the lands that enhances its value, then the society is authorized to expend moneys to accomplish the required work. Cf. 1922 Op. Att'y Gen. No. 3211, vol. I, p. 480 (syllabus, paragraph three) ("[t]he word 'improvement' occurring in section 9887 G.C. [now R.C. 1711.15]<sup>2</sup> construed to authorize the erection of an exhibit building upon the grounds of a county agricultural society" (footnote added)).<sup>3</sup>

<sup>2</sup> Upon recodification of the General Code into the Revised Code, see 1953-1954 Ohio Laws 7 (Am. H.B. 1, eff. Oct. 1, 1953), G.C. 9887 was recodified as R.C. 1711.15.

<sup>3</sup> The determination that removal of a structure from or the construction and placement of a structure upon the lands occupied by the society is a necessary improvement is a factual one which is within the reasonable discretion of the county agricultural society. See generally *State ex rel. Kahle v. Rupert*, 99 Ohio St. 17, 19, 122 N.E. 39, 40 (1918) (per curiam) ("[e]very officer of this state or any subdivision thereof not only has the authority but is required to exercise an intelligent discretion in the performance of his official duty"); *Brannon v. Board of Educ.*, 99 Ohio St. 369, 124 N.E. 235 (1919) (syllabus, paragraph three) ("[a] court will not restrain a board of education from carrying into effect its determination of any question within its discretion, except for an abuse of discretion or for fraud or collusion on the part of such board in the exercise of its statutory authority").

Based upon the foregoing, it is my opinion, and you are hereby advised that a county agricultural society is authorized, pursuant to R.C. 1711.31, to remove existing structures from, and to construct and place structures upon, lands occupied by that society for holding agricultural fairs, but titled in the board of county commissioners, provided the removal of the structure from, or the construction and placement of a structure upon, such lands is reasonably determined by the society to be an improvement of the land.