

## OPINION NO. 83-020

## Syllabus:

R.C. 1545.11 applies to all park districts, regardless of the date of their creation. (1978 Op. Att'y Gen. No. 78-045, approved and followed.)

To: William F. Schenck, Greene County Prosecuting Attorney, Xenia, Ohio  
By: Anthony J. Celebrezze, Jr., Attorney General, April 18, 1983

I have before me your request for an opinion concerning the interpretation of R.C. 1545.11. This section deals with the acquisition of property by a board of park commissioners of a park district, and ends with the sentence: "This section applies to districts created prior to April 16, 1920." Your question is whether R.C. 1545.11 applies to all park districts or only to districts created prior to April 16, 1920.

I draw your attention to 1978 Op. Att'y Gen. No. 78-045, which addresses the precise question you have raised. Op. No. 78-045 closely examines the legislative history of R.C. 1545.11 and traces the gradual legislative expansion of the authority of park commissioners to acquire land. In Op. No. 78-045, my predecessor concluded:

From this legislative history, it is apparent that the last sentence of what is now R.C. 1545.11 was originally added to G.C. 2976-7 in 1920 to ensure that park districts created prior to the 1920 effective date of H.B. No. 387 enjoyed the broader powers conferred upon boards of park commissioners thereunder.<sup>1</sup> This statutory provision was, of course, necessitated by the historic presumption applied by the courts of this state that the legislature intends statutes enacted by it to operate prospectively rather than retroactively. State, ex rel. Moore Oil Co. v. Daoben, 99 Ohio St. 406 (1919); Batchelor v. Newness, 145 Ohio St. 115 (1945); Smith v. Ohio Valley Ins. Co., 27 Ohio St. 2d 268 (1971); see also, R.C. 1.48. It is apparent, therefore, that the change in language in 1953 which set forth the specific date of April 16, 1920, in no way altered the operation of this final provision as one which included districts created both before and after that date. Thus, I am of the opinion that the terms of R.C. 1545.11 authorize boards of park commissioners created both before and after April 16, 1920, to acquire lands as specified therein.

Op. No. 78-045 at 2-106 (footnote added).

I see no reason why Op. No. 78-045 is not still valid. The power to acquire property is basic to the functioning of a park district. Indeed, the power of eminent domain, which is found in R.C. 1545.11, is one of the basic powers of an independent political subdivision, along with taxation and assessment. See 1978 Op. Att'y Gen. No. 78-052. See also Village of Willoughby Hills v. Board of Park Commissioners, 3 Ohio St. 2d 49, 209 N.E.2d 162 (1965) (a park district is a political subdivision of the state); 1934 Op. Att'y Gen. No. 2882, vol. II, p. 971 (park districts

<sup>1</sup> The concluding language of G.C. 2976-7 stated: "the provisions of this section shall apply to districts heretofore created." 1919 Ohio Laws, vol. II, 1097 (H.B. 387).

are separate and distinct political subdivisions); R.C. 1545.07 (a board of park commissioners is a body politic and corporate). Park commissioners have the power to tax, R.C. 1545.20, and the power to assess, R.C. 1545.18. It would be senseless to deny the power of eminent domain to a board of park commissioners created after April 16, 1920. In construing a statute, it is presumed that a reasonable result is intended. R.C. 1.47(C). Thus, I must conclude that R.C. 1545.11 applies to all park districts, regardless of the date of their creation.

I also note that R.C. 1545.24 states in part that, "[t]he board of park commissioners of any park district may issue bonds for the purpose of acquiring and improving lands as authorized by section 1545.11 of the Revised Code." (Emphasis added.) Such language assumes that all park districts have the power under R.C. 1545.11 to acquire and improve land. These two sections, as part of the same statutory scheme, must be read in pari materia, and construed as a harmonious and consistent whole. See Humphrys v. Winous Co., 165 Ohio St. 45, 133 N.E.2d 780 (1956); Gough Lumber Co. v. Crawford, 124 Ohio St. 46, 176 N.E. 677 (1931); Suez Co. v. Young, 118 Ohio App. 415, 195 N.E.2d 117 (Lucas County 1963). In order to read R.C. 1545.11 and R.C. 1545.24 in a consistent manner, R.C. 1545.11 must be construed as applying to all park districts, regardless of the date of their creation.

In conclusion, it is my opinion, and you are advised, that R.C. 1545.11 applies to all park districts, regardless of the date of their creation. (1978 Op. Att'y Gen. No. 78-045, approved and followed.)