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HOSPITAL — TRUSTEES OF ANY PARTICIPATING TOWNSHIP—WHERE PAYMENT MADE TO TRUSTEES OF JOINT TOWNSHIP HOSPITAL DISTRICT—UNENCUMBERED FUNDS —HOSPITAL TRUSTEES—NOT LIMITED IN USE OF FUNDS TO MAINTENANCE OF HOSPITAL BUILDINGS—FUNDS MAY BE USED FOR GENERAL MAINTENANCE AND OPERATION OF HOSPITAL—SECTIONS 3414-2 G.C.—513.12 R.C.

SYLLABUS:

Under the provisions of Section 3414-2, General Code, (513.12 Revised Code), where the trustees of any participating township have paid over to the trustees of a joint township hospital district, unencumbered funds in their hands, said hospital trustees are not confined, in the use of such funds, to maintenance of the hospital buildings but may use the same for the general maintenance and operation of the hospital.

Columbus, Ohio, July 22, 1953

Hon. Reeder C. Hutchinson, Prosecuting Attorney
Defiance County, Defiance, Ohio

Dear Sir:

I have before me your request for my opinion reading as follows:

“Several townships in the west end of Defiance County have established a joint township hospital district and have erected a hospital. The boards of trustees of several townships participating in said hospital district have agreed among themselves to furnish money from their general funds amounting to a stated millage for each township to the hospital board for the purpose of the maintenance and operation of such hospital. The question then presents itself, for what purposes may these funds be expended?

“General Code section 3414-2 in its second paragraph provides that necessary expenses for the operation of the general hospital may be paid out of moneys derived from a special levy * * * ‘or from any unincumbered funds from any other source.’ The paragraph then goes on further to state that the boards of trustees of the several townships are authorized to appropriate to and pay over to said joint township hospital board any unincumbered funds that they may have for *maintenance* of said hospital. It is in reliance upon that statement that I have advised the trustees of the several townships that they may pay over the funds previously mentioned. The question is whether the expenditure of these funds is limited to maintenance only or whether it is the contemplation of the statute that the word maintenance means the general operation of the hospital.

“If the statute limits the hospital board in the expenditure of this fund to maintenance only, what expenditures would be included under maintenance? I have suggested to them that it might include fuel for the heating of the building, payment of janitor, payment for cleaning supplies and possibly part of the cost of the administrative salary in that he supervises the maintenance. I also think there is some possibility that it might include electricity for lighting the building, perhaps the water bill and the sewage bill.”

It appears to me that the complete answer to your question is to be found in the proper definition of the word “maintenance” as used in the statute to which you refer. Section 3414-1, General Code, 513.07 Revised Code, reads in part as follows:

“The trustees of any two or more contiguous townships in any county may by a two-thirds favorable vote of each of said board of trustees, form themselves into a joint township district hospital board for the purpose of *establishing, constructing and maintaining* a joint township district general hospital, and aforesaid contiguous townships wherein said two-thirds favorable votes shall have been taken, shall become and be a part of a joint township hospital district. * * *.” (Emphasis added.)

This section further provides that the board of trustees of such hospital district shall be comprised of the members of the boards of trustees of all of the townships participating.

Section 3414-2, General Code, 513.12 Revised Code, provides in part as follows:

“Upon the establishment of such township hospital district and after the organization of said township district hospital board, as aforesaid, the joint township hospital board of the joint township hospital district shall determine the amount of bonds to be issued, and such other matters as pertain thereto, and shall issue and sell said bonds to the extent and in the amount so determined when approved by the vote of the electorate of said hospital district voting as a subdivision, for the purchase of a site and for the constructing and equipping of a hospital building thereon. Such bonds shall be issued and sold under the same manner and conditions and within the limitations prescribed by the uniform bond act, sections 2293-1 to 2293-86, inclusive, of the General Code of Ohio.

“*All necessary expenses for the operation of such general hospital* may be paid out of any moneys derived from the special levy approved for such purposes by the voters of said joint township hospital district, voting as a subdivision, or out of any other moneys received from hospital income or services rendered, or from *any unencumbered funds from any other source*. The board of trustees of the several townships participating in said hospital district are hereby authorized to appropriate and pay over to said joint township hospital board any unencumbered funds that they may have, *for maintenance of said hospital*. * * *”

(Emphasis added.)

The “special levy” referred to in the last above quoted section is provided for by Section 3414-3, General Code. When authorized by a resolution of the joint township district hospital board, the question of levying a tax of not to exceed one mill outside the ten mill limitation, “for the purpose of providing funds for the payment of necessary expenses incurred in the operation of said district hospital” shall be submitted to the electors of such joint township hospital district.

From the above statutes, it appears clearly that the bond issue is for the purchase of a site and the erection and equipping of a hospital building, the voted tax levy is for operating expenses, and that for the purpose of operation, the funds derived from the special levy may be amplified by "any unencumbered funds from any other source." The second paragraph of Section 3414-2, supra, which authorizes the hospital trustees to use "any unencumbered funds" for operation, further authorizes the trustees of the several participating townships to "pay over to the hospital board any unencumbered funds they may have for *maintenance* of said hospital."

The question that appears to give rise to your request is whether the use of the word "maintenance" in the connection in which it is used, limits the use of such "unencumbered funds" to maintenance or upkeep of the hospital buildings.

It will be noted that the statute does not say "maintenance of the hospital buildings," but rather, "maintenance of said hospital." Obviously, there is a wide difference between the maintenance of an institution such as a church, a college or a hospital, and the maintenance of a building belonging to such an institution. I am convinced that the legislature used the word in the paragraph referred to in the broader sense. Certainly the "unencumbered funds" referred to in the first sentence of the paragraph in question, are the same "unencumbered funds" referred to in the second sentence. The first sentence gives the hospital trustees authority to use these funds for operation of the hospital, and the second sentence merely gives the township trustees explicit authority to turn them over to the hospital trustees. If the sentences were reversed in order, there would be no question as to the legislative intent. In my opinion "maintenance" as here used is equivalent to "operation."

It is said in 54 Corpus Juris Secundum, p. 904:

"Maintenance is a large term whose meaning depends on the surrounding circumstances and the connection in which it is applied. Maintenance has been defined as meaning act of maintaining; keeping up, supporting or upholding, also aid, assistance, livelihood, means of sustenance, preservation, subsistence, support, sustenance."

Cases are cited which set forth all these varying shades of meaning. I do not consider that it is necessary to go into any further examination of authorities to reach the conclusion that when the word "maintenance"

is used in connection with an institution, its meaning is not confined to the upkeep of buildings unless that meaning is clearly expressed, but that the word means the support and operation of the entire institution, including its buildings and all of its functions.

Accordingly, it is my opinion that under the provisions of Section 3414-2, General Code, 513.12 Revised Code, where the trustees of any participating township have paid over to the trustees of a joint township hospital district, unencumbered funds in their hands, said hospital trustees are not confined, in the use of such funds, to maintenance of the hospital buildings but may use the same for the general maintenance and operation of the hospital.

Respectfully,

C. WILLIAM O'NEILL

Attorney General