

OPINION NO. 88-046**Syllabus:**

A county agricultural society must, in accordance with R.C. 3733.03(A), obtain a license before it may allow five or more recreational vehicles or portable camping units to be used or remain overnight on fairground property during non-fair events when the agricultural society receives rental fees for the use of fairground property for those events.

To: Stanley E. Flegm, Crawford County Prosecuting Attorney, Bucyrus, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, July 6, 1988

I have before me your request for my opinion in which you ask whether a county agricultural society¹ must obtain a license pursuant to R.C. 3733.03 before it permits persons to remain overnight or to park and use trailers or recreational vehicles on fairground property during non-county fair activities. You have indicated that at the times when the county agricultural society rents space in its buildings for private events such as dog shows, the society charges a fee for the use of the buildings, but not for use of the surrounding fairground premises for overnight stays by the participants.

Operation of campgrounds is regulated by R.C. Chapter 3733. Administrative rules governing the licensing and operation of recreational vehicle parks, recreation camps and combined park-camps are to be promulgated by the public health council. *See* R.C. 3733.02(B).

R.C. 3733.03(A) requires "every person or governmental entity that intends to operate a...recreational vehicle park, recreation camp, or combined park-camp" to procure a license before the first of the operating year. R.C. 3733.03(A) further states, in pertinent part:

No such park, camp, or park-camp shall be maintained or operated in this state after January 1, 1952, without a license. However, no person or governmental entity that neither intends to nor receives anything of value arising from the use of, or the sale of goods or services in connection with the use of, a recreational vehicle park, recreation camp, or combined park-camp shall be required to procure a license under this division.

The terms "recreational vehicle park," "recreation camp," and "combined park-camp" used in R.C. 3733.03(A) are defined in R.C. 3733.01. R.C. 3733.01(B) defines "recreational vehicle park" as "any tract of land used for parking five or more self-contained recreational vehicles used as such, including any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the park facilities...." R.C. 3733.01(G) defines "recreation camp" as "any tract of land upon which five or more portable camping units are placed, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of such camp." R.C. 3733.01(H) defines "combined park-camp" as "any tract of land used for parking a combination of five or more self-contained recreational vehicles or portable camping units." Thus, under the definitions used in R.C. Chapter 3733, any property where five or more recreational vehicles or portable camping units are placed is a recreational vehicle park, recreation camp, or combined park-camp for purposes of R.C. 3733.03. In 1982 Op. Att'y Gen. No. 82-061 my predecessor concluded that a tract of land fell within the definition of "house trailer park" in R.C. 3733.01(A), and required licensure, even though that result appeared anomalous because the tract in question had four trailers on a forty

¹ Your letter makes reference to the "County Fair Board" when discussing the county agricultural society described in R.C. Chapter 1711. For purposes of consistency, I will use the statutory term "county agricultural society."

acre area. The statutory definitions in R.C. 3733.01 thus may encompass property not conventionally identified as a campground. A determination as to whether or not the fairground constitutes a recreational vehicle park, recreation camp, or combined park-camp is a question of fact that requires knowledge of the types and number of vehicles or equipment parked or placed on the property. It is not possible for me to make such a factual determination by way of an opinion. See 1987 Op. Att'y Gen. No. 87-082. I will assume, however, for purposes of this opinion, that the number and type of vehicles and equipment located at the fairgrounds property meets the criteria set forth in the statutory definitions of the terms "recreational vehicle park," "recreation camp," or "combined park-camp."

R.C. 3733.03(A) requires a license of "every person or governmental entity" that is an operator of such a facility. Under R.C. 1711.13 county agricultural societies are "bodies corporate and politic." R.C. 1.59(C) provides that unless otherwise defined by statute, "[p]erson" includes an individual, corporation, business trust, estate, trust, partnership, and association." I therefore conclude that a county agricultural society, as a body corporate, is a "person" for purposes of R.C. 3733.03(A).

R.C. 3733.03(A) exempts from the licensure requirement any "person or governmental entity that neither intends to nor *receives anything of value arising from the use of*, or the sale of goods or services in connection with the use of a *recreational vehicle park, recreation camp, or combined park-camp.*" (Emphasis added.) Apparently the county agricultural society argues that a campground license is unnecessary because it does not charge a fee for camping, and that the "overnighting" is incidental to the use of fairground buildings by the various groups. Your letter indicates that the county agricultural society receives a fee for the rental of the fairgrounds to various groups and exhibitors for private events such as dogshows. Clearly the fee charged constitutes something of value. R.C. 1.03. It is not clear, however, whether the value is received for the use of the recreational vehicle park, recreation camp, or combined park-camp. It could be argued that the park, camp or combined park-camp is limited to the area where vehicles or equipment are parked, and does not include rented buildings or grounds which happen to be located adjacent thereto. Conversely, I note that the statutory definition of "recreational vehicle park" includes "any tract of land...including any roadway, building, structure, vehicle, or enclosure used or intended to be used as part of the park facilities...." Nearly identical language is used in the definition of "recreation camp." R.C. 3733.01(G). This expansive language suggests that the entire fairgrounds property is included within the park or camp. See *generally Lakewood Homes v. Board of Adjustment*, 25 Ohio App. 2d 125, 135, 267 N.E.2d 595, 601 (1971) (defining the term "tract of land" as "an indefinite area either large or small"). Charging a fee for the use of a building located on the fairgrounds would thus prevent the operation of the licensure exception in R.C. 3733.03(A). This dilemma can be resolved by reference to the language of R.C. 3733.03(D). It provides:

Any person or governmental entity that operates a county or state fair or any independent agricultural society organized pursuant to section 1711.02 of the Revised Code that operates a fair shall not be required to obtain a license under sections 3733.01 to 3733.08 of the Revised Code if recreational vehicles are parked at the site of the fair *only* during the time of preparation for, operation of, and dismantling of the fair and if such recreational vehicles belong to participants in the fair. (Emphasis added.)

The language of R.C. 3733.03(D) thus grants a limited exemption from the licensing requirements of R.C. 3733.03(A) by allowing recreational vehicles belonging to fair participants to be located on the fairgrounds during the county fair, and during set up and dismantling of the fair. It is implicit in this language, however, that at all other times the parking of recreational vehicles and camping equipment on fairgrounds property invokes the licensure requirements of R.C. 3733.03(A). See *generally State ex rel. Alden E. Stilson & Assoc. v. Ferguson*, 154 Ohio St. 139, 93 N.E.2d 688 (1950) (citing the general principle of statutory construction that the specification of one thing implies the exclusion of another). Surely the exemption of R.C. 3733.03(D) would not have been enacted if the legislature had not contemplated that camping during non-fair events held by county agricultural societies was subject to licensure under R.C. 3733.03(A). The primary objective in the construction of a

statute is to carry out the intention of the General Assembly. *Henry v. Central National Bank*, 16 Ohio St. 2d 16, 242 N.E.2d 342 (1968). Legislative intent is to be determined primarily from statutory language. *Stewart v. Trumbull County Board of Elections*, 34 Ohio St. 2d 129, 296 N.E.2d 676 (1973). I find that the exemption contained in R.C. 3733.03(D) expresses an intention to require licensure under R.C. 3733.03(A) when five or more recreational vehicles or portable camping units are used or are parked overnight at the county fairgrounds during non-fair events.

Therefore, it is my opinion and you are hereby advised that a county agricultural society must, in accordance with R.C. 3733.03(A), obtain a license before it may allow five or more recreational vehicles or portable camping units to be used or remain overnight on fairground property during non-fair events when the agricultural society receives rental fees for the use of fairground property for those events.