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SECTION 3709.07 REVISED CODE DOES NOT AUTHORIZE A UNION OF A GENERAL HEALTH DISTRICT AND A CITY HEALTH DISTRICT WHICH IS PARTLY WITHIN AND PARTLY WITHOUT SAID GENERAL HEALTH DISTRICT—§3709.07, R.C.

SYLLABUS:

The provisions of Section 3709.07, Revised Code, do not authorize a union of a general health district and a city health district which is partly within and partly without said general health district.

Columbus, Ohio, April 24, 1961

Hon. C. Watson Hover, Prosecuting Attorney  
Hamilton County, Cincinnati 2, Ohio

Dear Sir:

Your request for my opinion reads as follows:

"The Board of Health of this County has requested an District, such as we are operating in this County, to contract with a City Health District, namely, Loveland, Ohio, and form a union of the two said health districts. The said Loveland, Ohio, is located partially in Hamilton, County, Clermont County and Warren County.

"Under the provisions of Chapter 3709 R.C. it is clear that two or more contiguous Health Districts, not to exceed five, may unite, or there may be a union of a General Health District and a City Health District located within such general health district.

"The question is may there be a union of a General Health District and a City Health District which is located partially within, and partially without, the General Health District."

Section 3709.01, Revised Code, dealing with health districts, reads as follows:

"The state shall be divided into health districts. Each city constitutes a health district and shall be known as a 'city health district.'

"The townships and villages in each county shall be combined into a health district and shall be known as a 'general health district.'

"As provided for in Sections 3709.07 and 3709.10 of the Revised Code, *there may be a union of two or more contiguous general health districts, not to exceed five, or a union of a general health district and a city health district located within such general health district.*" (Emphasis added)

Accordingly, there may be a union of a general health district and a city health district located *within* such general health district.

Section 3709.07, Revised Code, provides the procedure for a union of a general health district and a city health district. As to the procedure, the section reads in part:

“When it is proposed that a city health district unite with a general health district in the formation of a single district, the district advisory council of the general health district shall meet and vote on the question of union. It shall require a majority vote of the total number of townships and villages entitled to representation voting affirmatively to carry the question. The legislative authority of the city shall likewise vote on the question. A majority voting affirmatively shall be required for approval. When the majority of the district advisory council and the legislative authority have voted affirmatively, the chairman of the council and the chief executive of the city shall enter into a contract for the administration of health affairs in the combined district.  
\* \* \*”

Said Section 3709.07 contains no reference to the requirement that the city health district must be located within the general health district with which the union is to be made. Obviously, however, the requirement of Section 3709.01, *supra*, is mandatory and the question to decide is as to the meaning of the word “within.”

Chapter 3709, Revised Code, does not contain a definition of the word “within,” nor do I find any other statutory definition of that word. In 97 Corpus Juris Secundum, page 330, however, the following definition is found:

“The preposition ‘within’ is used in expressions of place, and also to indicate degree, extent, or scope, and as used in these connections it is variously defined as meaning in; inside of; inside the limits of; inside the limits; reach or influence of; in the limits or compass of; in the inner or interior part, or side of; into; not beyond, overstepping, or the like; not exceeding; not exceeding in quantity or degree; not going outside of; not outside of; not without; not further in length than; on; through.”

Using the above definition it would appear that a city health district which is not located entirely inside the limits of a general health district is not *within* such district. As to being within a general health district I might note that a general health district in the first instance comprises only the villages and townships in the county, and each city comprises a separate, city health district. Thus, it might be argued that no city health district which has not entered into a union with a general health district could be considered to be within a general health district. Such an interpretation would, however, nullify the provision for union of a city health district with a general health district, and I believe that the language should

be read so as to give meaning to the legislative enactment. Thus, it is my conclusion that the words "within such general health district" refer to a city health district which is surrounded by the general health district with which the union is to be made.

The above conclusion does, of course, preclude the union of some city health districts with general health districts. For example, a city which is located in (surrounded by) two separate general health districts, not being *within* either, can not join with either. I might note in this regard, however, that under the provisions of Section 3709.08, Revised Code, a city constituting a city health district may enter into a contract for public health service with the district advisory council of the general health district.

In conclusion, and answering your specific question, it is my opinion and you are advised that the provisions of Section 3709.07, Revised Code, do not authorize a union of a general health district and a city health district which is partly within and partly without said general health district.

Respectfully,

MARK McELROY

Attorney General