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BOARD OF TRUSTEES—MAY NOT CHARGE FEE AS CONDITION PRECEDENT TO FILING OR SUBMISSION OF APPLICATION TO AMEND TOWNSHIP ZONING RESOLUTION—SEC. 519.12, R.C.

SYLLABUS:

Under the provisions of Section 519.12, Revised Code, a board of township trustees may not charge a fee as a condition precedent to the filing or submission of an application to amend a township zoning resolution.

Columbus, Ohio, October 27, 1959

Hon. James W. Dinsmore, Prosecuting Attorney
Geauga County, Chardon, Ohio

Dear Sir:

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

“A question has been posed as to whether or not a township, having adopted a township zoning resolution, can establish and charge a fee of \$50.00 as a condition precedent for the submission of an application to amend the zoning resolution by persons other than members of the Township Zoning Commission and the Board of Township Trustees.

“The question is motivated by the fact that the complete processing of individual applications for rezoning for their personal benefit runs in the neighborhood of \$150.00 in the township raising the issue.

“Your advice and/or opinion on the question will be appreciated.”

The provisions of the statute relative to township zoning are found in Chapter 519., Revised Code.

Section 519.12, Revised Code, provides the procedure by which amendments or supplements to a zoning resolution may be made. Amendments or supplements may be initiated according to this section by motion of the township rural zoning commission, by the passage of a resolution by the board of township trustees or by the filing of an application therefor by one or more of the owners or lessees of property within the area proposed to be changed or affected by the proposed amendment or supplement. Thereafter the township zoning commission shall set a date for a public hearing after publication of notice. Other procedural steps are set forth which do not have application to your question.

Nowhere in the township zoning statutes can I find any authorization for the charging of a fee as a condition precedent for the submission of an application to amend a zoning resolution under Section 519.12, *supra*.

In this regard it should be noted that the filing of an application to amend a zoning resolution is in a different category from an application for a zoning permit or certificate requiring inspection or possible supervision

to meet zoning resolution requirements, for which a reasonable fee may be charged if such fee is incorporated in the zoning resolution. (See Opinion No. 7111, Opinions of the Attorney General for 1956).

Accordingly, it is my opinion and you are advised that, under the provisions of Section 519.12, Revised Code, a board of township trustees may not charge a fee as a condition precedent to the filing or submission of an application to amend a township zoning resolution.

Respectfully,
MARK McELROY
Attorney General