

1414

COUNTY COMMISSIONERS — MAY CONSTRUCT HANGARS  
ON COUNTY AIRPORTS—SECTION 2433-2 G. C.

SYLLABUS:

County Commissioners may construct hangars on county airports by authority of Section 2433-2, General Code.

Columbus, Ohio, January 24, 1950

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

Dear Sir:

Your request for my opinion reads as follows:

“I have been asked by the County Commissioners to rule on the following question: Can the Commissioners build a hangar on a county owned airport?”

“It appears that General Code 2433-2 grants to the County Commissioners the same authority with respect to county owned airports as is possessed by municipalities. It further appears that General Code 3939 (22) grants to municipalities the authority to erect structures necessary to operation of airports owned by them. From this I conclude that the commissioners do have the authority to erect the hangar on a county owned airport, if they determine that such hangar is necessary to the operation of the airport.

“I would appreciate an opinion from your office as to the correctness of my conclusion.”

Section 3939, paragraph (22), General Code, states in part as follows:

“(22) To acquire by purchase, gift, devise, bequest, lease, condemnation proceedings, or otherwise, real or personal property, and thereon and thereof to establish, construct, enlarge, improve, equip maintain and operate airports landing fields or other air navigation facilities, either within or without the limits of a municipality, and to acquire by purchase, gift, devise, lease or condemnation proceedings rights of way for connections with highways, waterways, electric, steam and interurban railroads, and to improve and equip the same with structures necessary or appropriate for such purposes; \* \* \*”

Sec. 3677, paragraph 15, General Code, states in part as follows:

“15. For establishing airports, landing fields or other air navigation facilities, either within or without the limits of a municipality for aircraft and transportation terminals, with power to impose restrictions on all or any part thereof and leasing such part thereof as may be desired for purposes associated with or incident to such airports, landing fields or other air navigation facilities and transportation terminals, including the right to appropriate \* \* \*.”

In the case of *City of Toledo v. Jenkins et al.*, Board of Tax Appeals, et al., 143 O. S., 141, it was stated as follows in branch 2 of syllabus:

“2. Under the power conferred by Section 4, Article XVIII of the Constitution, and Sections 3677 and 3939, General Code, a municipal corporation may purchase or lease and operate a landing field and place improvements thereon so as to make a fully equipped aircraft and transportation terminal; and, as such, it is a public utility.”

From this it can be seen that a municipality can own and operate an airport. It is also apparent that a municipality may construct buildings thereon which are necessary to the efficient operation of the airport.

Section 2433-2, General Code, reads as follows:

“The taxing authority of any county, in addition to all other powers conferred by law, shall have the same authority subject to the same limitations with respect to airports, landing fields and other air navigation facilities, as is conferred upon municipalities by virtue of sections 3677 and 3939 of the General Code.”

The term “taxing authority” as used in the above statute has been interpreted to mean the Board of County Commissioners. This was done

in 1940 Opinions of the Attorney General, No. 2391 and 1938 Opinions of the Attorney General, No. 2491. In Opinion No. 2391, Opinions of the Attorney General for 1940, at page 553, it states as follows :

“By force of Section 2433-2, General Code, a board of county commissioners is bestowed with the same authority in connection with airports and landing fields on territory within its jurisdiction as is conferred upon municipalities under the provisions of Sections 3677 and 3939, General Code.”

Thus, it can be seen that the County Commissioners have all the powers that were given to the municipalities in Section 3939 and Section 3677, General Code.

Therefore, it is my opinion that the county commissioners may build hangars for airplanes on county airports by authority of Section 2433-2, General Code.

Respectfully,

HERBERT S. DUFFY,  
Attorney General.