

1924

WHERE PROPERTY OWNERS PETITION FOR LIGHTING—
THE COST OF FURNISHING SUCH LIGHT SHALL BE PAID
ONLY FROM A FUND RAISED BY SPECIAL ASSESSMENTS.
§§515.02 R.C., 515.08 R.C.

SYLLABUS:

Where property owners petition for lighting under the provisions of Section 515.02, Revised Code, then the cost of furnishing such lighting shall be paid only from a fund raised by special assessments pursuant to the provisions of Section 515.08, Revised Code.

Columbus, Ohio, December 28, 1960

Hon. Calvin W. Hutchins, Prosecuting Attorney
Ashtabula County, Jefferson, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“A township of Ashtabula County has entered into a contract for the furnishing and maintaining of lights in two separate assessment districts.

“Under the arrangement entered into by the Township Trustees with the property owners of these assessment districts, one-half of the cost of lighting has been paid from assessments levied, and one-half has been paid from the General Fund of the Township.

“The assessments are levied under authority conferred upon township trustees by Section 515.08 of the Revised Code, and we would like your opinion as to whether or not the township trustees may pay anything in excess of the amount derived from the assessments, toward the cost of lighting in the assessment districts.”

A board of township trustees may provide artificial lights for roads in unincorporated parts of the township when the board determines that the public safety or welfare requires it (Section 515.01, Revised Code) or when the owners of more than one-half of the feet front of the lots and lands abutting on such roads petition for it (Section 515.02, Revised Code). If the board determines that the public safety or welfare requires such roads to be lighted, then the cost of such lighting shall be paid only from the general fund of the township treasury (Section 515.01, *supra*; Opinion No. 3163, Opinions of the Attorney General for 1940, page 1111), but if the owners petition for such lighting under Section 515.02, *supra*, then the cost of furnishing such lights shall be paid only from a fund raised by special assessments against the lots and lands in the district which are benefited by such lighting. In this regard, Section 515.08, Revised Code, provides:

“* * * The cost and expenses of furnishing and maintaining such lights, and of the proceedings in relation thereto, shall be paid from a fund raised by special assessments against the lots and lands in the district which are benefited by such lighting.

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(Also see Opinion No. 2438, Opinions of the Attorney General for 1928, page 1909.)

From the language used in your request, I assume that the property owners of the two assessment districts petitioned for lights under the provisions of Section 515.02, *supra*. Because there is nothing in such provisions which authorizes the payment of any part of the cost and expense of such lighting out of the general fund of the township (Opinion No. 2438, *supra*, at page 1910), it is my opinion that the board of trustees may not pay anything out of the general fund toward the cost of lighting in the assessment districts.

Accordingly, it is my opinion and you are advised that where property owners petition for lighting under the provisions of Section 515.02, Revised Code, then the cost of furnishing such lighting shall be paid only from a fund raised by special assessments pursuant to the provisions of Section 515.08, Revised Code.

Respectfully,

MARK McELROY

Attorney General