

August 31, 2016

The Honorable Anneka P. Collins
Highland County Prosecuting Attorney
112 Governor Foraker Place
Hillsboro, Ohio 45133

SYLLABUS:

2016-030

1. A countywide emergency management agency established under R.C. 5502.26(A) lacks statutory authority to own real property.
2. A countywide emergency management agency established under R.C. 5502.26(A) “shall be considered a county board,” R.C. 5502.26(C). Pursuant to R.C. 307.01-.03, a board of county commissioners shall provide a countywide emergency management agency office space and other facilities that will enable the agency to fulfill its statutory responsibilities.



MIKE DEWINE

★ OHIO ATTORNEY GENERAL ★

Opinions Section
Office 614-752-6417
Fax 614-466-0013

30 East Broad Street, 15th Floor
Columbus, Ohio 43215
www.OhioAttorneyGeneral.gov

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OPINION NO. 2016-030

The Honorable Anneka P. Collins
Highland County Prosecuting Attorney
112 Governor Foraker Place
Hillsboro, Ohio 45133

Dear Prosecutor Collins:

You have requested an opinion whether a countywide emergency management agency (CEMA) established pursuant to R.C. 5502.26 may own real property in its name, and if not, whether real property that may be used by the agency must be owned by a board of county commissioners or another political subdivision that joined in the agency's establishment. An entity that "owns real property in its name" holds the "title" to the property and possesses all legal rights incident thereto, including the right to control and dispose of the property. "Title" is "[t]he union of all elements ([including] ownership, possession, and custody) constituting the legal right to control and dispose of property; the legal link between a person who owns property and the property itself." *Black's Law Dictionary* 1493 (7th ed. 1999); *see also* 2011 Op. Att'y Gen. No. 2011-042, at 2-343 ("the term 'title' is '[t]he union of all elements ... constituting the legal right to control and dispose of property'"). For the purpose of this opinion, the terms "own" or "ownership" are synonymous with holding title to real property.

Your question concerns a countywide emergency management agency established under R.C. 5502.26 by Highland County and townships and municipalities within the county. For the reasons that follow, a CEMA lacks authority to own real property. A CEMA is a county board, and thus, a board of county commissioners shall provide office space and facilities needed by a CEMA.

"Each political subdivision in the state of Ohio 'is required to engage in emergency management.'" 2016 Op. Att'y Gen. No. 2016-018, at 2-184 (quoting 2015 Op. Att'y Gen. No. 2015-027, at 2-276) ; *see also* 10B Ohio Admin. Code 4501:3-3-01(A) ("[e]ach political subdivision shall create a local capability for emergency management"). For purposes of the statutes that govern emergency management, "'political subdivision' means a county, township, or municipal corporation in" the state of Ohio. R.C. 5502.21(M).

A political subdivision is required to “create a local capability for emergency management” in one of three ways. *See* rule 4501:3-3-01(A); 2016 Op. Att’y Gen. No. 2016-018, at 2-185; 2015 Op. Att’y Gen. No. 2015-027, at 2-276; Ohio Legislative Service Comm’n, Final Bill Analysis, Sub. H.B. 605 (2002). First, “[t]he board of county commissioners of a county and the chief executive of all or a majority of the other political subdivisions within the county may enter into a written agreement establishing a countywide emergency management agency.” R.C. 5502.26(A); *see also* R.C. 5502.21(C) (“[c]hief executive’ means ... the board of county commissioners of any county, the board of township trustees of any township, or the mayor or city manager of any municipal corporation within this state”). Second, “[i]n lieu of establishing a [CEMA] ..., the boards of county commissioners of two or more counties ... may enter into a written agreement establishing a regional authority for emergency management.”¹ R.C. 5502.27(A). Third, if a political subdivision does not enter into an agreement to establish a CEMA or a regional authority for emergency management [REMA], the chief executive of that political subdivision “shall establish a program for emergency management within that political subdivision that meets all of the ... criteria” set forth in divisions (A) through (D) of R.C. 5502.271. R.C. 5502.271. Highland County has established a CEMA, and so we address the statutes applicable to a CEMA.

Once a CEMA is established, a countywide advisory group that includes a representative from each political subdivision that is a party to the agreement is formed. R.C. 5502.26(A). The advisory group advises and appoints an executive committee for the CEMA. *Id.* The executive committee shall include one county commissioner, five chief executives from the municipalities and townships that have entered into the agreement, and one nonelected representative. *Id.* Additional members may serve on the executive committee pursuant to the countywide agreement. *Id.* The executive committee appoints a director/coordinator of emergency management. *Id.* A CEMA shall be considered a county board and receive the services of the county auditor, treasurer, and prosecuting attorney. R.C. 5502.26(C).

Through its executive committee, a CEMA shall “implement emergency management in the county in accordance with [R.C. 5502.26].” R.C. 5502.26(A). A CEMA “shall establish a program for emergency management that” satisfies all of the following criteria:

- (1) Is in accordance with [R.C. 5502.21-.51], rules adopted under those sections, local ordinances pertaining to emergency management, [and specified federal laws, rules, and regulations];
- (2) Includes, without limitation, development of an all-hazards emergency operations plan that has been coordinated with all agencies, boards, and divisions having emergency management functions within the county;
- (3) Includes the preparation and conduct of an annual exercise of the county’s all-hazards emergency operations plan;

¹ The boards of county commissioners of two or more counties may establish a regional authority for emergency management so long as they obtain the consent of “the chief executives of a majority of the participating political subdivisions of each county involved.” R.C. 5502.27(A).

(4) Is applicable to all political subdivisions entering into the countywide agreement.

Id. The director/coordinator of emergency management is responsible for “coordinating, organizing, administering, and operating emergency management in accordance with the agency’s program.” *Id.*

R.C. 5502.21(G) defines “emergency management” as:

all emergency preparedness and civil defense activities and measures, whether or not mentioned or described in [R.C. 5502.21-.51], that are designed or undertaken to minimize the effects upon the civilian population caused or that could be caused by any hazard and that are necessary to address mitigation, emergency preparedness, response, and recovery.

R.C. 5502.21(H) defines “emergency preparedness” as “an integral part of emergency management that includes those activities and measures designed or undertaken in preparation for any hazard ... and that will enhance the probability for preservation of life, property, and the environment.” Division (H)(1) through (12) of R.C. 5502.21 provide examples of the types of activities that constitute emergency preparedness. “Emergency preparedness” activities include “[t]he development and construction of public shelter facilities and shelter spaces,” R.C. 5502.21(H)(10), and “[t]he development and construction of emergency operations centers for the conduct and support of coordination, direction and control activities.” R.C. 5502.21(H)(11). R.C. 5502.21(D) defines “civil defense” to mean

all those activities and measures designed or undertaken to minimize the effects upon the civilian population caused or that would be caused by any hazard and to effect emergency repairs to, or the emergency restoration of, vital equipment, resources, supplies, utilities, and facilities necessary for survival and for the public health, safety, and welfare that would be damaged or destroyed by any hazard.

R.C. 5502.21(D)(1) and (2) provide examples of the types of activities that constitute civil defense.

A CEMA is to be financially supported by the political subdivisions that are parties to the written agreement establishing the CEMA. R.C. 5502.26(A); *see also* R.C. 5502.31 (“[e]ach political subdivision may make appropriations for the payment of the expenses ... chargeable to that political subdivision by agreement in any county wherein a countywide agency for emergency management has been established”); 10B Ohio Admin. Code 4501:3-2-01(D) (“[t]he officers and personnel of all departments, offices, and agencies of political subdivisions ... shall extend their services and facilities to ... emergency management officials and agencies upon request, insofar as possible, without withdrawing from the political subdivisions the minimum services and facilities needed by that political subdivision”). A board of county commissioners may appropriate money from its general fund to support the functions and operations of a CEMA. R.C. 5502.261. The functions and operations of a CEMA include development, acquisition, operation, and maintenance of a “countywide public safety communication system and any communication devices, radios, and other equipment necessary for the system’s operation and use.” *Id.* Moneys so appropriated may be

expended to “purchase and maintain the assets or equipment of the agency” and may be appropriated directly to a political subdivision that has entered into the agreement establishing the CEMA to enable the political subdivision to purchase equipment for the countywide public safety communication system. *Id.*

A CEMA Lacks Authority to Own Real Property

As discussed above, the creation of a CEMA is authorized by statute and effected by a written contract. R.C. 5502.26. Generally, the power to enter into a contract “encompasses the authority to include within the contract such terms or provisions as are reasonably necessary to advance the contract’s purposes.” 2010 Op. Att’y Gen. No. 2010-022, at 2-155 (“[w]hen political subdivisions contract to create a regional or district entity, it seems prudent and reasonable for the subdivisions to include terms in the contract that authorize a subdivision to withdraw from or terminate its participation in the larger entity”). However, where a contract creates a statutorily-authorized public entity for specific and limited purposes enumerated in statute, the contract and all its terms shall comport with the authorizing statutes. Further, the contracting parties may not purport to grant the entity powers beyond those expressly authorized or necessarily implied by law. *See generally* 1985 Op. Att’y Gen. No. 85-012, at 2-46 (a regional organization for civil defense, the predecessor to a REMA, which was established by agreement, only has “those powers which are expressly delegated by statute and those implied powers which are necessary to carry into effect the powers expressly delegated”); 1983 Op. Att’y Gen. No. 83-057, at 2-239 n.10 (the authority of a countywide civil defense organization, the predecessor to a CEMA, to enter into loan agreements for the purchase of vehicles depended on the powers given to the organization under the laws and rules in effect at the time of contracting).

A CEMA is required to develop an emergency management program. R.C. 5502.26(A). A CEMA’s executive director shall coordinate, organize, administer, and operate emergency management pursuant to the program. *Id.* Therefore, a CEMA has those powers as are conferred by statute upon it expressly, or as are necessarily implied, to develop an emergency management program and to by statute implement, coordinate, organize, administer, and operate emergency management.

“Emergency management” includes all “emergency preparedness” and “civil defense” activities. R.C. 5502.21(G). Examples of “civil defense” and “emergency preparedness” activities are enumerated in R.C. 5502.21(D) and (H), respectively. Thus, it follows that a CEMA has those powers necessary to engage in the activities listed in R.C. 5502.21(D) and (H) in order to implement, coordinate, organize, administer, and operate emergency management.

The numerous definitions enacted in R.C. 5502.21 nowhere specify that the ownership or acquisition of real property is an emergency management activity. No other statute within R.C. 5502.22-.51, or elsewhere in the Revised Code, grants a CEMA express authority to own real property. When the General Assembly intends for a public board or agency to have authority to own or acquire title to real property, it confers that authority expressly and unambiguously. *See, e.g.,* R.C. 513.15 (“[t]he ownership of a joint township district hospital, including all right, title, and interest in

and to all property, both real and personal, pertaining thereto, shall vest in the joint township district hospital board,” and the board “may receive and hold in trust for the benefit of the hospital, any grant or devise of land”); *see also* R.C. 340.031(B) (a board of alcohol, drug addiction, and mental health services may “[a]cquire, convey, lease, or enter into a contract to purchase, lease, or sell property ... and enter into loan agreements, including mortgages, for the acquisition of such property”); R.C. 505.71 (a joint ambulance district may “purchase, lease, maintain, and use all materials, equipment, vehicles, buildings, and land necessary to perform its duties”); R.C. 713.21(B) (a regional planning commission may “purchase, lease with option to purchase, or receive as a gift property and buildings within which it is housed and carries out its responsibilities”); R.C. 3707.55(A) (“[a] board of health of a general health district may acquire, convey, lease, or enter into a contract to purchase, lease, or sell real property ... and may enter into loan agreements, including mortgages, for the acquisition of such property”); R.C. 5126.051(A) (a county board of developmental disabilities may “acquire, convey, lease, or sell property for residential services and supported living and enter into loan agreements, including mortgages, for the acquisition of such property”).

Had the General Assembly intended to give a CEMA the power to own real property, it could have enacted language similar to that used in the above referenced statutes. *See Lake Shore Elec. Ry. Co. v P.U.C.O.*, 115 Ohio St. 311, 319, 154 N.E. 239 (1926) (had the legislature intended a particular meaning, “it would not have been difficult to find language which would express that purpose,” having used that language in other matters). Since the General Assembly has expressly empowered public entities other than a CEMA to acquire and own real property, we conclude that, absent statutory language plainly and unequivocally empowering a CEMA to own or acquire real property, a CEMA does not have that authority. 1991 Op. Att’y Gen. No. 91-015, at 2-76 to 2-77 (a general health district lacked authority to acquire title to real property because the legislature had “expressly empowered entities other than general health districts to acquire facilities or property needed to carry out their functions”).

Opinions of the Attorney General have declined to infer the power to acquire and own real property on the part of a county entity² absent express statutory authority to purchase, receive, sell, or own real property. *See, e.g.*, 1946 Op. Att’y Gen. No. 1168, p. 628, at 629-630 (modified on other grounds by 1967 Op. Att’y Gen. No. 67-109) (a child welfare board lacked implied authority to purchase real property despite statutory duty “to establish, maintain and operate a receiving home for the temporary care of children” (quoting G.C. 3070-17)); *see also* 1982 Op. Att’y Gen. No. 82-018, at 2-58 and 2-59 (a county board of mental retardation and developmental disabilities, now the board of developmental disabilities, may not independently purchase real property for construction of a mental retardation facility under its authority to “[a]dminister and operate facilities, programs, and

² Generally, a board of county commissioners “holds title to all property owned by the county” and “[m]anagement and control of county property are duties of the board of county commissioners.” 2015 Op. Att’y Gen. No. 2015-027, at 2-271; *see also* 2006 Op. Att’y Gen. No. 2006-001, at 2-4 (“regardless of which county office or entity customarily uses or occupies particular county property, ownership of county property is vested in the county’s board of commissioners”).

services,” “set priorities based on available funds for the provision of ... facilities,” “[c]oordinate, monitor, and evaluate existing ... facilities” and “enter into contracts with other such boards and with public or private, non-profit or profit making agencies or organizations of the same or another county, to provide the facilities, programs, and services authorized or required” (quoting R.C. 5126.05));³ 1977 Op. Att’y Gen. No. 77-057, at 2-209 (a county board of mental retardation and developmental disabilities, now the board of developmental disabilities, lacked the power to purchase property for a mental health or retardation facility). *Cf.* 2011 Op. Att’y Gen. No. 2011-042, at 2-343 (an alcohol, drug addiction, and mental health services board’s authority to hold title to real property is inferred from its express authority to “[a]cquire ... or enter into a contract to purchase ... property ..., and enter into loan agreements, including mortgages, for the acquisition of such property” and to “convey [or] lease, or enter into a contract to ... lease[] or sell” real property pursuant to R.C. 340.031(B)).

One might argue that the power of a CEMA to own property may be inferred from its power to engage in “emergency preparedness” activities, which include, among other things, “[t]he development and construction of public shelter facilities and shelter spaces,” R.C. 5502.21(H)(10), and “[t]he development and construction of emergency operations centers for the conduct and support of coordination, direction, and control activities.” R.C. 5502.21(H)(11). Yet there is no language elsewhere in the statute indicative of ownership or acquisition of these facilities, spaces, or centers, let alone ownership or acquisition of the real property upon which these facilities, spaces, or centers might be constructed. In contrast, division (H)(9) authorizes the “*procurement* and stockpiling of equipment, food, water, medical supplies, and any other supplies necessary for survival and for the public health and safety, and welfare.” R.C. 5502.21(H)(9) (emphasis added). The General Assembly “[h]aving used certain language in the one instance and wholly different language in the other, it will rather be presumed that different results were intended.” *See Metro. Securities Co. v. Warren State Bank*, 117 Ohio St. 69, 76, 158 N.E. 81 (1927). Therefore, while the statute may grant a CEMA the

³ 1982 Op. Att’y Gen. No. 82-018, at 2-59, references 1978 Op. Att’y Gen. No. 78-046, which found that, as a taxing authority under R.C. 5705.01(C), a joint county community mental health and retardation board was authorized to purchase real property, because it was empowered to levy taxes annually for the purpose of meeting current expenses and “acquiring or constructing permanent improvements” under R.C. 5705.03(A). 1978 Op. Att’y Gen. No. 78-046, at 2-108. Under the terms of R.C. 5705.01(E), a permanent improvement includes lands and interests thereon. *Id.* A CEMA is not identified as a “taxing authority” under R.C. 5705.01(C); therefore, it does not have any similar authority.

Following the issuance of 1982 Op. Att’y Gen. No. 82-018, the General Assembly enacted R.C. 5126.051 for the purpose of authorizing a county board of mental retardation and developmental disabilities to “acquire, convey, lease, or sell property for residential services and enter into loan agreements, including mortgages, for the acquisition of such property.” 1991-1992 Ohio Laws, Part III, 3987, 4396 (Am. Sub. H.B. 298, eff., in part, July 26, 1991). The General Assembly may take similar action if it intends for a CEMA to have authority to own property.

authority to develop and construct shelter facilities, shelter spaces, and emergency operation centers, it does not confer authority upon a CEMA to own the real property upon which these facilities, spaces, or centers might be constructed.

Alternatively, one might assert that the power of a CEMA to own property may be implied under R.C. 5502.261, which provides that a board of county commissioners may appropriate money from its general fund to support the functions and operations of the agency, and allows money so appropriated to “be expended to *purchase* and maintain the *assets* or equipment of the agency.” (Emphasis added). R.C. 5502.261 expressly authorizes the purchase of “assets.” *Id.* “Asset” is not separately defined. One of its common meanings is “an item that is owned and has value.” *Black’s Law Dictionary* 112 (7th ed. 1999). From this, one might conclude that the term “assets,” as used in R.C. 5502.261, includes real property, and that the authority to own real property may be inferred from the language permitting money appropriated by the board of county commissioners to be expended to purchase and maintain “assets.” We cannot endorse that inference for the following reasons.

The primary purpose of R.C. 5502.261 is to authorize a board of county commissioners to appropriate money from the county general fund to support a CEMA. *See* Ohio Legislative Service Comm’n, Final Bill Analysis, Am. Sub. H.B. 530 (2006) (“the act adds to [a CEMA’s] sources of funds by permitting counties also to use their general fund money to support any of the agency’s operations”). Nowhere is there language in R.C. 5502.261 that grants to a CEMA power to acquire or own real property.

The language of R.C. 5502.261 authorizing the expenditure of money to “purchase and maintain assets” is directly preceded and followed by language about the purchase and use of “communication devices, radios, and other equipment” necessary for a countywide public safety communication system. *Id.* Applying the doctrine of *noscitur a sociis*, the word “asset” appears to contemplate personal property for a public safety communication system. *See Renfroe v. Ashley*, 167 Ohio St. 472, 474, 150 N.E.2d 50 (1958) (“the meaning of words may be indicated or controlled by those with which they are associated”).

The legislative record of the creation and evolution of a CEMA demonstrates that the General Assembly did not intend for a CEMA to have the power to own real property. In 1949-1950 Ohio Laws 209 (Am. Sub. S.B. 259, approved May 26, 1949), the General Assembly enacted legislation authorizing the establishment of local civil defense organizations. The act permitted counties and municipalities to establish local organizations for civil defense in accordance with regulations adopted and promulgated by the Governor. 1949-1950 Ohio Laws, at 210-211. The Governor’s regulations in 1951 authorized the board of county commissioners and the mayors or executive heads of the municipal corporations within any county to establish a countywide civil defense organization, and granted such organization the power and authority to: “(1) [r]eceive and disburse funds [and] (2) [a]cquire, own, hold, use and control property.” 1951 Op. Att’y Gen. No. 231, p. 86, at 88-89. Thereafter, the Attorney General advised that Am. Sub. S.B. 259 did not “confer upon the governor power to ordain” a countywide civil defense organization. *Id.* at 89.

In response to the Attorney General's counsel, the General Assembly enacted legislation specifically authorizing the creation of a countywide local organization for civil defense, the predecessor to a CEMA, in "accordance with such regulations as shall be promulgated by the governor," G.C. 5295-1. 1951 Ohio Laws 299, 310 (Am. Sub. H.B. 379, approved June 5, 1951). The General Assembly did not include in this legislation a power on the part of a countywide local organization for civil defense to "acquire, own, hold, use and control property" as had been attempted by the Governor in his initial regulations. However, it appears the Governor again attempted to grant this authority pursuant to regulations promulgated in 1953. *See* 1954 Op. Att'y Gen. No. 4224, p. 460, at 464. In 1983 Op. Att'y Gen. No. 83-057, at 2-235 n.3, the Attorney General explained that sometime between 1966 and 1977 the Governor's regulations authorizing a countywide local civil defense organization to own and hold property lapsed because they were not filed through the Legislative Reference Bureau as required by other legislation.

The statutes governing countywide local civil defense organizations and CEMAs have been amended multiple times since the 1983 opinion was issued. *See, e.g.* 1987-1988 Ohio Laws, Part II, 2051, 2068-2069 (Am. Sub. H.B. 131, eff. Jun. 29, 1988) (providing, among other things, that CEMAs are to be established pursuant to statute rather than the Governor's regulations); 1993-1994 Ohio Laws, Part I, 1821, 1829-1830 (Sub. S.B. 172, eff. Sep. 29, 1994); 1995-1996 Ohio Laws, Part V, 9163, 9796 (Am. Sub. S.B. 162, eff., in part, Oct. 25, 1995); 2001-2002 Ohio Laws, Part I, 1742, 1779-1780 (Sub. S.B. 184, eff. May 15, 2002). While the General Assembly has enacted language authorizing a CEMA to procure certain personal property such as equipment, *see* R.C. 5502.21(H)(9); 2016 Op. Att'y Gen. No. 2016-018, at no time has it enacted language generally authorizing a CEMA to "acquire, own, hold, use and control property," as provided variously in regulations promulgated by the Governor. This omission further supports the conclusion that the General Assembly did not intend to grant a CEMA the power to own real property.

A Board of County Commissioners Shall Provide a CEMA Office Space and Other Facilities That will Enable the CEMA to Fulfill its Statutory Responsibilities

R.C. 307.01 declares, in pertinent part, that "offices for county officers ... shall be provided by the board of county commissioners when, in its judgment, any of them are needed" and that the county commissioners shall provide county offices "such facilities as will result in expeditious and economical administration of such offices." R.C. 307.01(A).

A county board is a county office and the members of a county board are county officers for purposes of R.C. 307.01. 1986 Op. Att'y Gen. No. 86-104, at 2-573. Accordingly, a board of county commissioners shall provide a county board accommodations and facilities that will permit the board to carry out its statutory duties and responsibilities efficiently and effectively. 2012 Op. Att'y Gen. No. 2012-019, at 2-166 (under R.C. 307.01 "a board of county commissioners has a mandatory duty to provide the veterans service commission with office space and appropriate facilities"); 2010 Op. Att'y Gen. 2010-001, at 2-3 (a board of county commissioners has a mandatory duty under R.C. 307.01 to provide the county law library resources board with offices and necessary facilities because it is a county agency); 1986 Op. Att'y Gen. No. 86-104, at 2-573 ("[i]t is clear that a county children

services board is a county agency, composed of county offices.... Thus, the board of county commissioners is required by R.C. 307.01 to provide office space for the children services board”).

R.C. 5502.26(C) states that a countywide emergency management agency “shall be considered a county board.” *But cf.* 2009 Op. Att’y Gen. No. 2009-010, at 2-88 (acknowledging that a countywide emergency agency “shall be considered a county board,” R.C. 5502.26(C), but advising that officers and employees of a CEMA are not in the service of the county for purposes of R.C. 124.57). Thus, R.C. 307.01 requires a board of county commissioners to provide a CEMA office space and such other facilities as will make it possible for the CEMA to fulfill the numerous and varied responsibilities the General Assembly has conferred upon the CEMA.

R.C. 307.02 catalogs the ways in which a board of county commissioners may provide office space and other facilities to a county board. R.C. 307.02 offers county commissioners options by which they may furnish a county board the facilities it needs for achieving its statutory purposes. R.C. 307.02 states, in pertinent part that a board of county commissioners, may, *inter alia*, “purchase, for cash or by installment payments, enter into lease-purchase agreements, lease with option to purchase, lease, appropriate, construct, enlarge, improve, rebuild, equip and furnish ... county offices.” A board of county commissioners may select from among the foregoing alternatives the method it believes best suited to carry out the board’s duty to provide facilities and other accommodations suitable for use by a CEMA.

Pursuant to R.C. 307.02, therefore, a board of county commissioners may purchase, lease, or otherwise acquire real property for the use of a CEMA. A board of county commissioners also may lease, lease-purchase, lease with an option to purchase, or construct buildings or structures for the use of a CEMA.

R.C. 307.03 authorizes a board of county commissioners to “permit the use of public grounds or buildings under its control for a public library or any other public purpose, upon such terms as it prescribes.” Pursuant to this authorization, a board of county commissioners may provide accommodations and facilities to a CEMA by permitting a CEMA to use real property and existing buildings of the county upon such terms as the board prescribes. *See generally, e.g., State ex rel. Bittikofer v. Babst*, 97 Ohio St. 64, 65, 119 N.E. 136 (1917) (offices for county officers may be provided in a county courthouse).

Alternatively, the board of county commissioners and the political subdivisions that have established the CEMA may address the matter of providing facilities or real property for use by a CEMA in their agreement creating the agency. A CEMA “shall be supported financially by the political subdivisions entering into the countywide agreement.” R.C. 5502.26(A). R.C. 5502.31 provides that “[e]ach political subdivision may make appropriations for the payment of expenses ... chargeable to that political subdivision by agreement in any county wherein a countywide agency for emergency management has been established.” In addition, pursuant to rule 4501:3-2-01(D), the officers and personnel of political subdivisions that have established a CEMA shall cooperate in emergency management and preparedness and “extend their services and facilities to such emergency management officials and agencies upon request, insofar as possible, without withdrawing from the

political subdivisions the minimum services and facilities needed by that political subdivision.” Rule 4501:3-2-01(D) does not require any single subdivision to own property or facilities for the CEMA’s use, but rule 4501:3-2-01(D), read together with R.C. 5502.26 and R.C. 5502.31, does mean that providing support and facilities for the CEMA is a proper matter to address in the agreement establishing the CEMA. *See* 1983 Op. Att’y Gen. No. 83-081, at 2-324 to 2-325 (the statute authorizing a board of county commissioners or legislative authority of a city to furnish suitable quarters to a combined general health district shall not be read as requiring either one to provide the quarters because it would be inequitable, but the county and city may address the matter in the agreement creating the district).

Conclusions

Based on the foregoing, it is my opinion, and you are hereby advised that:

1. A countywide emergency management agency established under R.C. 5502.26(A) lacks statutory authority to own real property.
2. A countywide emergency management agency established under R.C. 5502.26(A) “shall be considered a county board,” R.C. 5502.26(C). Pursuant to R.C. 307.01-.03, a board of county commissioners shall provide a countywide emergency management agency office space and other facilities that will enable the agency to fulfill its statutory responsibilities.

Very respectfully yours,



MICHAEL DEWINE
Ohio Attorney General