

Inland Lakes and Parks, with which there were submitted for my examination and approval a number of reservoir land leases in triplicate, among which were the two hereinafter designated which granted and demised to the lessees therein named parcels of reservoir lands at Buckeye Lake, Ohio.

The leases here referred to are each for a stated term of fifteen years and provide for an annual rental of six per centum upon the appraised valuation of the parcel of land covered by the lease. Designated with respect to the names of the lessees, the location of the parcels covered by the leases and the annual rentals therein provided for, these leases are:

<i>Lessee</i>	<i>Location of Property</i>	<i>Rental</i>
Anna Townsend	Pt. NE ¼ Sec. 22, T. 17, R. 18, Fairfield County, O.....	\$24.00
Nelle West	Pt. SE ¼ Sec. 21, T. 17, R. 18, Fairfield County, O.....	18.00

Upon examination of these lease instruments, I find that the same have been properly executed by you as Conservation Commissioner, acting on behalf of the state of Ohio, and the respective lessees therein named. I further find, upon examination of the leases and of the conditions and restrictions therein contained, that the same are in conformity with section 471, General Code, under the authority of which these leases are executed, and with other statutory enactments relating to leases of this kind. I am, accordingly, approving the leases above mentioned as to legality and form, as is evidenced by my approval endorsed thereon and upon the duplicate and triplicate copies of each of these leases, all of which are herewith returned to you.

Respectfully,

JOHN W. BRICKER,
Attorney General.

5878.

TUBERCULOSIS—COUNTY COMMISSIONERS MAY SEND PERSON SO AFFLICTED TO TUBERCULOSIS HOSPITAL APPROVED BY STATE BOARD OF HEALTH—EXPENSES PAID FROM TUBERCULOSIS FUND.

SYLLABUS:

By virtue of Section 3143, General Code, the County Commissioners of the County of legal residence of indigent persons afflicted with any type of tuberculosis, can properly pay out of the tuberculosis funds of

the County, the expenses of maintaining such persons at a hospital, which is an association or corporation incorporated under the laws of Ohio for the exclusive purpose of caring for and treating persons suffering from tuberculosis, if such institution has been approved by the State Board of Health.

COLUMBUS, OHIO, July 22, 1936.

HON. FERDINAND E. WARREN, *Prosecuting Attorney, Ottawa, Ohio.*

DEAR SIR: I am in receipt of your communication which reads as follows:

“The following question has arisen in our county regarding liability of either the Township Trustees or the County Commissioners for doctor bills and hospitalization. These are the facts:

On August 28, 1934, a young girl residing in Van Buren Township, Putnam County, Ohio, was sent by the County Commissioners to the tubercular hospital at Mount Vernon under Section 3139 et seq., for pulmonary tuberculosis. On January 5, 1935, the girl left the hospital for her home without being discharged. On May 21, 1936, the Trustees of Van Buren Township sent the child to St. Rita's Hospital at Lima, Ohio, having ascertained that the child was seriously ill with tuberculosis of the kidneys. On June 2, 1936, she was returned home. On June 8, 1936, the County Commissioners sent her to the Lima District Tubercular Hospital for treatment. Putnam County is not a member of the tubercular district but contributes \$25.00 per week per person to said hospital.

On June 13, 1936, the County Commissioners were informed that the District Tubercular Hospital did not have the proper instruments for combating tuberculosis of the kidneys and informed the Commissioners that the child would have to be transferred to St. Rita's Hospital for proper treatment. The child was thereupon transferred to St. Rita's Hospital. The questions arising are: whether the County Commissioners are liable under Section 3139 et seq., for an indigent person suffering of tuberculosis of the kidneys since the statute specifically refers to pulmonary tuberculosis commonly known as 'consumption', and whether the County Commissioners can properly pay out of the tuberculosis fund of the county the expenses of maintaining the patient at St. Rita's Hospital from May 21st to June 2nd, 1936, and from June 13th, 1936, to the present time?"

Section 3139, General Code, provides :

“On and after January first, nineteen hundred and fourteen, no person suffering from *pulmonary* tuberculosis, commonly known as consumption, shall be kept in any county infirmary (now ‘County Home’).” (Italics ours.)

In your request you state that since Section 3139, General Code, quoted supra, refers only to cases of “pulmonary” tuberculosis, you are doubtful as to whether or not the county may pay for hospital treatment of an indigent person suffering from tuberculosis of the kidneys. You will note that Section 3143, General Code, authorizes the Commissioners of a county to contract with the authorities of the city maintaining a hospital for tuberculosis, for the care and treatment of the inmates of the County Home “or other residents of the county who are suffering from tuberculosis.” Said section also provides *inter alia* :

“* * * Provided, that the county commissioners of any county may contract for the care and treatment of the inmates of the county infirmary or other residents of the county suffering from tuberculosis with an association or corporation, incorporated under the laws of Ohio for the exclusive purpose of caring for and treating persons suffering from tuberculosis; but no such contract shall be made until the institution has been inspected and approved by the state board of health, * * *.”

With regard to the implication in Section 3139, General Code, quoted supra, when considered by itself, that the county’s obligation is limited merely to hospitalizing indigent tubercular persons suffering from pulmonary tuberculosis, I call your attention to an opinion of one of my predecessors to be found in Opinions of the Attorney General for 1926, at page 492, which held as disclosed by the syllabus :

“Under Section 3143 of the General Code the commissioners of a county may contract with a city, maintaining a hospital for tuberculosis, for the care and treatment of the inmates of the county infirmary or other residents of the county who are suffering from tuberculosis *other than pulmonary*.” (Italics ours.)

It is stated at pages 492 and 493 :

“As suggested by you, Section 3143 contained the expression ‘pulmonary tuberculosis’ before amendment. However, in the

amendment, as suggested by you, the word 'pulmonary' was eliminated, leaving the broad term 'tuberculosis.' While Section 3139 still contains the expression 'pulmonary tuberculosis' with reference to those who may not be kept in a county infirmary, it is believed that this fact should not alter the construction of Section 3143. It is probable that at the time of the enactment of Section 3139 the other kinds of tuberculosis were not so much known to medical science, as at the time of the amendment.

It, further, is probably true that pulmonary tuberculosis is the worst form of the disease. It is possible, of course, that by inadvertence, the legislature failed to amend Section 3139, although such argument could not be used if that section were under consideration.

However, Section 3143 in clear and definite terms provides that the county commissioners may contract with the officers of a municipality for the care and treatment of inmates who are suffering from tuberculosis. The word 'tuberculosis' has been defined by Webster as follows:

'A disease accompanied by the formation of some tubercles in the tissues.'

It is fair to assume that the legislature intended the common and ordinary meaning of the language which was used. Having omitted from the section in its amendment the word 'pulmonary' it would seem conclusive that it was not intended to limit such relief to the original form. Furthermore, from the standpoint of policy and humanitarian interests, it would seem that relief from such a disease in any of its forms should be the object of government."

The reasoning of this opinion interpreting Section 3143, General Code, applies with equal force to a contract by the County Commissioners with the proper association or corporation under Section 3143, General Code, quoted in part supra, and I assume for the purpose of this opinion that St. Rita's Hospital at Lima, Ohio, is such an association and has been approved by the State Board of Health.

Coming now to the question as to whether the hospitalization of indigent persons suffering from tuberculosis of any kind is a proper matter for the township, city or county officials, I refer you to **my opinion** to be found in Opinions of the Attorney General for 1934, Vol. I, page 499, which held as disclosed by the first branch of the syllabus:

"1. By virtue of Section 3143, General Code, tubercular persons who cannot afford hospital expenses are entitled to hos-

pital care *at the expense of the county* at the hospital facilities provided for by the county commissioners when such persons are residents of the county even though such residents have a legal settlement within a city in the county." (Italics ours.)

Consequently, the obligation is not one of the city or township, but of the county, and the hospitalization of indigent persons afflicted with tuberculosis of any kind is properly payable by the County Commissioners of the county. See also Opinions of the Attorney General for 1934, Vol. III, page 1664.

Consequently, it is my opinion that by virtue of Section 3143, General Code, the County Commissioners of the county of legal residence of indigent persons afflicted with any type of tuberculosis, can properly pay out of the tuberculosis funds of the county, the expenses of maintaining such persons at a hospital, which is an association or corporation incorporated under the laws of Ohio for the exclusive purpose of caring for and treating persons suffering from tuberculosis, if such institution has been approved by the State Board of Health.

Respectfully,

JOHN W. BRICKER,
Attorney General.

5879.

APPROVAL—PAPERS IN CONNECTION WITH THE CONVERSION OF THE MUTUAL BUILDING AND LOAN COMPANY OF MIAMISBURG, OHIO, INTO MUTUAL FEDERAL SAVINGS AND LOAN ASSOCIATION OF MIAMISBURG.

COLUMBUS, OHIO, July 22, 1936.

HON. WILLIAM H. KROEGER, *Superintendent of Building and Loan Associations of Ohio, Columbus, Ohio.*

DEAR SIR: I have examined the various papers submitted by you in connection with the conversion of The Mutual Building & Loan Company of Miamisburg, Ohio, into Mutual Federal Savings and Loan Association of Miamisburg, and find the papers submitted and the proceedings of said The Mutual Building & Loan Company, as disclosed thereby, to be regular and in conformity with the provisions of Section 9660-2 of the General Code of Ohio.

All papers, including two copies of the charter issued to the said Mutual Federal Savings and Loan Association, are returned herewith to