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TRANSFER OF TOWNSHIP PROPERTY TO A MUNICIPALITY
WITHIN THE TOWNSHIP—§505.10, R.C.

SYLLABUS:

Under Section 505.10, Revised Code, a township may transfer and convey township property located in a municipal corporation within the township to said municipal corporation; and such may be done under an agreement calling for an initial payment of part of the purchase price with the balance of the purchase price to be paid in equal installments over a specified period of time.

Columbus, Ohio, June 29, 1962

Hon. Earl W. Allison, Prosecuting Attorney
Franklin County, Columbus 15, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“The Franklin Township Board of Trustees, Franklin County, Ohio, own real property within the Village of Marble Cliff upon which a fire station has been constructed. The board

of Township Trustees now wish to sell and convey the real property which is situated within such municipal corporation to the municipal corporation. The anticipated agreement under which this sale would be consummated calls for a down payment of a portion of the agreed purchase price with periodic installment payments of the balance of the purchase price for a specific period of 10 years.

“As you know, Section 505.10 of the Revised Code provides for the disposition of township real property to a municipal corporation, and provides, in pertinent part, as follows:

“‘When a township has title to real property situated within a municipal corporation in that township, the board of such township may, by resolution, authorize the transfer and conveyance of such property to the municipal corporation for municipal purposes, upon such terms as are agreed to between such board and the legislative authority of such municipal corporation.’

“The question has been raised as to whether such a proposed arrangement of financing the sale is authorized by Section 505.10 of the Revised Code.

“Because this question is one which may well affect other townships throughout the State and is, therefore, of statewide interest, I respectfully request your opinion as to whether a board of township trustees may properly sell and convey township real property to a municipal corporation in which such property is located under an installment contract which provides for the initial payment of a portion of the purchase price and the balance of the purchase price to be paid in equal installments for a specific length of time.”

Section 505.10, Revised Code, here pertinent, reads as follows:

“The board of township trustees may accept, on behalf of the township, the donation by bequest, devise, deed of gift, or otherwise, of any property, real or personal, for any township use. When the township has property which the board, by resolution, finds it does not need, the board may sell and convey such property. Such sale must be by public auction and upon notice thereof being published once a week for three weeks in a newspaper published, or of general circulation, in such township, the last of such publications to be at least five days before date of sale.

“When the township has machinery, equipment, or tools used for the construction, reconstruction, maintenance, and repair of roads which the board finds, by resolution, are not needed, the board may sell it to the person from whom other machinery,

equipment, or tools are purchased, in accordance with section 5549.21 of the Revised Code.

“When a township has title to real property situated within a municipal corporation in that township, the board of such township may, by resolution, authorize the transfer and conveyance of such property to the municipal corporation for municipal purposes, upon such terms as are agreed to between such board and the legislative authority of such municipal corporation.”

Under the above statute, a township may transfer and convey township property located within a municipal corporation in that township upon such terms as are agreed to between the board of trustees of the township and the legislative authority of the municipal corporation. I assume that in the instant case the municipal corporation is located in the township concerned.

As ordinarily used, the words “transfer and convey” import that the conveyance is by a legally executed deed which transfers the whole title, and land is conveyed only when the title to it passes. *Langmade v. Weaver, et al.*, 65 Ohio St., 17, at page 37.

I have not found any specific statutory language which authorizes a board of township trustees to sell property, or a municipal corporation to buy property, on an installment basis; nor have I found any express prohibition against such selling or buying. Of course, under Section 505.10, *supra*, the board of township trustees, in general, may sell its real property only by public auction, and a sale under that procedure would necessarily entail the immediate payment of the complete purchase price. The instant case is, however, concerned with the exception, when property is being sold to a municipal corporation.

In using the words “upon such terms as are agreed to between such board and the legislative authority of such municipal corporation,” the legislature obviously contemplated that township property could be transferred and conveyed by other than a direct sale with an immediate completion of all parts of the transaction. Otherwise, why was such language used? And the use of the word “term” implies a wide discretion as to the amount of, and the time of paying, the consideration (See definition of “terms,” Ballentine’s Law Dictionary with Pronunciations, Second Edition, page 1274).

Accordingly, it is my opinion and you are advised that under Section 505.10, Revised Code, a township may transfer and convey township

property located in a municipal corporation within the township to said municipal corporation ; and such may be done under an agreement calling for an initial payment of part of the purchase price with the balance of the purchase price to be paid in equal installments over a specified period of time.

Respectfully,

MARK McELROY

Attorney General