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WASTE DISPOSAL SERVICE IN TOWNSHIP TERRITORY WHICH HAS BEEN FORMED INTO WASTE DISPOSAL DISTRICT—COST TO PROVIDE AND MAINTAIN—TOWNSHIP TRUSTEES HAVE DISCRETION TO LEVY TAX ON ALL TAXABLE PROPERTY IN DISTRICT—SERVICE CHARGE—MAY BE MADE ONLY AGAINST PERSONS WHO AVAIL THEMSELVES OF SERVICE OFFERED—SECTION 3295-1 ET SEQ., G. C.

SYLLABUS:

The cost of providing and maintaining waste disposal service in a township territory which has been formed into a waste disposal district in accordance with the terms of Section 3295-1 et seq., General Code, may, in the discretion of the township trustees be met by a tax levied on all taxable property in such district, or by a service charge for such waste disposal service which service charge may however be made only against the persons availing themselves of the service offered.

Columbus, Ohio, March 8, 1948

Hon. Mathias H. Heck, Prosecuting Attorney
Montgomery County, Dayton, Ohio

Dear Sir:

I am in receipt of your request in which you desire my opinion with reference to Section 3295-3, General Code, on the following questions:

“Assuming that 65% of the resident electors petition for a district and same be established:

“First, can residence property be assessed for the service in cases where the service is available but is not accepted, and,

“Second, can a service charge be made against unimproved property or vacant lots.”

The provision of law dispositive of your questions is set out in Section 3295-3, General Code, which provides:

“The trustees of a township are authorized to levy in any year or years a sufficient tax within the ten mill limitation, upon all taxable property in the district or districts to provide and maintain such waste disposal service.

“In the *alternative* the board of trustees of any township which has contracted for the collection or disposal of garbage or refuse on behalf of any district or districts may by resolution establish just and equitable rates or charges of rents to be paid to such township for the *use and benefit* of such service by every person, firm or corporation whose premises are *served* by same. Such charges shall constitute a lien upon the property *served* and if not paid when due, shall be collected in the same manner as other township taxes.” (Emphasis added.)

It is the alternative method prescribed in the second paragraph of the above section with which we are here concerned. From a consideration of the language of said paragraph, it would appear that the answer to your questions is found in the meaning of the word “served.” In order to interpret this word, 37 O. Jur. 542 is helpful and states:

“As a general rule, words of a statute, in common use or other than terms of art or science, will be construed in their ordinary acceptance and significance and with the meaning commonly attributed to them. Indeed, the intention of the legislature to use statutory phraseology in such manner has even been presumed. Ordinarily, such words are to be given their natural, literal, and full meaning. * * *”

According to Webster's New International Dictionary, page 2288, the literal and full meaning of "served" is: "To render service; to discharge the requirements of an office or public duty."

However, the question as to the meaning of a term used in a statute is not necessarily what that term means in general use, but what it means in the statute in which it is contained. At 37 O. Jur. 559, it is stated:

"* * * The meaning of a word may be ascertained by reference to the meaning of words associated with it. Thus, where any particular word is obscure or of doubtful meaning when taken by itself, its obscurity or doubt may be removed by reference to associated words. * * *"

The statute in question provides in its alternative portion that the rents are to be paid to such township for the "use and benefit of such service by every person, firm or corporation whose premises are served by same." Important in the interpretation of the word "served" are the modifying words "use and benefit." Some doubt may exist as to the definition of "served" when it is used separately and without modification; that is, "served" may have the connotation of "readiness for service." However, the terms "use and benefit" dispel this interpretation. The waste disposal system must be "used" before the rents can be charged. Therefore, "use" * * * of such service" and "served" are synonymous in meaning. Consequently, premises which are vacant and receive no service cannot be charged. In like manner, premises which refuse service are therefore not "served" and cannot be charged.

The above conclusion is further substantiated when it is noted that Section 3295-3, General Code, has provided two distinct methods whereby waste disposal service may be maintained. One, is taxing all property; the other is charging rates on property which has been served. If the waste disposal was financed by the first method provided, the unimproved property and property owned by persons not availing themselves of the service would be included. However, you have further related that the township trustees proposed to finance this service by rates or charges of rent. This latter method is the "alternative" which specifically exempts such charge on unimproved property and lots which are not served. In like manner, if owners of residences do not accept the service, they cannot be charged. In other words, if the trustees of a township pass a resolution to establish just rates to be paid by those who are served by waste disposal trucks; and if waste disposal service is refused or if property

which is unimproved or vacant is taxed but not served, Section 3295-3, General Code, would not be complied with and the "alternative" which is provided would be destroyed.

Therefore, it is my opinion and you are advised that the cost of providing and maintaining waste disposal service in a township territory which has been formed into a waste disposal district in accordance with the terms of Section 3295-1 et seq., General Code, may, in the discretion of the township trustees be met by a tax levied on all taxable property in such district, or by a service charge for such waste disposal service, which service charge may however be made only against the persons availing themselves of the service offered.

Respectfully,

HUGH S. JENKINS,
Attorney General.