

OPINION NO. 73-060**Syllabus:**

A board of county commissioners may convey to a community improvement corporation the land formerly constituting the county experimental farm, pursuant to R.C. 1724.10 (C), without public advertising and receipt of bids, in spite of the provisions of R.C. 903.21.

To: Robert J. Huffman, Miami County Pros. Attorney, Troy, Ohio
By: William J. Brown, Attorney General, June 22, 1973

I have before me your request for my opinion, which reads as follows:

In the November 1910 general election the voters of Miami County voted in favor of the issue as to whether or not a County Experimental Farm should be established, pursuant to General Code Section 1176, now Ohio Revised Code Title 903.

Such a farm was acquired in 1911 and was established as a County Agricultural Experimental Station. The use of that farm as an Agricultural Experimental Farm was abandoned in 1950 and the operation of the farm was turned over to the County Commissioners at that time. Since 1950 the farm has been held and used by the County as simply general county land.

The County Commissioners now contemplate entering into a contract with a Community Improvement Corporation organized pursuant to Section 1724 et seq. Such an agreement would we hope eventually lead to

the sale or lease of parts of that farm under 1724.10 (B) or (C) as effective June 4, 1968.

Each of those sub-sections you will note authorize the conveyance of county owned land to a Community Improvement Corporation without advertising and public bidding.

The specific question on which your opinion is requested is "may the County Commissioners convey to a Community Improvement Corporation the ground formerly constituting the County Experimental Farm pursuant to Section 1724.10 (B) or (C) without public advertising and bidding, the provisions of Section 903.21 notwithstanding?"

R.C. 903.21 provides for the disposal of unused county experimental farms, as follows:

In case the Ohio agricultural experiment station ceases to use any county experimental farm for the purposes specified in section 903.18 of the Revised Code, such farm and its equipment may be sold at public auction to the highest bidder after notice of such proposed sale has been published for four consecutive weeks in two newspapers of opposite politics, once a week, published in and having the largest circulation in the county within which the farm is located, and the proceeds of such sale shall be deposited in the county treasury and credited to the capital improvement fund of the county, or the board of county commissioners may retain any part or all of the farm for other county purposes.

Even a casual reading of R.C. Chapter 903 reveals that, while the management of county experimental farms is vested in the director of the Ohio agricultural experimental station (R.C. 903.17), the counties own their respective farms. They are purchased with funds resulting from a county tax levy (R.C. 903.12), and after a farm ceases to be used as an experimental farm, the board of county commissioners may sell it or retain and use any part of it for other county purposes (R.C. 903.21).

R.C. 1724.10, relating to community improvement corporations, reads as follows:

A community improvement corporation may be designated by a county, one or more municipal corporations, two or more adjoining counties, or any combination of the foregoing, as the agency of each political subdivision for the industrial, commercial, distribution, and research development in such political subdivision when the legislative authority of such political subdivision has determined that the policy of the political subdivision is to promote the health, safety, morals, and general welfare of its inhabitants through the designation of a community improvement corporation as such agency. Such designation shall be made by the legislative authority of the political subdivision by resolution or ordinance. Any political subdivision which has designated a community improvement corporation as such agency may

enter into an agreement with it to provide any one or more of the following:

* * * * *

(B) Authorization for the community improvement corporation to sell or to lease any lands or interests in lands owned by the political subdivision determined from time to time by the legislative authority thereof not to be required by such political subdivision for its purposes, for uses determined by the legislative authority as those that will promote the welfare of the people of the political subdivision, stabilize the economy, provide employment, and assist in the development of industrial, commercial, distribution, and research activities to the benefit of the people of the political subdivision and will provide additional opportunities for their gainful employment.
* * *

(C) That the political subdivision executing the agreement will convey to the community improvement corporation lands and interests in lands owned by the political subdivision and determined by the legislative authority thereof not to be required by the political subdivision for its purposes and that such conveyance of such land or interests in land will promote the welfare of the people of the political subdivision, stabilize the economy, provide employment, and assist in the development of industrial, commercial, distribution, and research activities to the benefit of the people of the political subdivision and provide additional opportunities for their gainful employment, for the consideration and upon the terms established in the agreement, and further that as the agency for development the community improvement corporation may acquire from others additional lands or interests in lands, and any lands or interests in land so conveyed by it for uses that will promote the welfare of the people of the political subdivision, stabilize the economy, provide employment, and assist in the development of industrial, commercial, distribution, and research activities required for the people of the political subdivision and for their gainful employment. Any conveyance or lease by the political subdivision to the community improvement corporation shall be made without advertising and receipt of bids.

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(Emphasis added.)

Your letter states that the board of county commissioners are contemplating agreement with a community improvement corporation. I assume that the county will designate the corporation as its agent, pursuant to R.C. 1724.10, and that the agreement will authorize the transactions referred to in R.C. 1724.10 (C).

R.C. 1724.10 (C) is a special provision, in relation to R.C. 903.21, and therefore prevails in those cases to which it applies. It applies only to conveyances from a political subdivision to its agent community improvement corporation. Furthermore, it only applies if the legislative authority of the subdivision has determined that two conditions exist: (1) that the land is not

required by the subdivision for its purposes, and (?) that the conveyance to the community improvement corporation will promote the welfare of the county, stabilize the economy, etc. R.C. 1.51 states that a special provision of the Revised Code should prevail as an exception to a general provision, insofar as they conflict with each other, "unless the general provision is the later adoption and the manifest intent is that the general provision prevail." R.C. 1724.10 is much the later enactment (131 Laws of Ohio 572, 1965; R.C. 903.21 was carried over from the General Code), and I can see no indication that the legislature intended R.C. 903.21 to prevail over it. Hence, in those cases to which R.C. 1724.10 (C) applies, its terms prevail over those of R.C. 903.21, and there is no requirement of public advertising and bids.

It may be noted, however, that R.C. 1724.10 (C) speaks only to sale of "land". Hence, the board of county commissioners may sell only the land, not the buildings and equipment, to a community improvement corporation, pursuant to R.C. 1724.10 (C).

In specific answer to your question it is my opinion and you are so advised that a board of county commissioners may convey to a community improvement corporation the land formerly constituting the county experimental farm, pursuant to R.C. 1724.10 (C), without public advertising and receipt of bids, in spite of the provisions of R.C. 903.21.