

6546

1. AGRICULTURAL SOCIETY, COUNTY—COUNTY COMMISSIONERS MAY APPROPRIATE FUNDS TO FINANCE ERECTION OF GRANDSTAND UPON COUNTY FAIR-GROUNDS OWNED BY COUNTY—SECTIONS 1711.15, 1711.16 RC.
2. DISBURSEMENT OF FUNDS—MAY BE PAID IN LUMP SUM—TO TREASURER OF SOCIETY UPON APPLICATION AND GIVING OF BOND.
3. FUNDS TO FINANCE PERMANENT IMPROVEMENT—ERECTION OF GRANDSTAND—PAID TO COUNTY AGRICULTURAL SOCIETY—MAY BE HELD OVER AND ALLOWED TO ACCUMULATE FROM YEAR TO YEAR—MAY BE EVENTUALLY USED FOR PURPOSE FOR WHICH APPROPRIATED.

## SYLLABUS:

1. County commissioners may appropriate funds to a county agricultural society for the purpose of financing the erection of a grandstand upon the county fairgrounds owned by the county, in accordance with Sections 1711.15 and 1711.16, Revised Code.

2. The disbursement of funds appropriated by county commissioners to a county agricultural society should be made according to the provisions of Section 1711.16, Revised Code, which directs that payment be made to the treasurer of the society upon his application and giving of bond; and such appropriated funds may be paid in a lump sum.

3. Funds appropriated by county commissioners to a county agricultural society for the purpose of financing a permanent improvement such as the erection of a grandstand, under Sections 1711.15 and 1711.16, Revised Code, which funds have been paid to the county agricultural society, may be held over and allowed to accumulate from year to year by such society, such funds to be used eventually for the purpose for which they were appropriated.

Columbus, Ohio, May 2, 1956

Hol. Calvin W. Hutchins, Prosecuting Attorney  
Ashtabula County, Jefferson, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“Proper steps have been taken to authorize the execution of a mortgage by the Ashtabula County Agricultural Society,

which will become a lien upon real estate owned by Ashtabula County, but used by the Agricultural Society as a site for the holding of Fairs by it. The proceeds of the note to be secured by this Mortgage will be used by the Society to pay a part of the cost of the construction of a Grand Stand, the total cost of which will be approximately \$45,000.00.

“Past experience of the Agricultural Society would indicate that it will not have sufficient net income to retire the Note which is to be issued, and that if such Note is to be paid, the Society must have the financial assistance of the County Commissioners, as authorized by Section 1711.15 of the Revised Code.

“Will you please advise whether or not the County Commissioners may appropriate funds, in pursuance of the authority conferred upon them by Section 1711.15, to liquidate an indebtedness created by the Agricultural Society for the purpose of erecting a Grand Stand, assuming that the cost thereof will exceed \$20,000.00, all of which is to be paid in one year, and further assuming that the Director of Agriculture has certified to the Board of Commissioners that the County Agricultural Society is complying with all laws, rules and regulations governing the operation of such Society.”

In view of your subsequent communications on this subject, it would seem that the following specific questions are here raised:

(1) May county commissioners appropriate funds to liquidate an indebtedness created by a county agricultural society for the purpose of financing the erection of a grandstand?

(2) How is the disbursement of such appropriated funds to be made by the county?

(3) May a county agricultural society permit the money received from such appropriations to accumulate from year to year in anticipation of future needs?

Section 1711.15, Revised Code, provides for county aid to a county agricultural society. That section reads, in part, as follows:

“\* \* \* In counties in which there is a county agricultural society which has purchased, or leased, for a term of not less than twenty years, real estate as a site on which to hold fairs or in which the title to such site is vested in fee in the county, the board may erect or repair buildings or otherwise improve such site and pay the rental thereof, or contribute to or pay any other form of indebtedness of said society, if the director of agriculture has certified to the board that the county agricultural society is complying with all laws, rules, and regulations governing the

operation of county agricultural societies. The board may appropriate from the general fund such an amount as it deems necessary for any of said purposes. If the amount appropriated to be expended in the purchase of such real estate or in the erection of buildings or other improvements or payments of rent or other forms of indebtedness of said society exceeds twenty thousand dollars in any one year, such expenditure shall not be made unless the question of a levy of the tax therefor is submitted to the qualified electors of the county at a general election, \* \* \*."

The board of county commissioners may appropriate money to a county agricultural society where the fair grounds are owned by the county for the purpose of constructing a grandstand, since the above quoted Section 1711.15, Revised Code, provides that the board may "contribute to or pay any other form of indebtedness of said society." This is in accord with Opinion No. 1871, Opinions of the Attorney General for 1940, page 175.

In addition, it is provided in the first paragraph of Section 1711.16, Revised Code, as follows:

"When the control and management of a fairground is in a county agricultural society, and the board of county commissioners has appropriated an amount or levied a tax for the aid of such society as provided in section 1711.15 of the Revised Code, the society, with the consent of the board, may contract for the erection or repair of buildings or otherwise improve said site, to the extent that the payment for said improvement is provided by said board. \* \* \*."

The above quoted statute makes it clear that appropriations under the terms of Section 1711.15, supra, may be made prior to the actual incurrence of an indebtedness if the county commissioners so desire.

Section 1711.33, Revised Code, permits a county agricultural society, with the consent of the board of county commissioners, to encumber the real estate owned by the county as a fairgrounds site. Thus, the agricultural society may contract for the erection of a grandstand to the extent of the appropriations already made by the county commissioners for that purpose; and then encumber the fairground site in order to secure the balance of the funds needed for such grandstand.

The word "grandstand" is within the legal definition of "building" as defined in 5 Words and Phrases, 868, and thus the building of a grandstand is a proper purpose, within the terms of Section 1711.15, supra, for appropriations to a county agricultural society.

The amount that may be appropriated for such purposes in any one year is limited by Section 1711.15, supra, to the sum of \$20,000 unless the question of a levy of the tax therefor is submitted to the qualified electors of the county at a general election. In other words, the board of county commissioners may appropriate \$20,000 in any one year to the society for the purposes set forth in this section of the Revised Code, and it may do so without a tax levy.

The disbursement of the funds appropriated under the terms of Section 1711.15, supra, is controlled by the provisions of Section 1711.16, Revised Code. This section reads, in part, as follows:

“\* \* \* When such appropriation is made by the board or when such tax is collected by the county treasurer, the county auditor shall place the proceeds in a special fund, designated the ‘county agricultural society fund,’ indicating the purpose for which it is available, and on application of the treasurer of the society, said auditor shall issue his order for the amount of such appropriation or tax to said treasurer of the society, if the society has secured the certificate required under section 1711.05 of the Revised Code, on said treasurer’s filing with said auditor a bond in double the amount collected, with good and sufficient sureties approved by said auditor, conditioned for the satisfactory paying over and accounting of such funds for the purposes for which they were provided. Said funds shall remain in the special fund in which they are placed by said auditor until they are applied for by the treasurer of the society and such bond is given, or until they are expended by the board for the purposes for which said fund was created. If such society ceases to exist or releases said funds as not required for the purposes for which the fund was created, the board may by resolution transfer said funds to the general fund of the county.”

The method of disbursement of appropriated funds is outlined in detail in the above quotation. As far as disbursement of appropriated funds by the county is concerned, such disbursement is complete when the appropriation is paid over to the treasurer of the society upon application for said funds by the treasurer of the society and when the required bond is given. Such disbursement of funds to the society may be made in a lump sum.

The funds appropriated by the county commissioners under the authority of Section 1711.15, supra, may be used only for the purpose of paying the indebtedness of a county agricultural society and may not be used by the society as a general operating fund. See Opinion No. 1247,

Opinions of the Attorney General for 1939, page 1843. Section 1711.15, *supra*, does not contemplate that such money shall be used as an operating fund. Funds for general operations may be appropriated under the terms of Section 1711.22, Revised Code, which reads, in part, as follows:

“When a county or a county agricultural society owns or holds under a lease real estate used as a fairground, and such society has the control and management of such lands and buildings, the board of county commissioners shall, on the request of such society, annually appropriate from the general fund not more than two thousand dollars nor less than fifteen hundred dollars for the purpose of encouraging agricultural fairs.”

A fund appropriated under the terms of Sections 1711.15 and 1711.16, Revised Code, may be held over and accumulated from year to year, in the county treasury, when there exists, prior to the end of the fiscal year in which such appropriation was made, an obligation or indebtedness, charged to that specific appropriation because of the provisions in Section 5705.40, Revised Code, which reads, in part:

“\* \* \* At the close of each fiscal year, the unencumbered balance of each appropriation shall revert to the respective fund from which it was appropriated and shall be subject to future appropriations; provided that funds unexpended at the end of such fiscal year previously appropriated for the payment of obligations unliquidated and outstanding need not be reappropriated, but such unexpended funds shall not be included by any budget making body or board or any county budget commission in estimating the balance available for the purposes of the next or any succeeding year.”

The fiscal year of counties and other political subdivisions ends at the close of the thirty-first day of December of each calendar year. See Section 115.08, Revised Code.

Inasmuch as you indicate that the funds from the 1955 appropriation were paid to the agricultural society, and assuming that the required bond was filed and other requirements of Section 1711.16, *supra*, were met, then there was no unencumbered balance left in the possession of the county. The agricultural society is a separate entity from the county itself; and when money is paid to the society, the society may accumulate it as it sees fit, as long as the money is eventually spent for the purpose for which the appropriation was made and in accord with the conditions of the bond given by the society. The same is applicable to the 1956 appropriation and to similar appropriations thereafter.

It is therefore my conclusion that:

1. County commissioners may appropriate funds to a county agricultural society for the purpose of financing the erection of a grandstand upon the county fairgrounds owned by the county, in accordance with Sections 1711.15 and 1711.16, Revised Code.

2. The disbursement of funds appropriated by county commissioners to a county agricultural society should be made according to the provisions of Section 1711.16, Revised Code, which directs that payment be made to the treasurer of the society upon his application and giving of bond; and such appropriated funds may be paid in a lump sum.

3. Funds appropriated by county commissioners to a county agricultural society for the purpose of financing a permanent improvement such as the erection of a grandstand, under Sections 1711.15 and 1711.16, Revised Code, which funds have been paid to the county agricultural society, may be held over and allowed to accumulate from year to year by such society, such funds to be used eventually for the purpose for which they were appropriated.

Respectfully,

C. WILLIAM O'NEILL  
Attorney General