

**OPINION NO. 82-086****Syllabus:**

A board of county commissioners has the authority to maintain and operate a museum acquired by gift, devise or bequest. (1939 Op. Att'y Gen. No. 398, p. 498 reconciled with 1957 Op Att'y Gen. No. 1150, p. 545.

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**To: Thomas R. Spellerberg, Seneca County Prosecuting Attorney, Tiffin, Ohio**  
**By: William J. Brown, Attorney General, October 26, 1982**

I have before me your request for my opinion as to the authority of a board of county commissioners to operate and maintain a museum acquired by devise.

As you note in your request, this issue was considered in 1939 Op. Att'y Gen. No. 398, p. 498, which concluded that:

County commissioners may accept a gift of a museum site

conditioned upon the razing of the present building and the erection of a museum thereon within a five-year period, and the subsequent maintenance of the museum, if the gift is accepted at a regular or special session of the commissioners after a finding in good faith that the conditions imposed are reasonable.

The sole authority given in support of that conclusion was G.C. §18. That section has been reenacted as R.C. 9.20, which provides:

The state; a county, a township, or a cemetery association or the commissioners, or trustees thereof; a municipal corporation or the legislative authority, a board, or other officers thereof; and a benevolent, educational, penal, or reformatory institution, wholly or in part under the control of the state, or the board of directors, trustees, or other officers thereof may receive by gift, devise, or bequest moneys, lands, or other properties, for their benefit or the benefit of any of those under their charge, and hold and apply the same according to the terms of the gift, devise, or bequest. Such gifts or devises of real estate may be in fee simple or of any lesser estate and may be subject to any reasonable reservation. This section does not affect the statutory provisions as to devises or bequests for such purposes.

R.C. 9.20 was subsequently interpreted, however, as conferring only a qualified, not an absolute, power to accept and administer property subject to the terms of a trust. In 1957 Op. Att'y Gen. No. 1150, p. 545, it is suggested that R.C. 9.20 empowers a board or agency to accept and administer property by gift, devise or bequest only if the board or agency has the statutory power to acquire such property otherwise than by gift and has the statutory power to administer or operate such property in harmony with the trust. I concur in this latter interpretation of R.C. 9.20 and, accordingly, find your observation that the two opinions are apparently inconsistent to be well-taken. The two opinions can be reconciled, however, if a board of county commissioners does, in fact, have authority, independent of R.C. 9.20, to acquire and operate a museum.

R.C. 307.02 sets forth the general authority of a board of county commissioners to provide county facilities. Pursuant to this statute a board of county commissioners is expressly empowered to purchase, appropriate or construct, among other things, an "exhibition hall." Of course, implicit in the power to acquire a facility is the power to maintain and operate such facility. 1939 Op. No. 398. In addition, a board of county commissioners is empowered by R.C. 307.26 "to provide for the organization and maintenance of civic and social centers throughout the county. . . ." In my opinion, either of these statutes may be read to empower a board of county commissioners to acquire, maintain and operate a museum. The term "exhibition" commonly means any public presentation, showing or display of some object or objects. Black's Law Dictionary 683 (4th ed. 1968) "Civic" merely means something pertaining to citizenship. Cleveland Opera Co. v. Cleveland Civic Opera Ass'n, 22 Ohio App. 400, 402, 154 N.E. 382, 383 (Cuyahoga County 1926). A "civic enterprise" is a project or undertaking in which citizens cooperate to promote the common good or general welfare of the people. Black's Law Dictionary 311 (4th ed. 1968).

It is, therefore, my opinion, and you are advised, that a board of county commissioners has the authority to maintain and operate a museum acquired by gift, devise or bequest. (1939 Op. Att'y Gen. No. 398, p. 498 reconciled with 1957 Op. Att'y Gen. No. 1150, p. 545).