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COUNTY AGRICULTURE SOCIETY—NOT AUTHORIZED TO EXPEND MONIES RECEIVED FROM OHIO FAIRS FUND FOR CONSTRUCTION OF CINDER TRAINING TRACK—FOR USE DURING INCLEMENT WEATHER. SECTION 3769.082, R.C.

SYLLABUS:

There is no provision in Section 3769.082, Revised Code, which would enable a county agricultural society to expend monies received from the Ohio fairs fund for the construction of a cinder training track for use in training during inclement weather.

Columbus, Ohio, December 3, 1959

Hon. Tom Richards, Prosecuting Attorney  
Carroll County, Carrollton, Ohio

Dear Sir:

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

“The Carroll County Agricultural Society desires to know whether they can lawfully expend funds received from the Ohio Fairs Fund under the provisions of Revised Section 3769.82 for

the construction of a cinder training track either outside or inside the race track at the Carroll County Fair Grounds for use in training during inclement weather.”

Section 3769.082, Revised Code, established in the state treasury a fund known as the Ohio fairs fund. The statute provides for distribution of monies from this fund in the following manner :

“\* \* \*

“(A) To each county agricultural society and to each independent agricultural society conducting an annual fair, the sum of two thousand five hundred dollars annually to be used in the general operations of such fairs including, but not limited to, junior club work, public school displays, livestock premiums, and agricultural improvements.

“(B) To the Ohio state fair, the sum of sixty thousand dollars annually, to be divided equally as purse money among four colt races for standard horses to provide a race for two-year-old and three-year-old colts and fillies at each gait of trotting and pacing. All entrance fees collected for each race shall be added to the sums provided herein as purse money.

“(C) To each county agricultural society and each independent agricultural society conducting horse races during their annual fair, the sum of two thousand five hundred dollars to be used as purse money for such horse races or colt stakes in accordance with the provisions of this section, and the additional sum of five hundred dollars to each of such county agricultural societies and independent agricultural societies to be used for race track maintenance and other expenses necessary for the conducting of such horse races or colt stakes.

“\* \* \*”

Section (A) provides that the money received may be used by a county agricultural society for the general operations of the annual fair conducted by such society. It would seem from this rather general provision that the county agricultural society may do anything necessary to improve the physical facilities of the fair itself and the various displays and exhibits which are included in the fair. It appears also, however, that the construction of a cinder training track for use in training during inclement weather, as mentioned in your opinion request, would not directly improve the fair, as such and cannot be considered an operation of the fair, inasmuch as training conceivably would continue over a period of time in which the fair would not be in operation and does not become a part of the fair itself.

The purpose of a fair is, moreover, to show and race horses as part of the exhibition of the general agricultural and animal industry in Ohio. The training of horses is no more a proper function of a fair than would be the actual growing of the vegetables to be exhibited at the same fair. For this reason, I do not believe that a training track is a proper part of the general operations of a fair conducted by a county agricultural society.

Section (B) is not pertinent to your inquiry and Section (C) provides, in part, that county agricultural societies may receive an additional sum of \$500.00 to be used for race track maintenance and other expenses necessary for the conducting of such horse races or colt stakes. The construction of a cinder training track cannot be considered part of race track maintenance for the reason that your letter expressly limits its use to training, while the statute implies that a race track is one on which races are conducted during the annual fair presented by the society. The only other possible authority in the statute for use of fund monies for the construction of a cinder training track would be as an expense necessary for the conducting of such horse races or colt stakes. Inasmuch as your letter indicates the Carroll County Fairgrounds already has a race track, it would appear that a cinder training track would not be necessary for the conducting of horse races even though the society might consider it a desirable feature.

Accordingly, it is my opinion and you are advised, that there is no provision in Section 3769.082, Revised Code, which would enable a county agricultural society to expend monies received from the Ohio fairs fund for the construction of a cinder training track for use in training during inclement weather.

Respectfully,  
MARK McELROY  
Attorney General