

and recorder of the county in conjunction with a person appointed by the mayor of the municipal corporation may make a revision of the numbers of all the in-lots and out-lots of such municipal corporation where the lots of the municipal corporation are not numbered consecutively upon the original plat thereof and the plats of additions thereto or subdivisions thereof.

It appears that territory has been annexed to the city of Mansfield and that at the time of the annexation the lots within the part annexed were not consecutively numbered to conform to the original plat of the city of Mansfield. As you express it in your inquiry: "The lots situate in the territory annexed do not have the consecutive numbers of in-lots."

In this situation Section 3604, *supra*, gives specific authority for the auditor and recorder in conjunction with a person appointed by the mayor to make the necessary revision and re-numbering of the lots so as to make them run consecutively upon the original plat and the plats of additions thereto.

This section applies to municipal corporations generally, and is the only section under which re-numbering may be made in case of annexations to a city. It will be noted that further provision is made in Section 3607, *supra*, for villages. It is there provided that the commissioners may direct the auditor and recorder to make such revision and re-numbering of the lots of an incorporated village as may be necessary; but where it is a city as in the instant case, it is necessary that the re-numbering be done by the auditor and recorder in conjunction with a person appointed by the mayor of the municipal corporation.

When the renumbering is done at the request of the municipal corporation as provided in Section 3607, *supra*, the expense must be paid by the municipal corporation. This provision implies that when it is not done at the request of the municipal corporation the expense should be met by the county.

Specifically answering your question it is my opinion that Section 3604, General Code, gives to the county auditor and county recorder of the county of Richland in conjunction with a person appointed by the Mayor of Mansfield authority to re-number the lots in the territory annexed to the City of Mansfield and unless such revision be made at the request of the City of Mansfield, authorizes the expense thereof to be borne by the County of Richland.

Respectfully,

EDWARD C. TURNER,

Attorney General.

508.

TOWNSHIP TRUSTEES— MAY DETERMINE THAT AN IMPROVEMENT SHALL BE MADE AND ASSESS THE COSTS THEREOF UPON PETITION OF 51 PER CENT OF THE OWNERS WHO ARE TO BE TAXED.

SYLLABUS:

Upon the petition of at least fifty-one per cent of the owners of lands and lots who are to be especially taxed for a proposed improvement, the township trustees of the township may under the provisions of Sections 3298-2, et seq., of the General Code determine that such improvement shall be made and assess the cost thereof in the manner petitioned for, provided that it be in any of the methods enumerated

in Section 3298-13 of the General Code. It is not necessary to secure the written agreement of other property owners to be assessed under said plan who have not petitioned for the improvement.

COLUMBUS, OHIO, May 19, 1927.

HON. LISLE M. WEAVER, *Prosecuting Attorney, Bryan, Ohio.*

DEAR SIR:—This will acknowledge your recent communication as follows:

“I would like to have your opinion with respect to the following:

Can the township trustees of a township under a petition filed in purview of Section 3298-2, G. C., consisting of at least fifty-one per cent of the land owners for the improvement of a road, the land owners agreeing to pay fifty per cent and the township to pay fifty per cent, assess the land owners who do not sign the petition to the full amount of fifty per cent; or is it necessary to get a written agreement from each and all land owners that would be assessed thereby before the trustees of the township would have jurisdiction to act under Section 3298-13, G. C.?”

A careful reading of the statutes providing for road construction and improvement by township trustees will, I believe, answer your question.

Section 3298-2 of the General Code, provides as follows:

“When a petition is presented to the board of trustees of any township asking for the construction, reconstruction, resurfacing or improvement of any public road, or part thereof, as hereinafter provided for, signed by at least fifty-one per cent of the land or lot owners, residents of the county, who are to be specially taxed or assessed for said improvement as hereafter provided, the township trustees shall, within thirty days after such petition is presented, go upon the line of said proposed improvement and, after viewing the same, determine whether the public convenience and welfare require that such improvement be made. The petition shall state the method of paying the compensation, damages, costs and expenses of the improvement desired by the petitioners, who may request that the same be apportioned and paid in any one of the methods provided by Section 3298-13 of the General Code.”

By the terms of Section 3298-5, General Code, the trustees may improve without petition. That section is as follows:

“The township trustees may, without the presentation of a petition, take the necessary steps to construct, reconstruct, resurface, or improve a public road, or part thereof, as hereinbefore provided, upon the passage of a resolution by unanimous vote declaring the necessity therefor. The cost and expense thereof may be paid in any one of the methods provided in Section 3298-13 of the General Code, as may be determined by the township trustees in said resolution.”

You will note that both of these sections refer to the provisions of Section 3298-13 of the General Code. This section provides several different methods of apportionment of the cost and expense incident to the proposed improvement. By its terms all or any part of such expense may be assessed against the real estate, either abutting upon the improvement or within one-half mile thereof or within

one mile thereof according to benefits. That is to say, by the terms of Section 3298-5 above quoted; the trustees may by unanimous vote lawfully act without petition and assess all of the costs against any one of the groups of property owners enumerated. Likewise, where a petition is filed such action may be taken by other than a unanimous vote under the provisions of Section 3298-2 above quoted, provided that an apportionment of the cost and expense is made in accordance with the terms set out in the petition for the improvement. You will note also that this latter section makes the viewing of the road mandatory where a petition is filed.

It is fairly clear that the filing of the petition referred to in Section 3298-2, General Code, is merely a jurisdictional fact, which in the first instance requires the trustees to view the road, and if they deem the improvement necessary, it may be approved without a unanimous vote. The terms of that section specifically provide that the petitioners may request that the cost be apportioned in any of the methods provided in Section 3298-15 of the General Code. This latter section does not anywhere authorize the assessment of any portion of the cost against anything less than all of the real estate within the classes mentioned, namely, that abutting upon the improvement, that within one-half mile of the improvement, or that within one mile thereof.

You, of course, will note that any assessment made under the provisions of Section 3298-13 of the General Code, must be levied according to the benefits. Such an assessment is subject to the ordinary rule that no assessment may be made in excess of the benefits conferred.

Answering your question specifically therefore, I am of the opinion that upon the petition of at least fifty-one per cent of the owners of lands and lots who are to be especially taxed for a proposed improvement, the township trustees of the township may under the provisions of Sections 3298-2, et seq., of the General Code, determine that such improvement shall be made and assess the cost thereof in the manner petitioned for, provided that it be in any of the methods enumerated in Section 3298-13 of the General Code. It is not necessary to secure the written agreement of other property owners to be assessed under said plan who have not petitioned for the improvement.

Respectfully,
EDWARD C. TURNER,
Attorney General.

509.

COUNTY HOME—AUTHORITY TO DETERMINE ELIGIBILITY FOR
ADMISSION IS VESTED EXCLUSIVELY IN SUPERINTENDENT OF
HOME.

SYLLABUS:

1. *The provisions of Section 4093, and related sections of the General Code, relate only to the infirmaries of a municipal corporation, and have no application to the county home.*

2. *While under the provisions of Section 2544, General Code, the trustees of a township or the proper officers of a corporation, may make application to have indigent persons admitted to the county home, the power and authority to determine*