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PLANNING COMMISSION, MUNICIPAL—SECTION 713.02 RC
—GIVES AUTHORITY TO MAKE PLANS AND RECOMMEN-
DATIONS IN MANNER SET FORTH AS TO LAND OUTSIDE
MUNICIPALITY — COMMISSION OF OPINION LAND RE-
LATED TO PLANNING OF MUNICIPAL CORPORATION —
SUCH LAND MAY BE LOCATED IN ADJOINING COUNTY.

SYLLABUS:

Section 713.02 of the Revised Code, authorizes a municipal planning commission to make plans and recommendations in the manner set forth in said section as to land located outside such municipality which in the opinion of the commission is related to the planning of the municipal corporation, although such land is located in an adjoining county.

Columbus, Ohio, May 5, 1954

Hon. Robert E. Cook, Prosecuting Attorney
Portage County, Ravenna, Ohio

Dear Sir:

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

“Under the Revised Code of Ohio 713.02, the city planning commission shall make plans and maps of the whole or any

portion of the municipal corporation, and of any land outside thereof, which, in the opinion of the commission is related to the planning of the municipal corporation, and make changes in such plans or maps when it deems it advisable. * * * Whenever the commission makes a plan of the municipal corporation, or any portion thereof, no public building or structure, street, * * * shall be constructed or authorized to be constructed in the municipal corporation or planned portion thereof unless the location, character, and extent thereof is approved by the commission. * * *

“Does Section 713.02 of the Revised Code, give a city planning commission authority to regulate land located just outside of said municipal corporation but actually in a different county?”

Section 713.02, Revised Code, is a part of the law enacted in 1915, 106 O. L., 455, and undertakes to give to a planning commission which has been established by a municipality under authority of Section 713.01, Revised Code, power to make plans and maps of the whole or any portion of the municipal corporation “and of any land outside thereof, which, in the opinion of the commission is related to the planning of the municipal corporation.” The section further provides that such maps or plans shall show the “commission’s recommendations for the general location, character and extent of streets * * * parks * * * public buildings * * * public utilities and terminals, whether publicly or privately owned.” The section further provides :

“This section does not confer any powers on the commission with respect to the construction, maintenance, use, or enlargement of improvements by any public utility or railroad on its own property if such utility is owned or operated by an individual, partnership, association or a corporation for profit. * * *

“Whenever the commission makes a plan of the municipal corporation, or any portion thereof, *no public building or structure*, street, boulevard, parkway, park, playground, public ground, canal, river front, harbor, dock, wharf, bridge, viaduct, tunnel, or other public way, ground, works, or utility, whether publicly or privately owned, or a part thereof, shall be constructed or authorized to be constructed *in the municipal corporation or planned portion thereof unless* the location, character, and extent thereof is *approved by the commission*. In case of disapproval the commission shall communicate its reasons therefor to the legislative authority of the municipal corporation and to the head of the department which has control of the construction of the proposed improvement or utility. The legislative authority, by a vote of not less than two-thirds of its members and of such department head, together may overrule such disapproval. If such public

way, ground, works, building, structure, or utility is one the authorization or financing of which does not under the law or charter provisions governing it, fall within the province of a municipal legislative authority or other municipal body or official, the submission to the commission shall be by the state, school, county, district, or township official, board, commission or body having such jurisdiction, and the commission's disapproval may be overruled by such official, board, commission, or body by a vote of not less than two-thirds of its membership. * * * The commission may make recommendations to any public authorities or to any corporations or individuals in such municipal corporation or *the territory contiguous thereto*, concerning the location of any buildings, structures, or works to be erected or constructed by them." (Emphasis added.)

It appears very clear that the statute purports to give the commission authority to make plans and recommendations not only as to the lands within the municipality, but also as to "*any land outside* thereof which, in the opinion of the commission is related to the planning of the municipal corporation." And there is nothing in the statute that suggests a limitation to the county in which the municipality is located.

Having in mind the obvious purposes of the law to enable a growing city to develop properly and according to a plan which will enhance its beauty and its desirability, I can see no reason why the outlying territory which the commission is authorized to plan for should be located entirely within the county in which the city is located. If a city is so located that one of its boundary lines is the county line, it is practically certain that the area which may in time come to be part of the city, will extend into such adjoining county, and there is just as much reason and necessity from the standpoint of health, proper location of highways, and normal development, for having that territory carefully planned as there is for the planning of the city's growth in other directions.

The fact that a municipality is located in a certain county does not in any wise effect its powers or circumscribe its corporate limits. It is in the eyes of the law a complete and independent organization.

As indicating the general policy of the law, it may be noted that for a long time statutes have been in existence authorizing a municipality to be located in parts of two counties. Section 707.52(A), Revised Code, 3537 G.C., authorizes the original incorporation of villages to include territory in more than one county. Statutes relative to annexation, par-

ticularly Section 709.11, Revised Code, 3557, G.C., likewise authorize the annexation to a city or village of territory located in another county.

Under the laws relating to school districts provisions are made for transfer of territory from one county school district, to be added to a district in another county.

Accordingly, in specific answer to your question it is my opinion and you are advised that Section 713.02 of the Revised Code, authorizes a municipal planning commission to make plans and recommendations in the manner set forth in said section as to land located outside such municipality which in the opinion of the commission is related to the planning of the municipal corporation, although such land is located in an adjoining county.

Respectfully,
C. WILLIAM O'NEILL
Attorney General