

OPINION NO. 72-018**Syllabus:**

Lucas County Recreation, Inc., and the Toledo Mud Hens Baseball Club, Inc., are county-related corporations within the meaning of Chapter 144, Revised Code.

To: Paul A. Corey, Director, Dept. of State Personnel, Columbus, Ohio
By: William J. Brown, Attorney General, March 20, 1972

I have before me your request for my opinion in which you ask whether the Toledo Mud Hens Baseball Club, Inc., and Lucas County Recreation, Inc., are "county-related corporations" within the meaning of

Chapter 144, Revised Code, so that they might be extended federal social security coverage under this state enabling act. Section 144.01 (I), Revised Code, is the specific statute applicable in this case. That Section reads as follows:

"'County-related corporation' means a non-profit corporation, without capital stock, organized and existing under Chapter 1702. of the Revised Code of Ohio, to carry on county-related recreational functions, on property, the title of which rests in the name of the county, that would normally be carried on by commercial interests for profit, the receipts in excess of actual and necessary expenses of which are transferred to a board of county commissioners and the assets of which, upon dissolution of the corporation, become the property of a board of county commissioners."

If the above named corporations comply with the definition, then so far as state law is concerned they come within the enabling legislation of Chapter 144, supra, and can qualify for federal social security coverage.

The Articles of Incorporation of both corporations initially state the corporate purpose as "desiring to form a nonprofit corporation under the nonprofit corporation law of Ohio." The non-profit corporation law of Ohio is Chapter 1702, Revised Code, and both corporations are governed by the provisions thereof. Section 1702.13 (B), Revised Code, provides as follows:

"A corporation may issue certificates evidencing membership therein, but a corporation incorporated on or after June 9, 1927, shall not issue certificates for shares."

Since Lucas County Recreation was incorporated in 1963 and the Mud Hens in 1964, both come under the stricture of this Section. Consequently, as Ohio nonprofit corporations, neither can have capital stock and so satisfy Section 144.01 (I), supra, in this respect.

A second requirement is that "the receipts in excess of actual and necessary expenses" must be transferred to and upon dissolution the corporate assets must become "the property of a board of county commissioners." Both corporations satisfy this. The pertinent parts of their Articles' of Incorporation third clauses are identical and read as follows:

"Third. The purpose or purposes for which said corporation is formed are:

1. * * * All receipts in excess of the actual and necessary expenses to be transferred to the Board of Commissioners of Lucas County, Ohio. On dissolution of this corporation, all assets shall become the property of the Board of Commissioners of Lucas County, Ohio."

In addition it appears that both corporations conduct their activities "on property the title of which rests in the name of the county." This criterion of Section 144.01 (I), supra, is, therefore, in my opinion, also satisfied. The fact that the Mud Hens play "away games" is insufficient reason to deny them benefits under Chapter 144, supra. Such can make no difference--"away games" are integral to the

game of professional baseball, just as they are to all professional sports within my experience. Chapter 144, supra, is enabling legislation and therefore must be construed liberally in favor of those seeking its benefits. This Chapter was clearly meant to cover county-related professional sports endeavors such as the Mud Hens.

A remaining question is whether the Mud Hens and Lucas County Recreation "carry on county-related recreational functions." It is my opinion they do. Webster's Third New International Dictionary (1970 Edition) defines recreational as "of or relating to recreation" and recreation as "a means of getting diversion or entertainment." There is no question that both corporations are county-related or that the functioning of both help to supply diversion and entertainment to the people of Lucas County and its environs.

There need be no discussion of the final point. It is obvious that both corporations perform functions "that would normally be carried on by commercial interests for profit."

In specific answer to your question, it is my opinion, and you are so advised, that Lucas County Recreation, Inc., and the Toledo Mud Hens Baseball Club, Inc., are county-related corporations within the meaning of Chapter 144, Revised Code.