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FIRE FIGHTING EQUIPMENT — TOWNSHIP MAY ACQUIRE SAME — ENTER INTO CONTRACT, NOT TO EXCEED THREE YEARS, WITH VILLAGE FOR JOINT PROTECTION—EQUIPMENT UNDER CONTROL VILLAGE — SECTIONS 3298-54, 3298-60 G. C.

SYLLABUS:

A township may, under the terms of Section 3298-54, General Code, acquire fire fighting equipment and may thereafter, by the provisions of Section 3298-60, General Code, enter into a contract, for a period not to exceed three years, with a village by which such equipment shall be under the control of that village for the joint protection of the township and village.

Columbus, Ohio, July 23, 1940.

Hon. William A. Ambrose, Prosecuting Attorney,
Youngstown, Ohio.

Dear Sir:

This will acknowledge your recent letter of inquiry which is as follows:

“The undersigned respectfully solicits your opinion on the following:

The Trustees of Smith Township, this County, have entered into a certain contract, for fire protection, with the Village of Sebring, an incorporated village located in Smith Township, maintaining its own paid fire department. The Smith Township Trustees desire to purchase a tank truck and pump, costing about Ten Thousand Dollars (\$10,000.00), for the joint use of the township and village in fighting fires occurring in both political subdivisions, said equipment, when purchased, to be in the possession of the Sebring Village Fire Department, and under its control so long as the contract for mutual fire protection exists between them.

My inquiry is, can the township trustees make the purchase set forth above, for the foregoing uses and purposes, under the provisions of General Code Section 3298-54, or any other provision of law.”

It is clear that under Section 3298-54, General Code, a township has

authority to acquire fire fighting apparatus. The pertinent portion of that section so providing is as follows:

“Township trustees may establish all necessary regulations to guard against the occurrence of fires, protect the property and lives of the citizens against damage and accidents resulting therefrom, and may with the approval of the specifications by the county prosecuting attorney, purchase or otherwise provide such fire apparatus, appliances, materials, fire hydrants and such water supply for fire fighting purposes as may seem to the trustees to be advisable, in which event they shall provide for the care and maintenance thereof, * * *.”

It is equally clear that a township may, by contract, agree with a village for services of village fire department and for the use and interchange of fire apparatus for the protection of property within the township against fire. It is so provided in Section 3298-60, paragraph one, which reads as follows:

“Any township, village or city, in order to obtain fire protection or to obtain additional fire protection in times of emergency, shall have the authority to enter into a contract or contracts for a period not to exceed three years, with one or more townships, villages or cities, upon such terms as may be agreed upon, for services of fire departments or the use of fire apparatus or for the interchange of the service of fire departments or use of fire apparatus, within the several territories of the contracting subdivisions, if such contracts are first authorized by the respective boards of trustees, councils, or other legislative bodies.”

The last section in a broad grant of powers enabling the township trustees to do the things enumerated therein, including the “interchange of the service of fire departments or use of fire apparatus” “upon such terms as may be agreed upon”, would appear conclusively to authorize the township concerned to act in the manner proposed in your letter of inquiry.

It should be noted that the action proposed by the township concerned is not dependent upon the provisions of the second paragraph of Section 3298-54, supra, for the reason that such second paragraph of that section is directed to the joint purchase, use and maintenance of fire equipment. In the matter you present, there being no joint purchase contemplated, that part of Section 3298-54 just mentioned need not be relied upon to authorize the interchange of the use of fire equipment but rather, as hereinbefore pointed out, Sections 3298-54 and 3298-60 provide ample authority for first, the acquisition of a fire truck, and second, the exchange of the use thereof.

I believe that neither the provisions of Section 3298-54, supra, in that such section provides that townships may acquire and maintain such equipment, nor the provisions of Section 3298-55, General Code, in that such section provides that a tax may be levied to provide and maintain fire apparatus, would in any manner limit the right to exchange fire apparatus under the authority granted by Section 3298-60.

It is my belief that proper construction requires the opinion that Sections 3298-54 and 3298-55, in stating that a subdivision shall acquire and maintain equipment, are not limitations upon the right granted by Section 3298-60 to exchange the use of fire equipment, but rather such sections, in providing for the subdivision to maintain fire fighting equipment are but a grant of authority to subdivisions enabling, as in the instant case, a township which has acquired fire fighting equipment to provide such funds as may be needed for its maintenance.

It is, therefore, my opinion that a township may, under the terms of Section 3298-54, General Code, acquire fire fighting equipment and may thereafter, by the provisions of Section 3298-60, General Code, enter into a contract, for a period not to exceed three years, with a village by which such equipment shall be under the control of that village for the joint fire protection of the township and village.

Respectfully,

THOMAS J. HERBERT,
Attorney General.