

OPINION NO. 71-061

Syllabus:

Where title to a county fairgrounds is in the board of county commissioners, a county agricultural society, which occupies and uses said fairgrounds for the holding of agricultural fairs, may lease all or a part of the premises, although there is no formal or signed lease between the county commissioners and the agricultural society.

To: J. Walter Dragelevich, Trumbull County Pros. Atty., Warren, Ohio
By: William J. Brown, Attorney General, October 4, 1971

I am in receipt of your predecessor's request for my opinion, which he stated as follows:

"The Trumbull County Fair Board has been in existence for a number of years, but since the new fairgrounds have been established, they have never received a formal or signed lease from the County Commissioners.

"The Fair Board desires to sub-lease the grounds at times other than the annual fair, and at the specific request of the Trumbull County Commissioners, I would request an opinion as to whether or not the Fair Board has the authority to sub-let the fairgrounds when they do not have a formal or signed lease with the County Commissioners."

The statutes make it clear that a formal or signed document is not necessary in order to vest a fair board (or "agricultural society," Opinion No. 1116, Opinions of the Attorney General for 1952), occupying a fairground, with control and other rights in such fairground, when title thereto is held by the board of county commissioners. Section 1711.31, Revised Code, dealing with the control of lands by an agricultural society, when title thereto is vested in the county commissioners, reads, in pertinent part, as follows:

"When the title to grounds and improvements occupied by an agricultural society is in the board of county commissioners, the control and management of such lands and improvements shall be vested in the board of directors of such society so long as they are occupied by it and used by it for holding agricultural fairs.

* * *

"Monies realized by the society in holding county fairs and from renting or leasing all or part of the grounds and buildings for the conduct of fairs or otherwise, over and above the necessary expenses thereof, shall be paid, into the treasury of the society and used as a fund for keeping such grounds and buildings in good order and repair and for making other improvements deemed necessary by the society's directors."

From those provisions, it is apparent that the legislature anticipated the leasing out of county grounds by an agricultural society. These require that three conditions be met in order for an agricultural society to control and manage a county's fairgrounds.

1. Title to the fairgrounds is in the board of county commissioners.
2. The fairgrounds are occupied by the agricultural society.
3. The fairgrounds are used by the society to hold agricultural fairs.

Since, in the present case, it appears that the Trumbull County Fair Board (an agricultural society) is in fact occupying the new fairgrounds, the requirements of the statute have been satisfied. Accordingly, such an agricultural society and a board of county commissioners need not execute a formal or signed lease in order for an agricultural society to control, manage, lease, and carry on other transactions inherent in the management of fairgrounds.

The authority of an agricultural society to lease out the fairgrounds which they occupy and control, has long been recognized by this Office (See Opinion No. 2488, Opinions of the Attorney General for 1934, which allowed a society to lease out the grounds for a horse racing meeting; and Opinion No. 2887, Opinions of the Attorney General for 1938, requiring that monies realized from such leasing of fairgrounds are payable directly to the agricultural society which was in control of the premises). In Opinion No. 576, Opinions of the Attorney General for 1959, one of my predecessors held that:

"Under the provisions of Section 1711.31, Revised Code, an agricultural society, being in control of lands belonging to the county, has a right to lease such grounds for any lawful purpose, although not connected in any way with the operations of the society, in holding the county fair, or otherwise; but the rentals arising from such leases are to be retained by the society and used for the maintenance of the fairgrounds and for necessary improvements thereon."

It may be noted that there are instances where the society does not have the exclusive authority to lease out the fairgrounds. Section 1711.25, Revised Code, provides that the society cannot make such lease of the fairgrounds without consent of the board of county commissioners, when the purpose of the lease is to raise money to purchase a new fairgrounds. Also, as determined by one of my predecessors, in Opinion No. 720, Opinions of the Attorney General for 1963, the society does not have the authority to lease the fairgrounds for oil and gas exploration and development, for the reason that an oil and gas lease "in most respects is not a lease at all but has as its ultimate objective the sale of minerals constituting a part of the real estate." Finally, it should be remembered that the leasing out of lands controlled by an agricultural society must be in the name of the agricultural society, even though the title to the land may be in the county commissioners. Opinion No. 2488, Opinions of the Attorney General for 1934.

In specific answer to the question, it is my opinion, and you are so advised that, where title to a county fairgrounds is in the board of county commissioners, a county agricultural society, which occupies and uses said fairgrounds for the holding of agricultural fairs, may lease all or a part of the premises, although there is no formal or signed lease between the county commissioners and the agricultural society.