

OPINION NO. 86-102

Syllabus:

1. The board of trustees of a county law library association may not expend funds received under the provisions of R.C. 3375.50-.53 for the purpose of remodeling a courtroom for the county court of common pleas.
2. The board of trustees of a county law library association may expend funds received from private sources for the purpose of remodeling a courtroom for the county court of common pleas only if the board of trustees determines that such expenditure is for a proper purpose of the association and if the expenditure is consistent with the articles of incorporation, by-laws, and rules or regulations of the association. Further, if such moneys have been donated, such expenditure must be consistent with any restrictions placed on the use of such moneys by the donor.

To: C. Keith Plummer, Guernsey County Prosecuting Attorney, Cambridge, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, December 10, 1986

I have before me your request for my opinion concerning whether a county law library may use funds to remodel a courtroom for the county court of common pleas.

A county law library association is an organization which may be formed as a private association or as a nonprofit corporation pursuant to R.C. 1713.28, see 1984 Op. Att'y Gen. No. 84-087. It receives its funds from two major sources.¹ First, a law library receives court fines, penalties, and forfeited bail. R.C. 3375.50-.53. Such moneys may be expended only for those purposes set forth in R.C. 3375.54, which reads as follows:

The money that is paid to the board of trustees of a law library association under sections 3375.50 to 3375.53 of the Revised Code shall be expended in the support and operation of the law library association and in the purchase, lease, or rental of lawbooks, a computer communications console that is a means of access to a system of computerized legal research, microform materials and equipment, videotape materials and equipment, audio or visual materials and equipment, and other services, materials, and equipment that provide legal information or facilitate legal research.

¹ The law librarian and assistant law librarians are paid directly from the county treasury. R.C. 3375.48. The board of county commissioners must also provide, at county expense, "suitable rooms with sufficient and suitable bookcases" in the county courthouse or, otherwise, elsewhere at the county seat, and must heat and light such rooms. R.C. 3375.49.

See R.C. 3375.56 (the board of trustees of a county law library association must make an annual report to the county auditor, verified by the association treasurer, setting forth the amount of fines and penalties received and the money expended by the association). It is evident that a county law library association may not expend funds received pursuant to R.C. 3375.50-.53 to remodel a courtroom, since such an expenditure is not authorized by R.C. 3375.54. Cf. Van Wert County Law Library Association v. Stuckey, 42 Ohio Op. 1, 94 N.E.2d 32 (C.P. Van Wert County 1949) (a law library association may not expend funds received under R.C. 3375.50-.53 for the purchase of bookcases, light fixtures, rent, or heat, or for the salary of the law librarian); 1985 Op. Att'y Gen. No. 85-030 (syllabus) ("[a] board of trustees of a county law library association has no authority to expend funds received under the provisions of R.C. 3375.50-.53 for the purpose of purchasing bookcases"); 1955 Op. Att'y Gen. No. 4856, p. 74 (moneys received from fines by a law library association may not be used to pay for light fixtures or bookshelves); 1946 Op. Att'y Gen. No. 1243, p. 698 (moneys received under the provisions of R.C. 3375.50-.53 may not be used to provide additional compensation to the librarian); 1943 Op. Att'y Gen. No. 5914, p. 150 (syllabus) ("[f]unds of a law library association that are realized from certain fines and penalties pursuant to [R.C. 3375.50-.53] may not be expended for buying, binding and preserving county maps and plats which are to be kept in such library for the use of persons engaged in title examination work").

A law library association, however, may also receive funds from private sources, such as contributions, donations, and membership dues. See Van Wert County Law Library Association v. Stuckey; 1955 Op. Att'y Gen. No. 5308, p. 280; 1955 Op. No. 4856; 1946 Op. No. 1243. As the court stated in Stuckey:

If the law library association receives private donations, in respect to such moneys it is like any other private association and may use such private funds for any proper purpose of the association, even though it is prohibited by law from expending funds received from a public source for such purposes....[D]onations or dues...are private funds and are not accountable to the county auditor as are the funds received under [R.C. 3375.50-.53], but are accountable only to the law library association. Their use is subject only to the rules of such association and they are not returnable to any subdivision.² An account of such funds should be kept separate from funds received from a public source. (Footnote added.)

42 Ohio Op. at 8, 94 N.E.2d at 45. See also 1969 Op. Att'y Gen. No. 69-082 at 2-176 ("[t]he funds of a county law library

² R.C. 3375.56 provides that if a law library association received funds under the provisions of R.C. 3375.50-.53 during the preceding calendar year in excess of what it expended during the same period, then it must "refund proportionately to the treasurers of the political subdivisions from which such balance was received, not less than ninety per cent of any unencumbered balance on hand from the preceding year."

association come from two separate sources. The first source is made up of contributions by private individuals. There is no limitation on the use of these funds. They may be used for any purpose..."); 1955 Op. No. 5308 at 282 (moneys contributed by private persons to a county law library association are not public funds and "may be used for any purpose"); 1955 Op. No. 4856 (syllabus, paragraph one) ("all other funds derived from private contributions, gifts and dues may be used for any library purpose at the discretion of the board of trustees of [a law library] association"); 1946 Op. No. 1243.

Thus, a county law library association may expend its funds derived from private sources for any proper purpose of the association,³ as determined by the board of trustees, subject to the articles of incorporation, by-laws, and rules or regulations of the association.⁴

In conclusion, it is my opinion, and you are advised, that:

1. The board of trustees of a county law library association may not expend funds received under the provisions of R.C. 3375.50-.53 for the purpose of remodeling a courtroom for the county court of common pleas.
2. The board of trustees of a county law library association may expend funds received from private sources for the purpose of remodeling a courtroom for the county court of common pleas only if the board of trustees determines that such expenditure is for a proper purpose of the association and if the expenditure is consistent with the articles of incorporation, by-laws, and rules or regulations of the association. Further, if such moneys have been donated, such expenditure must be consistent with any restrictions placed on the use of such moneys by the donor.

³ If a donor or contributor of funds to a law library association stipulates that the donation must be used for a particular purpose, then the association is, of course, bound by such condition. See generally 1985 Op. Att'y Gen. No. 85-055; 1985 Op. Att'y Gen. No. 85-031; 1983 Op. Att'y Gen. No. 83-055.

⁴ As noted above, a law library association may be organized as a nonprofit corporation under R.C. 1713.28, which provides that the association "may prescribe in its articles of incorporation...the administration and management of the property, trust, and other funds of the corporation, and such other organic rules as are deemed expedient or acceptable to donors, which shall be the permanent organic law of the corporation." See also R.C. 1702.04; R.C. 1702.10. R.C. 1713.29 imposes various accounting and reporting requirements on the officers of an organization created under R.C. 1713.28 with regard to receipts and the disbursement of its funds. A county law library association formed pursuant to R.C. 1713.28 is bound by such requirements in the expenditure of its donations and fees.