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HOSPITALS, JOINT TOWNSHIP—FUNDS DERIVED FROM SERVICE CHARGES—§513.07, *et seq.* RC—SUCH FUNDS MAY NOT BE EXPENDED FOR CONSTRUCTION OF ADDITION TO EXISTING FACILITY.

SYLLABUS:

Funds derived from hospital service charges of a joint township hospital organized under the provisions of Section 513.07, *et seq.*, Revised Code, may not be expended for the construction of an addition to an existing joint township hospital facility.

Columbus, Ohio, September 6, 1957

Hon. Forrest H. Bacon, Prosecuting Attorney
Wyandot County, Upper Sandusky, Ohio

Dear Sir:

I have for consideration your request for my opinion reading as follows:

“As legal advisor for our Joint Township District Hospital Board a question has arisen under Section 513.01 *et seq.* of the Revised Code of Ohio concerning the use of certain funds for an addition to the hospital.

“The Hospital District is comprised of three townships, which at the present time has an unincumbered balance from general receipts from said hospital of approximately \$50,000.00. There are at the present time no tax levies involved—the sum above being derived from charges made by the hospital. The Board of Governors of the Hospital, with the consent and approval of the Joint Township District Hospital Board, now propose to use approximately \$20,000.00 of the above sum for the purpose of construction of an addition to the present hospital. The balance of the funds are more than ample and to take care of the current expenses of the Hospital.

“I could not find any direct authority for the above and it would be appreciated if your office could give me an informal opinion as to the legality of the use of said funds.”

I invite your attention initially to Section 513.17, Revised Code, reading in pertinent part:

“The board of hospital governors shall, with the consent and approval of the joint township district hospital board and as provided by sections 513.07 to 513.18, inclusive, of the Revised Code, prepare plans and specifications, and may employ technical assistance if necessary, and proceed to *erect, furnish, and equip necessary buildings for a joint township general hospital. * * **”
(Emphasis added.)

I further invite your attention to Section 513.12, Revised Code, reading in part:

“Upon the establishment of a joint township hospital district and after the organization of such joint township district hospital board, under section 513.07 of the Revised Code, the hospital board of the district shall determine the amount of bonds to be issued and such other matters as pertain thereto, and shall, when approved by the vote of the electorate of the district voting as a subdivision, issue and sell such bonds to the extent and in the amount so determined, for the *purchase of a site and for the constructing and equipping of a hospital building thereon.* Such bonds shall be issued and sold as provided by sections 133.01 to 133.65, inclusive, of the Revised Code.

“All necessary expenses for the operation of such hospital may be paid out of any moneys derived from the special levy approved for such purposes by such voters, or out of any other moneys received from hospital income or services rendered, or from unencumbered funds from any other source. The board of township trustees of the townships participating in such district may appropriate and pay over to the joint township hospital board, for maintenance of such hospital, any unencumbered funds of the township.”
(Emphasis added.)

On the basis of this language it is apparent that the joint township hospital may be composed of more than one building. See Opinion 7100, Opinions of the Attorney General for 1956, p. 651. Similarly, additions may be made to an existing hospital building.

Once having decided that an addition may be built, the question becomes one of determining whether a part of the excess of general hospital receipts may be expended for such a project.

It is well settled that the authority to expend funds in the hands of governmental subdivisions must be expressly conferred or necessarily implied from express powers. Since a joint township hospital district is a creature of statute, the powers of the governing authority in such districts must be strictly construed.

The only mention of the purposes for which moneys derived from hospital services, as "income", may be used is found in Section 513.12, Revised Code. See above. In that section such moneys are authorized to be used to meet necessary operating expenses.

It must be conceded that the authority to construct additions to a joint township hospital is a separate proposition of law from the authority to expend money from a designated fund for such a project. It is clear that the proceeds from a bond issue as provided in Section 513.12, *supra*, may be used for the purpose of construction. Money derived from a levy for operating expenses cannot be used for construction of an addition. See Opinion No. 772, Opinions of the Attorney General for 1957.

Finding no express statutory authority for the expenditure of general receipts from hospital services to construct an addition to the existing hospital facility, and further finding that such authority cannot be necessarily implied from any express grant, I am compelled to conclude that such an expenditure is not authorized by law.

Therefore, it is my opinion and you are accordingly advised that funds derived from hospital service charges of a joint township hospital organized under the provisions of Section 513.07, *et seq.*, Revised Code, may not be expended for the construction of an addition to an existing joint township hospital facility.

Respectfully,
WILLIAM SAXBE
Attorney General