

OPINION NO. 69-140**Syllabus:**

A board of county commissioners is authorized by Section 307.09, Revised Code, to lease a portion of the county home farm to an Ohio charitable hospital corporation after a hospital has been erected thereon by the hospital commission, following submission of the issue to the electorate, pursuant to Section 339.14, Revised Code.

To: Robert A. Jones, Clermont County Pros. Atty., Batavia, Ohio
By: Paul W. Brown, Attorney General, October 23, 1969

You have requested my opinion on the legality of the construction of a hospital on the county home farm, pursuant to the provisions of Section 339.14, Revised Code. That section may be invoked by the application of an Ohio corporation organized for charitable hospital purposes, and not for profit, to operate a hospital to be constructed with funds arising from a bond issue authorized by the electors of the county as is provided in said section.

Section 5155.33, Revised Code, authorizes the board of county commissioners to sell or lease any part of the county home farm and deposit the receipts from the same in the general county fund.

It is specifically provided in Section 339.021, Revised Code, that the buildings and facilities of a county home may be converted into a county hospital as follows:

"Whenever the building and facilities of a county home are suitable for use as a hospital, the board of county commissioners may designate said county home a county

hospital. Thereafter the provisions of Chapter 339. of the Revised Code shall govern the operation of such facility, provided, that the members of the board of county commissioners shall serve ex-officio as members of the board of trustees; that the board of county commissioners shall establish such rules and regulations as may be expedient for the admission of persons to such facility requiring or in need of hospital, medical, or nursing services and the compensation to be paid by them or on their behalf for all services and treatment rendered by or in such facility; and that the expenditures annually by the board of trustees for the use and purposes of such facility shall not exceed, in the aggregate, the amount fixed by the board of county commissioners in their annual budget for such facility. * * *

This section also provides for the method of appointment of board members and their power to expend county funds. This demonstrates the propriety of the use of the county home farm for hospital purposes, but it is not directly applicable to your situation. Section 339.14, Revised Code, is the only authority for a private, non-profit corporation to operate a hospital on land owned by the county and constructed with funds arising from a bond issue authorized by a majority of the electors voting on the issue. This section provides for the acceptance of a gift of land for this express purpose, although the language of the statute does not indicate this to be mandatory.

Opinion No. 3, Opinions of the Attorney General for 1961, states in its syllabus, the following:

"Under Section 339.14, Revised Code, a county hospital commission may request the board of county commissioners to place on the ballot a bond issue to cover the costs of construction of hospital facilities, even though there has been no conveyance of land by a person as contemplated by that section, provided the person concerned is bound by agreement with the county hospital commission to make such conveyance in the event the bond issue is approved by the voters."

Section 339.14, Revised Code, makes it legally possible to lease county-owned land to a non-profit corporation for the operation of a general hospital; likewise does Section 307.09, Revised Code, in almost identical language, provide for leasing county land as follows:

"* * *(T)o corporations not for profit for hospital or charitable purposes, may be for such length of time, upon such terms, for such purposes, and may provide for such renewals thereof as the board deems for the best interests of the public. * * *"

I deem these statutes to be in para materia for they deal with the same general subject, for the same purpose, accomplishing identical results, all within specific grants of power.

Opinion No. 3, supra, is to be distinguished from our present situation in that the construction of a hospital in that case was dependent upon an available site. In our present case, land is already available physically and lawfully.

Accordingly, it is my opinion and you are advised that upon application to the board of county commissioners by an Ohio corporation, organized for charitable hospital purposes and not for profit, the board may lease a portion of the county home farm to said corporation, pursuant to the provisions of Section 307.09, Revised Code, after the construction of a hospital by the county hospital commission, as authorized and financed, pursuant to the provisions of Section 339.14, Revised Code.