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A COUNTY AGRICULTURAL SOCIETY MAY SELL, OR LEASE FOR A TERM OF 99 YEARS A PORTION OF THE FAIR-GROUNDS OWNED BY THE SOCIETY—§§1711.26, 1711.31 R.C., OPINION NO. 2488, OAG, 1934, OPINION NO. 576, OAG, 1959.

## SYLLABUS:

Pursuant to Section 1711.26, Revised Code, a county agricultural society may sell, or lease for a term of ninety-nine years, a portion of the fairgrounds owned by the society, if said portion is not needed for, or is not suitable for, fairground purposes.

Columbus, Ohio, February 2, 1962

Hon. Fred F. Fox, Prosecuting Attorney  
Noble County, Caldwell, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“Will you please advise me relative to the following problem? Is it permissible for the agricultural society of Noble County to lease or sell a small portion of the fairgrounds to a non-profit organization. The function of said non-profit organization being for the purpose of establishing recreation facilities for the general public and citizens of the community. Chapter 1711 indicates that you could lease such fairgrounds, however, it does not indicate whether or not a portion of the same can be leased. In the event of a lease in lieu of sale the lease would in all probability be for a period of 99 years.

“Please advise relative to this matter. The agricultural society owns the land in this county instead of the commissioners.”

Section 1711.26, Revised Code, here pertinent, reads as follows:

“When the premises in the possession or under the control of a county or independent agricultural society and used by it as a site on which to hold annual exhibitions are greater in size than is necessary for the purposes to which they are devoted, or are not suitable in their formation or character for such purposes, such society, or, if the title to such premises is in the county, the board of county commissioners, may sell any part thereof, or exchange any part thereof for other lands, so as to reduce the size of such premises or change their formation or character.”

It will be noted that Section 1711.26, *supra*, expressly authorizes a county agricultural society to sell a part of the fairgrounds owned by such society if such part is not needed, or is not suitable for, fairground purposes.

I have found no specific provision authorizing an agricultural society to lease a portion of the fairgrounds. I am of the opinion, however, that such power may be considered to be included within the power to sell. In this regard, it is stated in 43 Corpus Juris, Municipal Corporation, Section 2098, page 1342:

“\* \* \* And a grant of power to sell necessarily carries with it a grant of power to transfer an interest less than an absolute one.”

Also, Section 1711.31, Revised Code, dealing with the situation where the title to the fairgrounds is in the board of county commissioners, reads in part:

“\* \* \* Moneys 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 \* \* \* shall be paid into the treasury of the society \* \* \*.”

Further, one of my predecessors in Opinion No. 2488, Opinions of the Attorney General for 1934, page 449, stated at page 450:

“There is no provision in the chapter of the General Code relating to county agricultural societies which prevents in any way the leasing or the using of any grounds owned, controlled or used by a county agricultural society, for the racing of horses.” (See Opinion No. 2887, Opinions of the Attorney General for 1938, page 1645.)

And in my Opinion No. 576, Opinions of the Attorney General for 1959, page 302, I held as follows:

“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.”

While, in view of the foregoing, I am of the opinion that a county agricultural society may lease a portion of the fairgrounds, I believe that

if the lease is for a long term, such as ninety-nine years, such may be done only when said portion is not needed, or is not suitable for, fair purposes. I reach this conclusion because of the fact that such a long term lease would in all probability make the land concerned unavailable for fair purposes, while a short term lease would not necessarily interfere with the annual fair.

In conclusion, it is my opinion and you are advised that pursuant to Section 1711.26, Revised Code, a county agricultural society may sell, or lease for a term of ninety-nine years, a portion of the fairgrounds owned by the society, if said portion is not needed for, or is not suitable for, fair-ground purposes.

Respectfully,

MARK MCELROY

Attorney General