December 30, 1993

OPINION NO. 93-074

The Honorable Anthony L. Gretick
Williams County Prosecuting Attorney
1210 West High Street
Bryan, Ohio 43506

Dear Prosecutor Gretick:

You have requested an opinion concerning the use of land and buildings formerly used for agricultural fairs. In particular, you have asked whether a board of county commissioners can reclassify a portion of land formerly designated as fairgrounds, and use that portion for general county purposes where the land is owned by the county, and specifically, where there is adequate vacant land available in the area that remains designated as fairgrounds for any foreseeable expansion of the agricultural fair. You have explained that the parcel of land in question and the buildings thereon have not been used for the past several years by the agricultural society for agricultural fairs.

A Board of County Commissioners May Provide Real Estate and Erect Buildings Thereon for Fairs Under the Control and Management of a County Agricultural Society

R.C. 1711.15 provides, in part, that "[i]n any county in which there is a duly organized county agricultural society,[1] the board of county commissioners may purchase...real estate on which to hold fairs under the management and control of the county agricultural society, and may erect thereon suitable buildings and otherwise improve it." (Footnote added.) When the board of county commissioners acquires real estate pursuant to this authority, title to the property is vested in the board of county commissioners.[2] 1957 Op. Att'y Gen. No. 516, p. 141 (overruled, in part, on other grounds by 1988 Op. Att'y Gen. No. 88-026). *See generally Carder v. Fayette County*, 16 Ohio St. 353 (1865); *Dall v. Cuyahoga County Bldg. Comm'n.*, 14 Ohio N.P. (n.s.) 209 (C.P. Cuyahoga County 1913).

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[1] R.C. 1711.01 prescribes the process by which a county agricultural society may be organized.

[2] R.C. 1711.13 authorizes an agricultural society to hold title to real estate purchased by it as a site for its agricultural fair. However, the real property at issue in your request is owned by the county.

The Control and Management of Land and Improvements Purchased by a Board of County Commissioners for Agricultural Fairs Conditionally Vests in the Board of Directors of an Agricultural Society Pursuant to R.C. 1711.31

In general, ownership of property implies the right of possession and control thereof. "The chief characteristic of ownership is the right to complete dominion, and when ownership is applied to land it means the land itself and what pertains to it, and the right for the time being to possess and enjoy it." *Antonik v. Chamberlain*, 81 Ohio App. 465, 472-73, 78 N.E.2d 752, 758 (Summit County 1947). *See also Green v. Biddle*, 21 U.S. 1 (1923). R.C. 1711.31, however, has altered this common law principle with respect to lands purchased by a board of county commissioners for agricultural fairs. R.C. 1711.31 reads, in relevant 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 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*. (Emphasis added.)

Thus, control and management of the county owned land and improvements occupied by an agricultural society vests in the society's board of directors, subject to the condition that it occupy the land and use it for holding agricultural fairs. There is no formal act necessary to vest the agricultural society with control and management of the land. All that is required is that the agricultural society occupy the land and use it to hold an agricultural fair. *See* 1971 Op. Att'y Gen. No. 71-061; *see also* 1957 Op. No. 516 at 147 (determining that "holding one fair each year, agreeably to the requirements of the director of agriculture, Section 1711.15, Revised Code, would be sufficient to vest the society with control throughout the year"). The power of the agricultural society over the land, however, is limited to that of control and management. *See, e.g., Warren County Bd. of Commr's v. Lebanon*, 43 Ohio St. 3d 188, 191, 540 N.E.2d 242, 245 (1989). Pursuant to R.C. 1711.31, the agricultural society's control and management of that land is conditioned on its occupation and use of the land for agricultural fairs. Therefore, if the society ceases to occupy and use the land for agricultural fairs, it may no longer control and manage the land. The control and management of the land is then exercised by the board of county commissioners as owner of the land. 1957 Op. No. 516.

The Control and Management of Land by the Board of Directors of an Agricultural Society Under R.C. 1711.31 Is Limited to the Land Actually Occupied by the Agricultural Society and Used by It for Holding an Agricultural Fair

Your specific question, however, concerns the county's use of only a portion of the entire parcel of land designated for agricultural fair purposes. The resolution of your question depends upon whether R.C. 1711.31 is construed to mean that by occupying and using any portion of the parcel of land provided by the board of county commissioners for agricultural fairs, an agricultural society retains control and management of the entire parcel, or whether control and management of the land is limited to that portion actually occupied by the agricultural society and used by it for holding agricultural fairs.

The only reasonable construction of R.C. 1711.31 is that the agricultural society's control and management of the land is limited to that portion actually occupied and used by it for holding agricultural fairs. The opposite construction would permit an agricultural society to retain control and management over an entire parcel of land even if it were occupying and using only a small part thereof. The latter construction yields a clearly unreasonable result. *See State ex rel. Cooper v. Savord*, 153 Ohio St. 367, 371, 92 N.E.2d 390, 392 (1950) ("[t]he General Assembly will not be presumed to have intended to enact a law producing unreasonable or absurd consequences").

Moreover, vesting control and management of land in an agricultural society pursuant to R.C. 1711.31 is an exception to the general rule, noted earlier, that ownership of property implies complete dominion over that property. It seems appropriate, therefore, to give effect to this exception, but only to the extent necessary to permit an agricultural society to hold a fair. This means any portion of land purchased for agricultural fairs that is not utilized for that purpose should be returned to the control and management of the county board of commissioners.

Additional support for construing R.C. 1711.31 to permit an agricultural society to control and manage only that portion of county owned lands that it actually occupies and uses for holding agricultural fairs is found in R.C. 1711.26, which 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.

Thus, when the premises owned by the county are in the control of a county or independent agricultural society, the board of county commissioners may sell or exchange any part of the land so as to "reduce the size of the premises" when the site is greater in size than is necessary for the agricultural fair. When a portion of a site owned by the board of county commissioners and used for agricultural fairs is not occupied or used by an agricultural society for its fair, the site is, to that extent, "greater in size than is necessary for the purposes to which [it is] devoted." In such an instance, R.C. 1711.26 permits the board of county commissioners to sell or exchange that part of the site that no longer is needed by an agricultural society.

The obvious intent of the General Assembly in enacting R.C. 1711.26 was to limit the size of the site controlled by an agricultural society to that which is necessary for the agricultural fair. The control and management of any portion of the site that is not actually occupied by an agricultural society and used for the agricultural fair reverts to the board of county commissioners as title holder of the land. The land may then be used by the board of county commissioners for any purpose for which the board is authorized to use land belonging to the county.

On the basis of the analysis above, it is my opinion, and you are hereby advised as follows:

1. Pursuant to R.C. 1711.31, the control and management of lands and improvements owned by a board of county commissioners for the purpose of holding agricultural fairs shall be vested in the board of directors of an agricultural society so long as the agricultural society occupies the land and improvements and uses them for holding agricultural fairs.

2. When an agricultural society ceases to occupy and use for holding agricultural fairs a portion of the land and improvements it had previously occupied and used pursuant to R.C. 1711.31, the control and management of that portion of the land reverts to the board of county commissioners.

Respectfully,

LEE FISHER
Attorney General

December 30, 1993

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SYLLABUS: 93-074

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2. When an agricultural society ceases to occupy and use for holding agricultural fairs a portion of the land and improvements it had previously occupied and used pursuant to R.C. 1711.31, the control and management of that portion of the land reverts to the board of county commissioners.