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COUNTIES: Authority to spend public funds to explain and advocate proposed new county building.

Board of supervisors is without authority to spend county funds to print and distribute a pamphlet explaining and advocating a favorable vote for a proposed new county building, and to purchase advertisements advocating the project, prior to special referendum election submitting the proposition to electorate.

No. 4421

March 15, 1965.

Mr. John H. Butts
Prosecuting Attorney
Cheboygan, Michigan

Your predecessor in office requested my opinion as to whether a county board of supervisors can appropriate and spend county funds to print and distribute a pamphlet explaining to the electors a proposed new county building, and also purchase advertisements advocating the project, prior to the special referendum election for bonding for the construction cost of such building.

The queries are viewed in the light of the materials submitted with his request. The pamphlet, "Some Facts About the Proposed New Cheboygan County Building," includes matter describing the present facilities and also details and plans for the proposed new building. Under the topic—The Choices Before Us—it is stated that it is the consensus of the Board of Supervisors that the second choice—build a new county building—is the only logical choice. The newspaper advertisements urge an affirmative vote on the proposition.

Answers to the queries must be determined upon consideration of the powers enjoyed by counties and county boards of supervisors.

Counties and county boards of supervisors possess the powers which have been conferred by the Constitution, the statutes pursuant thereto and implied powers incident and necessary to the performance of such express powers. Constitution of 1963, Art. VII, Secs. 1 and 8; M.S.A. 1961 Rev. Secs. 5.283, 5.331; *Wright v. Bartz*, 339 Mich. 55, 60. Upon consideration of these sources I find neither express nor implied authority for appropriation and expenditure of moneys for the purposes in question.

In a case similar in principle to the instant situation, the Supreme Court in *Mosier v. Wayne County Board of Auditors*, 295 Mich. 27 (1940), ruled that expenditure of county funds to advocate a particular position with respect to a public question was unauthorized by the Constitution of 1908 and the cited statutes. Boards of supervisors should not function as propaganda bureaus. It must therefore be concluded that in the absence of authority, county funds cannot be expended to influence the outcome of the said election.

In O.A.G. No. 4291, January 4, 1965, opinion was rendered that the board of education of a school district is without authority to spend public funds to advocate a favorable vote at an election on the question of increasing the tax limitation and the issuance of bonds.

I am persuaded that in the absence of authority, public funds cannot be expended by the county board of supervisors to print and distribute a pamphlet explaining the project in discussion to the electors and advocating electorate approval thereof, prior to the special referendum election. Likewise, there is absent authority to expend county funds for the purchase of advertisements advocating the project.

Accordingly, such queries are answered in the negative.

FRANK J. KELLEY,
Attorney General.

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BANKS AND BANKING: Limitations on loans.

The term "obligations" appearing in Section 74 of the Michigan Financial Institutions Act discussed and applied in determining when loans are to be combined for the purpose of the limitation on loans under the foregoing section.

No. 4364

March 19, 1965.

Mr. Charles D. Slay
Commissioner
State Banking Department
Lansing, Michigan

You have requested the opinion of the Attorney General on three questions to be hereafter stated concerning the interpretation and applicability of Section 74 of the Michigan Financial Institutions Act.¹ Section 74 of the Act about which you inquire was last amended by Act 115, P.A. 1963. To the extent pertinent the section now reads:

"The total obligations to any bank of any person, copartnership, association or corporation shall at no time exceed 10% of the amount of the capital stock of such bank actually paid in and unimpaired and 10% of its unimpaired surplus fund. The term 'obligations' shall mean the direct liability of the maker or acceptor of paper discounted with or sold to such bank and the liability of the indorser, drawer or guarantor who obtains a loan from or discounts paper with or sells paper under his guaranty to such bank and shall include in the case of obligations of a copartnership or association the obligations of the several members thereof and shall include in the case of obligations of a corporation all obligations of all subsidiaries thereof in which such corporation owns or controls a majority interest: Provided, That these restrictions shall not apply to such obligations held by the bank on the date this section shall become effective or renewals thereof: Provided further, That upon approval by $\frac{2}{3}$ vote of the board of directors, any bank may increase the limit provided by this section so that the total obligations to said bank of any person, co-

¹ Act 341 P.A. 1937, being C.L. 1948 § 487.1 et seq., M.S.A. 1957 Rev. Vol. § 23.711 et seq.