payment in lieu of taxes is not a tax imposed upon the utility, the municipality's millage limitations are unaffected by such payments.

FRANK J. KELLEY,
Attorney General.

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DEEDS AND CONVEYANCES: Grant for airport purposes.

PUBLIC LANDS: Deed for airport purposes.

Where a village acquired land from the state for a valuable consideration by a deed stating that the land shall be used for airport purposes, the village may lease a portion of the premises to a private party without breaching any deed covenants.

Opinion No. 5099 September 30, 1976.

Patrick R. Joslyn
Prosecuting Attorney
Tuscola County Courthouse
Caro, Michigan 48723

You have requested my opinion as to whether the Village of Caro may lease to a private party a portion of premises quit-claimed to the Village by the State of Michigan by instrument dated May 16, 1961, and recorded on August 11, 1961, in Liber 341, Page 509, Tuscola County Records, without breaching any deed covenants.

The cited conveyance, authorized by 1959 PA 103, recites in part:

> "[The State of Michigan] for and in consideration of the sum of Twenty-Five Thousand Dollars ($25,000.00), to it in hand paid, . . ., does by these presents grant, bargain, sell, remise release and QUIT-CLAIM unto the . . . [VILLAGE OF CARO] for airport purposes all that land known and described as follows:
>
> "[Description omitted]
>
> "TOGETHER with all and singular the hereditaments and appurtenances thereto belonging or in anywise appertaining; TO HAVE AND TO HOLD by the said . . . [Village] the above described premises forever."

The deed in such form was sufficient to vest title in the village in fee simple absolute free from any conditions or covenants. *Quinn* v *Pere Marquette R Co,* 256 Mich 143; 239 NW 376 (1931); *Briggs* v *City of Grand Rapids,* 261 Mich 11; 245 NW 555 (1932); RS 1846 Ch 65, §§ 3 and 5; MCLA 565.3, 565.5; MSA 26.522, 26.524; 1959 PA 103.

In *Quinn* v *Pere Marquette R Co, supra,* lands were conveyed to a railroad company for the *nominal sum* of $1.00:

> ". . . to be used for railroad purposes only."

In the absence of reversionary language, the court found title vested in fee simple and further observed:

> "It seems to be the weight of authority that, where there is no reverter clause, a statement of use is merely a declaration of the purpose of conveyance without effect to limit the grant. The reasoning is that, as a railroad company may take real estate only for railroad purposes, the declaration is to be so used is merely an expression of the intention of the parties that the deed is for a lawful purpose. [citations omitted]" *Quinn* v *Pere Marquette R Co, supra* 151

While recognizing that the *principal consideration* for the grant of right of way was the benefit to lands retained by the "grantor" accruing through the construction and operation of a railroad, the *Quinn* court stated at p 153:

> "[W]e do not think the clause under consideration was a covenant of use."

In *Briggs* v *City of Grand Rapids, supra,* plaintiffs sought to nullify a deed by which the defendant conveyed parklands to the board of education for construction of a football field. The city had in 1911 purchased 12 acres of land for park purposes from the plaintiff Briggs. The deed executed by Briggs showed a consideration of $6,000 and these words followed the description of the property:

> "This purchase of land is for park purposes."

In 1931 the board of education, desiring to construct an athletic field sought to purchase four acres of Briggs park. The proposal for sale to the board was approved by the city commission and was likewise approved by more than 3/5 of the electors of the city voting upon such proposal.

Relying upon *Quinn,* the court found there was no obligation on the part of the city to maintain the park in perpetuity; that the language used did not express an intention to limit the grantee in any way. A valuable consideration having been paid by the city, the court did not concern itself with the line of cases dealing with municipal uses of donated or dedicated lands.

Accordingly it is my opinion that since the recital of purpose in both the deed an the authorizing statute, 1959 PA 193, *supra,* is insufficient to constitute either a covenant or condition, neither the act nor the deed imposes any restriction upon the village's power to lease lands owned by it.

In response to your second question, I am of the opinion that a lease may be given for the purpose of using the parcel as a State Police post, the lease to terminate at the end of 99 years and possession to revert to the Village of Caro at the end of that period.

I also call your attention to the fact that, as a general law village, a lease of the village's lands must be approved by a concurring vote of 2/3 of the trustees. 1895 PA 3 Chap v § 5; MCLA 65.5; MSA 5.1268.

FRANK J. KELLEY,
Attorney General.